



**Far North
District Council**



Te Kaunihera o Tai Tokerau ki te Raki

AGENDA

Strategy and Policy Committee Meeting

Tuesday, 8 February 2022

Time: 9.30 am

Location: Virtually via Microsoft Teams

Membership:

Cr Rachel Smith - Chairperson

Cr David Clendon – Deputy Chairperson

Mayor John Carter

Deputy Mayor Ann Court

Cr Dave Collard


Cr Felicity Foy

Cr Kelly Stratford

Cr Moko Tepania

Cr John Vujcich

Member Belinda Ward – Bay of Islands-Whangaroa Community Board Chairperson

	Authorising Body	Mayor/Council
	Status	Standing Committee
COUNCIL COMMITTEE	Title	Strategy and Policy Committee Terms of Reference
	Approval Date	19 December 2019
	Responsible Officer	Chief Executive

Purpose

The purpose of the Strategy and Policy Committee (the Committee) is to set direction for the district, determine specific outcomes that need to be met to deliver on that vision, and set in place the strategies, policies and work programmes to achieve those goals.

In determining and shaping the strategies, policies and work programme of the Council, the Committee takes a holistic approach to ensure there is strong alignment between the objectives and work programmes of the strategic outcomes of Council, being:

- Better data and information
- Affordable core infrastructure
- Improved Council capabilities and performance
- Address affordability
- Civic leadership and advocacy
- Empowering communities

The Committee will review the effectiveness of the following aspects:

- Trust and confidence in decision-making by keeping our communities informed and involved in decision-making.
- Operational performance including strategy and policy development, monitoring and reporting on significant projects, including, but not limited to:
 - FN2100
 - District wide strategies (Infrastructure/ Reserves/Climate Change/Transport)
 - District Plan
 - Significant projects (not infrastructure)
 - Financial Strategy
 - Data Governance
 - Affordability
- Consultation and engagement including submissions to external bodies / organisations

To perform his or her role effectively, each Committee member must develop and maintain his or her skills and knowledge, including an understanding of the Committee's responsibilities, and of the Council's business, operations and risks.

Power to Delegate

The Strategy and Policy Committee may not delegate any of its responsibilities, duties or powers.

Membership

The Council will determine the membership of the Strategy and Policy Committee.

The Strategy and Policy Committee will comprise of at least seven elected members (one of which will be the chairperson).

Mayor Carter

Rachel Smith – Chairperson

David Clendon – Deputy Chairperson

Moko Tepania

Ann Court

Felicity Foy

Dave Collard

John Vujcich

Belinda Ward – Bay of Islands-Whangaroa Community Board

Non-appointed Councillors may attend meetings with speaking rights, but not voting rights.

Quorum

The quorum at a meeting of the Strategy and Policy Committee is 5 members.

Frequency of Meetings

The Strategy and Policy Committee shall meet every 6 weeks but may be cancelled if there is no business.

Committees Responsibilities

The Committees responsibilities are described below:

Strategy and Policy Development

- Oversee the Strategic Planning and Policy work programme
- Develop and agree strategy and policy for consultation / engagement.
- Recommend to Council strategy and policy for adoption.
- Monitor and review strategy and policy.

Service levels (non-regulatory)

- Recommend service level changes and new initiatives to the Long Term and Annual Plan processes.

Policies and Bylaws

- Leading the development and review of Council's policies and district bylaws when and as directed by Council
- Recommend to Council new or amended bylaws for adoption

Consultation and Engagement

- Conduct any consultation processes required on issues before the Committee.
- Act as a community interface (with, as required, the relevant Community Board(s)) for consultation on policies and as a forum for engaging effectively.
- Receive reports from Council's Portfolio and Working Parties and monitor engagement.
- Review as necessary and agree the model for Portfolios and Working Parties.

Strategic Relationships

- Oversee Council's strategic relationships, including with Māori, the Crown, and foreign investors, particularly China
- Oversee, develop, and approve engagement opportunities triggered by the provisions of Mana Whakahono-ā-Rohe under the Resource Management Act 1991
- Recommend to Council the adoption of new Memoranda of Understanding (MOU)
- Meet annually with local MOU partners
- Quarterly reviewing operation of all Memoranda of Understanding
- Quarterly reviewing Council's relationships with iwi, hapū, and post-settlement governance entities in the Far North District
- Monitor Sister City relationships
- Special projects (such as Te Pū o Te Wheke or water storage projects)

Submissions and Remits

- Approve submissions to, and endorse remits for, external bodies / organisations and on legislation and regulatory proposals, provided that:
 - If there is insufficient time for the matter to be determined by the Committee before the submission "close date" the submission can be agreed by the relevant Portfolio Leaders, Chair of the Strategy and Policy Committee, Mayor and Chief Executive (all Councillors must be advised of the submission and provided copies if requested).
 - If the submission is of a technical and operational nature, the submission can be approved by the Chief Executive (in consultation with the relevant Portfolio Leader prior to lodging the submission).
- Oversee, develop, and approve any relevant remits triggered by governance or management commencing in January of each calendar year.
- Recommend to Council those remits that meet Council's legislative, strategic, and operational objectives to enable voting at the LGNZ AGM. All endorsements will take into account the views of our communities (where possible) and consider the unique attributes of the district.

Fees

- Set fees in accordance with legislative requirements unless the fees are set under a bylaw (in which case the decision is retained by Council and the committee has the power of recommendation) or set as part of the Long Term Plan or Annual Plan (in which case the decision will be considered by the Long Term Plan and Annual Plan and approved by Council).

District Plan

- Review and approve for notification a proposed District Plan, a proposed change to the District Plan, or a variation to a proposed plan or proposed plan change (excluding any plan change notified under clause 25(2)(a), First Schedule of the Resource Management Act 1991);
- Withdraw a proposed plan or plan change under clause 8D, First Schedule of the Resource Management Act 1991.
- Make the following decisions to facilitate the administration of proposed plan, plan changes, variations, designation and heritage order processes:
 - To authorise the resolution of appeals on a proposed plan, plan change or variation unless the issue is minor and approved by the Portfolio Leader District Plan and the Chair of the Regulatory committee.
 - To decide whether a decision of a Requiring Authority or Heritage Protection Authority will be appealed to the Environment Court by council and authorise the resolution of any such appeal.
 - To consider and approve council submissions on a proposed plan, plan changes, and variations.
 - To manage the private plan change process.
 - To accept, adopt or reject private plan change applications under clause 25 First Schedule Resource Management Act (RMA).

Rules and Procedures

Council's Standing Orders and Code of Conduct apply to all the committee's meetings.

Annual reporting

The Chair of the Committee will submit a written report to the Chief Executive on an annual basis. The review will summarise the activities of the Committee and how it has contributed to the Council's governance and strategic objectives. The Chief Executive will place the report on the next available agenda of the governing body.

STRATEGY AND POLICY COMMITTEE - MEMBERS REGISTER OF INTERESTS

Name	Responsibility (i.e. Chairperson etc)	Declaration of Interests	Nature of Potential Interest	Member's Proposed Management Plan
Hon John Carter QSO	Board Member of the Local Government Protection Programme	Board Member of the Local Government Protection Program		
	Carter Family Trust			
Rachel Smith (Chair)	Friends of Rolands Wood Charitable Trust	Trustee		
	Mid North Family Support	Trustee		
	Property Owner	Kerikeri		
	Friends who work at Far North District Council			
	Kerikeri Cruising Club	Subscription Member and Treasurer		
	Vision Kerikeri	Financial Member		
Rachel Smith (Partner)	Property Owner	Kerikeri		
	Friends who work at Far North District Council			
	Kerikeri Cruising Club	Subscription Member		
	Vision Kerikeri	Financial Member		
	Town and General Groundcare Limited	Director. Shareholder		
David Clendon (Deputy Chair)	Chairperson – He Waka Eke Noa Charitable Trust	None		Declare if any issue arises
	Member of Vision Kerikeri	None		Declare if any issue arises
	Joint owner of family home in Kerikeri	Hall Road, Kerikeri		
David Clendon – Partner	Resident Shareholder on Kerikeri Irrigation			
David Collard	Snapper Bonanza 2011 Limited	45% Shareholder and Director		
	Trustee of Te Ahu Charitable Trust	Council delegate to this board		
Deputy Mayor Ann Court	Waipapa Business Association	Member		Case by case
	Warren Pattinson Limited	Shareholder	Building company. FNDC is a regulator and enforcer	Case by case
	Kerikeri Irrigation	Supplies my water		No
	District Licensing	N/A	N/A	N/A
	Ann Court Trust	Private	Private	N/A

Name	Responsibility (i.e. Chairperson etc)	Declaration of Interests	Nature of Potential Interest	Member's Proposed Management Plan
	Waipapa Rotary	Honorary member	Potential community funding submitter	Declare interest and abstain from voting.
	Properties on Onekura Road, Waipapa	Owner Shareholder	Any proposed FNDC Capital works or policy change which may have a direct impact (positive/adverse)	Declare interest and abstain from voting.
	Property on Daroux Dr, Waipapa	Financial interest	Any proposed FNDC Capital works or policy change which may have a direct impact (positive/adverse)	Declare interest and abstain from voting.
	Flowers and gifts	Ratepayer 'Thankyou'	Bias/ Pre-determination?	Declare to Governance
	Coffee and food	Ratepayers sometimes 'shout' food and beverage	Bias or pre-determination	Case by case
	Staff	N/A	Suggestion of not being impartial or pre-determined!	Be professional, due diligence, weigh the evidence. Be thorough, thoughtful, considered impartial and balanced. Be fair.
	Warren Pattinson	My husband is a builder and may do work for Council staff		Case by case
Ann Court - Partner	Warren Pattinson Limited	Director	Building Company. FNDC is a regulator	Remain at arm's length
	Air NZ	Shareholder	None	None
	Warren Pattinson Limited	Builder	FNDC is the consent authority, regulator and enforcer.	Apply arm's length rules
	Property on Onekura Road, Waipapa	Owner	Any proposed FNDC capital work in the vicinity or rural plan change. Maybe a link to policy development.	Would not submit. Rest on a case by case basis.
Felicity Foy	Flick Trustee Ltd	I am the director of this company that is the company trustee of Flick Family Trust that owns properties Seaview Road – Cable Bay, and Allen Bell Drive - Kaitaia.		
	Elbury Holdings Limited	This company is directed by my parents Fiona and Kevin King.	This company owns several dairy and beef farms, and also dwellings on these farms. The Farms and	

Name	Responsibility (i.e. Chairperson etc)	Declaration of Interests	Nature of Potential Interest	Member's Proposed Management Plan
			dwelling are located in the Far North at Kaimaumau, Bird Road/Sandhills Rd, Wireless Road/ Puckey Road/Bell Road, the Awanui Straight and Allen Bell Drive.	
	Foy Farms Partnership	Owner and partner in Foy Farms - a farm on Church Road, Kaingaroa		
	Foy Farms Rentals	Owner and rental manager of Foy Farms Rentals for dwellings on Church Road, Kaingaroa and dwellings on Allen Bell Drive, Kaitaia, and property on North Road, Kaitaia, one title contains a cell phone tower.		
	King Family Trust	This trust owns several titles/properties at Cable Bay, Seaview Rd/State Highway 10 and Ahipara - Panorama Lane.	These trusts own properties in the Far North.	
	112 Commerce Street Holdings Ltd	Owner of commercial property in Commerce Street Kaitaia.		
	Foy Property Management Ltd	Owner of company that manages properties owned by Foy Farms Rentals and Flick Family Trust.		
	Previous employment at FNDC 2007-16	I consider the staff members at FNDC to be my friends		
	Shareholder of Coastline Plumbing NZ Limited			
Felicity Foy - Partner	Director of Coastline Plumbing NZ Limited			
	Friends with some FNDC employees			
Kelly Stratford	KS Bookkeeping and Administration	Business Owner, provides book keeping, administration and development of environmental management plans	None perceived	Step aside from decisions that arise, that may have conflicts
	Waikare Marae Trustees	Trustee	Maybe perceived conflicts	Case by case basis

Name	Responsibility (i.e. Chairperson etc)	Declaration of Interests	Nature of Potential Interest	Member's Proposed Management Plan
	Bay of Islands College	Parent Elected Trustee	None perceived	If there was a conflict, I will step aside from decision making
	Karetu School	Parent Elected Trustee	None perceived	If there was a conflict, I will step aside from decision making
	Māori title land – Moerewa and Waikare	Beneficiary and husband is a shareholder	None perceived	If there was a conflict, I will step aside from decision making
	Sister is employed by Far North District Council			Will not discuss work/governance matters that are confidential
	Gifts - food and beverages	Residents and ratepayers may 'shout' food and beverage	Perceived bias or predetermination	Case by case basis
	Taumarere Counselling Services	Advisory Board Member	May be perceived conflicts	Should conflict arise, step aside from voting
	Sport Northland	Board Member	May be perceived conflicts	Should conflict arise, step aside from voting
	He Puna Aroha Putea Whakapapa	Trustee	May be perceived conflicts	Should conflict arise, step aside from voting should they apply for funds
	Kawakawa Returned Services Association	Member	May be perceived conflicts	Should conflict arise, step aside from voting should they apply for funds
	Whangaroa Returned Services Association	Member	May be perceived conflicts	Should conflict arise, step aside from voting should they apply for funds
	National Emergency Management Advisor Committee	Member		Case by case basis
	Te Rūnanga ā Iwi o Ngāpuhi	Tribal affiliate member	As a descendent of Te Rūnanga ā Iwi o Ngāpuhi I could have a perceived conflict of interest in Te Rūnanga ā Iwi o Ngāpuhi Council relations	Declare a perceived conflict should there appear to be one
	Te Rūnanga ā Iwi o Ngāti Hine	Tribal affiliate member	Could have a perceived conflict of interest	Declare a perceived conflict should I

Name	Responsibility (i.e. Chairperson etc)	Declaration of Interests	Nature of Potential Interest	Member's Proposed Management Plan
				determine there is a conflict
	Kawakawa Business and Community Association	Member		Will declare a perceived conflict should there appear to be one
Kelly Stratford - Partner	Chef and Barista	Opua Store	None perceived	
	Māori title land – Moerewa	Shareholder	None perceived	If there was a conflict of interest, I would step aside from decision making
Moko Tepania	Teacher	Te Kura Kaupapa Māori o Kaikohe.	Potential Council funding that will benefit my place of employment.	Declare a perceived conflict
	Chairperson	Te Reo o Te Tai Tokerau Trust.	Potential Council funding for events that this trust runs.	Declare a perceived conflict
	Tribal Member	Te Rūnanga o Te Rarawa	As a descendent of Te Rarawa I could have a perceived conflict of interest in Te Rarawa Council relations.	Declare a perceived conflict
	Tribal Member	Te Rūnanga o Whaingaroa	As a descendent of Te Rūnanga o Whaingaroa I could have a perceived conflict of interest in Te Rūnanga o Whaingaroa Council relations.	Declare a perceived conflict
	Tribal Member	Kahukuraariki Trust Board	As a descendent of Kahukuraariki Trust Board I could have a perceived conflict of interest in Kahukuraariki Trust Board Council relations.	Declare a perceived conflict
	Tribal Member	Te Rūnanga ā-lwi o Ngāpuhi	As a descendent of Te Rūnanga ā-lwi o Ngāpuhi I could have a perceived conflict of interest in Te Rūnanga ā-lwi o Ngāpuhi Council relations.	Declare a perceived conflict

Name	Responsibility (i.e. Chairperson etc)	Declaration of Interests	Nature of Potential Interest	Member's Proposed Management Plan
John Vujcich	Board Member	Pioneer Village	Matters relating to funding and assets	Declare interest and abstain
	Director	Waitukupata Forest Ltd	Potential for council activity to directly affect its assets	Declare interest and abstain
	Director	Rural Service Solutions Ltd	Matters where council regulatory function impact of company services	Declare interest and abstain
	Director	Kaikohe (Rau Marama) Community Trust	Potential funder	Declare interest and abstain
	Partner	MJ & EMJ Vujcich	Matters where council regulatory function impacts on partnership owned assets	Declare interest and abstain
	Member	Kaikohe Rotary Club	Potential funder, or impact on Rotary projects	Declare interest and abstain
	Member	New Zealand Institute of Directors	Potential provider of training to Council	Declare a Conflict of Interest
	Member	Institute of IT Professionals	Unlikely, but possible provider of services to Council	Declare a Conflict of Interest
	Member	Kaikohe Business Association	Possible funding provider	Declare a Conflict of Interest
Belinda Ward	Ward Jarvis Family Trust	Trustee		
	Kenneth Jarvis Family Trust	Trustee		
	Residence in Watea			
Belinda Ward (Partner)	Ward Jarvis Family Trust	Trustee and beneficiary		
	Kenneth Jarvis Family Trust	Trustee and beneficiary		
	Residence in Watea	Trustee		

Far North District Council
Strategy and Policy Committee Meeting
will be held in the Virtually via Microsoft Teams on:
Tuesday 8 February 2022 at 9.30 am

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1 KARAKIA TIMATANGA – OPENING PRAYER**2 NGA WHAKAPĀHA ME NGĀ PĀNGA MEMA / APOLOGIES AND DECLARATIONS OF INTEREST**

Members need to stand aside from decision-making when a conflict arises between their role as a Member of the Committee and any private or other external interest they might have. This note is provided as a reminder to Members to review the matters on the agenda and assess and identify where they may have a pecuniary or other conflict of interest, or where there may be a perception of a conflict of interest.

If a Member feels they do have a conflict of interest, they should publicly declare that at the start of the meeting or of the relevant item of business and refrain from participating in the discussion or voting on that item. If a Member thinks they may have a conflict of interest, they can seek advice from the Chief Executive Officer or the Team Leader Democracy Support (preferably before the meeting).

It is noted that while members can seek advice the final decision as to whether a conflict exists rests with the member.

3 TE TONO KŌRERO / DEPUTATION

Representatives from Spark New Zealand

4 CONFIRMATION OF PREVIOUS MINUTES

4.1 CONFIRMATION OF PREVIOUS MINUTES

File Number: A3562870

Author: Marlema Baker, Meetings Administrator

Authoriser: Aisha Huriwai, Team Leader Democracy Services

PURPOSE OF THE REPORT

The minutes of the previous Strategy and Policy Committee meeting are attached to allow the Committee to confirm that the minutes are a true and correct record.

RECOMMENDATION

That the Strategy and Policy Committee agrees that the minutes of the meeting held 24 November 2021 be confirmed as a true and correct record.

1) BACKGROUND

Local Government Act 2002 Schedule 7 Section 28 states that a local authority must keep minutes of its proceedings. The minutes of these proceedings duly entered and authenticated as prescribed by a local authority are prima facie evidence of those meetings.

2) DISCUSSION AND OPTIONS

The minutes of the meeting are attached. Far North District Council Standing Orders Section 27.3 states that no discussion shall arise on the substance of the minutes in any succeeding meeting, except as to their correctness.

Reason for the recommendation

The reason for the recommendation is to confirm the minutes are a true and correct record of the previous meeting.

3) FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION

There are no financial implications or the need for budgetary provision.

ATTACHMENTS

1. **2021-11-24 SPP Meeting Minutes - A3497958** [↓](#) 

Compliance schedule:

Full consideration has been given to the provisions of the Local Government Act 2002 S77 in relation to decision making, in particular:

1. A Local authority must, in the course of the decision-making process,
 - a) Seek to identify all reasonably practicable options for the achievement of the objective of a decision; and
 - b) Assess the options in terms of their advantages and disadvantages; and
 - c) If any of the options identified under paragraph (a) involves a significant decision in relation to land or a body of water, take into account the relationship of Māori and their culture and traditions with their ancestral land, water sites, waahi tapu, valued flora and fauna and other taonga.
2. This section is subject to Section 79 - Compliance with procedures in relation to decisions.

Compliance requirement	Staff assessment
State the level of significance (high or low) of the issue or proposal as determined by the Council's Significance and Engagement Policy	This is a matter of low significance.
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	This report complies with the Local Government Act 2002 Schedule 7 Section 28.
State whether this issue or proposal has a District wide relevance and, if not, the ways in which the appropriate Community Board's views have been sought.	It is the responsibility of each meeting to confirm their minutes therefore the views of another meeting are not relevant.
State the possible implications for Māori and how Māori have been provided with an opportunity to contribute to decision making if this decision is significant and relates to land and/or any body of water.	There are no implications on Māori in confirming minutes from a previous meeting. Any implications on Māori arising from matters included in meeting minutes should be considered as part of the relevant report.
Identify persons likely to be affected by or have an interest in the matter, and how you have given consideration to their views or preferences.	This report is asking for the minutes to be confirmed as true and correct record, any interests that affect other people should be considered as part of the individual reports.
State the financial implications and where budgetary provisions have been made to support this decision.	There are no financial implications or the need for budgetary provision arising from this report.
Chief Financial Officer review.	The Chief Financial Officer has not reviewed this report.

**MINUTES OF FAR NORTH DISTRICT COUNCIL
STRATEGY AND POLICY COMMITTEE MEETING
HELD AT THE VIRTUALLY VIA MICROSOFT TEAMS
ON WEDNESDAY, 24 NOVEMBER 2021 AT 9.31 AM**

PRESENT: Chair Rachel Smith, Cr David Clendon, Deputy Mayor Ann Court, Cr Dave Collard, Cr Felicity Foy, Cr Kelly Stratford, Cr Moko Tepania, Cr John Vujcich, Member Belinda Ward

IN ATTENDANCE: Shaun Clarke (Chief Executive Officer), William J Taylor, MBE (General Manager Corporate Services), Dean Myburgh (General Manager District Services), Andy Finch (General Manager Infrastructure and Asset Management), Darren Edwards (General Manager Strategic Planning and Policy)

STAFF PRESENT: (Virtual) - Caitlin Thomas, Aisha Huriwai, Bill Lee, Briar Macken, Casey Gannon, Emma Healey, Greg Wilson, Roger Ackers, Marlema Baker.

1 KARAKIA TIMATANGA – OPENING PRAYER

Chair Rachel Smith commenced the meeting and opened with a karakia.

2 NGĀ WHAKAPĀHA ME NGĀ PĀNGA MEMA / APOLOGIES AND DECLARATIONS OF INTEREST

An apology was received for His Worship the Mayor John Carter and a leave of absence was granted.

3 NGĀ TONO KŌRERO / DEPUTATION

Nil

4 CONFIRMATION OF PREVIOUS MINUTES

4.1 CONFIRMATION OF PREVIOUS MINUTES

Agenda item 4.1 document number A3421661, pages 16 - 17 refers

RESOLUTION 2021/52

Moved: Chair Rachel Smith

Seconded: Cr Kelly Stratford

That the Strategy and Policy Committee agrees that the minutes of following meetings be confirmed as a true and correct record:

- a) 19 October 2021 (Strategy and Policy Committee Meeting)
- b) 26 October 2021 (Review of the 2019 Speed Limit Bylaw Hearing – Mid North)
- c) 02 November 2021 ((Review of the 2019 Speed Limit Bylaw Hearing – Kaitaia)

In Favour: Crs Rachel Smith, David Clendon, Ann Court, Dave Collard, Felicity Foy, Kelly Stratford, Moko Tepania, John Vujcich and Belinda Ward

Against: Nil

CARRIED

5 REPORTS

5.1 LITTER INFRINGEMENT POLICY REVIEW

Agenda item 5.1 document number A3308478, pages 29 - 32 refers

RESOLUTION 2021/53

Moved: Chair Rachel Smith

Seconded: Cr Felicity Foy

That the Strategy and Policy Committee recommend the Council:

- a) **Revoke the Litter Infringement Policy 2017.**
- b) **Adopts the provisions to infringe littering offences in the Far North District pursuant to Section 13 of the Litter Act 1979.**
- c) **Agree that no infringement fee shall exceed \$400, as per Section 13 of the Act.**
- d) **Agree infringement notices shall be served as per Section 14 of the Act.**

In Favour: Crs Rachel Smith, David Clendon, Ann Court, Dave Collard, Felicity Foy, Kelly Stratford, Moko Tepania, John Vujcich and Belinda Ward

Against: Nil

CARRIED**5.2 SOLID WASTE BYLAW - RECOMMENDATION TO CONTINUE BYLAW**

Agenda item 5.2 document number A3438487, pages 33 - 36 refers

RESOLUTION 2021/54

Moved: Cr Felicity Foy

Seconded: Cr Kelly Stratford

That the Strategy and Policy Committee recommends that the Council:

- a) **agree, in response to the consultation under 160 (3)(b)(ii), no amendments are to be made to the Solid Waste Bylaw.**
- b) **agree, under section 160 of the Local Government Act 2002 the Solid Waste Bylaw be continued without amendment.**

In Favour: Crs Rachel Smith, David Clendon, Ann Court, Dave Collard, Felicity Foy, Kelly Stratford, Moko Tepania, John Vujcich and Belinda Ward

Against: Nil

CARRIED**6 INFORMATION REPORTS****6.1 REGIONAL ACCESSIBILITY STRATEGY**

Agenda item 6.1 document number A3402142, pages 55 - 57 refers

RESOLUTION 2021/55

Moved: Cr Kelly Stratford

Seconded: Cr Dave Collard

That the Strategy and Policy Committee receive the report Regional Accessibility Strategy.

In Favour: Crs Rachel Smith, David Clendon, Ann Court, Dave Collard, Felicity Foy, Kelly Stratford, Moko Tepania, John Vujcich and Belinda Ward

Against: Nil

CARRIED

6.2 COMPLETION OF THE DRAFT DISTRICT PLAN AND TIMETABLE FOR NOTIFICATION

Agenda item 6.2 document number A3473233, pages 58 - 61 refers

RESOLUTION 2021/56

Moved: Cr John Vujcich

Seconded: Cr Felicity Foy

That the Strategy and Policy Committee receive the report Completion of the Draft District Plan and Timetable for Notification.

In Favour: Crs Rachel Smith, David Clendon, Dave Collard, Felicity Foy, Kelly Stratford, Moko Tepania, John Vujcich and Belinda Ward

Against: Cr Ann Court

CARRIED

At 11:14 am, Cr Kelly Stratford returned to the meeting. At 11:15 am, Cr Kelly Stratford left the meeting.

6.3 STRATEGY AND POLICY ACTION SHEET UPDATE NOVEMBER 2021

Agenda item 6.3 document number A3352503, pages 62 - 62 refers

RESOLUTION 2021/57

Moved: Chair Rachel Smith

Seconded: Cr Moko Tepania

That the Strategy and Policy Committee receive the report Action Sheet Update November 2021.

In Favour: Crs Rachel Smith, David Clendon, Ann Court, Dave Collard, Felicity Foy, Kelly Stratford, Moko Tepania, John Vujcich and Belinda Ward

Against: Nil

CARRIED

7 KARAKIA WHAKAMUTUNGA – CLOSING PRAYER

Chair Rachel Smith closed the meeting with a karakia.

8 TE KAPINGA HUI / MEETING CLOSE

The meeting closed at 11:32 am.

The minutes of this meeting will be confirmed at the Strategy and Policy Committee Meeting held on 8 February 2022.

.....
CHAIRPERSON

5 REPORTS

5.1 REVIEW OF THE EQUITY AND ACCESS FOR PEOPLE WITH DISABILITIES POLICY

File Number: A3479274

Author: Caitlin Thomas, Strategic Planner

Authoriser: Darren Edwards, General Manager - Strategic Planning and Policy

TAKE PŪRONGO / PURPOSE OF THE REPORT

To agree the Equity and Access for People with Disabilities Policy should continue with amendment, and staff should continue contributing to the development of a strategy to address accessibility issues in the Far North.

WHAKARĀPOPOTO MATUA / EXECUTIVE SUMMARY

- The Equity and Access for People with Disabilities Policy (the Policy) has been reviewed following concerns raised by the Disability Action Group as an advisory group to the Council.
- Council services, facilities, and assets are not fully accessible, as evident from feedback from the disability community and limitations to current standards.
- The policy should be amended, including to remove duplication of legislation and include an implementation plan.
- A Regional Accessibility Strategy involving The Far North District, Kaipara District, Northland Regional, and Whangarei District Councils is currently in its research stage.
- The review determined that a strategy is better suited to improve access by establishing specific actions and a timeline rather than guiding principles, therefore staff should continue progressing the Regional Accessibility Strategy.

TŪTOHUNGA / RECOMMENDATION

That the Strategy and Policy Committee recommends that the Council:

- agree, the Access and Equity for People with Disabilities Policy should continue with amendment; and,**
- agree, a strategy is the most appropriate way to address access to Council services, facilities, and assets in the Far North.**

1) TĀHUHU KŌRERO / BACKGROUND

The Equity and Access for People with Disabilities Policy 2013 (the Policy) has been reviewed. The Disability Action Group (DAG) raised concerns that the Policy had not been implemented and was not achieving the expected outcomes. The Policy was made by Council in 2013, following a recommendation from the DAG to Council to adopt a disability policy.

The purpose of the Policy is to encourage Council staff to follow best practise in ensuring Council services, facilities, and assets are accessible to the wider community, and improve engagement between Council and the disability community.

Definition of Accessibility

The Office for Disability Issues states that accessibility is “our ability to engage with, participate in, and belong to, the world around us.”

This includes access to:

- warm, safe, and affordable housing
- choices about where to live, learn, work and play

- safe and affordable transport
- public buildings, spaces, and facilities
- information in formats and languages that meet disabled people's needs
- meaningful work and play
- leadership positions on an equal basis with non-disabled people.

Role of Local Government

The role of local government is outlined in section 10 of the Local Government Act 2002, stating the purpose of local government is to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future.

Council also has a commitment to accessibility as per the Community Outcome in the Long-Term Plan of "Communities that are healthy, safe, connected and sustainable; Communities have access to everything that they need to have a good quality of life and freedom of opportunity and choice in the way that they live."

There are more individuals with activity limitations in the Far North (9.3%) compared to the overall New Zealand population (6.5%). Activity limitations include difficulty seeing, hearing, walking, and communicating.

Accessibility is guided by the:

- Local Government Act 2002
 - Section 10, promoting the four well-beings of communities
- Local Government Act 1974
 - Section 331(2) requires that footpaths must be safely accessed by mechanical conveyance i.e., mobility scooters
- Human Rights Act 1993
 - Under Section 21.1 disability is a prohibited ground of discrimination
- Building Act 2004
 - Section 118 requires 'reasonable and adequate' provision of access to and inside buildings and relates to access to facilities for people with disabilities
 - Providing "physical independence and wellbeing" as a principle under the Act
- New Zealand Disability Strategy and Action Plan
 - The vision for the strategy is that New Zealand is a non-disabling society
 - Outcomes set for central government ministries to achieve; however, the concept is relevant to New Zealand as a whole
- New Zealand Healthy Aging Strategy
 - The vision for the Strategy is that: older people live well, age well and have a respectful end of life in age-friendly communities
- United Nations Convention on the Rights of People with Disabilities (UNCRPD)
 - New Zealand is a signatory
- Standards New Zealand (Design for Access and Mobility)
- Accessibility Charter 2018
 - Means an organisation is committed to working to ensure that all information intended to the public is accessible to everyone, as per Article 9 of the UNCRPD.

Limitations to National Standards

The Office for Disability Issues found that “disabled people report that local government has a greater impact on their daily lives than central government” and that issues relating to local government were raised during consultation for the Disability Action Plan 2019 - 2023.

The National Local Authority Survey on Accessibility 2019 concluded that there is an opportunity for local authorities to do more to address accessibility.

A Ministry of Business, Innovation, and Employment and Office for Disability Issues 2014 report concluded that the existing standards are not enough to guarantee accessibility to the built environment for people with disabilities. This includes minimum standards sometimes resulting in poor levels of access. Disability organisations report standards being a “bare minimum” with limitations that:

- the current regulations do not provide consistent access into buildings for people with disabilities
- access to buildings does not allow people with disabilities to use buildings in the same way as others
- restricting access restricts the contribution people with disabilities can make to New Zealand’s economy
- exemptions have led to feelings of not being wanted or valued among people with disabilities.

On 28 July 2021, the Cabinet Social Wellbeing Committee agreed to draft an accessibility legislative framework. The proposal was expected to be released in September 2021 but has yet to be released. This may establish changes to legislative frameworks (as the New Zealand Law Foundation suggested in September 2021¹) which will be relevant to the delivery of Council services.

Any work progressed by the Cabinet will not inhibit Council developing policy. Council has an opportunity to be proactive and follow the guidance of research showing how access is not guaranteed for people with disabilities instead of waiting for a new legal framework to be adopted.

2) MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND OPTIONS

The Research Report (Attachment 1) discusses the policy review and background research. An overview of the policy and review findings is outlined below.

Problem to address

Council services, facilities, and assets are currently not accessible to everyone in the Far North District. This is a particular issue for people with disabilities.

The determination report (received by Council on 24 June 2013) for the Policy states that it seeks to encourage ‘good practice’ in respect of improving access to Council facilities and services.

Access is not a problem exclusive to the disability community. Small children, the elderly, family, and guardians of children, those with temporary mobility issues, and speakers of other languages may also face barriers to accessing services, facilities, and assets.

The Disability Action Group, as an advisory group to the Council, reported insufficient access in the Far North to Council services, facilities, and assets. This impacts the social, economic, cultural, and environmental wellbeing of the disability community, as well as the wider Far North community from missing out on the contributions people could make if they had sufficient access. The Disability Action Group determined that a policy could be utilised to address this.

Data from a community survey conducted by the Regional Accessibility Strategy Working Group also suggests that:

- approximately 68% of Far North District respondents feel that their council is either “not good” or only “okay” at supporting accessibility, compared to 15% who indicate it is “good”.

¹[Law Foundation Accessibility Report Summary](#)

- Approximately 58% of Far North District respondents feel that access to build spaces in their district is only “okay”, while 29% rate that access to public places is “not good”.
- Approximately 65% of Far North District Respondents indicated that their council is “not good” at improving footpath access.
- Key themes raised across the Far North, Kaipara, and Whangarei respondents showed that footpaths, disability parking, access to places, access to buildings, pedestrian crossing, transport, and access to information and services are important to the disability community.

A review of RFS data has not identified any further problems outside of what has been identified by the Disability Action Group.

Review findings

There is no evidence of an implementation plan, which may have contributed to the lack of staff awareness indicated by a staff survey in 2018. The Disability Action Group have identified issues including but not limited to footpaths being inaccessible to mobility scooters, and toilets not being fully accessible.

There is no baseline data so staff cannot confirm whether the Policy has been effective in improving access to facilities, services, and assets.

The word choice within the Policy does not follow best practice for effective action for example phrasing such as Council will “endeavour to ensure that”.

Many clauses of the Policy are already legislative requirements for Council, meaning removing them will still maintain the status quo. The Policy does not identify actions to go beyond the minimum legal requirement except for the section regarding staff training.

Two provisions, Council’s communication with people with disabilities and staff disability training are not a legal requirement for Council.

The Policy states that facilities, services, and assets are accessible to a wide variety of people. A strategy could identify what level of access should be achieved, and the steps required to achieve this outcome.

A policy in isolation acts as a guideline, and a guideline has not achieved the results expected by the disability community. A strategy is action-orientated and can identify issues and develop a work program for staff to implement to address those issues.

A strategy can directly address how to achieve the objective with specific actions and goals.

Regional Accessibility Strategy

The Chief Executive’s Forum initiated the development of a Regional Accessibility Strategy, involving representatives from Northland Regional, Whangarei District, Kaipara District, and Far North District Councils. The potential strategy is currently in the research and information gathering stage, with the goal of increased accessibility for Northland communities. A strategy provides an opportunity to target specific access goals to improve wellbeing by engaging with communities, key stakeholders, and the Disability Action Group.

The review suggests that a strategy would be more successful than a policy in improving addressing accessibility issues. Continuing the development of a regional strategy could achieve the positive change which the Disability Action Group hoped a policy would.

Option One: Status Quo Continue the Policy without amendment

The Policy stays in force with no changes. Option one maintains the status quo, meaning nothing will change and the current provisions of the policy will be kept as is.

If the Policy was implemented better, it still would not achieve the desired outcome of Council facilities, assets, and services being accessible to a wide range of people since many clauses of the document are already legislative expectations for Council. Continuing the policy without amendment is not likely to improve access.

Advantages of Option One	Disadvantages of Option One
<p>No further time or resources required.</p> <p>Disability awareness training will continue to be offered as a directive of the Policy.</p>	<p>Reputational risk: The Disability Action Group has indicated that the current policy does not achieve significant outcomes for the disability community</p> <p>Clauses within the current policy are already required by Council, meaning that the document duplicates legislative requirements.</p>

Option Two: Amend the Policy

The provisions in the policy will be amended based on community engagement, and an implementation plan developed. The contents guide how staff should make decisions and not how the public should behave, therefore an amended policy should become an internal document instead of an externally facing one.

Amendments include:

- Removing duplication of legislative requirements
- Strengthening wording to enable greater action
- Establishing priorities for which facilities and assets need to be improved first
- Defining the ways which Council decides to act beyond legislative requirements to guarantee access to the wider community.

Amending the Policy would include an implementation plan.

Advantages of Option Two	Disadvantages of Option Two
<p>Including an implementation plan to carry out the policy</p> <p>The Disability Action Group first requested a policy be developed; amending the policy follows that initial suggestion</p> <p>Amending the policy allows aspects like the phrasing and objectives to be improved</p> <p>Disability awareness training will continue to be offered as a directive of the Policy</p> <p>Many clauses of the Policy are already required by Council, so duplication of legislation can be removed.</p>	<p>A policy in isolation is not best practise because it functions as a guideline, and the community has indicated the desire to see action, which can be communicated better through a strategy</p> <p>The disability community has indicated frustration from engaging with Councils and feeling like concerns are being ignored. Amending the Policy will require further engagement which creates further reputation risk if the amended policy does not meet community expectations.</p>

Option Three: Revoke the Policy

Option Three suggests that the policy be revoked, since the Policy has not addressed the problem of achieving the objective.

Advantages of Option Three	Disadvantages of Option Three
<p>Many clauses of the current policy are already requirements to Council, meaning revoking will still maintain the status quo</p>	<p>Revoking the current policy has similar outcome as the status quo, which does not address the problem of insufficient access</p> <p>The section regarding disability awareness training will have to be moved to a different</p>

<p>Reputational advantage: removing an insufficient document that does not achieve its objective and is not best form.</p>	<p>document, or else there will be no directive for this training</p> <p>Reputational risk: By not addressing the problem, Council is also not addressing the concerns of the Disability Action Group who have been advising Council of the existing issues surrounding insufficient access</p> <p>Reputational risk: Revoking the current policy in isolation does not improve outcomes for the disability community, or address community expectations</p> <p>The Disability Action Group Terms of Reference refers to the current policy, revoking would mean the group update it or make a different agreement with the Council.</p>
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Option Four: Develop a Strategy to Address Accessibility, amend the Policy (recommended option)

The current policy has not improved accessibility in the Far North District, so a strategy identifying specific actions for Council to improve access to services, facilities, and assets should be developed.

Currently, a Regional Accessibility Strategy is in the early stages of development. A separate paper [Information Report: Regional Accessibility Strategy; and Attachment 1, Page 10] will provide more information on this.

Option Four adds to Option Two: amend the Policy but acknowledges the benefit of a strategy. Other Councils like Wellington City Council have previously replaced their Disability Policy with a strategy, as supported by local Action Groups.

The sections of the Policy regarding communicating with the disability community and providing staff training can be moved to internal documents (internal policies for staff, guidelines, processes, and procedures). This is more practical since the subject matter regards the internal workings of council. The current policy is external facing, and external documents generally deal with what the public can or should do instead of what staff should do.

Instead of stating that Council facilities are accessible to a wide range of people as the existing Policy does, a strategy like the Regional Accessibility Strategy can identify facilities which can be improved, what will be done to make them more accessible, and when this will be achieved by.

Advantages of Option Four	Disadvantages of Option Four
<p>Strategy would align better with the National Disability Strategy and Action Plan</p> <p>The useful clauses of the Policy are better suited as internal documents, so these clauses can be shifted.</p> <p>A strategy aligns with the best practise of other Councils</p> <p>Council approaching how to improve accessibility now means being better prepared for anticipated legislation changes as per the Accelerating Accessibility framework</p>	<p>Option Four requires the most time and resources of all the practicable options.</p> <p>The time it will take to develop and approve the regional accessibility strategy. Early engagement is expected to begin late 2021 and a report will go to Council after analysis is completed.</p>

<p>The Policy duplicated legislation instead of identifying how Council could act beyond the minimum legal requirement</p> <p>A strategy is more likely to achieve the outcomes expected by the disability community than a policy</p> <p>A strategy can achieve the objective of Council services, facilities, and assets being accessible better than a policy</p> <p>Reputational advantage: best practise in replacing the policy with a strategy</p> <p>Reputational advantage: addressing the concerns of the disability community by identifying areas where accessibility can be improved and actions to create a more accessible District.</p>	
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The policy can be reviewed again when the strategy is in place to determine if it is still fit for purpose.

The staff recommendation is to proceed with option 4 – develop regional accessibility strategy and amend the policy.

Take Tūtohunga / Reason for the recommendation

Option Four is the preferred option to address the problem of insufficient access to Council services, facilities, and assets.

A strategy is more suited to address the problem. The existing policy requires amendment as it is not in the most appropriate form.

Next steps:

Elected Members will receive a proposed amended Policy in mid to late 2022 subject to the progress on the Regional Accessibility Strategy.

3) PĀNGA PŪTEA ME NGĀ WĀHANGA TAHUA / FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION

The cost of updating the Policy will be met from existing operational budgets.

ĀPITIHINGA / ATTACHMENTS

- 1. Research Report - equity and Access June 2021 - A3292151** [↓](#) 

Hōtaka Take Ōkawa / Compliance Schedule:

Full consideration has been given to the provisions of the Local Government Act 2002 S77 in relation to decision making, in particular:

1. A Local authority must, in the course of the decision-making process,
 - a) Seek to identify all reasonably practicable options for the achievement of the objective of a decision; and
 - b) Assess the options in terms of their advantages and disadvantages; and
 - c) If any of the options identified under paragraph (a) involves a significant decision in relation to land or a body of water, take into account the relationship of Māori and their culture and traditions with their ancestral land, water sites, waahi tapu, valued flora and fauna and other taonga.
2. This section is subject to Section 79 - Compliance with procedures in relation to decisions.

He Take Ōkawa / Compliance Requirement	Aromatawai Kaimahi / Staff Assessment
State the level of significance (high or low) of the issue or proposal as determined by the Council's Significance and Engagement Policy	The level of significance for the Proposal as determined by the <i>Significance and Engagement Policy</i> is as medium. This is because it considers Council assets, facilities, and services and how to improve them to better meet community wellbeing as per the Local Government Act 2002.
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	Improving accessibility aligns with the Community Outcome in the Long-Term Plan of "Communities that are healthy, safe, connected and sustainable; Communities have access to everything that they need to have a good quality of life and freedom of opportunity and choice in the way that they live." Key legislation includes the Local Government Act 2002, the Building Act 2004.
State whether this issue or proposal has a District wide relevance and, if not, the ways in which the appropriate Community Board's views have been sought.	This report is of District wide relevance. Engagement with Community Boards will be sought while amending the policy and developing a strategy, particularly for aspects like footpaths which are under Community Board delegation.
State the possible implications for Māori and how Māori have been provided with an opportunity to contribute to decision making if this decision is significant and relates to land and/or any body of water. State the possible implications and how this report aligns with Te Tiriti o Waitangi / The Treaty of Waitangi.	This report is relevant to Māori people with disabilities. 62.2% of the total disabled population in New Zealand are Māori. The Far North District also has comparatively high percentages of people with disabilities Māori will be invited to participate in the engagement process for amending the policy.
Identify persons likely to be affected by or have an interest in the matter, and how you have given consideration to their views or preferences (for example	This matter is of interest to everyone because the wider community benefits from more people having equal opportunities to live, work, and play in the Far North. Groups with particular interest include:

<p>– youth, the aged and those with disabilities).</p>	<ul style="list-style-type: none"> • People with disabilities • Children with disabilities • Māori people with disabilities • Elderly people • Families and caregivers of small children • People with injuries and temporary access needs • People with English as a second language • Visitors who do not speak English
<p>State the financial implications and where budgetary provisions have been made to support this decision.</p>	<p>The current financial implications are as per current budget for the development of a strategy.</p>
<p>Chief Financial Officer review.</p>	<p>This report has been reviewed by the Chief Financial Officer</p>

1 Purpose

To describe and discuss the review of the Equity and Access for People with Disabilities Policy (2013).

2 Context

Local government best practice is to review non-legislated policies every six years, which is in line with section 17A of the Local Government Act 2002. The policy therefore is overdue for review (2019). The Disability Action Group, as an advisory group to Council, have addressed concerns that the Policy has not achieved the expected outcomes of improving access for people with disabilities.

Improving accessibility aligns with the Community Outcome in the Long-Term Plan of “Communities that are healthy, safe, connected and sustainable; Communities have access to everything that they need to have a good quality of life and freedom of opportunity and choice in the way that they live.”

Council must decide whether a policy is still the best way to address and improve access and equity for people in the Far North.

2.1 Definition of Accessibility

The Office for Disability Issues states that accessibility is “our ability to engage with, participate in, and belong to, the world around us.”

This includes access to:

- choices about where to live, learn, work and play
- safe and affordable transport
- public buildings, spaces, and facilities
- information in formats and languages that meet disabled people’s needs
- leadership positions on an equal basis with non-disabled people.

2.2 What is the Council’s role in relation to accessibility?

Accessibility is considered in the following:

- Local Government Act 2002, Local Government Act 1974
- Human Rights Act 1993
- Building Act 2004
- Building Code
- New Zealand Disability Strategy and Action Plan
- New Zealand Healthy Aging Strategy
- Standards New Zealand (Design for Access and Mobility)
- Accessibility Charter 2018.

2.2.1 Local Government Act 2002

The Local Government Act 2002 sets the framework through which local authorities operate. Under the Local Government Act 2002 (Section 10), the purpose of local government is to “... promote the social, economic, environmental, and cultural wellbeing of communities, in the present and for the future”. If people with disabilities have access to physical and social structures, they are better able to participate in the community, enabling social and cultural wellbeing.

Insufficient access to places, information, services, buildings, events, facilities, and groups has a negative impact on both community and an individual’s wellbeing. Lack of access can impact mental health, and affect the social and economic wellbeing of communities by preventing community participation. Lack of participation affects everyone, not just those who are unable to access people and places, because the wider community misses out on their involvement.

Council has an obligation under the section 82 that when consulting Council should provide “*reasonable access to relevant information in a manner and format that is appropriate to the preferences and needs of those persons.*”

The Local Government Act 1974 has more specific provisions regarding footpaths, for example S331(2) which refers to people with disabilities in stating that:

“In forming or reforming any road or part thereof (not being a road in a rural area), the council shall ensure that reasonable and adequate provision is made for the kerb and channel of any footpath or part thereof to be formed or reformed so as to permit safe and easy passage from kerb to kerb of any mechanical conveyance normally and lawfully used by a disabled person”.

2.2.2 Building Act 2004

The Building Act section 118 requires ‘reasonable and adequate’ provision of access both to and within buildings and relates specifically to access to facilities for people with disabilities. Additionally, one of the principles of the Act is the need to provide for the “physical independence and wellbeing” of the people who use buildings. Council has a role in enforcing building legislation by granting consents, and as a building owner.

As per section 18, Council cannot require compliance that is more restrictive than the Building Code.²

2.2.3 Human Rights Act 1993

Disability and age are both prohibited grounds of discrimination.³ The Act classifies disability as:

“(i) physical disability or impairment:

(ii) physical illness:

(iii) psychiatric illness:

(iv) intellectual or psychological disability or impairment:

(v) any other loss or abnormality of psychological, physiological, or anatomical structure or function:

(vi) reliance on a guide dog, wheelchair, or other remedial means:

(vii) the presence in the body of organisms capable of causing illness”.⁴

Council must provide and make services accessible to the whole public, however the Act has limitations in that while Section 42 establishes that access can not be refused there is no requirement to provide for people to gain access.

Council as a provider of services has expectations under the Act, as services, facilities, and goods need to be accessible to the whole public. It is discriminatory if some members of the community can not access what Council provides, while other community members can.

Accessibility as per the Building Act 2004 and the Building Code is complicated by the Human Rights Act 1993, because it contains specific exceptions for access to public places and facilities.⁵ This includes legally not providing special services or facilities to enable a person with a disability to gain access to if it would not be “reasonable” to require it. *Bell, McGregor, and Wilson* state that this exemption along with how any necessary upgrades can be ignored if the cost imposed to the building owner “outweigh the potential advantages” suggests that New Zealand is a while away from being a fully accessible society.⁶

2.2.4 United Nations Convention on the Rights of Persons with Disabilities

Access to buildings for people with disabilities is acknowledged in the United Nations Convention on the Rights of Persons with Disabilities and as a prohibited ground of discrimination under the New Zealand Human Rights Act 1993.

Accessibility is one of the key principles of the Convention (Article 9) and is recognised as a precondition for the equal enjoyment of economic, social, cultural, and political rights by people with disabilities.⁷ Accessibility is necessary for people to live independently and participate in society.

² [Building Act 2004](#)

³ [Human Rights Act 1993](#)

⁴ [Human Rights Act 1993](#)

⁵ [NZ Journal of Public and International Law, Vol 13](#)

⁶ [NZ Journal of Public and International Law, Vol 13](#)

⁷ [NZ Journal of Public and International Law, Vol 13](#)

While this is an important agreement, people cannot go to New Zealand Courts and enforce their rights under one of the UN Conventions.

“Reasonable accommodation”

“Reasonable accommodation” refers to creating an environment to ensure equality of opportunity, and is referenced in both the Convention and the New Zealand Human Rights Act. The Convention defines reasonable accommodation as “necessary and appropriate modifications and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms”. New Zealand’s Disability Strategy uses the same definition.

However, one legal case in New South Wales identified that: *“No matter how important a particular accommodation may be for a disabled person or disabled persons generally, failure to provide it is not a breach of the [Human Rights] Act...”*⁸ While the Convention is important, it cannot be relied on exclusively.

The Human Rights Act 1993 does not define what is “reasonable” because it is circumstantial.

2.2.5 National Disability Strategy and Action Plan

The Office for Disability Issues developed a *National Disability Strategy* (2016-2026) which is currently supported by the *Disability Action Plan* (2019-2023).

The vision of the New Zealand Disability Strategy is that “New Zealand is a non-disabling society - a place where disabled people have equal opportunity to achieve their goals and aspirations, and all of New Zealand works together to make this happen.”⁹

The Disability Action Plan¹⁰ aims to deliver the eight outcomes of the Strategy which relate to:

- education
- employment and economic security
- health and wellbeing
- rights protection and justice
- accessibility
- attitudes
- choice and control
- leadership.

The principles of the strategy can be adopted by local government as guiding principles to achieve these national outcomes. The priorities in the plan relate to how Council conducts business, such as with accessible communications and an accessible built environment. While the Action Plan is directed at Central Government, everywhere – including Local Government – is encouraged to support the guiding principles to better achieve the outcomes. For example, outcome 5: accessibility includes priorities to:

- increase government services’ responsiveness to disabled people
- increase accessibility of information across government agencies
- increase the accessibility for disabled people of the built environment and transport services.

2.2.6 New Zealand Healthy Aging Strategy

New Zealand’s Healthy Ageing Strategy was released in December 2016 and is related to the New Zealand Disability Strategy. It sets the strategic direction for the next 10 years for the delivery of services to people into and throughout their later years. The vision for the Strategy is that: Older people live well, age well and have a respectful end of life in age-friendly communities.¹¹ Priority actions for implementation in the 2019-2022

⁸ At [29], quoting *Purvis v New South Wales* [2003] Sourced from [NZ Journal of Public and International Law, Vol 13](#)

⁹ [NZ Disability Strategy](#)

¹⁰ [NZ Disability Action Plan](#)

¹¹ [NZ Healthy Aging Strategy](#)

timeframe include developing and supporting the growth of age friendly communities and improving housing options for older people.¹²

While this is led by groups including the Office for Seniors and the Ministry of Health, Local Government has a role in successfully implementing these outcomes in local communities. Aspects of Council work, including Housing for the Elderly,¹³ are especially relevant in making the Far North a safe and healthy place for older people.

2.3 Northland Regional Community Survey on Accessibility

Data from a community survey conducted by the Regional Accessibility Strategy Working Group also suggests that:

- approximately 68% of Far North District respondents feel that their council is either “not good” or only “okay” at supporting accessibility, compared to 15% who indicate it is “good”.
- Approximately 58% of Far North District respondents feel that access to built spaces in their district is only “okay”, while 29% rate that access to public places is “not good”.
- Approximately 65% of Far North District Respondents indicated that their council is “not good” at improving footpath access.
- Key themes raised across the Far North, Kaipara, and Whangarei respondents showed that footpaths, disability parking, access to places, access to buildings, pedestrian crossing, transport, and access to information and services are important to the disability community.

3 Objectives

3.1 Purpose of review

To determine whether the policy is still the most appropriate way to address problems regarding access in the Far North District.

3.2 Review objectives

- To define accessibility related problems in the Far North District that are within Council’s function to control.
- To identify if a policy is still the most appropriate way to address problems regarding access in the Far North District.

4 Problem definition

4.1 Scope

In scope

Problems relating to accessibility in the Far North District which are a function of Council to control or address.

Accessibility means the quality being able to reach, enter, obtain, use, or understand something. For people with disabilities and the wider access needs community, access means having the same opportunity to engage, acquire information, enjoy services, places, and spaces in the same manner as someone without a disability or access needs.

Access is not only relevant to the elderly and people with disabilities but also to the wider community including people recovering from injuries, parents and caregivers with small children and pushchairs, and non-English speakers. Therefore, while the Policy specifies the disability community it is of significance to a much wider group.

¹² [NZ Healthy Aging Strategy](#)

¹³ [FNDC Pensioner Housing Policy](#)

Out of scope

- Building standards, as regulated by the Building Act 2004
 - Standards are developed by central government.
- anything outside the Far North District or on private land
 - Council cannot enforce acting beyond legal standards like the Building Act on private land.
- services and facilities not owned or controlled by Council
 - Council can choose to act beyond the building standards on its own buildings and facilities to ensure accessibility on its own accord but cannot enforce this on others.

4.2 Purpose of current policy:

The Policy was developed because of concerns raised by the Disability Action Group (DAG) around accessibility to Council owned facilities. The policy was adopted following the DAG's request for a policy to support Council to maintain positive attitudes towards people with disabilities in the Far North and was created with the DAG's influence. The policy also serves as a framework for the use of the DAG's annual budget.

The purpose of the current policy is to contribute to:

- Council services, facilities and assets being accessible
- Council staff being aware of disability in the community and receiving appropriate training
- Council being active champions of an inclusive society

The existing policy summarises that Council has 5 roles in relation to accessibility. These are:

- | | |
|-----------------|---|
| An advocate for | <ul style="list-style-type: none"> • lobbying Central government • responding to proposed legislation • Specific needs and speaking on behalf of people with disabilities |
| A planner | <ul style="list-style-type: none"> • planning permission • considering physical access, universal access |
| A provider | <ul style="list-style-type: none"> • providing accessible services and facilities like libraries, pensioner housing, and sports facilities • provide accessible information |
| An employer | <ul style="list-style-type: none"> • supporting an inclusive workplace • providing equal opportunities |
| A regulator | <ul style="list-style-type: none"> • regulation of health and safety, and enforcement i.e. through relevant local bylaws • resource and building consents compliant with legislation and considering access needs • considering physical access in applications, for example events, and alfresco dining |

4.3 People with Disabilities in the Far North

The 2018 Census identified that the Far North District's population includes more individuals with activity limitations compared to the overall population. This is 9.3% of people living in the Far North, compared to 6.5% of New Zealand as a whole. Activity limitations include difficulty seeing, hearing, walking, and communicating.

5 Review of Policy

5.1 Limitations of National Standards

Limitations to national standards like the Building Act provide Council an opportunity to act beyond the legally required minimum.

A Ministry of Business, Innovation, and Employment and Office for Disability Issues report¹⁴ in 2014 concluded that the existing standards are not enough to guarantee accessibility to the built environment for people with disabilities.

- The Building Act s118 requires 'reasonable and adequate' provision of access both to and within buildings for people with disabilities. However, buildings are being constructed and altered in ways that do not provide adequate access.
- Providing regulations to ensure adequate access is not as simple as specifying the dimensions of an accessible toilet. It is about integrating access to ensure the building is approachable, accessible and usable.
- NZS 4121 is now out of date, and differences between it and the Building Code provide a 'loophole'.
- Current regulations set minimum standards which may result in 'poor' or 'unequal' access.
- There is inconsistent application of regulations by consent authorities across New Zealand.
- Out of those surveyed, local government and public service agencies tended to meet minimum requirements and had little understanding of "the accessible journey", a term referring to "approachability, accessibility, and usability".

In addition to checking the legislation limitations, the report consulted with organisations representing people with disabilities including Deaf Aotearoa and Deafblind (NZ). These organisations reported standards being a "bare minimum", with limitations that:

- the current regulations do not provide consistent access into buildings for people with disabilities
- access to buildings does not allow people with disabilities to use buildings in the same way as others
- restricting access restricts the contribution people with disabilities can make to New Zealand's economy
- exemptions have led to feelings of not being wanted or valued among people with disabilities
- Many do not understand their entitlements or what to do if they cannot access a building
- Some variations between people with different impairments in access requirements.

The MBIE/ODI report ultimately shows that access to built environments is not guaranteed for people with disabilities by national standards, which is relevant to Council as a business, consenting authority, and service provider.

5.2 Access for people with disabilities and "access for all"

The Policy includes the terminology "for people with disabilities" due to involvement from the Disability Action Group (DAG) in creating the policy, although elderly and other members of the access needs community are also involved with the DAG. While the Policy specifies people with disabilities, it's overall goal (as well as that of the DAG) is to achieve "access for all." People with disabilities have a unique perspective to access which is beneficial to Council for achieving "access for all". If a building is accessible to someone with access needs, including those with disabilities, it is most likely going to be accessible for the rest of the community as well.

¹⁴ [MBIE Report on Access to Buildings for People with Disabilities](#)

Access is not an issue exclusive to the disability community. Accessibility also impacts on the lives of family and caregivers with small children, elderly people, people who are speakers of other languages, and international visitors to the district.

5.3 Policy objectives

5.3.1 *Providing access to the built environment*

This objective suggests one of two things: that Council follows the legal standards i.e. building facilities like toilets; or, that Council acts beyond those standards to ensure access to a wide range of people.

Council could identify reasonable accommodations to go beyond the status quo.

“People with a wide range of abilities” is not defined, therefore the policy statement is uncertain. Council can say that this objective is being achieved simply by following the legal standard although accessibility groups including the DAG have referred to this as the “barest minimum”. Further research is required to identify and define the scope of an accessible facility, because research like the MBIE report shows that legal standards are not sufficient to maintain access for everyone in the community.

While this policy addresses the problem that not all members of the community are able to access the built environment, Council must act in accordance with standards like the Building Act 2004.

The provisions of this section of the policy are already covered by other policy instruments. For example, the regulation of mobility parking is enforced under the Parking and Traffic Control Bylaw (soon to be Road Use Bylaw), and both the Engineering Standards and Council’s Footpaths Policy regulate footpaths.

Even if members of the community report a problem Council is still technically achieving this policy by adhering to legal standards. “Endeavouring” to ensure equitable access also creates a “loophole” because there is no standard set; “endeavouring” to ensure something does not guarantee results to the public and is not recommended wording for a policy document.

A set of internal guidelines for staff expressing reasonable accommodations and where it is necessary to act would be more beneficial to both staff and communities than this policy statement.

5.3.2 *Providing access to participate*

Council is required as per the Local Government 2002 to have accessible information and to provide opportunities to everyone in the community to engage.

Further investigation is required to identify practicable ways to improve council systems to ensure that people with disabilities have opportunities to fully participate in Council design, planning, and decision making.

Staff have participated in some advocacy such as responding to the Office for Disability Issues’ local government survey. Aspects of the policy like establishing ongoing communication with the disability community (b) and building capacity of groups (c) directly relate to the Disability Action Group (DAG). Other aspects like funding in accordance with funding policies are irrelevant to mention. The DAG functions as an advisory group to the Council and staff are able to utilize the DAG meetings and members to gain insight into the experiences of people with disabilities. This can be improved, for example by use of an implementation plan discussing how to address concerns raised by the DAG and better communicate how and what Council is doing to communities.

5.3.3 *Council functions*

Council has functions, including the mentioned roles as an employer and provider, regardless of the Policy. For example, providing planning permission as per the Resource Management Act 1991 etc. and as an employer, for which bullying, harassment and equal opportunities for staff are covered by separate internal documents. Therefore, these provisions are not required in a policy.

Council has an equal opportunities policy, and a policy relating to bullying and discrimination which makes this section of the policy redundant. The aspects of this policy are standard to protect all employees, and forms of discrimination are liable for lawsuits and going against the Human Rights Act 1993. Moreover, direct mention of inputting the Health and Safety Act (now Health and Safety at Work Act 2015) is also a legal requirement which does not need to be referenced in an external Council policy.

Staff are provided with the opportunity to attend “no problem, you’re welcome” disability awareness training but was on hold in 2020 due to the COVID-19 pandemic. This is a suitable objective for improving services, however staff training is an internal matter and not content applicable to an external facing policy.

5.4 Implementation

A 2019 internal survey found that 35% of Council management/leadership staff were unaware of the policy, or assumed it existed but had not seen it.

Support for staff with injuries or different needs, and Health and safety were raised as a positive for Council as a business, but 64% of respondents were uncertain about how they could give effect to the policy in terms of services to the public.

However, some team leaders/managers did report positive implementation of the policy in their department such as ensuring that staff receive appropriate disability training, which is guided by Section 5 of the Policy.

There is evidence that the policy is not visibly addressing the problem because members of the community still report places and facilities which they cannot access or use, for example footpaths which are difficult to use on a mobile scooter. The policy states that “Council will endeavour to ensure that people with disabilities have equitable access to facilities and the built environment by: ... Addressing specific road safety issues raised by people with disabilities. These include problems with specific pedestrian crossings and intersections and uneven footpath surfaces.”

This is not successful as the Disability Action Group have raised footpath safety concerns, including the angles of slopes for mobility scooter access causing health and safety issues in crossing the road at some locations in Paihia. While this guiding statement in the policy sets the premise for how Council should act and make decisions, there is reputational risk in communicating this to individuals in the disability community who have raised road safety issues, or who do not have access to Council facilities because of their access needs.

There is no baseline data to determine whether there has been improvement.

5.5 Disability Action Group input

The Disability Action Group (DAG), as an advisory group to Council, have provided some specific access concerns:

- insufficient access to footpaths
 - new designs must meet standards but not old structures
 - some new footpaths are also not accessible because, as shown by *Accelerating Accessibility* and the MBIE built environment report, minimum standards are not enough
 - there is inconsistency across the district
- staff responses to complaints
 - comments, like one instance where a patron was advised to use the road where footpath access is insufficient, show a lack of understanding
- the level of access has improved, but more can be done
 - instances of footpaths being built which consider different access needs but are still not accessible to all. One example of this was a footpath developed in 2020 which had a slope gradient for wheelchair and pushchair access, but the sharp turn angle from the slope onto the path means those using mobility scooters would not be able to safely turn onto the path
- access to information
 - access to information is not limited to those with visual impairments who require large print, braille, or audio

- the style guide for report writing Council uses considers accessibility, like plain language and notes to consider translations to EasyRead (different to plain English)¹⁵
- One concern raised by DAG was that information provided in a Council agenda attachments can sometimes be impossible to read for anyone, for example image attachments being too small yet blurry if zooming in on a device.

There is an opportunity to maximize the value of our public services by greater accessibility, and stronger use of the Disability Action Group such as considering the issues raised above is one method of achieving this.

6 Further information that may impact on policy development

6.1 Regional Accessibility Strategy

The CEO Forum Northland initiated the development of a Regional Disability Strategy. FNDC staff are actively participating in the development of this strategy. Addressing access through a strategy is similar to other Councils including Wellington City and New Plymouth District. The Regional Accessibility Strategy Working Group seeks to identify accessibility problems across Northland and investigate the feasibility of strategic goals to improve accessibility. For example, best practise for improving access to transport. A strategy will deliver direction to accomplish these goals. A strategy provides an opportunity to target specific access goals to improve wellbeing by engaging with communities and the Disability Action Group.

The potential strategy will align with the Northland Forward Together vision, commitment, aspirations and key objectives.

A strategy could be more effective in creating outcomes for communities by:

- setting dates, budgets, and outcomes
- project specific information
- action orientated approach instead of guiding statements.

This Strategy is currently in the research and information gathering stage.

The research for the potential strategy informed the review of FNDC's Policy.

6.2 Other Far North District Council projects

Other Council projects considering accessibility but unrelated to the Policy include:

- FNDC District Facilities Strategy (developing)
 - Includes component on ensuring district facilities are accessible
- Engineering Standards (under review)
 - Set minimum requirements for footpaths etc.
- Footpath Policy (#5004) (existing)
 - Potential to support Regional Accessibility Strategy
- FNDC District plan (under review)
 - 15.1 Traffic, Parking, and Access
- FNDC Integrated Transport Strategy
 - Identifies key transport problems faced by the Far North and how to improve, including public transport and safety which have implications on accessibility.

6.3 Future work from Central Government

The Cabinet agreed to commence the design of an approach to achieve a fully accessible New Zealand in December 2018 following the Accelerating Accessibility Policy Work Programme (Ministry of Social Development, Office for Disability Issues).¹⁶ The *Accelerating progress towards accessibility in New Zealand* Cabinet Paper to the

¹⁵ [Our Voice style guide](#)

¹⁶ [Accelerating Accessibility Cabinet Paper](#)

Social Wellbeing Committee states that New Zealand is currently not fully accessible, with barriers to participation in key life areas across all domains of accessibility – not only the built environment.

The Cabinet Paper raises several issues related to access including:

- accessibility not being considered as “important”
 - access is not being seen as a basic human right by organisations, including government
 - access is assumed to involve prohibitive cost
- legislative settings not providing organisations with specific expectations and guidance in order to meet obligations, for example as providers of information or services
- central government being slow to act on the need to improve accessibility
 - this policy framework intends to increase the speed of improving access, and this change of pace is relevant to local government in Councils improving access to services and facilities.

Proposed work could include developing a common understanding of what “fully accessible” looks like, and achieving compliance with a standard agreed in co-design with disabled people and their representatives.¹⁷

It is highly likely that Council will need to adopt changes to address accessibility due to Central Government policy updates like the proposed Accelerating Accessibility Framework.

Addressing access at local government level will not be ‘undone’ or altered by future legislation, instead acting now means that costs are spread out and Council has more time to improve aspects like access to facilities. This also aligns with our progressive council agenda by looking into the future of our communities and acting continuously developing.

7 Discussion

7.1 Is a policy still the most appropriate way to address access in the Far North District?

The policy has not been correctly implemented and has not achieved outcomes in improving accessibility as intended when the Disability Action Group initiated the policy.

While the policy’s guiding statements are a good direction the Policy is not currently meeting community expectations. The policy is difficult to measure progress against because there was no baseline data undertaken. The policy appears to fail because of this inconsistency.

Instead of guiding statements, a strategy and associated action plan identifying what needs to be changed within a certain timeline would be easier to measure progress against. Strategies are a useful tool for conveying changes and progress to the public, which is beneficial for a large subject like accessibility since potential upgrades to facilities and services will take time to achieve.

A strategy could offer additional benefits, such as

- Specific actions and timelines for Council to achieve them in
 - This would help communicate how Council is improving to the public, which can benefit relationships with key stakeholders
- Defining actions that are beyond legal requirement
 - Council has an opportunity to act beyond legal standards to improve accessibility, as identified by the Ministry of Business, Innovation, and Employment, and the Office for Disability Issues
- Providing communities an opportunity to address what changes would make a difference to daily lives
 - Empowering people with disabilities, including the Disability Action Group, to advise Council.

¹⁷ [Accelerating Accessibility Cabinet Paper](#)

7.2 Is the Policy the most appropriate form of policy?

The Policy is not certain as:

- some of the language is ambiguous and unclear
- the policy duplicates legislative requirements.

External or Internal Policy

Although the current policy is an external facing document, the matters discussed are directed at staff for decision-making. For example, one of the Policy's outcomes is for Council staff to receive appropriate training and be aware of disabilities which is an internal matter.

Therefore, the Policy serves as a guideline for Council, not the public, and should be treated as an internal document. Due to the high public interest in accessibility, the policy and how it is being implemented requires transparency of information. The supporting communication strategy will ensure that the Policy remains accessible to the DAG and that the public are aware of the policy.

The policy becoming an internal document will not negatively influence the desired outcomes, because those outcomes are already internal matters; utilising an internal policy is simply locating the policy where it belongs as an official document.

Therefore, the policy is not the most appropriate form of policy.

8 Conclusion

Overall, the Policy is not the most effective tool for improving access for people with disabilities, a strategy should be considered to address the wider issue of accessibility in the Far North. We know that accessibility can be improved because there are still members of the public who cannot access services and facilities.

If a policy were to remain in place, the Policy needs to be amended to ensure the policy is easily understood, aligns with relevant laws and legislation, and is appropriately designated as either an external or internal policy.

5.2 PARKS AND RESERVES POLICY DEVELOPMENT

File Number: A3518519

Author: Ross Baker, Parks and Reserves Planner

Authoriser: Darren Edwards, General Manager - Strategic Planning and Policy

TAKE PŪRONGO / PURPOSE OF THE REPORT

To recommend to Council that the draft Parks and Reserves Policy be adopted.

WHAKARĀPOPOTO MATUA / EXECUTIVE SUMMARY

- On 30 July 2020, the Strategy and Policy Committee determined that new general policies for the management of parks and reserves be developed.
- The new policy will replace the Reserves Policy 2017.
- Consultation and workshops took place between December 2020 and November 2021.
- This report seeks the Strategy and Policy Committee's approval of the draft Parks and Reserves Policy and recommend that Council adopt the policy.

TŪTOHUNGA / RECOMMENDATION

That the Strategy and Policy Committee recommend that Council adopt the Parks and Reserves Policy.

1) TĀHUHU KŌRERO / BACKGROUND

The previous Reserves Bylaw 2010 expired in 2017. New options to enable the regulation of activities on both Council controlled parks and reserves were presented to Council in an options report on 21 May 2020. The Council determined that (Resolution 2020/28 refers):

That Council agree:

- a) that a bylaw, under the Local Government Act, is the most appropriate way of addressing the problems of nuisance, health and safety and offensive behaviour on Council controlled parks and reserves.**
- b) that administration draft a statement of proposal for the Council to make a bylaw to regulate activities on Council controlled parks and reserves, and develop non-regulatory options such as guidelines, education programmes and signage to support the implementation of an adopted bylaw.**

In 2020, staff considered non-regulatory options per resolution (b) above. This resulted in a review of the Reserves Policy 2017 that determined that it was deemed not fit for purpose and that a new policy should be developed.

On 30 July 2020, the Strategy and Policy Committee determined that (Resolution 2020/3 refers):

“The Strategy and Policy Committee agrees and recommends to Council that new general policies for the management of parks and reserves be developed”.

The new Parks and Reserves Policy at Attachment 1 is now presented for approval.

2) MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND OPTIONS

The options for the provision of guidance to Council and staff for the operation and management of Council controlled parks and reserves were outlined in the Options Report presented to the Committee on 30 July 2020, as follows:

1. Do nothing / maintain the status quo (retain the Reserves Policy 2017).
2. Develop a new general policies document for parks and reserves.

The Options Report recorded that “*Option 2 had been assessed as meeting the objectives and purpose of policy development, including providing a well- developed statement of position on ongoing or recurring matters and direction for responses or actions for staff, or for decisions of Council or a Committee. Option 2 would demonstrate consistency with legislation and Council plans and provide for all Council owned and administered open spaces (parks and reserves). In addition, the development of a new policy would benefit the review and development of Reserve Management Plans by reducing duplication of provisions while allowing the development of locally relevant policies.*”

Subsequent workshops held with staff across the various Council groups, elected members, and a questionnaire conducted with the Domain Boards and Reserve Management Committees has highlighted a wide range of issues being experienced with the management of the Council’s parks and reserves. These workshops, together with further research has reinforced the conclusions outlined in the 30 July 2020 Options Report.

In conclusion, the recommended option to adopt a new parks and reserves policy remains appropriate.

Issues with current policy

The Reserves Policy 2017 was an amalgamation of several reserve related policies as listed below:

- Reserves and Parks Management and Preservation
- Tree Management
- Reserve Management Committees
- Encroachments on Council-Owned Land
- Voluntary Rubbish and Litter Collection
- Smoke-free Reserves, Parks and Playgrounds

The Reserves Policy 2017 is missing content, contains ambiguous terminology, does not include parks, and includes policy statements affecting non reserves land e.g. roads, trees on Council properties and naming etc. The policy lacks guidance for Council and staff in management and operational matters that are often being experienced on parks and reserves, resulting in ad hoc decision-making affecting numerous topics, including the following:

- Leasing and licencing.
- Acquisition, disposal, and land exchange.
- Granting of easements.
- Encroachments
- Structures
- Lacks guidance on the provision of reserve management plans

Parks and reserves policy content

The new policy aligns with the current legislative framework and contains policy statements that address the following topics:

- Te Tiriti o Waitangi / Treaty of Waitangi
- Easements
- Acquisition, Disposal and Land Exchange
- Connectivity
- Structures
- Domain Boards and Reserve Management Committees
- Encroachments
- Reserves Management Plans
- Leases and Licences
- Esplanade Reserves and Esplanade Strips
- Application of Revenue
- Financial and development Contributions.

Further detailed schedules are provided for greater guidance and to streamline decision making on the following:

- Easement agreement bond and easement fee
- Criteria of acquisition, disposal, and land exchange (for parks and reserves only)
- Criteria for decisions for establishment of structures
- Role of Domain Boards and Reserve management Committees
- General provisions for building facilities.

The following content of the Reserves Policy 2017 does not carry over into the new policy:

- Naming – the naming of parks and reserves will be addressed within a new naming policy that will apply across the full spectrum of Council property, assets and District wide spaces and places.
- Tree management – a policy to address trees on all Council property is being considered.
- Voluntary rubbish and litter collection – addressed through the Litter Infringement Policy 2017.
- Smoke free reserves, parks, and playgrounds – to be reviewed and a new policy created to cover all Council property.

The following matters are not included in the new policy for the reasons outlined:

- Fencing – addressed in the Fencing Act 1978.
- Vehicles on beaches – to be addressed within the new parks and reserves bylaw and the road use bylaw.
- Growth demand / Gap analysis – to be considered during the development of the open spaces' strategy, growth strategy and spatial planning.

- Noxious plant control – to be addressed together with tree management.
- Animals – addressed under the Dog Management Policy 2018, Dog Management Bylaw 2018, and Part 5 of the Reserves Act 1977 and will be assessed as part of proposed new animal management bylaw.
- Nuisance behaviour – to be addressed in the new parks and reserves bylaw, the Health Act 2006, or via the existing offences and infringement provisions in Part 5 of the Reserves Act 1977.
- Freedom camping – to be considered upon issue of the proposed amendments to the Freedom Camping Act 2011. There is potential to include within the new parks and reserves bylaw.
- Community gardens – addressed in the Community Gardens Policy 2013.
- Roads (formed and unformed) – no activities associated with any aspect of a legal road are included in the new policy. Council is currently making a Road Use Bylaw for the regulation of activities in the road corridor.
- Town halls and community centres – addressed in the Community Halls Policy 2016.
- Cemeteries – addressed in the Cemeteries Policy 2016.
- Campgrounds – addressed in the Council Owned Campgrounds Policy 2016.

Relevant legislation and policies

A Parks and Reserves Policy is necessary as a non-regulatory tool to provide guidance to the Council and staff for the operation and management of parks and reserves. The policy accords with several statues including the Reserves Act 1977, Local Government Act 2002, Resource Management Act 1991, Public Works Act 1981, and aligns with other Council strategic documents.

The new policy applies to all parks and reserves that are owned by the Council or where the administration, control and management of the park or reserve is vested in the Council.

The policy does not address matters of enforcement, these are either addressed through the existing offences and infringement provisions in Part 5 of the Reserves Act 1977, whilst the planned new parks and reserves bylaw will provide additional offences and infringement controls.

The Parks and Reserves Policy is the higher order document that will inform the proposed bylaw.

The Strategy and Policy Team has programmed to prepare an open spaces strategy that will also be informed by the parks and reserves policy and extend to cover other non-parks and reserves and, Council owned land holdings that are utilised by the public as open space, e.g. beaches, unformed roads etc.

Significance and engagement

A review in line with the Council's Significance and Engagement Policy concluded that there is high public interest in the topic of parks and reserves. However, the criteria for significance needs to be considered in relation to the content of the policy, and not parks and reserves themselves.

Therefore, the level of significance is low to medium, and Council is not obliged to publicly consult on the attached policy.

The Reserves Policy 2017 was adopted without consultation so it would be consistent to adopt the new policy without formal public consultation as appropriate project engagement has taken place.

Public consultation will occur during the development of the Open Spaces Strategy.

Policy and strategy considerations

Council staff have addressed the appropriateness of the form and content of the new policy by:

- not including provisions that duplicate legislation or existing Council policy instruments (e.g., District Plan)
- following best practice drafting standards (as advocated by the Parliamentary Counsel Office)
- acknowledging policy will be subject to continuous review and may need to be revised with future legislation (e.g., Climate Adaptation Act), and Council strategic planning documents (e.g., adopted District Plan and climate change policy etc).

Implications for Māori

The new policy aligns with the principles and requirements of Parts 2 and 6 of the Local Government Act 2002 by facilitating participation of Māori in decision making relating to parks and reserves.

It requires the Council to give effect to Iwi Hapū Management Plans and general partnership principles when conducting operational and strategic decision making for all matters relating to parks and reserves. It also requires the Council to have consideration to the cultural significance of parks and reserves land – mana whenua iwi worldview and cultural impact assessments when preparing reserve management plans and making strategic decisions that may affect these lands.

The issue of redress and disposition of lands has been raised through the various workshops. To address this matter, the following condition precedent applying to the future disposal of all parks and reserves land has been included:

“The Council will engage, discuss and listen to local Iwi on proposals to dispose of park or reserve land and will offer the land to Iwi, as a first right of refusal to purchase when the Council is not legally required to offer land for sale to the former owner under the Public Works Act offer back regime”.

It is anticipated that market valuation conditions would apply to the first right of refusal.

Implementation Actions

Approval of the policy will enable and give life to an associated work streams e.g., a review of delegations, classification of reserves, review of fees and charges, development of reserve management plans, and review of leases and licenses etc.

Take Tūtohunga / Reason for the recommendation

A Parks and Reserves Policy is necessary to provide staff, elected members, and the public with clear guidance on management issues associated with the Council's parks and reserves, to accord with the Reserves Act 1977, Local Government Act 2002, Resource Management Act 1991, Public Works Act 1981, and to align with other Council strategic documents.

The proposal in Attachment 1 is the culmination of further review, staff inter group and elected member workshop(s) and questionnaire with the Domain Boards and Reserve Management Committees.

Council staff recommend that the Committee:

- approves the proposal in Attachment 1.
- recommends to the governing body of the Council that the proposal in Attachment 1 be adopted.

3) PĀNGA PŪTEA ME NGĀ WĀHANGA TAHUA / FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION

The costs of implementing the policy will be met from existing budgets.

ĀPITIHINGA / ATTACHMENTS

1. **Draft Parks and Reserves Policy V17 - A3524684** [↓](#) 

Hōtaka Take Ōkawa / Compliance Schedule:

Full consideration has been given to the provisions of the Local Government Act 2002 S77 in relation to decision making, in particular:

1. A Local authority must, in the course of the decision-making process,
 - a) Seek to identify all reasonably practicable options for the achievement of the objective of a decision; and
 - b) Assess the options in terms of their advantages and disadvantages; and
 - c) If any of the options identified under paragraph (a) involves a significant decision in relation to land or a body of water, take into account the relationship of Māori and their culture and traditions with their ancestral land, water sites, waahi tapu, valued flora and fauna and other taonga.
2. This section is subject to Section 79 - Compliance with procedures in relation to decisions.

He Take Ōkawa / Compliance Requirement	Aromatawai Kaimahi / Staff Assessment
<p>State the level of significance (high or low) of the issue or proposal as determined by the Council's Significance and Engagement Policy</p>	<p>In line with the Significance and Engagement Policy the recommendation to adopt the policy will have little effect on financial thresholds, ratepayers, specific demographics, or levels of service.</p> <p>We acknowledge that there is high public interest in the topic of parks and reserves. However, we must consider the criteria for significance in relation to the content of the policy, and not parks and reserves themselves. The risk of consultation outweighs the benefits at this time. Public consultation will occur during the development of the Open Spaces Strategy.</p> <p>Therefore, the level of significance is low to medium, and Council is not obliged to publicly consult.</p>
<p>State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.</p>	<p>The Local Government Act 2002, Reserves Act 1977, Resource Management Act 1991, Public works Act 1981, Reserve Management Plans, and Iwi Hapū Management Plans apply to the decision recommended in this report.</p>
<p>State whether this issue or proposal has a District wide relevance and, if not, the ways in which the appropriate Community Board's views have been sought.</p>	<p>The policy has District wide relevance. The views of the Community Boards were considered during a workshop held with elected members.</p>
<p>State the possible implications for Māori and how Māori have been provided with an opportunity to contribute to decision making if this decision is significant and relates to land and/or any body of water.</p>	<p>The policy in Section 1 stipulates that Council will give effect to the principles of Te Tiriti o Waitangi, Iwi Hapū Management Plans and general partnership principles when conducting operational and strategic decision making for all matters relating to parks and reserves.</p> <p>Further that Council will have consideration to the cultural significance of parks and reserves land – mana whenua iwi worldview and cultural impact assessments</p>

<p>State the possible implications and how this report aligns with Te Tiriti o Waitangi / The Treaty of Waitangi.</p>	<p>when preparing reserve management plans and making strategic decisions that may affect these lands.</p> <p>The only trigger of significance in relation to the content of the policy is the criterion “Of specific interest to Māori”. This is because of the inclusion of a statement under schedule 2 that states:</p> <p>“Council will engage, discuss and listen to local iwi on proposals to dispose of park or reserve land and will offer the land to iwi, as a first right of refusal to purchase when the Council is not legally required to offer land for sale to the former owners under the Public Works Act offer back regime.”</p> <p>This addition is positive. It acknowledges Council obligations under Te Tiriti. For this reason, direct engagement with Iwi / Hapū is appropriate.</p> <p>Te Hono has provided advice that the policy does not need to be subject to specific Iwi / Hapū consultation.</p>
<p>Identify persons likely to be affected by or have an interest in the matter, and how you have given consideration to their views or preferences (for example – youth, the aged and those with disabilities).</p>	<p>The following affected or interested people were directly notified on the policy development:</p> <ul style="list-style-type: none"> • Council internal groups including, Strategy and Policy, Infrastructure and Asset Management, Corporate Services, Democracy Services. • Councillors and Community Board elected members (workshop) • Domain Boards and Reserve Management Committees. • Department of Conservation.
<p>State the financial implications and where budgetary provisions have been made to support this decision.</p>	<p>The cost of the policy development is covered by current operational budgets.</p>
<p>Chief Financial Officer review.</p>	<p>This report has been reviewed by the Chief Financial Officer.</p>

Parks and Reserves Policy

Adopted:

Background

The Council owns a significant number of parks and reserves that provide cultural, historical, recreation, leisure, environmental, accessibility and amenity need for residents and visitors to the Far North region.

This policy will guide the Council and the public on decision making matters relating to the control and management of parks and reserves and ensure that the Council fulfils its obligations to address the cultural, social and physical wellbeing of residents and visitors to the region by providing space for recreation, both passive and active, and maintaining and enhancing significant historic, scenic, natural and scientific values.

The Council will adopt the provisions of this policy when it prepares other policies, strategies and plans, or specific developments that affect parks and reserves.

This policy replaces the former Reserves Policy 2017 and has been produced following a robust consultative process.

Application

This policy applies to all parks and reserves that are owned by the Council, or where the administration, control or management of the park or reserve is vested in the Council.

The Council has other policies and bylaws that addresses specific infrastructure and operations located on parks and reserve land such as, town halls, community centres, cemeteries, Council offices, town centres, elderly pensioner housing, and camping grounds. This policy complements those specific policies.

Definitions

The following definitions apply to this Policy:

- **Acquisition** – means obtaining land by purchasing, vestment on subdivision, gifting, or endowment.
- **Council** – means the Far North District Council.
- **Landlocked Land** – has the same meaning as in section 326 of the Property Law Act 2007.

1. Related information

2. As at 3 November 2021, the definition is: “a piece of land to which there is no reasonable access”.

- **Multiuse Facility** – means a structure that is subject to a lease or licence agreement that will be used by more than one entity.
- **Network Utility Operator** – has the same meaning as in section 166 of the Resource Management Act 1991.

3. Related information

4. As at 13 April 2021, the definition is: “a person who—

5. (a) undertakes or proposes to undertake the distribution or transmission by pipeline of natural or manufactured gas, petroleum, biofuel, or geothermal energy; or

6. (b) operates or proposes to operate a network for the purpose of—
7. (i) telecommunication as defined in section 5 of the Telecommunications Act 2001; or
8. (ii) radiocommunication as defined in section 2(1) of the Radiocommunications Act 1989; or
9. (c) is an electricity operator or electricity distributor as defined in section 2 of the Electricity Act 1992 for the purpose of line function services as defined in that section; or
10. (d) undertakes or proposes to undertake the distribution of water for supply (including irrigation); or
11. (e) undertakes or proposes to undertake a drainage or sewerage system; or
12. (f) constructs, operates, or proposes to construct or operate, a road or railway line; or
13. (g) is an airport authority as defined by the Airport Authorities Act 1966 for the purposes of operating an airport as defined by that Act; or
14. (h) is a provider of any approach control service within the meaning of the Civil Aviation Act 1990; or
15. (ha) is a responsible SPV (*Special Purpose Vehicle – Infrastructure Funding and Financing Act 2020*) that is constructing or proposing to construct eligible infrastructure; or
16. (i) undertakes or proposes to undertake a project or work prescribed as a network utility operation for the purposes of this definition by regulations made under this Act”

- **Park** – has the same meaning as in Section 138 Local Government Act 2002

17. Related information

18. As at 13 July 2021, the definition is: “land acquired or used principally for community, recreational, environmental, cultural, or spiritual purposes; but does not include land that is held as a reserve, or part of a reserve, under the [Reserves Act 1977](#).”

- **Policy** – means the Council’s adopted Parks and Reserves Policy.
- **Reasonable Access** – has the same meaning as in section 326 of the Property Law Act 2007.

19. Related information

20. As at 3 November 2021, the definition is: “in relation to land, means physical access for persons or services of a nature and quality that is reasonably necessary to enable the owner or occupier of the land to use and enjoy the land for any purpose for which it may be used in accordance with any right, permission, authority, consent, approval, or dispensation enjoyed or granted under the [Resource Management Act 1991](#)”.

- **Reserve** – means any land set apart for any public purpose as defined within the Reserves Act 1977.

21. Related information

22. As at 28 October 2021, the definition is: “**reserve or public reserve**, except as hereinafter provided in this definition, means any land set apart for any public purpose; and includes—

23. (a) any land which immediately before the commencement of this Act was a public reserve within the meaning of the Reserves and Domains Act 1953:
24. (b) any land vested in the Crown which after the commencement of this Act is reserved or set apart under [Part 12](#) of the Land Act 1948 or other lawful authority as a reserve, or alienated from the Crown for the purpose of a reserve:
25. (c) any land which after the commencement of this Act is vested in the Crown by or under the authority of any Act as a reserve:
26. (d) any land which after the commencement of this Act is taken, purchased, or otherwise acquired in any manner whatever by the Crown as a reserve or in trust for any particular purpose:
27. (e) any land acquired after the commencement of this Act in any manner by an administering body as a reserve within the meaning of this Act, and any land vested in any local authority which, not theretofore being a public reserve, is by resolution of the local authority pursuant to [section 14](#) declared to be set apart as a reserve:
28. (f) any private land set apart as a reserve in accordance with the provisions of any Act:
29. (g) any land which immediately before the commencement of this Act was a domain or public domain within the meaning of the Reserves and Domains Act 1953:

30. (h) any land, other than a national park within the meaning of the [National Parks Act 1980](#), administered under the [Tourist and Health Resorts Control Act 1908](#):
31. (i) any land taken or otherwise acquired or set apart by the Crown under the [Public Works Act 1981](#) or any corresponding former Act, whether before or after the commencement of this Act, for the purposes of a reserve, a recreation ground, a pleasure ground, an agricultural showground, or a tourist and health resort:
32. but does not include—
33. (j) any land taken or otherwise acquired or set apart under the [Public Works Act 1981](#) or any corresponding former Act, whether before or after the commencement of this Act, for any purpose not specified in paragraph (i):
34. (k) any land to which [section 167\(4\)](#) of the Land Act 1948 applies:
35. (l) any land taken, purchased, or otherwise in any manner acquired, whether before or after the commencement of this Act, by a local authority, unless the land is acquired subject to a trust or a condition that it shall be held by the local authority as a reserve:
36. (m) any Māori reservation”
- 37.

- **Structure** – means any built physical feature placed on, in, or under the park or reserve.

Legislative Context

Parks and reserves are subject to various legislative controls that provide a framework for management, operation and potential divestment of these lands, including but not limited to; Local Government Act 2002; Reserves Act 1977; Resource Management Act 1991 and Public Works Act 1981.

Objective

To provide guidance to the Council and staff for the operation and management of parks and reserves that will:

- provide for the needs and desires of current and future residents of the Far North District
- ensure that the Council’s strategic planning and investment decisions are well-informed
- ensure the Council applies consistent and transparent decision-making for parks and reserves
- ensure the Council delivers a high-quality parks and reserves network that:
 - is well distributed and well connected to service communities and catchments;
 - is functional and designed to support the community’s sport, recreation, and physical activity needs;
 - protects, maintains, and enhances ecosystems, culture, and heritage values; and
 - provides connectivity between public spaces.

Section 1 – Te Tiriti o Waitangi / Treaty of Waitangi

Policies

1. The Council will follow the principles and requirements in parts 2 and 6 of the Local Government Act 2002 for local authorities to facilitate participation by Maori in local authority decision making relating to parks and reserves.
2. The Council will give effect to Iwi Hapū Management Plans and general partnership principles when conducting operational and strategic decision making for all matters relating to parks and reserves.

3. The Council will have consideration to the cultural significance of parks and reserves land – mana whenua iwi worldview and cultural impact assessments when preparing reserve management plans and making strategic decisions that may affect these lands.

Section 2 – Easements

The Council will from time to time receive requests from adjoining landowners, Network Utility Operators and unrelated third parties for access or for the provision of services through or over parks and reserves and will apply this policy to make decisions in relation to the granting of easements.

Policies

- The Council will at its sole discretion and in line with Section 48 of the Reserves Act 1977 determine whether an easement application over park or reserve land is to be advanced.
- The Council will not grant an easement if the applicant has another reasonable land based practicable alternative option that does not involve the park or reserve.
- If an easement through, on or over the park or reserve is the only reasonable land based practicable option, and the Council agrees to grant the right of an easement, then the route of the easement must be designed to minimise the impact on the land and the public's enjoyment of that land.
- The Council will consider at its sole discretion the granting of easements over a park or reserve if this is the only means of unlocking access to physically or legally landlocked land.
- The Council will consult with the Domain Board or Reserve Management Committee (if applicable) and local Community Board before an easement application is presented to Council for consideration.
- The Council will require an agreement to grant easement to be entered with the applicant, conditional upon Council approval that outlines the process and parties responsibilities, including costs, and full detailed design of any services and structures to be installed within the easement area before the processing of the easement commences. The agreement will require an advance bond payment of an agreed sum to cover all costs as listed in Schedule 1.
- All approved easement applications over parks or reserve land will be charged the full current market valuation for the easement right(s) as a one-off easement fee as per the conditions in Schedule 1.
- The Council's staff or assigned consultants will project manage the easement legalisation process.

Section 3 – Acquisitions, Disposal and Land Exchange

The Council will from time to time make decisions to acquire, dispose of and exchange parks and reserves land. The Council is from time to time presented with land exchange opportunities that involve the exchange of part or all a park or reserve for non-park or reserve land.

Policies

1. The Council will make decisions in relation to the acquisition, disposal and land exchanges of parks and reserves in accordance with the requirements set out in Schedule 2 of the policy.

2. The Council will not sell a park or reserve if the land fulfils its purpose, classification, meets the objectives of Council's policies, strategies and plans, provides connectivity, or will disadvantage the public.
3. The Council will consider the processes and matters set out in Schedule 2 before it decides whether the sale, disposal, or exchange of part or all of the park or reserve is to be advanced.

Note:- The final decision on the revocation of a reserve status rests with the Minister of Conservation. If the Minister of Conservation declines the request for revocation then the sale process ceases.

Section 4 – Connectivity

Policies

1. The Council will actively seek to acquire land that creates connectivity between public spaces and provides significant public benefit.
2. The Council will acquire or engage developers to vest land or funds to provide connectivity to and between parks, reserves, waterways, subdivisions, nature areas, neighbourhoods and communities to create better spaces and corridors for walking, cycling and passive recreation.

Section 5 – Structures

There are often competing demands for park and reserve space including requests to establish structures and facilities. The Council will ensure that parks and reserves, open land areas and the character of the space will not be diminished through the establishment of inappropriate development.

Policy

1. The Council will at its sole discretion approve or decline applications for the establishment of any and all structures, including for single purpose user groups, and encourage where there is a demand to accommodate multiple complimentary user groups the establishment of single building or structure with multi-use facilities on parks and reserves based on the criteria set out in Schedule 3.

Section 6 – Domain Boards and Reserve Management Committees

From time to time the Council will transfer the day-to-day management of specific reserves to Domain Boards and Reserve Management Committees.

Policies

1. Council will support existing Domain Boards and Reserve Management Committees and will facilitate the establishment of new Domain Boards and Reserve Management Committees.
2. Domain Boards and Reserve Committees are to undertake the management of specific reserves as set out in Schedule 4.

Section 7 – Encroachments

There is a legacy of neighbouring property structures such as decks, sheds, boat ramps, jetties, driveways, fencing and landscaping encroaching illegally onto parks and reserves that prevents or discourages public use or access to that park or reserve.

Policies

1. The Council will not permit existing encroachments onto parks and reserve land to remain unless subsequent written approval from the Council had been obtained.
2. The Council will not grant retrospective authority for encroachments on parks or reserves unless, the Council at its sole discretion determines that the encroachment provides betterment to the public for enhanced use of the park or reserve, are deemed safe, fit for purpose and comply with appropriate regulatory and legislative requirements e.g. Building Act etc
3. The Council will require all unauthorised encroachments to be removed and the land reinstated by the landowner whose property is associated with that encroachment, at that landowner's cost.

Section 8 – Reserve Management Plans

The Council shall within 5 years of its appointment as the administering body or within 5 years after the commencement of the Reserves Act 1977, whichever is the later, prepare and submit to the Minister of Conservation for his or her approval a management plan for the reserve under its control, management or administration (Section 41 of the Reserves Act 1977). Reserve management plans shall provide for and ensure the use, enjoyment, maintenance, protection and preservation, and the development as the case maybe for, recreation, historic, scenic, nature, scientific, Government purpose and local purpose reserves.

Policies

1. The Council will systematically prepare and adopt reserve management plans for all the reserves it owns and those reserves where administration, control or management is vested in the Council as follows:
 - (a) individual reserve management plans to be prepared for all large multi-user recreation reserves such as premier reserves that are subject to competing uses or development needs
 - (b) individual reserve management plans to be prepared for historic reserves because of the need to record the historic reason and relevance for the creation of that reserve
 - (c) individual reserve management plans to be prepared for local purpose reserves where the notice of vesting or notice to control and manage directs that a management plan is required (Section 41 (16) Reserves Act 1977)
 - (d) single district wide reserve management plans to be prepared for all scenic reserves.
 - (e) single ward wide reserve management to be prepared for smaller scale recreation reserves that currently do not have an individual reserve management plan and are not subject to significant demand and local purpose reserves (excludes esplanade reserves).
2. The Council may from time to time, due to changing circumstances, decide at its sole discretion that an individual reserve management plan(s) be required for any reserve or grouping of reserves.
3. The Council will keep its reserve management plans under continuous review so that the plans are adapted to changing circumstances or in accordance with increased knowledge.
4. The Council may from time to time choose to implement management plans for parks adopting the reserve management plan process, however such management plans are not a legislative requirement.

Section 9 – Leases and Licences

Policies

1. The Reserves Act 1977 sets out the statutory processes associated with the granting of leases and licences on reserves however a lease cannot be for a term longer than 33 years with a further right of renewal of 33 years.
2. The Council will review all applications for a lease or licence to ensure that the purpose of the lease or licence is provided for within the Reserves Act 1977, before considering whether to grant the lease or licence.
3. A lease or licence of part or all of a park with a term of 6 months or longer that has the effect of excluding or substantially interfering with the public's access to the park is considered to be disposal (refer to Section 3 of this policy) and the Council must consult on that lease or licence proposal (Section 138 Local Government Act 2002).
4. A lease or licence of part of a record of title area of 35 years is deemed to be a subdivision (Section 218 Resource Management Act 1991).
5. The Council will discourage the granting of exclusive use of all or part of a park or reserve where that use will exclude the public, except where Council deems that exclusive use to be appropriate.
6. The Council will require leases and licences to be entered into where exclusive use of part, or all the park or reserve is proposed.
7. The granting of a lease or licence on reserves must either comply with the provision of the associated reserve management plan or be subject to separate consultation.
8. The Council will consult the relevant Domain Board, Reserve Management Committee (if applicable) and local Community Board on lease and licence application proposals prior a Council decision.
9. The Council will grant exclusive leases of part or all of a park or reserve for a maximum term of 15 years with a further right of renewal for 15 years if it deems such terms to be appropriate. The lease will include the general provisions as set out in Schedule 5.
10. The Council maintains and applies a schedule of fees, charges, and bonds as security against potential reinstatement costs for the use of parks and reserves for leases, licences and events.
11. All planned events on parks and reserves are required to be booked in advance through the Council's online "Book a Park, Reserve or Open Space" system.

Section 10 – Esplanade Reserves and Esplanade Strips

Esplanade reserves and esplanade strips may be required when land is subdivided, when land is reclaimed, developed or when a road is stopped under the Local Government Act 1974. They can also be created voluntarily.

Esplanade strips are a legal instrument (like an easement) created between a landowner and the Council. They are registered on the property's record of title, but the land within the strip remains in the ownership of the landowner and does not need to be formally surveyed.

Unlike esplanade reserves, the width of an esplanade strip remains unchanged within the same allotment. For example, if a riverbank erodes by 2 metres, the width of the esplanade strip then extends beyond its old boundary by 2 metres to offset the lost ground.

Policies

1. The Council will through the District Plan rules require developers to provide esplanade reserves or esplanade strips to contribute to the protection of conservation, enable public access to or along any sea, river or lake, or to enable public recreational use of the esplanade reserve or esplanade strip and adjacent sea, river or lake when the use is compatible with conservation values. (s.229 Resource Management Act 1991).
2. Except as provided for by any rule in the District Plan or a resource consent that waives, or reduces the width of the esplanade reserve, where any allotment of less than 4 hectares is created when the land is subdivided, an esplanade reserve of 20 metres in width shall be set aside from that allotment along the mark of the mean high water springs of the sea, along the bank of any river (river bed to have an average width of 3 metres or more) or along the margin of any lake (whose bed has an area of 8 hectares or more), as the case may be. (s.230 Resource Management Act 1991).
3. The Council will only accept vestment of esplanade reserves on subdivision when they are clear of noxious plants.
4. The Council will classify local purpose esplanade reserves once the land has been vested in the Council.
5. The Council will consider climate change when deciding whether to accept an esplanade reserve or esplanade strip on subdivision. Climate change is causing sea level rise, an increase in frequency and impact of storm weather events resulting flooding and or erosion incidences where in some cases esplanade reserve widths have diminished to the point where the public are now unable to traverse the length of that esplanade reserve. To avoid these situations occurring, esplanade strips will be requested instead of esplanade reserves when there is evidence available through sources such as the Northland Regional Council River Flood Hazard Maps, and Coastal Hazard Maps that there is a reasonable expectation that the 20-metre width of the esplanade will diminish in the future. By doing so the Council will future proof public access and connectivity.

Section 11 – Application of Revenue

Policies

1. The Council will deposit into a suitable Council bank account all net monetary proceeds received from parks and reserves by way of rent, royalty, tree clearance, accommodation, land sale, land exchange, leasing and licensing including farming and afforestation.
2. The Council will apply the net monetary proceeds from Section 11 Policy 1 to purchasing, taking on a lease, managing, administering, maintaining, protecting, improving, or developing parks and reserves in the same

Council Ward to generally benefit, where appropriate, the community from which the net monetary proceeds were derived.

Section 12 – Financial and Development Contributions

The Council may use financial or development contributions on subdivisions and or developments as a mechanism to provide or improve reserves within the district.

Policies

1. The Council may require financial contributions of money, or land including an esplanade reserve or esplanade strip (other than in relation to a subdivision consent), but excluding Māori land within the meaning of the Te Ture Māori Land Act 1993 unless the Act provides otherwise; or a combination of money and land (Section 108(9) Resource Management Act 1991). The level of contribution is determined in the manner described in the district plan or proposed district plan (Section 108(10) Resource Management Act 1991).
2. The Council may in accordance with its Development Contributions Policy charge development contributions on subdivisions and developments to go towards paying for growth related infrastructure including parks and reserves (Section 106 Local Government Act 2002).

Monitoring and Implementation

- Implementation of the policy will be monitored by the Council.
- This policy will be reviewed in response to issues that may arise, every 5 years, at the request of the Council, or in response to changes to legislative or statutory requirements (whichever occurs first).
- Amendment to this policy following a review will be subject to a public consultative process.

Change to Schedules

The schedules in this Policy may be amended at any time by Council resolution.

Schedule 1 – Easement agreement bond payment and easement fee

Easement agreements will require an advance bond payment to cover all Council costs as per the provisions of this Schedule under Section 2 – Easements Policy (4).

These costs for the bond payment include but are not limited to:

- staff time
- survey
- legal
- public and iwi consultation
- valuation and Land Information New Zealand
- Council s.243 Resource Management Act 1991 consent charges.

Approved easement applications will be charged a one-off easement fee as per the following conditions of the Schedule under Section 2 – Easements Policy (5).

- The full current market valuation for the easement right(s) as determined by an independent registered valuer appointed by Council.
- The valuation shall be completed in accordance with the compensation principles contained within the Public Works Act 1981, including consideration of injurious affection and damages.
- The valuer is to adopt a land value in the compensation assessment that assumes the land rate of similar non reserve or park land in the locality.
- The added value benefit that the easement provides to the applicant shall also be determined and a percentage of the added value benefit, to be negotiated, shall form part of the one-off easement fee together with the valuation easement fee.

Schedule 2 – Criteria for acquisition, disposal, and land exchange decisions (for parks and reserves only)

Acquisition

Council will make decisions regarding acquisitions based on the following criteria outlined in the Schedule under Section 3 – Acquisitions, Disposal and Land Exchange

- Will the acquisition fulfil the Council's objectives, policies, strategies, and plans?
- Will the acquisition provide connectivity between existing parks and reserves, neighbourhoods, water bodies and existing open space public lands?
- Does Council have available budget to acquire the land and maintain the land?
- The land must have physical and legal access, be accessible for the public, will not generate foreseeable public safety concerns, and be of a suitable size and scale to meet the Council's requirements.
- Does the land meet passive or active recreational requirements, or the protection of environmental landscapes, cultural landscapes, features, and habitats?

Disposal

The Council decision to advance the Reserves Act 1977 revocation processes including public and iwi consultation processes for a reserve and sale for a park will only occur after all the processes and matters set out below have been addressed:

- A land status investigation to determine whether the land was derived from the Crown must be undertaken. (Note:-if the land was derived from the Crown then the land reverts to the Crown under Section 25 of the Reserves Act 1977).
- The Council does not have another public works use for the land.
- The Council has determined its obligations under the Public Works Act 1981 offer back regime.
- The Council has consulted the local Community Board on any proposal to dispose of a park or reserve or to use that land for another public work.
- The Council has considered its obligations under the Section 1 of this policy - Te Tiriti o Waitangi / Treaty of Waitangi.
- The Council will engage, discuss and listen to local Iwi on proposals to dispose of park or reserve land and will offer the land to Iwi, as a first right of refusal to purchase when the Council is not legally required to offer land for sale to the former owner under the Public Works Act offer back regime.

Land exchange

The Council will address the following processes and matters before advancing a land exchange:

- The land exchange must be beneficial to the park and reserve and equitable by way of land and or cash adjustment.
- The land exchange results in a net benefit to the public.
- The land exchange shall align with the Council's policies, strategies and plans.
- The Council has determined its obligations under the Public Works Act 1981 offer back regime for that portion of park or reserve being exchanged.
- The Council has consulted the local Community Board on the proposal.
- The Council has considered its obligations under Section 1 of this policy - Te Tiriti o Waitangi / Treaty of Waitangi.

Schedule 3 – Criteria for decisions for establishment of structures

Council will make decisions to approve or decline applications for the establishment or placement of structures, including single use and multi-use facilities on parks and reserves based on the following criteria, with reference to Section 5 – General provisions for building facilities:

- All structures must be deemed safe, fit for purpose and comply with the appropriate regulatory and legislative requirements e.g. Building Act etc. For new structures being promoted by volunteer or community entities, and for single user or multi-use facilities that may or may not be subject to a possible lease or licence agreement, the applicant must prove that it has community support for the installation of that structure and has the financial basis to complete the installation of the structure to the satisfaction of Council. Where the structure is subject to a lease or licence agreement the applicant will maintain that structure. The policy considerations in Section 9 and Schedule 5 are to be referenced.
- The applicant shall provide to Council detailed drawings of the structure prior to construction.
- The ownership of a structure that is not subject to a lease or licence agreement transfers to the Council once that structure installation is complete. Ownership and responsibility for the structure prior to its completion rests with the party responsible for the installation of that structure.
- The ownership of a structure that is subject to a lease or licence agreement is addressed in Schedule 5.
- The applicant shall demonstrate to Council that it has a sound governance structure that is appropriate for the specific situation.
- The applicant will consult with Council staff on the proposal for the establishment or placement of the structure on the park or reserve before the applicant consults with the Domain Board and Reserve Management Committee (if applicable) together with the local Community Board on the proposal as part of Council's decision-making process.
- If Council approves the proposed structure that is to be subject to a lease or licence then an agreement to grant a lease or licence agreement will be negotiated with the applicant detailing all conditions to be met prior to the Council entering a deed of lease or deed of licence. A specific requirement is that an asset management plan detailing lifecycle maintenance funding will be required. The policy considerations in Section 9 "Leases and Licences" is to be referenced.
- The Council may at any time and for any reason remove a structure from a park or reserve where that structure is not subject to a lease or licence. Where a structure is subject to a lease or licence then the terms of that lease or licence shall apply.

Schedule 4 – Role of Domain Boards and Reserve Management Committees

Council will sometimes transfer the day-to-day management of specific reserves to Domain Boards and Reserve Management Committees. Domain Boards and Reserve Management Committees are expected to undertake the following under Section 6 – Domain Boards and Reserve Management Committees:

- Undertake day to day management of the reserve including administration of the reserve.
- Engage local contractors to do basic reserve maintenance.
- Foster and promote sport and passive recreation.
- Provide advice to the local Community Board on on-going reserve management.
- Advise Council where and when major maintenance and capital improvements to the reserve are required.

Schedule 5 – General provisions for building facilities

All leases associated with building structures not funded or built by Council will require the following under Section 9 - Leases and Licenses:

- Either transfer of ownership of the building structure to Council on the termination of the lease, or removal of the building structure and reinstatement of the land at the lessees' cost.
- Asset management plans and proof of available funding to maintain the building structure in accordance with the approved asset management plan during the term(s) of the lease.
- Forfeiture of the lease should the lessee's membership or patronage of the building or structure decline to the point where Council deems that there is a better alternative use for that facility.
- Lessee and licensees will be required to cover all outgoings including utilities associated with the use of the park or reserve.

5.3 REVIEW OF CLASS 4 GAMING AND TAB VENUES POLICY

File Number: A3534272

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TAKE PŪRONGO / PURPOSE OF THE REPORT

To continue to amend the Class 4 Gaming and TAB Venue Policy.

WHAKARĀPOPOTO MATUA / EXECUTIVE SUMMARY

- Council is required by legislation to have a Class 4 gaming and a TAB venue policy.
- The Class 4 Gaming and TAB venue policy was due for review in 2017. The Policy does not cease to have effect because it is due for review.
- The Racing Industry Act 2020 replaced the Racing Act 2003.
- A review of the Policy must have regard to the social impacts of gambling in the district.
- The demographics of the district mean that our communities are more vulnerable to the detrimental effects of problem gambling.
- A significant amount of money is removed from the district due to class 4 gambling.
- The existing sinking lid policy has been effective in reducing the number of class 4 gambling venues and Electronic Gaming Machines.
- A sinking lid policy is the most appropriate way to address the establishment of class 4 gaming and TAB venues in the district.
- The Policy is not in the appropriate form because the Policy is not certain and is not consistent with relevant laws and legislation.
- The Policy should continue with amendment.

TŪTOHUNGA / RECOMMENDATION

That the Strategy and Policy Committee recommends that the Council:

- a) note, under section 102 of the Gambling Act 2003 and section 97 of the Racing Industry Act 2020, the Class 4 Gaming and TAB Venue Policy has been reviewed regarding the social impacts of gambling in the Far North District.
- b) approve, under section 102 of the Gambling Act 2003, that the Class 4 venues policy component of the Class 4 Gaming and TAB Venue Policy continue with amendment to improve certainty.
- c) approve, under section 102 of the Gambling Act 2003, that the relocation policy component of the Class 4 Gaming and TAB Venue Policy continue with amendment to further align with the intent of the Class 4 gaming sinking lid policy.
- d) approve, under section 97 of the Racing Industry Act 2020, that the TAB venues policy component of the Class 4 Gaming and TAB Venue Policy be replaced by a sinking lid policy.

1) TĀHUHU KŌRERO / BACKGROUND

The Council is required to have a Class 4 gaming policy under section 101 of the Gambling Act 2003. The Council is also required to have a TAB venue policy under section 96 of the Racing Industry Act 2020.

The Class 4 Gaming and TAB Venue Policy (Policy) was last reviewed on 30 October 2014. The 2014 policy was developed in consultation with residents, community stakeholders, Police and Public Health. The policy was amended to become the Class 4 Gaming and TAB Venue Policy, and the policy moved to follow a “sinking lid” policy model.

Under section 102 of the Gambling Act 2003 and section 97 of the Racing Industry Act 2020, the Policy must be reviewed every three years. Whilst the review date has since passed (2017), the policy does not cease to have effect and continues to have effect.

When adopting a class 4 gaming venue policy and / or a TAB venue policy, the Council must have regard to the social impact of gambling within the district.

Further to section 102 of the Gambling Act 2003, when conducting a review of the Policy, the Council must consider whether to include a relocation policy. When considering a relocation policy, the Council must consider the social impact of gambling in high-deprivation communities in the Far North District.

2) MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND OPTIONS

Council's role relating to Class 4 gaming and TAB venues

Gambling Act 2003

As outlined in section 101 of the Gambling Act 2003 every territorial authority must adopt a Class 4 venue policy.

The Class 4 venue policy must specify:

- whether or not Class 4 venues may be established in the Far North District
- where venues may be located (if the policy allows venues)

The Class 4 venue policy may:

- specify any restrictions on the maximum number of gaming machines that may be operated at a class 4 venue
- include a relocation policy.

In adopting the policy, the Council must have regard to the social impact of gambling within its district.

Further to this section 100 of the Gambling Act 2003 states the Council must consider applications, in accordance with its Class 4 venue policy, for:

- a new Class 4 venue
- existing venues that held a licence on 17 October 2001 but have not held a licence in the last six months
- amendments to Class 4 venue licences to allow an increase in the number of gaming machines that may be operated at a venue.

Racing Industry Act 2020

The Racing Industry Act 2020 replaced the Racing Act 2003 and requires territorial authorities have a consistent legislative approach between the two Acts with regards to TAB venue policies. Under section 96 of the Racing Industry Act 2020, Council must adopt a TAB venue policy.

A TAB venue is any premise that is owned or leased by the TAB and where the main business carried out is providing racing-betting or sports-betting services.

Council does not have authority over other venues where the main business is not racing-betting or sports-betting which provide TAB facilities e.g., on licensed premises.

The TAB venue policy must specify:

- whether or not TAB venues may be established in the Far North District
- where venues may be located (if the policy allows venues).

In adopting the policy, the Council must have regard to the social impact of gambling within its district.

Further to this section 95 of the Racing Industry Act 2020 states the Council must consider applications for a new TAB venue in accordance with its TAB venue policy.

Social impacts of gambling the Far North District

Staff have completed a separate report on the social impacts on gambling in the Far North District and concluded that the demographics of the Far North District mean our communities are more vulnerable to the detrimental effects of problem gambling. A summary of key points from the report are outlined below. For further information please refer to the full report (Attachment 02).

Gambling participation in New Zealand

There are four main types of gambling legally allowed in New Zealand:

- Sports betting through the TAB
- Class 4 Electronic Gaming Machines (EGMs), also known as pokie machines
- New Zealand Lotteries Commission (Lotto)
- Casinos.

The 2018 Health and Lifestyles Survey found that:

- 67% of adults participated in some form of gambling in the previous 12 months
- gambling participation has decreased since 2006 (from 83%)
- Lotto is the most common form of gambling (55% of respondents)
- 11% played EGMs outside of a casino
- 11% participated in TAB betting.

Although only 11% of New Zealand adults played EGMs, total expenditure on Class 4 EGMs (\$924m) is almost twice that of Lotto (\$530m).

Gambling related harm

Most people can safely enjoy gambling as a recreational activity. However, research shows that approximately 22% of New Zealand adults will be adversely affected by their own gambling or the gambling of others.

Problems associated with gambling harm include:

- detrimental effects on an individual's physical, emotional and psychological health
- financial difficulties
- bankruptcy
- reduced employment performance
- relationship conflict
- family violence
- child neglect
- criminal activity such as theft and fraud.

Different forms of gambling carry different levels of risk for gambling harm. EGMs are a high-risk form of gambling, as they are a solitary activity rather than social, and are continuous. EGMs are cited as a problem for almost 50% of the people who seek help for their gambling.

Gambling related inequities

1.8% of New Zealand adults experience moderate to severe risk of problem gambling. However, this risk is not evenly distributed. Risk for problem gambling is higher for Māori (8.6%) and Pasifika (7.6%) populations.

Total gambling participation is similar across ethnicities and deprivation levels, but the types and cost of gambling are not evenly spread.

- People living in the most deprived neighbourhoods are more likely to participate in EGM activities, which are high-risk.
- Considerably more gambling harm is experienced by those living in areas with a high social deprivation index score (8/10 or higher).
- People living in deprived neighbourhoods are 4.5 times more likely to experience gambling-related arguments or financial problems related to gambling.

Of the 19 class 4 venues in the Far North District:

- the majority (12) are in the highest deprivation areas (decile 9-10)
- 5 are in medium-high deprivation areas
- 2 are in medium deprivation areas.

The demographics of the Far North District mean that our communities are more vulnerable to the detrimental effects of problem gambling. A large proportion of the Far North District consists of highest deprivation areas, and 50% of the population of the Far North is Māori. Both factors significantly increase the risk of gambling harm.

Gambling expenditure in the Far North District

In 2019, the total money spent on class 4 EGMs in the Far North District was \$15.7 million, however only \$2.4 million was returned to the district in grants to community and sporting groups. These figures suggest that, overall, a significant amount of money is taken out of the district.

Despite the decrease in the number of EGMs and class 4 venues since 2014, class 4 gambling expenditure (both absolute and per machine) in the Far North District has increased by a larger proportion than the change across New Zealand as a whole.

Review findings

Staff have completed a separate report to capture the review of the Policy (Attachment 01). For further information please refer to the full report.

The review has identified that a sinking lid policy is the most appropriate way to address the establishment of Class 4 gaming venues in the district for the following reasons:

- the existing sinking lid policy has been effective in reducing the number of Class 4 gambling venues and EGMs machines
- the demographics of the district mean that our communities are more vulnerable to the detrimental effects of problem gambling
- a significant amount of money is removed from the district due to class 4 gambling.

The review has identified that a restrictive relocation policy is the most appropriate way to address the relocation of Class 4 gaming venues in the district as the policy supports the intent of a sinking lid policy.

The review has identified that an open policy is not an appropriate way to address the establishment of TAB venues in the district for the following reasons:

- the demographics of the district mean that our communities are more vulnerable to the detrimental effects of problem gambling
- there are currently no TAB venues in the district and allowing TAB venues to establish may lead to an increase of gambling related harm.

A sinking lid policy would be a more appropriate way to address the establishment of TAB venues in the district.

The relocation policy could be amended to take into consideration the Waikiwi Decision, and further align with the intent of the Gambling Act 2003 and the sinking lid policy by:

- restricting relocations in high deprivation areas

- restricting proximity to another gambling venue
- removing financial reasons from the relocation criteria.

Further research is required to identify the most appropriate way to manage the relocation of class 4 venues.

Some provisions in the policy are not certain. Therefore, amendments are required to improve clarity regarding:

- the definition of a sinking lid policy
- the criteria for relocation.

The policy is not consistent with relevant laws and legislation and needs to align with the Racing Industry Act 2020.

Therefore, the Policy is not in the most appropriate form and should be amended.

Options

The Far North District is more vulnerable to the detrimental effects of problem gambling therefore, a sinking lid policy is the most appropriate way to address the establishment of both Class 4 gaming and TAB venues in the Far North District.

All options require a special consultative process under section 83 of the Local Government Act 2003.

Option One: Status quo: The Policy continues with minor amendments

The Policy current refers to the Racing Act 2003 and must be amended to align with the Racing Industry Act 2020. The requirements for territorial authorities with regards to TAB venue policies are consistent between the two Acts.

Further minor amendments can improve certainty regarding definition of a sinking lid policy.

Advantage and Disadvantages of continuing with minor amendments

- | | |
|---------------|---|
| Advantages | <ul style="list-style-type: none">• Policy aligns with the relevant legislation• Policy is more certain regarding the intent of the sinking lid policy. |
| Disadvantages | <ul style="list-style-type: none">• Relocation Policy continues to have provisions that are unnecessary because of the precedent set by the Waikiwi Decision (2019).• Relocation Policy does not align with the intent of the sinking lid policy• Council continues to allow the establishment of stand-alone TAB venues which may have a detrimental effect on our vulnerable communities. |

Option Two: The Policy continue with amendments to the relocation policy components

The relocation policy component is amended to further align with the intent of the sinking lid policy.

Minor amendments are made to align with current legislation and improve certainty regarding definition of a sinking lid policy.

Advantages and Disadvantages of continuing with amendments to the relocation policy components

- | | |
|------------|--|
| Advantages | <ul style="list-style-type: none">• Removing provisions that are unnecessary because of the precedent set by the Waikiwi Decision (2019).• Removing provisions that do not align with the intent of a sinking lid policy• Improves the effectiveness of a sinking lid policy• Policy aligns with the relevant legislation |
|------------|--|

- Policy is more certain regarding the intent of the sinking lid policy.
- Disadvantages
- Council continues to allow the establishment of stand-alone TAB venues which may have a detrimental effect on our vulnerable communities.

Option Three: The Policy continues with amendments to the TAB policy components

The Policy is amended to have a consistent sinking lid policy across both Class 4 and TAB venues.

Minor amendments are made to align with current legislation and improve certainty regarding definition of a sinking lid policy.

Advantage and Disadvantages of continuing with amendments to the TAB policy components

- Advantages
- No stand-alone TAB venues will be able to be established which takes into consideration the detrimental effect of gambling on our vulnerable communities
 - Policy aligns with the relevant legislation
 - Policy is more certain regarding the intent of the sinking lid policy.
- Disadvantages
- Relocation Policy continues to have provisions that are unnecessary because of the precedent set by the Waikiwi Decision (2019).
 - Relocation Policy does not align with the intent of the sinking lid policy

Option Four: The Policy continues with amendments to both the relocation and the TAB policy components (recommended option)

The relocation policy component is amended to further align with the intent of the sinking lid policy.

The Policy is amended to have a consistent sinking lid policy across both Class 4 and TAB venues.

Minor amendments are made to align with current legislation and improve certainty regarding definition of a sinking lid policy.

Advantage and Disadvantages of continuing with amendments to both the relocation and TAB policy components

- Advantages
- Removing provisions that are unnecessary because of the precedent set by the Waikiwi Decision (2019).
 - Removing provisions that do not align with the intent of a sinking lid policy
 - No stand-alone TAB venues will be able to be established which takes into consideration the detrimental effect of gambling on our vulnerable communities
 - Improves the effectiveness of the sinking lid policy
 - Policy aligns with the relevant legislation
 - Policy is more certain regarding the intent of the sinking lid policy.
- Disadvantages None

Take Tūtohunga / Reason for the recommendation

A sinking lid policy is still the most appropriate way of addressing problems relating to Class 4 venues in the Far North District.

A new form of policy is needed to ensure the policy:

- is consistent with relevant laws and legislation
- is certain
- takes a consistent approach to minimise the harm caused by gambling in the Far North District.

Next Steps

If Council agrees with the recommendation, a new form of policy will be drafted and is planned to be presented to the Strategy and Policy Committee by 14 June 2022.

3) PĀNGA PŪTEA ME NGĀ WĀHANGA TAHUA / FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION

The cost of consulting on continuing the Policy with amendment will be met from existing budgets.

ĀPITIHINGA / ATTACHMENTS

1. **Review Report - Class 4 Gaming and TAB Venues Policy - A3563631** [↓](#) 
2. **Social Impacts Assessment of Gambling - A3563675** [↓](#) 
3. **Class 4 Gaming and TAB Venue Policy - A3563682** [↓](#) 

Hōtaka Take Ōkawa / Compliance Schedule:

Full consideration has been given to the provisions of the Local Government Act 2002 S77 in relation to decision making, in particular:

1. A Local authority must, in the course of the decision-making process,
 - a) Seek to identify all reasonably practicable options for the achievement of the objective of a decision; and
 - b) Assess the options in terms of their advantages and disadvantages; and
 - c) If any of the options identified under paragraph (a) involves a significant decision in relation to land or a body of water, take into account the relationship of Māori and their culture and traditions with their ancestral land, water sites, waahi tapu, valued flora and fauna and other taonga.
2. This section is subject to Section 79 - Compliance with procedures in relation to decisions.

He Take Ōkawa / Compliance Requirement	Aromatawai Kaimahi / Staff Assessment
State the level of significance (high or low) of the issue or proposal as determined by the Council's Significance and Engagement Policy	In line with the Significance and Engagement Policy the recommendation to continue the policy with amendment will have little effect on financial thresholds, ratepayers, specific demographics or levels of service. Legislation requires a special consultative procedure occur. Therefore, the level of significance is medium.
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	Section 102 of the Gambling Act 2003, section 97 of the Racing Industry Act 2020 and section 83 of the Local Government Act 2002 applies to the decision recommended in this report.
State whether this issue or proposal has a District wide relevance and, if not, the ways in which the appropriate Community Board's views have been sought.	The proposal has District wide relevance and therefore the Community Boards views have not been sought. Specific local area consultation may be required regarding the drafting of the relocation policy component.
State the possible implications for Māori and how Māori have been provided with an opportunity to contribute to decision making if this decision is significant and relates to land and/or any body of water. State the possible implications and how this report aligns with Te Tiriti o Waitangi / The Treaty of Waitangi.	Seeking the views and input of iwi in the development of policies is integral. Māori are significantly more likely than non-Māori to be impacted by the harmful effects of gambling. Māori will be given an opportunity to contribute during the consultation stage of the policy development process.
Identify persons likely to be affected by or have an interest in the matter, and how you have given consideration to their views or preferences (for example – youth, the aged and those with disabilities).	Affected and interested parties will be given an opportunity to share their views and preferences during the consultation phase including: <ul style="list-style-type: none"> • community groups concerned about class 4 gaming and TAB venues in their community • hospitality industry • Ngā Tai Ora – Public Health Northland

	<ul style="list-style-type: none">• social service organisations
State the financial implications and where budgetary provisions have been made to support this decision.	The cost of consulting on continuing the Policy with amendment will be met from existing operation budgets.
Chief Financial Officer review.	This report has been reviewed by the Chief Financial Officer

Research Report

Review of Class 4 Gaming and TAB Venue Policy (2014)

1 Purpose

To describe and discuss the review of the Class 4 Gaming and TAB Venue Policy (2014).

2 Context and Situation

The Council is required to have a Class 4 gaming policy under section 101 of the Gambling Act 2003. The Council is also required to have a TAB venue policy under section 96 of the Racing Industry Act 2020. The Racing Industry Act 2020 has replaced the previous Racing Act 2003 (repealed 01 August 2020), in which a TAB venue policy was required under section 65D.

Under section 102 of the Gambling Act 2003 and section 97 of the Racing Industry Act 2020, the Class 4 Gaming and TAB Venue Policy (the policy) must be reviewed every three years. The date for this review has since passed (2017), although as per the legislation, the policy does not cease to have effect because it is due for review.

When adopting a class 4 gaming venue policy and / or a TAB venue policy, the Council must have regard to the social impact of gambling within the District.

Under section 102 of the Gambling Act 2003, when conducting a review of the Policy, the Council must consider whether to include a relocation policy. When considering a relocation policy, the Council must consider the social impact of gambling in *high-deprivation communities* in the Far North District.

The development and review of the policies must follow the decision-making process as per the Local Government Act 2002. For example, consultation must follow the special consultative process as per section 83 of the Local Government Act 2002.

2.1 Council's role relating to Class 4 gaming and TAB venues

2.1.1 Local Government Act 2002

Under section 10 of the Local Government Act 2002, the purpose of local government is to "... promote the social, economic, environmental, and cultural wellbeing of communities, in the present and for the future".

The presence of gambling within a community can have both positive and negative impacts. Gambling can have a negative effect on a community's wellbeing through direct impacts, such as affecting peoples physical and mental wellbeing, causing financial and economic harm, and increased crime. However, gambling can also provide entertainment and some proceeds are returned to the community in the form of grants.

2.1.2 Gambling Act 2003

The purpose of the Gambling Act 2003 is to:

- a) control the growth of gambling
- b) prevent and minimise the harm caused by gambling, including problem gambling
- c) authorise some gambling and prohibit the rest
- d) facilitate responsible gambling
- e) ensure the integrity and fairness of games

- f) limit opportunities for crime or dishonesty associated with gambling
- g) ensure that money from gambling benefits the community
- h) facilitate community involvement in decisions about the provision of gambling.

Under section 101 of the Gambling Act 2003 every territorial authority must adopt a Class 4 venue policy.

Class 4 gambling is:

- any activity that involves the use of a gaming machine outside of a casino
- from which the net proceeds (profits) are distributed back to the community.

The Class 4 venue policy must specify:

- whether or not Class 4 venues may be established in the Far North District
- where venues may be located (if the policy allows venues)

The Class 4 venue policy may:

- specify any restrictions on the maximum number of gaming machines that may be operated at a class 4 venue
- include a relocation policy.

In adopting the policy, the Council must have regard to the social impact of gambling within its district.

Under section 100 of the Gambling Act 2003 the Council must consider applications, in accordance with its Class 4 venue policy, for:

- a new Class 4 venue
- existing venues that held a licence on 17 October 2001 but have not held a licence in the last six months
- amendments to Class 4 venue licences to allow an increase in the number of gaming machines that may be operated at a venue.

2.1.3 Racing Industry Act 2020

The Racing Industry Act 2020 replaced the Racing Act 2003. The requirements for territorial authorities with regards to TAB venue policies are consistent between the two Acts.

Under section 96 of the Racing Industry Act 2020, Council must adopt a TAB venue policy.

A TAB venue is any premise that is owned or leased by the TAB and where the main business carried out is providing racing-betting or sports-betting services.

Council does not have authority over other venues where the main business is not racing-betting or sports-betting which provide TAB facilities e.g., on licensed premises.

The TAB venue policy must specify:

- whether or not TAB venues may be established in the Far North District
- where venues may be located (if the policy allows venues).

In adopting the policy, the Council must have regard to the social impact of gambling within its district.

Under section 95 of the Racing Industry Act 2020 the Council must consider applications for a new TAB venue in accordance with its TAB venue policy.

2.2 Statutory Agency Roles

2.2.1 Department of Internal Affairs

The Department of Internal Affairs is responsible for regulating the Class 4 gambling sector and for ensuring compliance with the Gambling Act 2003.

The Secretary for Internal Affairs is responsible for licensing Class 4 gambling.

The Secretary for Internal Affairs cannot issue a Class 4 venue licence unless satisfied (among other things) that Council's consent is valid. Generally, a consent that is inconsistent with the Council's policy will not be accepted as valid. However, if a territorial authority decides it wants to issue a consent that is inconsistent with its policy, it can use section 80 of the Local Government Act 2002 to do so.

2.2.2 Ministry of Health

Under the Gambling Act 2003, the Ministry of Health is responsible for:

- developing an integrated problem gambling strategy, focused on public health
- the funding and co-ordination of problem gambling services.

The current *Strategy to Prevent and Minimise Gambling Harm*¹ aligns with the role of local government by:

- promoting healthy public policy in relation to gambling harm
- enhancing the capacity of communities to define and address gambling harm.

3 Objectives

3.1 Purpose of review

To determine whether the provisions of the Policy are still the most appropriate way to address Class 4 gaming and TAB venues in the Far North District as per sections 101-102 of the Gambling Act 2003 and sections 96-97 of the Racing Industry Act 2020.

3.2 Review objectives

- To define Class 4 gambling and TAB related problems in the Far North District that are within Council's function to control.
- To describe and discuss the social impacts of gambling within the Far North District
- To identify if the provisions of the Policy are still the most appropriate way to address the regulation of Class 4 gambling and TAB venues in the Far North District.
- To identify if the Policy meets current legislative requirements.

4 Problem definition

4.1 Scope

In scope

Problems relating to Class 4 gambling and TAB venues in the Far North District which are a function of Council to control or address.

Class 4 gambling as defined in the Gambling Act 2003 is:

- any activity that involves the use of a gaming machine outside of a casino
- from which the net proceeds (profits) are distributed back to the community.

A TAB venue as defined in the Racing Industry Act 2020 is any premise that is owned or leased by the TAB and where the main business carried out is providing racing-betting or sports-betting services.

Out of scope

All other forms of gambling such as Lotto, Raffles and gambling occurring in a casino as these forms of gambling are regulated under the Gambling Act 2003 and are not a requirement for the Council to address in the Policy.

4.2 Purpose of current Policy

The Policy aims to support the primary objectives of the Gambling Act 2003 and to ensure that:

¹ [Strategy to prevent and minimise gambling harm 2019-20 to 2021-22](#)

- harm caused by gambling is prevented or minimised
 - the growth of gambling is controlled
 - Gaming machines are located in appropriate venues
- the community is appropriately involved in the decision-making process
- gambling is primarily used to raise funds for community purposes

The Gaming and TAB Policy was first introduced in 2004 and followed a “capped policy” model, in which the total number of gaming machines throughout the Far North District would not increase, but machines could be redistributed to other venues. The policy was reviewed in 2007, 2010 and 2014.

The 2014 policy was developed in consultation with residents, community stakeholders, Police and Public Health. The policy was amended to become the *Class 4 Gaming and TAB Venue Policy*, and the policy moved to follow a “sinking lid” policy model.

The 2014 review was the first review of the policy after the Gambling (Gambling Harm Reduction) Amendment Act 2013 came into force. Therefore, the Council had to consider whether to include a relocation policy, as per section 102(5A) of the Gambling Act 2003. The relocation of machines is retained within the policy under specific circumstances.

4.3 Other problems relating to Class 4 gambling and TAB venues not currently controlled or addressed by the Policy

The Policy addresses all the matters in which are a function of the Council to control under the Gambling Act 2003 and Racing Industry Act 2020.

5 Review of Policy

5.1 Class 4 venues

5.1.1 Gambling harm is prevented or minimised

To minimise gambling related harm, the Policy does not allow for new class 4 gaming venues to be established in the District as the Policy follows a sinking lid policy model.

Under a sinking lid policy, there will never be machines available for redistribution. As machines are released through either venue closures, voluntary release of machines, or by enforcement, the machines are not able to be redistributed to a new venue and the number of machines over time will shrink.

Since the implementation of the sinking lid policy, the number of class 4 gaming venues have decreased from 25 to 19 as shown in *Figure 1*. The number of class 4 gaming machines in the District have decreased from 314 to 273 as shown in *Figure 2*.

Class 4 gambling data for the Far North District shows two drops and subsequent increases in venue and gaming machine numbers between 2017 and 2019. In both instances, the increase is related to a new venue licence being granted for a pre-existing venue, following an unlicensed period of less than 6 months. Under section 98 of the Gambling Act 2003, Council’s consent and therefore sinking lid policy is not applicable in these circumstances.

Figure 1: Graph showing the total number of class 4 gaming venues in the Far North District by quarter (Sourced: Department of Internal Affairs²).

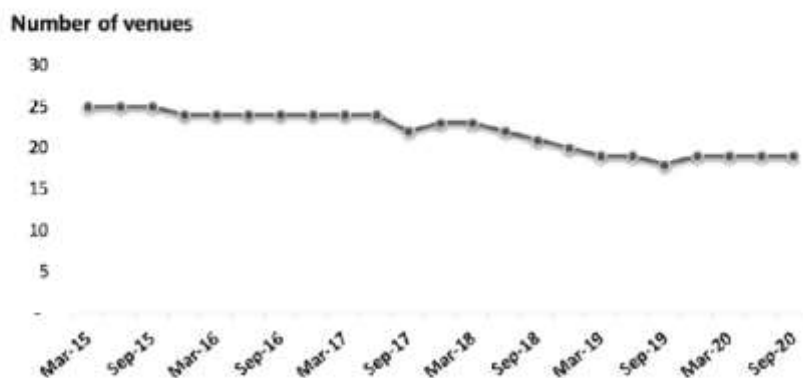
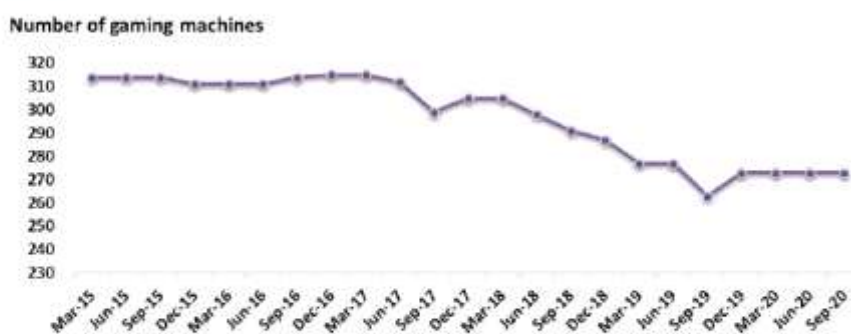


Figure 2: Graph showing the total number of class 4 gaming machines in the Far North District by quarter (Sourced: Department of Internal Affairs)



The current policy is achieving the objective of decreasing the number of venues and machines available in the District.

However, whilst the current policy states that the Council has a sinking lid on the number of machines in the district, the policy is not explicit in stating what the provisions of a sinking lid policy are, therefore the Policy is not certain. To improve certainty, for example, the policy could state that under a sinking lid policy:

- Council will not give consent for new venues
- Council will not give consent for a current class 4 venue to operate more gaming machines.

5.1.2 Class 4 relocation policy

A relocation policy (defined in section 101 of the Gambling Act 2003) is a policy setting out if and when the Council will allow a venue to replace an existing venue to which a class 4 venue licence applies.

The intent of the Act with regard to relocation policies is to support the movement of class 4 gaming venues to areas at less risk of gambling related harm such as away from sensitive sites or areas of high deprivation.

The Act states that when considering a relocation policy, the Council must specifically consider the social impact of gambling in high-deprivation communities within the district.

² [Department of Internal Affairs Dashboard](#)

The current policy allows the relocation of Class 4 gaming machines under the following circumstances:

- a) fire or other damage to the present venue
- b) expiry of lease on present venue
- c) financial reasons relating to the business
- d) the building of a new premises, or refurbishment of an existing building, as a new venue
- e) merging of two Club licence holders into one venue.

Under section 101(4) of the Gambling Act, when considering the location for a relocated venue, the Council may have regard to the following matters:

- 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 number of gaming machines that should be permitted to operate at any venue or class of venue;*
- d) *the cumulative effects of additional opportunities for gambling in the district;*
- e) *how close any venue should be permitted to be to any other venue;*
- f) *what the primary activity at any venue should be*

The Policy stipulates that relocated venues,

"shall be in Commercial, Industrial, General Coastal Rural Living or Rural Production zones, or within sports clubs or public houses and shall be eligible for consent provided the venue is at least 100 metres from any Kindergarten, early childhood centre, school, place of worship, Marae, or other community facility, and 100 metres from a Residential, Coastal Residential, Coastal Living, Recreational Activities zones."

The policy does not have regard to:

- the characteristics of the district i.e., deprivation rating
- the cumulative effects of additional opportunities for gambling in the district i.e., number of and proximity to TAB venues
- how close any venue should be permitted to be to any other venue.

The relocation policy maintains the intent of the 'sinking lid' policy by only allowing relocation when circumstances arise outside of the control of the owner of the business such as fire or other damage to the present venue.

In 2019, The Gambling Commission affirmed a previous 2013 High Court decision concerning consent for a Class 4 venue relocation. The High Court decision in 2013 (*Waikiwi*) concluded that, while the term 'class 4 venue' has a wide meaning, it does not include an "address". This indicates that Parliament did not intend that the term "place" means land or buildings at a specific address. Further, "when a building such as the tavern building is relocated to a different site in close proximity to its present address it is still the same venue".

The Court found that a new location may not be a change of venue if:

- the new building will be in a site that is very close to the existing site;
- the class 4 venue's name will be the same;
- the ownership and management of the venue will be the same; and
- for all intents and purposes, the patrons and the public will regard the venue as being the same venue, even though its physical location will change in a relatively minor way.

If a class 4 venue changes site in line with the above requirements, it is not considered a new venue and therefore does not require a council consent, nor is it considered a relocation and it will not trigger the application of a council's relocation policy.

When the policy was made in 2017, some corporate societies (clubs) were under financial stress, hence allowing relocation of Class 4 gaming machines for financial reasons relating to the business. The situation no longer applies. To maintain the intent of the 'sinking lid' policy, financial reasons should be removed from the relocation policy.

However, the relocation policy could be amended to take into consideration the Waikiwi Decision, and further align with the intent of the Gambling Act 2003 by restricting relocations in high deprivation areas and restricting proximity to another gambling venue.

Further research is required to identify the most appropriate way to manage the relocation of class 4 venues.

5.1.3 Merging of two corporate societies (clubs)

In the case that two clubs wish to merge, section 95 of the Gambling Act 2003 allows for the Council to stipulate the maximum number of gaming machines which can be operated at the new venue up to a maximum of 30. For example, if two clubs operating 18 machines each merge, the total number of machines that could operate at the new venue would be 30 not 32 ($18 \times 2 = 32$) or less if stipulated in the policy.

The Policy stipulates that in the case of two clubs merging in the Far North District, the maximum number of gaming machines which can be operated at the new venue is 18, which aligns with the maximum number of machines operating at non-club venues (who held a licence on 17 October 2001) in the District.

There are currently only three clubs in the District operating gaming machines, one is operating four machines and two are operating nine machines. If two clubs in the District were to merge, the total number of machines would not exceed 18. Therefore, this component of the policy would not impact on the number of machines in the District.

5.2 TAB venues

Since the Policy was adopted in 2014, the Racing Act 2003 has been replaced by the Racing Industry Act 2020. The Policy will need to be amended to ensure all references to the Racing Act 2003 are replaced with the Racing Industry Act 2020.

5.2.1 Establishment of TAB venues in the Far North District

Under section 96(s) of the Racing Industry Act 2020, the Council can decide whether or not new TAB venues may be established in the District. The Policy only applies to stand alone TAB venues. Council does not have authority over other venues which provide TAB facilities e.g., on licensed premises.

The Policy does not have restrictions on the number of TAB venues which may be established in the District.

Currently, there are no TAB venues in the District.

The Policy could extend the sinking lid model to TAB venues in which no new TAB venues would be established in the District. A sinking lid model would have no impact on the current status of TAB venues in the District but would prevent future gambling related harm.

5.2.2 Location of TAB venues in the Far North District

If allowing new TAB venues to be established in the District, under section 96(4) of the Racing Industry Act 2020, the Council can have regard to:

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

The Policy restricts new TAB venues to Commercial and / or Industrial zones as defined in the District Plan.

If the Council continues to allow the establishment of TAB venues in the District, the policy could be amended to ensure that TAB venues are not established:

- within a high deprivation area
- within 100 meters of kindergartens, early childhood centres, schools, places of worship, and other community facilities
- near other venues providing opportunities for gambling (including class 4 venues).

5.3 Application process

The Policy contains internal processes regarding application requirements and the processing of applications.

Internal processes should not be referred to in an external facing policy. The Policy should therefore be amended to remove the references to internal processes.

6 Social Impacts of Gambling in the Far North District

Staff have completed a separate report on the social impacts on gambling in the Far North District and concluded that the demographics of the Far North District mean our communities are more vulnerable to the detrimental effects of problem gambling. A summary of key points from the report are outlined below. For further information please refer to the full *Social Impacts of Gambling*³ report.

6.1 Gambling participation in New Zealand

There are four main types of gambling legally allowed in New Zealand:

- Sports betting through the TAB
- Class 4 Electronic Gaming Machines (EGMs), also known as pokie machines
- New Zealand Lotteries Commission (Lotto)
- Casinos.

The *2018 Health and Lifestyles Survey* found that⁴ :

- 67% of adults participated in some form of gambling in the previous 12 months
- gambling participation has decreased since 2006 (from 83%)
- Lotto is the most common form of gambling (55% of respondents)
- 11% played EGMs outside of a casino
- 11% participated in TAB betting.

Although only 11% of New Zealand adults played EGMs, total expenditure on Class 4 EGMs (\$924mil) is almost twice that of Lotto (\$530mil).

6.2 Gambling related harm

Most people can safely enjoy gambling as a recreational activity. However, research shows that about 22% of New Zealand adults will be adversely affected by their own gambling or the gambling of others.⁵

Problems associated with gambling harm include:

- detrimental effects on an individual's physical, emotional and psychological health
- financial difficulties
- bankruptcy
- reduced employment performance
- relationship conflict

³ [Social Impacts of Gambling](#)

⁴ [2018 Health and Lifestyles Survey](#)

⁵ [Ministry of Health Strategy to Prevent and Minimise Gambling Harm 2019/20-2021/22](#)

- family violence
- child neglect
- criminal activity such as theft and fraud.

Different forms of gambling carry different levels of risk for gambling harm. EGMs are a high-risk form of gambling, as they are a solitary activity rather than social, and are continuous. EGMs are cited as a problem for almost 50% of the people who seek help for their gambling.

6.2.1 Gambling related inequities

1.8% of New Zealand adults experience moderate to severe risk of problem gambling. However, this risk is not evenly distributed. Risk for problem gambling is higher for Māori (8.6%) and Pasifika (7.6%) populations.⁶

Total gambling participation is similar across ethnicities and deprivation levels, but the types and cost of gambling are not evenly spread.

- People living in the most deprived neighbourhoods are more likely to participate in EGM activities, which are high-risk.
- Much more gambling harm is experienced by those living in areas with a high social deprivation index score (8/10 or higher).
- People in deprived neighbourhoods are 4.5 times as likely to experience gambling-related arguments or money problems related to gambling.⁷

Of the 19 class 4 venues in the Far North District:

- the majority (12) are in the highest deprivation areas (decile 9-10)
- 5 are in medium-high deprivation areas.
- 2 are in medium deprivation areas.

The demographics of the Far North District mean that our communities are more vulnerable to the detrimental effects of problem gambling. A large proportion of the Far North District consists of the highest deprivation areas, and 50% of the population of the Far North is Māori. Both factors significantly increase the risk of gambling harm.

6.3 Gambling expenditure in the Far North District

In 2019, the total money spent on class 4 EGMs in the Far North District was \$15.7 million, however only \$2.4 million was returned to the district in grants to community and sporting groups. The figures suggest that, overall, a significant amount of money is taken out of the district.

Despite the decrease in the number of EGMs and class 4 venues since 2014, class 4 gambling expenditure (both absolute and per machine) in the Far North District has increased by a larger proportion than the change across New Zealand as a whole.

7 Discussion

7.1 Is the policy the most appropriate way to address the establishment of Class 4 gaming and TAB venues in the Far North District?

The review has identified that a sinking lid policy is the most appropriate way to address the establishment of Class 4 gaming venues in the District for the following reasons:

- the existing sinking lid policy has been effective in reducing the number of Class 4 gambling venues and EGMs machines

⁶ [Problem Gambling Foundation](#)

⁷ 2016 Health and Lifestyles Survey

- the demographics of the District mean that our communities are more vulnerable to the detrimental effects of problem gambling
- a significant amount of money is removed from the District due to class 4 gambling.

The review has identified that a restrictive relocation policy is the most appropriate way to address the relocation of Class 4 gaming venues in the District as the policy supports the intent of a sinking lid policy.

The review has identified that an open policy is not the most appropriate way to address the establishment of TAB venues in the District for the following reasons:

- the demographics of the District mean that our communities are more vulnerable to the detrimental effects of problem gambling
- there are currently no TAB venues in the District and allowing TAB venues to establish may lead to an increase of gambling related harm.

7.2 Is the policy in the most appropriate form?

The form of a policy is about its content and how it is drafted. A policy will be appropriate if it:

- a) meets the objectives it is intended to achieve
- b) is certain, e.g. it uses clear wording so people will understand what they are required to do
- c) complies with all relevant laws and legislation.

The relocation policy could be amended to take into consideration the Waikiwi Decision, and further align with the intent of the Gambling Act 2003 and the sinking lid policy by:

- restricting relocations in high deprivation areas
- restricting proximity to another gambling venue
- removing financial reasons from the relocation criteria.

Further research is required to identify the most appropriate way to manage the relocation of class 4 venues.

Some provisions in the policy are not certain. Therefore, amendments are required to improve clarity regarding:

- the definition of a sinking lid policy
- the criteria for relocation.

The policy is not consistent with relevant laws and legislation and needs to align with the Racing Industry Act 2020.

Therefore, the Policy is not the most appropriate form of policy and should be amended.

8 Conclusion

The Far North District is more vulnerable to the detrimental effects of problem gambling therefore, a sinking lid policy is the most appropriate way to address the establishment of both Class 4 gaming and TAB venues in the Far North District. The policy needs to be amended to ensure the policy is easily understood, reflects the social impacts of gambling in the Far North District, and aligns with current legislation.

Social Impacts of Gambling Report

A statutory requirement for the 2021 review of the Class 4 Gaming and TAB Venue Policy

1 Purpose

To describe and discuss the social impacts of gambling in the Far North District.

2 Context and Situation

Under the Gambling Act 2003 (sections 101 and 102) and the Racing Industry Act 2020 (sections 96 and 97), the Council is required to have a Class 4 gaming policy and a TAB venue policy. The policy must be reviewed every three years. When reviewing the policy, the Council must have regard to the social impact of gambling within the District.

When conducting a review of the gambling policy, the Council must consider whether to include a relocation policy. When considering a relocation policy, the Council must consider the social impact of gambling in *high-deprivation communities* in the Far North District.

3 Executive Summary

- Class 4 Electronic Gaming Machines (pokies) are a high-risk form of gambling.
- Only a small proportion of adults play Class 4 EGMs (11%; 1.3% weekly or more), but they represent the largest amount of gambling expenditure by a significant margin.
- 40% of EGM proceeds is returned to the community as grants.
- Risk for gambling harm is much higher for Māori and Pasifika people, and for people living in high deprivation areas.
- Most EGM venues in the Far North District are located in high deprivation areas.
- Since the adoption of a sinking lid policy in 2014, the number of Class 4 venues and EGMs in the Far North District has dropped, but overall expenditure has risen.

4 Overview of gambling in New Zealand

4.1 Gambling participation in New Zealand

There are four main types of gambling legally allowed in New Zealand:

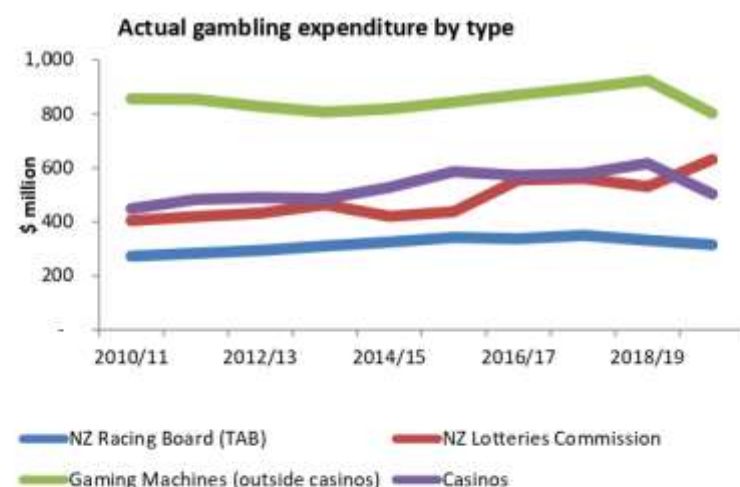
- Sports betting through the TAB;
 - Managed by the New Zealand Racing Board (a statutory monopoly)
- Class 4 Electronic Gaming Machines (EGMs), also known as pokie machines;
 - Only applies to EGMs at clubs, pubs, and societies (not casinos)
- New Zealand Lotteries Commission (Lotto); and
- Casinos.

The 2018 Health and Lifestyles Survey found that the majority (67%) of adults in New Zealand participated in some form of gambling in the previous 12 months.¹ Gambling participation has decreased since 2006 (from 83%). Lotto is the most common form of gambling, with 55% of respondents buying a Lotto ticket in 2018. 11% of respondents had played EGMs outside of a casino, and 11% of respondents had participated in TAB betting.

4.2 Gambling expenditure and trends in New Zealand

Total gambling expenditure in 2018/19 in New Zealand was \$2.4 billion. (This is the total amount wagered by gamblers, less the amount paid out as prizes; in other words, the amount lost or spent by players.) Although only 11% of New Zealand adults played EGMs, total expenditure on Class 4 EGMs (\$924mil) is almost twice that of Lotto (\$530mil) as shown in Figure 1.

Figure 1: Graph showing actual annual gambling expenditure by gambling type in New Zealand from June 2010 to June 2020.²



Predictably, COVID-19 lockdowns had a major impact on gambling figures for 2019/2020. Class 4 EGMs expenditure decreased (\$802mil) and Lotto increased (\$631mil), although class 4 EGMs expenditure remained the largest category.

More recent figures indicate that this impact may be short-lived. The Gaming Machine Profits (GMP)³ for Class 4 EGMs for October – December 2020 was the highest quarterly figure documented since records began (\$252mil). The January – March 2021 figure is lower (\$230mil), in line with the usual seasonal variation, but it is still significantly higher than the January – March 2019 figure (\$218mil).

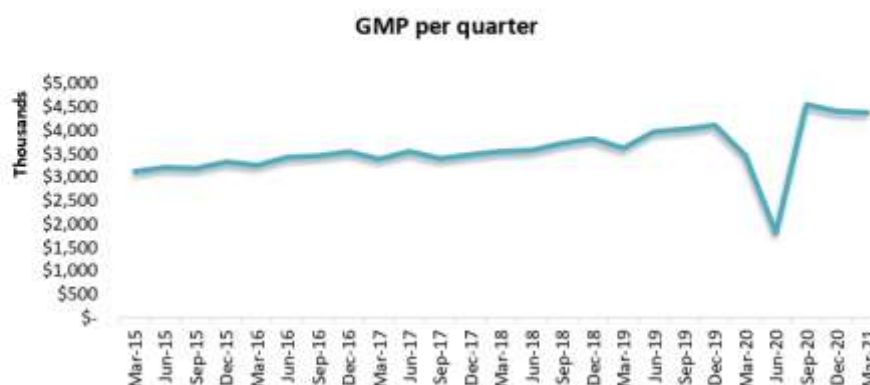
Despite an overall downward trend in the number of class 4 EGMs and venues, there has been an upward trend in gambling proceeds (excluding the 2020 data affected by the COVID-19 lockdowns), as shown in Figure 2. When adjusted for population and inflation, the per capita expenditure on class 4 EGMs has remained steady despite decreasing numbers of machines.

¹ 2018 Health and Lifestyles Survey

² Department of Internal Affairs Gaming Machine Profits Dashboard

³ Gaming Machine Profit is the amount in dollars that is not returned to a player.

Figure 2: Graph showing Gaming Machine Profits (GMP) in New Zealand from March 2015 to March 2021*



4.3 Benefits of class 4 gambling in New Zealand

There are some benefits associated with class 4 gambling. Roughly 40% of class 4 gambling machine proceeds is returned to the community. For the 2019 calendar year, of the \$939 million expenditure on class 4 EGMs, \$241 million was paid out in grants to community groups, services, and sports groups (approximately half to sports and half to community groups and services).⁴ In addition to community fundraising, other benefits include employment opportunities, and entertainment value.

4.4 Gambling harm

Most people can safely enjoy gambling as a recreational activity. However, a significant number of people are at risk of harmful gambling, which can have a negative impact on their own lives, and the lives of their family, whanau, friends, workmates, and wider community.

Problems associated with gambling harm include:

- detrimental effects on an individual's physical, emotional and psychological health;
- financial difficulties;
- bankruptcy;
- reduced employment performance;
- relationship conflict;
- family violence;
- child neglect; and
- criminal activity such as theft and fraud.

These problems can have an impact on a wide number of people. Research shows that about 22% of New Zealand adults will be adversely affected by their own gambling or the gambling of others.⁵

The effects of harmful gambling are varied. A useful way to measure this harm is the quality-adjusted life-year (QALY) – this is a way to understand how much impact a health condition has on quality of life. One QALY equates to one year in perfect health.

A 2017 study calculated the total impact to the New Zealand population from harmful gambling each year.⁶ There was an estimated 161,928 years of healthy life lost (QALYs) to disability as a result of harms from gambling in

⁴ [Problem Gambling Foundation](#) Profits from machines operated by clubs are retained for the purposes of the club.

⁵ [Ministry of Health Strategy to Prevent and Minimise Gambling Harm 2019/20-2021/22](#)

⁶ [Ministry of Health report Measuring the Burden of Gambling Harm in New Zealand \(Central Queensland University and AUT\)](#) The calculation does not include harms experienced beyond a 12-month period, meaning that it is likely to be conservative.

2012. This comprised 67,928 years lost by gamblers themselves and 94,729 by people who were affected by someone else's gambling.

This represents a substantial level of harm compared to other issues:

- 2.1 times more harm than osteoarthritis.
- 2.5 times more harm than diabetes.
- 3 times more harm than drug use disorders.

This harm was not solely due to high-risk gamblers – nearly 50 percent of all gambling harm was attributed to low-risk gambling.

4.5 EGMs, continuous versus non-continuous gambling, and risk of gambling harm

Different forms of gambling carry different levels of risk for gambling harm. EGMs are a high-risk form of gambling, as they are a solitary activity rather than social, and are continuous.

Continuous gambling activities are when the participant can immediately 'reinvest' any winnings. Examples include gaming machines, casino table games, and scratchie cards. These types of activities are associated with higher risk levels of gambling harm. With non-continuous gambling there is a delay of many hours or days between buying a ticket and the determination of a win or loss – for example, Lotto, or a raffle. Because the gambling behaviour is non-continuous, the risk of harm is lower.

EGMs are cited as a problem for almost 50% of the people who seek help for their gambling. The *2016 Health and Lifestyles Survey* found that almost half of respondents (49%) who played EGMs in a pub or club at least monthly experienced some level of gambling harm.⁷

4.6 Online gambling on offshore websites and host responsibility

New Zealanders may also legally gamble online on offshore sites. Official statistics show participation in online gambling is low (2% of respondents).⁸ This activity is not currently regulated or captured by the Department of Internal Affairs; however, the DIA is conducting a review into online gambling.

The accessibility, speed, and unsupervised environment of online gambling is high risk. People who gamble online do experience high rates of harm, but this is often because they are likely to gamble more heavily overall, and are more likely to have an existing gambling problem. One third to half of online gamblers experiencing harm attribute their problems to place-based forms of gambling.⁹

There is concern that online gambling is riskier than class 4 EGMs, because of the lack of host responsibility. Pubs and clubs are obliged to monitor and assist patrons who show signs of harmful gambling. However, the *2018 Health and Lifestyles Survey* found that 90% of pokie players didn't think their pokie room was monitored. None of the players surveyed had been spoken to by staff with a concern about their gambling, although 16% were experiencing some level of gambling harm.¹⁰

This data suggests that class 4 EGMs are not safer than online gambling.

4.7 Inequities in the risk of gambling harm

1.8% of New Zealand adults experience moderate to severe risk of problem gambling. However, this risk is not evenly distributed. Risk for problem gambling is higher for Māori (8.6%) and Pasifika (7.6%) populations.¹¹

Total gambling participation is similar across ethnicities and deprivation levels, but the types and cost of gambling are not evenly spread. People living in the most deprived neighbourhoods are more likely to participate in EGM

⁷ [2016 Health and Lifestyles Survey](#)

⁸ [2018 Health and Lifestyles Survey](#)

⁹ Hing, N., Russell, A., Browne, M. (2017). *Risk factors for gambling problems on online electronic gaming machines, race betting and sports betting*. *Frontiers in Psychology* doi: 10.3389/fpsyg.2017.00779

¹⁰ [2018 Health and Lifestyles Survey](#)

¹¹ [Problem Gambling Foundation](#)

activities, which are high-risk. Much more gambling harm is experienced by those living in areas with a high social deprivation index score (8/10 or higher). People in deprived neighbourhoods are 4.5 times as likely to experience gambling-related arguments or money problems related to gambling.¹²

Gambling tends to be more prevalent in lower income households and the concentration of gambling venues tends to be higher in areas of high deprivation. This means that gambling taxation and redistribution to community purposes tends to be regressive, that is, it places a higher burden on the less well-off.

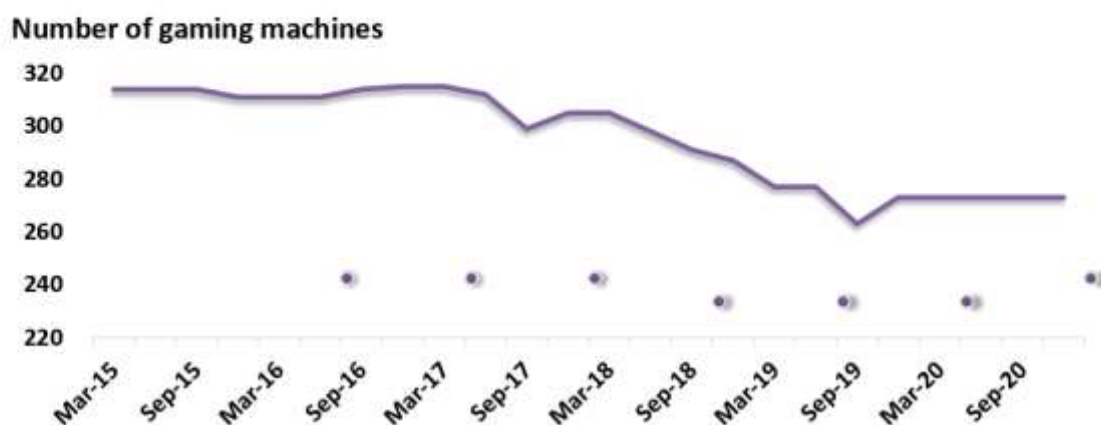
Of the four categories of gambling in New Zealand, class 4 gambling has one of the smaller participation rates (11%) but represents the largest expenditure by a significant margin. Only 1.3% of New Zealanders use class 4 EGMs frequently.¹³ Approximately 50% of EGM venues are located in high-deprivation communities (decile 8-10). The figures show that the cost of gambling is not evenly spread across the population but is concentrated in the poorest communities.

5 Class 4 gambling and TAB venues in the Far North District

5.1 Class 4 gambling venues and expenditure in the Far North District

Since the adoption of a sinking lid policy in 2014, the number of Class 4 venues in the Far North District has decreased from 25 to 19. The number of EGMs has decreased from 314 to 273 as shown in Figure 3.

Figure 3: Graph showing number of Class 4 Electronic Gaming Machines in the Far North District by quarter from March 2015 to December 2020¹⁴



Based on the 2018 census figures, there were 56.2 EGMs per 10,000 adults in the Far North District, which is significantly higher than the 40.6 machines per 10,000 adults nationally.

Although there are fewer EGMs in the Far North District than in 2014, gaming machine proceeds have steadily increased, as shown in Figure 4.

¹² 2016 Health and Lifestyles Survey

¹³ At least once a week. Health Promotion Agency (HPA) 2018. Kupe 2016: Health and Lifestyles Survey

¹⁴ Department of Internal Affairs Gaming Machine Profits Dashboard. There are two small dips in the graph; in both instances this reflects that the DIA granted a licence to a pre-existing venue after an unlicensed period of less than six months. Both venues existed on 17 October 2001. Under DIA policy guidance, in this case a council's policy does not come into effect, so the sinking lid policy did not apply.

Figure 4: Graph showing Gaming Machine Profits (GMP) in the Far North District from March 2015 to March 2021¹⁵

From March 2015 to March 2021 quarters, GMP for the Far North District increased by \$1,251,728 or by 40.1%. This is greater than the increase across New Zealand as a whole, where GMP from March 2015 to March 2021 increased by \$37,259,713 or by 19.3%.

A way to compare class 4 gambling expenditure across different areas, and to compare year on year expenditure equally, is to look at GMP per gaming machine. GMP per gaming machine in Far North District increased by \$6,080 since March 2015, which translates to \$16,032 in March 2021 or a 61.1% change. This means players are spending longer hours playing gaming machines, betting more per game, or more players are playing. In comparison, GMP per gaming machine in New Zealand increased by \$4,015 since March 2015, (to \$15,644 in March 2021), which represents a 34.5% change.

5.2 Benefits and costs of class 4 gambling in the Far North District

In 2019, the total money spent on class 4 EGMs in the Far North District was \$15.7 million. \$2.4 million was returned to the district in grants to community and sporting groups. This figure does not capture grants that might have been made to a national body or shared with another district. The figures suggest that, overall, a significant amount of money is taken out of the district. More detailed research is required to calculate the economic impact of class 4 gambling in the Far North District.

While many community and sporting groups depend on the income from these grants, they are not always comfortable with the reality that much of the funding comes from people who can ill afford it.¹⁶ Some groups refuse to receive funds raised through gambling. Of those organisations who do receive funding from gambling, research found that almost half of respondents still felt that it presented a moral dilemma.¹⁷ This is in line with wider public perceptions of the costs versus the benefits of gambling. Almost half (46%) of participants in the 2016 *Health and Lifestyles Survey* thought that raising money through gambling did more harm than good in the community, one quarter thought that it was neutral, and only one quarter (24%) thought it did more good than harm.¹⁸

5.3 Class 4 gambling in high-deprivation communities in the Far North District

Of the 19 class 4 venues in the Far North District, the majority (12) are in the highest deprivation areas (decile 9-10), 5 are in medium-high deprivation areas, and 2 are in medium deprivation areas.

Figure 5: Graph showing class 4 gambling venues in the Far North District by deprivation rating¹⁹

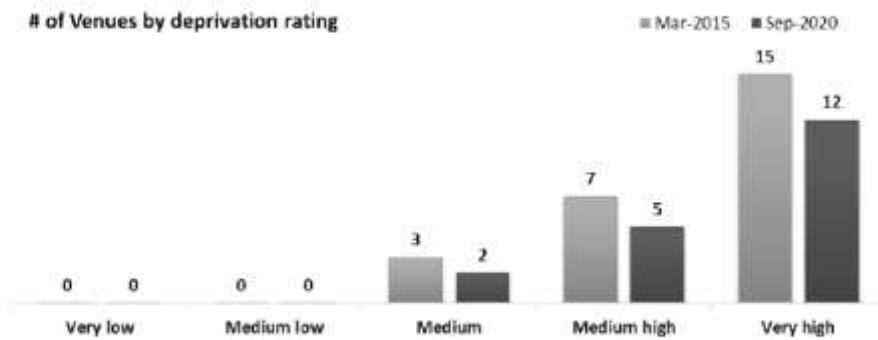
¹⁵ [Department of Internal Affairs Gaming Machine Profits Dashboard](#)

¹⁶ [Problem Gambling Foundation](#) White Paper: ending community sector dependence on pokie funding

¹⁷ Research undertaken for Auckland Council [Community Funding: a focus on gaming grants](#)

¹⁸ [2016 Health and Lifestyles Survey](#)

¹⁹ [Department of Internal Affairs Gaming Machine Profits Dashboard](#)

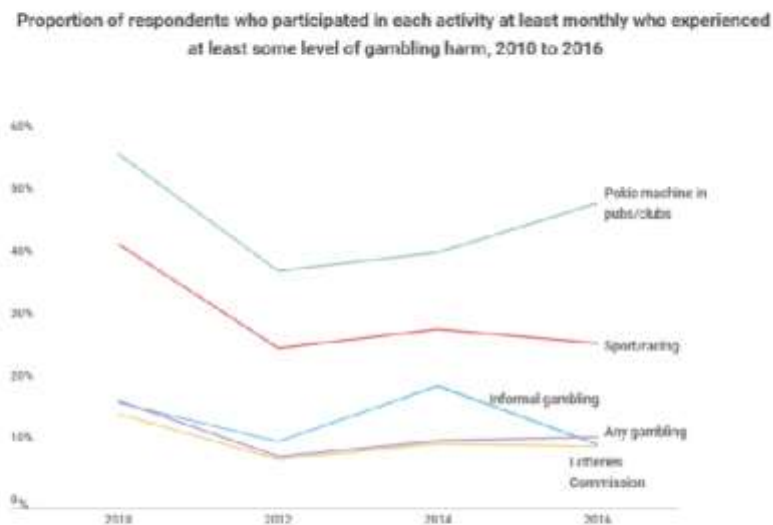


5.4 TAB gambling in the Far North District

Under the Racing Industry Act 2020, the TAB venues policy can only apply to stand-alone TAB venues. The policy cannot apply to licensed premises which provide TAB services. The current policy allows for stand-alone TAB venues to be located in the commercial/industrial zone.

Out of the common types of gambling activities, EGMs are the riskiest, however sport and racing betting is also associated with a high risk of gambling harm. Almost half (49%) of people who played pokies and over one quarter (26%) of those who bet on races or sports, at least monthly, experience gambling harm, which indicates much higher risk than other activities, as shown in Figure 6.

Figure 6: Graph showing proportion of those experiencing harm among different types of gambling²⁰



There are currently no stand-alone TAB venues in the Far North District. There are six PubTAB and 1 ClubTAB locations, in on-licence premises, which are outside the scope of the policy.

²⁰ [2016 Health and Lifestyles Survey](#)

6 Discussion

Several factors are important in assessing the social impact of gambling in the Far North District. A variety of community organisations and sports groups rely on funding derived from class 4 gambling. It also provides some employment and entertainment value. At the same time, class 4 gambling has a significant negative impact on the wellbeing of many people, especially those in high deprivation areas.

The demographics of the Far North District mean that our communities are more vulnerable to the detrimental effects of problem gambling. A large proportion of the Far North District consists of the highest deprivation areas, and 50% of the population of the Far North is Māori. Both factors significantly increase the risk of gambling harm. Despite the decrease in the number of EGMs and class 4 venues since 2014, class 4 gambling expenditure (both absolute and per machine) in the Far North District has increased by a larger proportion than the change across New Zealand as a whole.

7 Conclusion

This report has drawn on data for gambling participation and expenditure, research into gambling harm, and information about the benefits and costs of gambling, to discuss the social impacts of gambling in the Far North District. The communities of the district have an increased risk of detrimental social impacts from gambling. When conducting a review of the class 4 gaming and TAB venue policy, the Council will need to consider the needs of these communities.

Class 4 Gaming and TAB Venue Policy (#3117)

Adopted: 28 April 2004
Reviewed: 30 October 2014

Background

The Policy is initially made for the purposes of section 101 of the Gambling Act 2003 and section 65D of the Racing Act 2003. This revision is made under section 103 of the Act. Under the Gambling Act 2003, applicants for Class 4 gaming ('pokies') venue licenses must have the consent of the territorial authority in which the venue is, or will be, situated. In order to consider and determine applications for consent, territorial authorities are required by the Act to have a policy specifying whether or not Class 4 venues may be established in their district, where Class 4 licensed venues may be located in the district, and may also place additional limits on the number of machines per venue, which the Act sets at nine per venue.

In terms of section 65D of the Racing Act 2003, territorial authorities must adopt a Board venue policy for stand alone "TABs" operated by the New Zealand Racing Board. The policy must specify whether or not new Board venues may be established in their district, and where they may be located.

This policy has been developed to enable the Council to consider and determine consent applications. As required by the Act, all decisions by the Council to grant or decline consent must be made in accordance with this policy.

Objective

The Far North District Council supports the primary objectives of the Gambling Act 2003 to ensure that:

- Gambling is primarily used to raise funds for community purposes
- The harm caused by gambling is prevented or minimised
- Local involvement in decisions about the availability in communities of more 'risky' forms of gambling is facilitated
- The growth of gambling is controlled
- Gaming machines are located in appropriate venues
- Community input is sought in the preparation of the Policy through the Local Government Act 2002 Special Consultative Procedure (SCP)

Policies

Class 4 Venues

1. The Far North District Council has set a 'sinking lid' on the number of machines in the district with effect from the date the policy is adopted by Council. Under a sinking lid policy, there will never be machines available for redistribution.
2. The Far North District Council will accept applications for the relocation of existing machines to a new venue. The criteria for relocation are:
 - a. A venue licence was not held on 17th October 2001, but granted after that date, and before commencement of the Gambling Act 2003.

- b. Where two or more clubs, with existing licenses, may legally merge, at which time the maximum number of machines should not exceed 18, and that the venue is suitably located to meet the criteria of this Policy.
- c. Where an existing business wishes to be relocated from its current premises to a new venue within the District, and take all or fewer of its existing machines to those new premises; no machines may remain at the former venue.
- d. A new venue will not be considered if it is defined as a venue declared unfit under section 4 of the Gambling (Harm Prevention and Minimisation) Regulations 2004.
- e. The intent to consider a relocation will be publically notified, including on the Council website.
- f. New Class 4 gaming venues shall be in Commercial, Industrial, General Coastal Rural Living or Rural Production zones, or within sports clubs or public houses and shall be eligible for consent provided the venue is at least 100 metres from any Kindergarten, early childhood centre, school, place of worship, Marae, or other community facility, and 100 metres from a Residential, Coastal Residential, Coastal Living, Recreational Activities zones.
- g. If it is not practicable to apply a 100 metre proximity policy, then the distance becomes a discretionary condition. The Council will then make the decision.

TAB Venues

3. TAB venues in on-licence premises do not require a gaming venue consent from Council.
4. The Far North District Council will accept New Zealand Racing Board applications for TAB venues, in relation to their location, subject to:
 - a. All new venues shall comply with the criteria for location, and all associated fee payments shall be paid, as defined in this policy.
 - b. All TAB venues shall be located in the Commercial/Industrial zone, or be located in a Public House, tavern or hotel premises that holds an 'on-licence' for that premises under the Sale and Supply of Alcohol Act 2012.

Procedures

Application requirements

1. All applications for consent for Class 4 Gaming machines or TAB Venues shall be made with Council's Environmental Management department, and must be accompanied with the following information:
 - A fully completed prescribed application form.
 - Appropriate application fee payment. This fee shall incorporate the administration charge and a proportion of the cost of monitoring and review of policy.
 - A full floor plan, location map of premises, detailing distance to nearest school, Kindergarten, Child care centre, place of worship or other community facility, and residential zone.
 - Floor plan to be the same plan that accompanies the Sale & Supply of Alcohol Act (2012) On-Licence and show designated areas.
 - Details of current or proposed Liquor Licence applications, or existing licenses.
 - Copies of all other appropriate current licenses (e.g. Health Licence)

Processing of Applications

2. All applications will be processed by the Environmental Protection Department in conjunction with Resource Management Division.
3. All applicants that comply with the policy shall be processed within 30 working days of receipt. However, if an application does not fully meet the criteria and is recommended to 'Council' for a decision, period from lodgement to decision will vary depending on Council meeting dates.
4. Applications will be checked by Monitoring staff to ensure that all relevant information has been provided. In cases where all relevant information is not available, the application shall be rejected as incomplete, and the 30 day working period shall not commence until all the relevant information is submitted. This information shall include payment of any appropriate fees.
5. All accepted applications shall be referred to the Resource Planning division to ensure compliance with District Plan requirement and to the Community Board for community comments prior to any consents being issued. At this point, the applicant will be notified of the need for any Resource Consents, if applicable.
6. Applications will be assessed by a Monitoring officer for compliance with the Gaming and TAB Venue Policy.
7. Consents will be issued following compliance with Resource Planning requirements if necessary and compliance with Gaming and TAB Venue Policy.
8. Applications for relocation of machines to a new premise will be subjected to Public Notification and referred to the relevant Community Board for consideration and comments, as well as other key interested parties (e.g. the Police, Northland Health Board).
9. Application for the relocation of machines shall not be subjected to the 30 day processing time scales due to the need for consultation outlined in 5) Criteria for Relocation.

Monitoring and Review

10. The Council may amend this at any time.
11. The Council will complete a review of the policy after 3 years as specified in the legislation.
12. If the Council amends or replaces this policy, it will do so in accordance with the Special Consultative Procedure as required by the Local Government Act 2002.

Fees and Charges

13. All Fees and Charges will be those set by Council, from time to time, and in accordance with Council's current Fees and Charges Schedule.
14. The Fees and Charges shall include the following costs:
 - a. Application and processing (administration) fee
 - b. Cost of compliance inspections (monitoring)
 - c. Contribution costs toward triennial assessments of economic and social impact of gambling in the District (review)

Criteria for Relocation of Class 4 (Pokie) Machines

15. The relocation of Class 4 (Pokie) gaming machines will only be considered if:
 - a. The new venue is in the Far North District
 - b. The business hold an existing license to have Class 4 machines
 - c. The business needs to relocate due to:
 - i. Fire or other damage to the present venue
 - ii. Expiry of lease on present venue
 - iii. Financial reasons relating to the business
 - iv. The building of a new premises or refurbishment of an existing building as a new venue
 - v. Merging of two Club license holders into one venue
16. New Class 4 gaming venues shall be in Commercial, Industrial, General Coastal Rural Living, or Rural Production zones, or within sports clubs or public houses, and shall be eligible for consent provided the venue is at least 100 metres from any kindergarten, early childhood centre, school, place of worship or other community facility, and from Residential, Coastal Residential, Coastal Living, and Recreational Activity Zones.
17. Any variation for less than 100 metres will be determined by Council.
18. Only the number of machines (or fewer) in the existing venue will be considered for relocation.
19. The application will be referred to the relevant Community Board for consideration and comment.
20. No machines may be left at the existing venue.

5.4 EASTER SUNDAY TRADING POLICY

File Number: A3534512

Author: Caitlin Thomas, Strategic Planner

Authoriser: Darren Edwards, General Manager - Strategic Planning and Policy

TAKE PŪRONGO / PURPOSE OF THE REPORT

To develop a new Easter Sunday Trading Policy to permit shops to open on Easter Sunday across the district.

WHAKARĀPOPOTO MATUA / EXECUTIVE SUMMARY

- The current Easter Sunday Trading Policy will automatically revoke on 17 February 2024.
- The Easter Sunday Trading Policy 2017 allows trade on Easter Sunday across the whole of the Far North District.
- In the absence of a policy the only trade occurring in the district on Easter Sunday will be trade exempt under the Shop Trading Hours Act 1990.
- Staff recommend that a new Easter Sunday Trading Policy be developed allowing shops to open on Easter Sunday across the whole of the Far North District.

TŪTOHUNGA / RECOMMENDATION

That the Strategy and Policy Committee recommends that Council approve, pursuant to section 5A of the Shop Trading Hours Act 1990, a new Easter Sunday Trading Policy be developed allowing shops to open on Easter Sunday across the whole of the Far North District.

1) TĀHUHU KŌRERO / BACKGROUND

Easter Sunday is not a public holiday although it is a very important day in the Christian calendar.

The Shop Trading Hours Act 1990 was amended in 2016 to enable territorial authorities to decide whether retailers in their districts can open on Easter Sunday in either the whole or part of the district.

This policy cannot control or override shop trading provisions in other legislation, such as defining specific opening hours, liquor licensing provisions or determining what types of shops may open.

Section 5A of the Shop Trading Hours Act 1990 (the Act) enables the Council to have a local Easter Sunday shop trading policy permitting shops to open on Easter Sunday in either the whole or part of the district.

Council adopted a policy to enable Easter Sunday trading across the whole district on 17 February 2017. The Policy was developed in consultation with the community.

46 submissions relating to this policy were received in 2017 (22 in favour and 24 opposed to Easter Sunday Trading).

Support for allowing trade on Easter Sunday (in addition to businesses already exempt, such as pharmacies) stem from the economic and social benefits to communities. Tourist destination towns can stay open for business to provide for visitors who travel for the long weekend.

Those opposed to trading on Easter Sunday in the District were mainly concerned that retail staff would lose one of their last remaining guaranteed days off. Others were concerned as they consider Easter Sunday to be important for religious reasons.

As per Section 5C of the Act, the Policy must be reviewed within five years after adoption which is by February 17, 2022. The Policy will therefore automatically revoke on February 17, 2024, because the review will not be presented to Council in the required timeframe.

Under Section 5C of the Act, Council must use a special consultative procedure when adopting, reviewing, or revoking an Easter Sunday Trading Policy.

The special consultative procedure involves:

- preparation of a statement of proposal and a summary
- a public notice publicising the consultation
- allowing at least one month for submissions, which must be acknowledged
- public deliberations
- a copy of the decision and a summary of the reasons must be provided to submitters.

2) MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND OPTIONS

Council's role relating to Easter Sunday Trading

Local Government Act 2002

Under section 10 of the Local Government Act 2002, the purpose of local government is to "... promote the social, economic, environmental, and cultural wellbeing of communities, in the present and for the future". Allowing trade to occur on Easter Sunday across the whole district has economic benefits for businesses and communities attracting Easter holiday visitors.

Conversely, those opposed to Easter Sunday trading point to the social benefits of a day off work which would be lost if Easter trading is allowed. They also mention the cultural benefit of recognising the Easter period as sacred to the Christian faith.

Shop Trading Hours Act 1990 and the Shop Trading Hours Amendment Act 2016

The Shop Trading Hours Act 1990 has been amended several times, including to allow garden centres to open on Easter Sunday as per Section 4A. The Act was amended again in 2016 to allow territorial authorities to adopt a policy regarding Easter Sunday trading within the whole or part of the district.

In the absence of a policy, the only businesses allowed to operate on Easter Sunday are those exempt under the Act as per section 4 and 4A namely:

- garden centres
- petrol stations
- pharmacies
- businesses that sell only food, drink, household items, personal items, automotive fuel, lubricants, and accessories while also only having enough items to meet the needs of people who live in or are staying in the area
- businesses whose principal purpose is the selling of souvenirs and/or duty-free goods, or prepared/cooked food that's ready to be eaten immediately in the form in which it is sold
- businesses located at a public passenger transport station or terminal, selling the above items and/or books, magazines, or newspapers
- shops that are located in a place where an exhibition or show is being held (these shows need to be primarily related to agriculture, art, industry, and science)

In addition, there is a special exemption for businesses located in Paihia which can operate from 7am to 9pm on Easter Sunday.

Under the Shop Trading Hours Amendment Act 2016 employers must provide at least four weeks' notice to staff of their intention to open on Easter Sunday. All shop employees have the right to refuse to work on Easter Sunday and are not required to provide their employer with a reason for refusing.

Sale and Supply of Alcohol Act 2012

The Sale and Supply of Alcohol Act 2012 Section 47 identifies that licence holders cannot sell alcohol on Easter Sunday unless it is sold while the holder has a special licence, or if the buyer is lodging, residing, or dining on the premises. The Shop Trading Hours Act 1990 has no impact on the rules under the Sale and Supply of Alcohol Act 2012.

Review of current policy

A search of Council's requests for service (RFS) has not identify any issues reported regarding trading on Easter Sunday.

Early engagement with Community Board members (December 2021) indicated support for the current policy with all 6 respondents acknowledging that the current policy is appropriate.

The current policy aligns with legislation and is not duplicated in other documents however, the current policy mentions a map which is not included. Any future policy must ensure that all relevant information, including maps, is accessible to the public on the Council website.

There are over 40 Territorial Authorities with Easter trading policies, mainly involving smaller provincial authorities. This includes Whangārei and Kaipara District Councils, both of which allow trade across their whole district. At the same time more than 20 Territorial Authorities have not implemented an Easter trading policy indicating that they are opposed to trading on Easter Sunday.

Options**Option One: Status quo: Adopt a new policy which continues to allow Easter Sunday Trading across the whole District. (Preferred option)**

Making a new policy which maintains the intent of the current policy also maintains the status quo by allowing trade across the whole district. All shop employees have the right to refuse to work on Easter Sunday and do not have to provide their employer a reason for refusing.

A special consultative procedure is required.

Advantages of allowing trade across the whole district	Disadvantages of allowing trade across the whole district
<p>The whole district, particularly tourist towns, can benefit from trade. For example, cafes gaining business from visitors to the district for the long weekend.</p> <p>There is a placemaking advantage for allowing businesses to remain open on Easter Sunday, making towns vibrant and providing more options for locals and visitors.</p>	<p>Although workers can opt out of working on Easter Sunday, they may feel pressured to work on this day.</p> <p>The loss of a guaranteed day off work.</p> <p>Not respecting Easter Sunday as an important day in the Christian calendar.</p>

Option Two: Make a new policy that only allows Easter Sunday Trading in some parts of the district

Make a new policy that is more restrictive, i.e., only allow Easter Trading in some parts of the district. Community consultation can identify locations of interest.

A special consultative procedure is required.

Advantages of a new policy that is more restrictive	Disadvantages of a new policy that is more restrictive
<p>Locations identified can benefit from trade, for example cafes gaining visitors to the district for the long weekend.</p>	<p>The only towns which can benefit from Easter Sunday Trade are those specified in the policy.</p> <p>Businesspeople in towns that are excluded from the policy may feel this is unfair.</p>

Option Three: Do not make a new policy, allow the policy to automatically revoke

Do not make a new policy and rely on the Act; therefore, not allowing Easter Trading for businesses that are not exempt under the Act.

Advantages of relying on the Shop Trading Hours Act 1990 and not making a policy that allows Easter trading	Disadvantages of relying on the Shop Trading Hours Act 1990 and not making a policy that allows Easter trading
Takes away any pressure on workers to work on Easter Sunday. Avoids the loss of a guaranteed day off work. Respecting Easter Sunday as an important day in the Christian calendar.	Only trade exempt under the Act can proceed on Easter Sunday, such as pharmacies, garden centres, and service stations. Businesses relying on the tourist trade in the long weekend will be disadvantaged.

Take Tūtohunga / Reason for the recommendation

Option One is recommended.

On balance, while there are arguments for and against allowing Sunday Trading across the District, Option One is recommended for the following reasons:

- No complaints or issues have been recorded with the current policy which allows Sunday trading across the district.
- It supports businesses relying on tourists during the long weekend.
- It does not prevent workers from opting not to work on Easter Sunday.
- It does not stop Christians observing their faith on this holy day.

3) PĀNGA PŪTEA ME NGĀ WĀHANGA TAHUA / FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION

The special consultative procedure under Section 83 of the Local Government Act 2002 will be covered within existing budgets.

ĀPITIHINGA / ATTACHMENTS

Nil

Hōtaka Take Ōkawa / Compliance Schedule:

Full consideration has been given to the provisions of the Local Government Act 2002 S77 in relation to decision making, in particular:

1. A Local authority must, in the course of the decision-making process,
 - a) Seek to identify all reasonably practicable options for the achievement of the objective of a decision; and
 - b) Assess the options in terms of their advantages and disadvantages; and
 - c) If any of the options identified under paragraph (a) involves a significant decision in relation to land or a body of water, take into account the relationship of Māori and their culture and traditions with their ancestral land, water sites, waahi tapu, valued flora and fauna and other taonga.
2. This section is subject to Section 79 - Compliance with procedures in relation to decisions.

He Take Ōkawa / Compliance Requirement	Aromatawai Kaimahi / Staff Assessment
State the level of significance (high or low) of the issue or proposal as determined by the Council's Significance and Engagement Policy	Since adopting a new policy with the same intention as the current policy retains the status quo, the level of significance for the recommendation as determined by the <i>Significance and Engagement Policy</i> is moderate.
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	Relevant legislation includes the Shop Hours Trading Act 1990 and the Sale and Supply of Alcohol Act 2012.
State whether this issue or proposal has a District wide relevance and, if not, the ways in which the appropriate Community Board's views have been sought.	The preferred option is of District wide relevance. Community Board members had an opportunity to comment on the current policy in December 2021 and will be consulted under the Special Consultative Procedure.
State the possible implications for Māori and how Māori have been provided with an opportunity to contribute to decision making if this decision is significant and relates to land and/or any body of water. State the possible implications and how this report aligns with Te Tiriti o Waitangi / The Treaty of Waitangi.	This decision in this report is not significant and does not relate to land and/or any body of water. Seeking the views and input of iwi in the development of policies is integral. Māori will be given an opportunity to consult as part of the special consultative procedure.
Identify persons likely to be affected by or have an interest in the matter, and how you have given consideration to their views or preferences (for example – youth, the aged and those with disabilities).	This matter is of interest to the wider community, particularly businesses which may wish to remain open on Easter Sunday and are not exempt under the Act. The Special Consultative Procedure will consult with Community Boards and engage with the public to determine their preferences.
State the financial implications and where budgetary provisions have been made to support this decision.	Costs including Special Consultative Procedure under Section 83 of the Local Government Act 2002 will be covered by existing budgets.

Chief Financial Officer review.	This report has been reviewed by the Chief Financial Officer.
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5.5 ON-SITE WASTEWATER DISPOSAL SYSTEMS BYLAW - RECOMMENDATIONS FOR MAKING NEW BYLAW

File Number: A3541770

Author: Briar Macken, Team Leader - Policy

Authoriser: Darren Edwards, General Manager - Strategic Planning and Policy

TAKE PŪRONGO / PURPOSE OF THE REPORT

To approve the adoption of the On-site Wastewater Disposal Systems Bylaw based on staff recommendations.

WHAKARĀPOPOTO MATUA / EXECUTIVE SUMMARY

- On 20 May 2021, the Council agreed a new bylaw is appropriate to regulate the maintenance of onsite wastewater disposal systems in the Far North District.
- On 07 September 2021 the Strategy and Policy Committee approved a proposal for a new On-site Wastewater Disposal Systems Bylaw to be released for public consultation.
- This consultation took place from 13 September 2021 to 15 October 2021 with fifteen submissions received.
- Council staff have analysed the submissions and recommend changes to the draft bylaw in response to these submissions (see Attachment 1).
- Attachment 2 is the proposed final new bylaw for adoption.

TŪTOHUNGA / RECOMMENDATION

That the Strategy and Policy Committee recommend that Council:

a) Agree to the recommendations in the staff report on submissions and recommendation for consideration in attachment 1 that:

i) No changes are made to clauses 1, 2, 3, 4, 5, 9, and 10.

ii) Clause 6 is changed by:

1) Adding a new definition:

“Occupier means any person, other than the owner, who has a right to occupy the property, by virtue of a tenancy granted by lease, licence or other authority”.

2) Changing the definition of on-site wastewater disposal system to include “grease trap”

iii) Under Part 2 Maintenance Requirements:

1) Adding a new ‘related information box’:

“If the council is satisfied an on-site wastewater disposal system is injurious to health or not sanitary, the council can use its powers pursuant to sections 29, 30 and 34 of the Health Act 1956 by including issuing a notice of offence or to enter a premise and abate the nuisance without notice to the occupier or owner”.

2) Adding the words “or occupier” after the word “owner” in the ‘related information box’.

iv) Clause 7 is changed by:

1) Adding the words “or occupier” after the word “owner” in the title, subclause (1) and subclause (2).

2) Adding the words “or the suitably qualified person verifies the system is functioning correctly” at the end of subclause (2).

- v) **Clause 8 (5) is change by adding the words “or occupier” after the word “owner”.**
- b) **Agree the On-site Wastewater Disposal System Bylaw in attachment 2:**
 - i) **is the most appropriate form of bylaw; and**
 - ii) **the bylaw provisions are considered reasonable limits on the rights in the New Zealand Bill of Rights Act 1990.**
- c) **Under section 146 of the Local Government Act 2002, make the On-site Wastewater Disposal Systems Bylaw in attachment 2.**

1) TĀHUHU KŌRERO / BACKGROUND

On 20 May 2021, the Council resolved that a new bylaw is appropriate to regulate the maintenance of on-site wastewater disposal systems in the Far North District (Resolution 2021/21 refers).

On 07 September 2021 the Strategy and Policy Committee approved a proposal for a new On-site Wastewater Disposal Systems Bylaw (Bylaw) to be released for public consultation.

The period during which people could make submissions on the proposal was 13 September to 15 October 2021. Fifteen submissions were received.

One submitter asked to be heard and made a verbal submission to the Strategy and Policy Committee 26 October 2021.

2) MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND OPTIONS

The report in Attachment 1 summarises the public submissions and makes recommended changes to the draft bylaw in response to these submissions. If these recommendations are agreed to, Council staff advise that the On-site Wastewater Disposal Systems Bylaw in Attachment 2 is an appropriate form of bylaw for the purposes of section 155(2)(a) of the Local Government Act 2002.

Compliance with the New Zealand Bill of Rights Act 1990

As required by section 155(2)(b) of the Local Government Act 2002, before a local authority makes a bylaw, it must determine whether the proposed bylaw has any implications under the New Zealand Bill of Rights Act 1990.

An initial assessment of these implications was included in the On-site Wastewater Disposal Systems Bylaw Proposal for Consultation [Objective reference: A3286271]. This assessment said:

Part 2 of the New Zealand Bill of Rights Act 1990 sets out twenty rights that are affirmed and protected, that may only be subject to reasonable limits that can be demonstrably justified in a free and democratic society.

An assessment has identified the Bylaw may potentially have implications on Section 14: Freedom of Expression in that information regarding the status of on-site wastewater disposal systems must be provided to the Council. The wording "information of any kind and in any form" suggests that section 14 may apply to a regulatory requirement to produce information or documents however this is unclear.

Although, the Bylaw's provisions are justified because they only limit the rights of individuals to the extent it is reasonable to do so for other people's rights and freedoms to be maintained

The Bylaw may also potentially have implications on Section 21: Security Against Unreasonable Search or Seizure, whether of the person, property, or correspondence. However, the Bylaw does not contain any new powers for search or seizure, the applicable powers (that are cross-referenced in the bylaw) are already in statutes.

Therefore, any limitations on the rights mentioned are likely to be justified in accordance with the New Zealand Bill of Rights Act 1990.

None of the recommended changes in the report in Attachment 1 have new implications under the New Zealand Bill of Rights Act 1990. Therefore, the initial assessment is now a final assessment and Council staff consider the bylaw provisions are reasonable limits on the rights in the New Zealand Bill of Rights Act 1990.

Timing for making the bylaw

The Council's current Control of On-site Wastewater Disposal Systems Bylaw will revoke on 26 May 2022 under section 160A of the Local Government Act 2002 because it was not reviewed by the date required under that Act. If the recommendations in this report are agreed to, the new On-site Wastewater Disposal Systems Bylaw will be made before the current bylaw is revoked, ensuring ongoing regulation of the maintenance of on-site wastewater disposal systems.

Changes from the current bylaw to the new bylaw

The new bylaw continues existing restrictions and controls [as in the Control of On-site Wastewater Disposal Systems Bylaw] relating to the maintenance of on-site wastewater disposal systems.

Council staff have addressed the appropriateness of the form and content of the new bylaw by:

- removing provisions that duplicate legislation or existing Council policy instruments, instead providing cross reference to legislation, where relevant
- simplifying the language in line with modern legal drafting principles with some terminology updated
- improving provisions regarding on-site wastewater disposal systems on commercial or industrial properties.

Take Tūtohunga / Reason for the recommendation

The On-site Wastewater Disposal Systems Bylaw in attachment 2 can be made, under section 146 of the Local Government Act 2002, because, following the changes recommended in the report in attachment 1, it:

(a) is an appropriate form of bylaw; and

(b) the bylaw provisions will be reasonable limits on the rights in the New Zealand Bill of Rights Act 1990.

3) PĀNGA PŪTEA ME NGĀ WĀHANGA TAHUA / FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION

The costs to implement the new bylaw will come from existing operational budgets.

ĀPITIHINGA / ATTACHMENTS

1. **Analysis of Submissions - On-site Wastewater - A3564150** [↓](#) 
2. **Final On-site Wastewater Disposal Systems Bylaw for adoption - A3564151** [↓](#) 

Hōtaka Take Ōkawa / Compliance Schedule:

Full consideration has been given to the provisions of the Local Government Act 2002 S77 in relation to decision making, in particular:

1. A Local authority must, in the course of the decision-making process,
 - a) Seek to identify all reasonably practicable options for the achievement of the objective of a decision; and
 - b) Assess the options in terms of their advantages and disadvantages; and
 - c) If any of the options identified under paragraph (a) involves a significant decision in relation to land or a body of water, take into account the relationship of Māori and their culture and traditions with their ancestral land, water sites, waahi tapu, valued flora and fauna and other taonga.
2. This section is subject to Section 79 - Compliance with procedures in relation to decisions.

He Take Ōkawa / Compliance Requirement	Aromatawai Kaimahi / Staff Assessment
State the level of significance (high or low) of the issue or proposal as determined by the Council's Significance and Engagement Policy	In line with the Significance and Engagement Policy the recommendation to continue the bylaw will have little effect on financial thresholds, ratepayers, specific demographics, or levels of service. The recommendation is consistent with existing plans and policies. Therefore, the level of significance is low.
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	The Local Government Act 2002 sections 82, 146, 155, 158, and 160 apply to the decision recommended in this report.
State whether this issue or proposal has a District wide relevance and, if not, the ways in which the appropriate Community Board's views have been sought.	As the bylaw regulates on-site wastewater disposal systems across all of the wards of the District the proposal has District-wide relevance and is not within the delegations of Community Boards to consider.
State the possible implications for Māori and how Māori have been provided with an opportunity to contribute to decision making if this decision is significant and relates to land and/or any body of water. State the possible implications and how this report aligns with Te Tiriti o Waitangi / The Treaty of Waitangi.	This decision in this report is not significant and does not relate to land or any body of water. The implications for Māori from the regulation of on-site wastewater disposal systems are similar to the impacts on communities generally. The new bylaw will have the same effect as the current bylaw. Māori had an opportunity to contribute during the consultation process.
Identify persons likely to be affected by or have an interest in the matter, and how you have given consideration to their views or preferences (for example – youth, the aged and those with disabilities).	Affected and interested parties were given an opportunity to share their views and preferences during the consultation phase including: <ul style="list-style-type: none"> • Owners of properties with on-site wastewater disposal systems • Ngā Tai Ora – Public Health Northland • On-site wastewater disposal system contractors

<p>State the financial implications and where budgetary provisions have been made to support this decision.</p>	<p>The cost of continuing the provisions of the existing bylaw in a new bylaw is covered by current operational budgets.</p>
<p>Chief Financial Officer review.</p>	<p>This report was reviewed by the Chief Financial Officer</p>

Analysis of submissions

Control of On-site Wastewater Disposal Systems Bylaw

1 Background

On 20 May 2021, the Council agreed a new bylaw is appropriate to regulate the maintenance of on-site wastewater disposal systems in the Far North District. On 07 September 2021 the Strategy and Policy Committee approved a proposal for a new On-site Wastewater Disposal Systems Bylaw (Bylaw) to be released for public consultation. The period during which people could make submissions on the proposal was 13 September to 15 October 2021. Fifteen submissions were received.

This report analyses the submissions and makes recommendations for amendments to the draft Bylaw. A numbered list of people who made submissions is in the Appendix and these numbers are used to refer to the individual submissions in the body of this report.

Council staff from the following teams contributed to the analysis of the submissions:

- Strategy Development
- District Services

External legal advice was provided to support the development of suggested amendments.

2 Summary of submissions

Fifteen submissions were received, with twelve of these received online using a submissions form that asked people to say if they "support in full", "support in part" or "do not support" the draft Bylaw. Those general responses are summarised in the following table.

Table 1: Table showing online submitters support for the draft Bylaw and support for specific parts of the Bylaw

	Number of online submissions			
	Support in full	Support in part	Do not support	Total
General support for the draft Bylaw	4	4	4	12
Support in part overview				
Initial provisions (Clauses 1- 4)	3		1	4
Part 1 Preliminary Provisions (Clauses 5 - 6)	4			4
Part 2 Maintenance requirements (Clauses 7 - 8)	2		2	4
Part 3 Offences and penalties (Clauses 9 – 10)	2		2	4

Where the submissions opposed a Part and made suggestions for changes, those suggestions are included in the analysis in section 4 of this report.

The remaining three submissions were made offline. They were generally supportive of the draft bylaw, but suggested some changes to Parts 1, 2, and 3 and are again included in the analysis in section 4 of this report.

One person who made a written submission asked to submit verbally to the Strategy and Policy Committee and was heard by the Committee on 26 October 2021.

3 General feedback

The following feedback was received that is not related to a specific clause in the draft bylaw.

3.1 Support for Council regulating the maintenance of on-site wastewater disposal systems in general
Submission 15 believes that *"to reduce the likelihood that public health nuisances and adverse effects occur it is necessary to take a precautionary and multiple-barrier approach of which this bylaw is part"*.

Three submissions (06, 09, and 10) commented that the proposed Bylaw is consistent with the current Bylaw.

Submission 06 stated *"I assume that the current bylaw which is being revoked was working and therefore this is the requirement for a very similar one as previous"*.

Submission 09 stated *"There is nothing much different from the present law and with climate emergencies there should be provision for reassessment of suitability of existing systems. Before failure"*.

Submission 10 stated *"The new by-law appears substantially to maintain the status quo in a residential setting. Regular assessment by a qualified technician is in the interest of everyone, not just the user/owner. I favour encouragement of alternate systems"*.

Staff analysis

Since implementing the Bylaw, the number of annual 'requests to rectify' have decreased from nearly 200 in 2008 and 2009 to zero in 2019 and 2020.

Research indicates, the Bylaw has been effective in preventing on-site wastewater disposal system failures, therefore:

- preventing effluent discharge and contamination
- protecting public health
- preventing or abating health nuisances.

Council has initiated a Climate Change work programme which includes all aspects of climate change and the implications for the District. If future decisions regarding climate change adaptation and mitigation require potential amendments to the Bylaw, Council will be able to review the Bylaw under the appropriate legislation.

Staff recommendation

Council staff recommend no changes in response to these submissions.

3.2 Do not support Council regulating the maintenance of on-site wastewater disposal systems in general

Three submissions (02, 05 and 07) do not agree that Council should regulate the maintenance of on-site wastewater disposal systems.

Submission 02 stated *"A law is not required. We have enough laws as it is"*.

Submission 05 believes *"direct involvement in operating those assets is not appropriate in a democratic society...and...it violates several sections of the Bill of Rights"*.

Submission 07 said *"Council haven't done their job in this regard for twenty years, why start now? The North is not overrun with sewage, are you overreacting? When are you going to fix the roads?"*

Staff analysis

Council has had an on-site wastewater disposal systems bylaw in place since 2006. Whilst this is technically a new bylaw because the current bylaw was not reviewed in time, the general intent of the Bylaw is consistent with current regulation.

Under section 155(3) of the Local Government Act 2002, the content of the new bylaw must be consistent with the New Zealand Bill of Rights Act 1990. A full assessment of the impact of the bylaw on these rights cannot be done until the content of the bylaw is finalised.

A preliminary assessment has identified the Bylaw may potentially have implications on Section 14: Freedom of Expression in that information regarding the status of on-site wastewater disposal systems must be provided to the Council. The wording "information of any kind and in any form" suggests that section 14 may apply to a regulatory requirement to produce information or documents although this is unclear.

However, the bylaw's provisions are justified because they only limit the rights of individuals to the extent it is reasonable to do so to in order for other people's rights and freedoms to be maintained.

The Bylaw may also potentially have implications on Section 21: Security Against Unreasonable Search or Seizure, whether of the person, property, or correspondence. However, the bylaw does not contain any new powers for search or seizure, the applicable powers (that are cross-referenced in the bylaw) are already in statutes. Therefore, any limitations on the rights mentioned are likely to be justified in accordance with the New Zealand Bill of Rights Act 1990.

Roads and the maintenance of roads in the District are out of scope of this Bylaw.

Staff recommendation

Council staff recommend no changes in response to these submissions.

3.3 Submissions regarding Council servicing the maintenance of on-site wastewater disposal systems

Three submissions (01, 02 and 11) are opposed to Council servicing on-site wastewater disposal systems. The submitters wish for servicing to be undertaken by the private sector, ensuring competition and fair market rates.

Staff analysis

Submitters 01, 02 and 11 have misinterpreted the intent of the Bylaw. Staff agree that the servicing of on-site wastewater disposal systems should be undertaken by the private sector. Not only to ensure a competitive marketplace, but also as Council does not have capacity to service all on-site wastewater disposal systems.

The proposed Bylaw requires on-site wastewater disposal systems to be serviced by a suitably qualified person (e.g., the private sector) not Council.

Staff recommendation

Council staff recommend no changes in response to these submissions.

3.4 Implementation of maintenance requirements

Submission 01 requested that reminder letters be sent to all residents with an on-site wastewater disposal system.

Submissions 05 and 14 both mentioned a requirement for Council to provide education and / or information to support owners caring for their on-site wastewater disposal systems.

Staff Analysis

Staff agree that the reminder system should continue with the new Bylaw and believe that this submission is a positive recommendation regarding the implementation process.

Staff agree that education is a key component to ensure that on-site wastewater disposal systems are maintained well. Information on maintenance of on-site wastewater disposal systems is provided on the Far North District Council, Northland Regional Council and Ministry for the Environment websites.

As part of the implementation of the Bylaw, communication channels including the reminder notice system and website will be reviewed to ensure that the information pathways are customer focused.

Staff Recommendation

Council staff recommend no changes in response to this submission.

3.5 Regional consistency of a Bylaw

Submission 14 recommends Council align the Bylaw with that of both Kaipara and Whangarei District Councils. Submission 14 believes an aligned bylaw would improve compliance and understanding.

Staff analysis

Staff agree that regional consistency will support compliance and understanding. Kaipara District Council is also in the process of reviewing their on-site wastewater related bylaw. The general intent of the on-site wastewater disposal systems component of the Wastewater Drainage Bylaw presented to Kaipara District Council on 15 December 2021 is consistent with the proposed Bylaw.

Whangarei District Council does not regulate the maintenance of on-site wastewater disposal systems. Should Whangarei District Council wish to implement an on-site wastewater disposal system bylaw, staff would be supportive of consistent regulation.

Staff Recommendation

Council staff recommend no changes in response to this submission.

4 Analysis and recommendations regarding the bylaw wording

The following section analyses the submissions made about clauses in the draft bylaw and recommends how to address these submissions in the bylaw.

4.1 Clauses not referred to in submissions

No submissions were made about the following clauses in the draft bylaw:

- Clause 1 Title
- Clause 2 Related Information
- Clause 3 Commencement
- Clause 4 Application

4.2 Clause 5 Purpose

Clause 5 outlines the purpose of the Bylaw.

Submission received

Submission 15 noted that local authorities have general powers in respect to public health under the Health Act 1956. They suggested that the related information box also include references to the Health Act 1956.

Staff analysis

Staff agree that local authorities have general powers in respect to public health under the Health Act 1956. However, staff do not agree that a related information box under *Clause 5 Purpose* is the most suitable place for this information. The 'related information box' outlining Council's powers under the Health Act 1956 would be better suited under Part 2 Maintenance Requirements.

Staff recommendation

Amend *Part 2 Maintenance Requirements* by adding the following "related information" box:

Part 2 Maintenance Requirements

Related information

If the council is satisfied an on-site wastewater disposal system is injurious to health or not sanitary, the council can use its powers under sections 29, 30 and 34 of the Health Act 1956 by including issuing a notice of offence or to enter a premise and abate the nuisance without notice to the occupier or owner.

4.3 Clause 6 Interpretation

Clause 6 gives definitions for the terms used in the Bylaw.

Submission received

Two submissions (14 and 15) were received regarding the definitions in Clause 6.

Submission 15 would like the definition of 'on-site wastewater disposal systems' to include grease traps. The submission outlines the following:

- Grease traps are used for the removal of grease and oils by food premises to prevent these components of sewerage from causing blockages and affecting the treatment processes.
- There is currently no trade waste bylaw in place in the Far North to cover grease traps, however if a trade waste bylaw was to exist, it would only cover the disposal of waste into a Council sewer system.
- A trade waste bylaw would not include grease trap monitoring and maintenance when they are part of an onsite wastewater disposal system.

Submission 15 suggests amending the definition of on-site wastewater disposal system to the following:

- (a) Any system for the reception and disposal of wastewater, including any grease trap, septic tank, mechanical system, alternative system, greywater system, cesspit, drainage or soakage pit or bore; and,

Submission 14 would like the definition of 'owner' to refer to 'owner or occupier' ensuring that leaseholders are responsible for wastewater disposal. Many farms in the Far North are leased for durations of up to 20 years for farming activities. Many landowners rely on the lease holder to maintain and manage the property including any amenities such as septic's that are used.

Staff analysis

Staff agree that grease traps can form part of an on-site wastewater disposal system. Grease traps would be assessed by a suitably qualified person when assessing an on-site wastewater disposal system.

Staff agree that grease traps which prevent grease and oils from entering a reticulated wastewater system would be regulated by a trade waste bylaw. Grease traps are also regulated at installation via the building consent process and are checked as part of obtaining a health licence.

In response to submission 14, Council has used owner or occupier in other bylaws regarding property control (see Control of Earthworks Bylaw), therefore for consistency staff consider this to be acceptable. In addition, the Health Act 1956 also allows liability for nuisance on property to be applied to owner or occupier.

Staff recommendation

Council staff recommend amending the definition of 'on-site wastewater disposal system' to include grease traps. Council staff recommend including a definition of 'occupier' in *Clause 5 Interpretation*. Staff recommend all further references to 'owner' be amended to include 'owner or occupier'.

Tracked changes to the clause as recommended

occupier means any person, other than the owner, who has a right to occupy the property, by virtue of a tenancy granted by lease, licence or other authority.

on-site wastewater disposal system means:

- (a) any system for the reception and disposal of wastewater, including any septic tank, grease trap, mechanical system, alternative system, cesspit, drainage or soakage pit or bore; and,
- (b) the field tiles, scoria, or stone contained therein; and,
- (c) distribution bore, discharge field or soakage field that is a part of, or is connected to, any such system.

4.4 Clause 7 Owner is responsible for Maintenance

Clause 7 stipulates the owner is responsible for the ongoing maintenance of the on-site wastewater disposal systems including complying with the maintenance requirements as stipulated in Clause 8.

Submission received

Submission 14 asks Council to consider amending Clause 7 (1) to 'Owner or Occupier is responsible for maintenance' to include lease holders as discussed in section 4.3 of this report.

One submission (12) commented "Section 7(2) requires the owner to provide evidence to the council that a suitably qualified person has certified the on-site wastewater system is functioning in accordance with the manufacturer's maintenance and operation manuals.

In terms of most systems, except for mechanical or alternative systems, I would suggest that the required documents do not exist and have probably never existed. Thus this clause is meaningless for these systems. The paragraph requires splitting to use the current wording for mechanical and alternative systems with an additional standard of satisfactory operation to apply to other systems such as septic tanks. This would permit suitable qualified persons to report on such systems."

Submission 04 suggested that clause 7 (2) require the suitably qualified person instead of the owner provide the evidence of assessment to Council, which is common practice.

Staff analysis

In response to submission 12, staff agree to amend clause 7 to 'owner or occupier' as previously discussed in section 4.3 of this report.

In response to submission 12, staff agree that the manufacturer's maintenance and operation manuals may have been misplaced or that the system may have been installed before the operation manuals were provided as part of the consenting process.

In response to submission 04, staff acknowledge that it is common practice for the suitably qualified person to provide the evidence of assessment directly to Council. However, staff decided that it was still the owner's responsibility to ensure this occurs as part of their service agreement.

Staff recommendation

Staff recommend inserting the words 'or occupier' after the word 'owner' in the related information box under Part 2: Maintenance Requirements, title of Clause 7, subclause (1) and subclause (2).

Staff recommend inserting the words 'or the suitably qualified person verifies the system is functioning correctly' in Clause 7(2) to allow for circumstances where the owner or occupier of the land may not have access to the manufacturer's maintenance and operation manuals.

Tracked changes to the clause as recommended

Related information

As part of the consenting processes all on-site wastewater disposal systems are required to have a manufacturers maintenance and operation manual which the owner or occupier of a property or their agent is required to follow. Further resources on on-site wastewater disposal systems can be obtained from Northland Regional Council.

7 Owner or Occupier is responsible for maintenance

- (1) The owner or occupier of the land where an on-site wastewater disposal system is located must:
 - (a) operate, clean and maintain the system to ensure the system does not cause a nuisance or endanger public health; and
 - (b) comply with clause 8.
- (2) The owner or occupier of land, on which an on-site wastewater disposal system is installed, must provide evidence to the council that a suitably qualified person has certified the on-site wastewater system is

functioning in accordance with the manufacturer's maintenance and operation manuals or the suitably qualified person verifies the system is functioning correctly. The owner or occupier will supply this evidence within 28 days of the system being assessed.

4.5 Clause 8 Maintenance of systems

Clause 8 stipulates the requirements for regular on-site wastewater disposal system assessments and maintenance.

Submission received

One submission (07) commented that the Bylaw was unclear. *"It is not clear how this process will work. Will the council do regular inspections at approximately 5 yearly intervals? The way I read it, the landowner only has to comply when inspected."* Submission 07 also asked *"What evidence does the council have that installations should be looked at every five years?"*

One submission (03) believes that *"Anyone with a septic tank system already must maintain their system for it to be working"*. The submitter believes that the requirement for five yearly inspection is over regulation and that enforcement should only occur when complaints are received. The submitter believes that the five yearly inspections should only apply to those properties that have received complaints.

Submission 13 asked for the following amendment to the draft Bylaw *"that the periodic requirement for the sewerage tanks to be emptied, be based on the number of occupants using the system"*.

Staff analysis

Submission 07 has not correctly interpreted Clause 7 and 8. The owner must have their on-site wastewater disposal system assessed at least every 5 years by a suitably qualified person. Exceptions are made for mechanical and alternative systems or if the system is installed on a commercial or industrial property. The owner will have to undertake any physical works deemed necessary by the assessor. However, under Clause 7, the owner must *always* ensure the system does not cause a nuisance or endanger public health. Council can also use its powers under the Building Act 2004, if the council is satisfied an on-site wastewater disposal system is dangerous, affected or insanitary.

Research indicates that on-site wastewater disposal systems should be assessed between every three to six years. The original Bylaw, made in 2006, required owners to assess their on-site wastewater disposal systems every three years. The 2010 bylaw review extended this to five years after community consultation. Further review has identified five years is an appropriate maintenance schedule.

Submission 13 has not correctly interpreted Clause 8. The Bylaw does not require an on-site wastewater disposal system to be cleaned every five years. The requirement is for the system to be assessed. This is to allow flexibility for the varying number of occupants in a household. For example, in a low occupancy household, the suitably qualified person may assess a system and decide the system is fine and does not need to be assessed and potentially cleaned for another three years. This assessment would be reflected in the evidence provided to Council.

Unfortunately, an on-site wastewater disposal system can appear to work on the surface, even if the system requires maintenance. Research shows that many people don't understand or recognise the importance of managing and maintaining their on-site system, and some are not even aware their wastewater is treated by an on-site system¹.

Failure is generally defined as inadequately treated wastewater entering groundwater or surface water. Nationally, community failure rates range from 15 to 50%. Some causes of on-site wastewater disposal system failure are due

¹ [MFE NES On-site wastewater discussion](#)

to inappropriate design and installation; however, such risks are mitigated by the Building Act 2004 requirements. The main cause of on-site wastewater disposal system failure is lack of ongoing servicing and regular maintenance¹. Appropriate management and regular maintenance can help identify problems early and reduce the need for costly repairs, with the added benefit of improving the lifespan of on-site systems.

Staff recommendation

Council staff recommend no changes in response to these submissions.

4.6 Clause 8 sub clause (3) Maintenance of systems

Clause 8(3) requires owners of either a mechanical or alternative system to carry out an assessment once every year in accordance with the manufacturer's maintenance and operation manual.

Submission received

Submission 14 does not agree to a yearly inspection for alternative and mechanical systems.

Submission 14 stated the following points:

- Many system owners have agreements set out with a company to meet manufacturers recommended servicing schedules.
- The proposed Bylaw may place additional pressure on landowners who have upgraded from old non-complying infrastructure to new mechanical systems which cost more to setup and then to maintain under councils' proposal.
- It is common for designers and manufacturers to recommend self-servicing between servicing intervals to ensure the system is operating correctly. Under the proposed bylaw council will not accept these self-services as they have not been completed by an SQP (Suitably Qualified Person).
- Many farmers have systems connected to their house, their staff houses and their woolsheds which can be used to full capacity to as little as 2 days of the year. Does council deem it reasonable to require yearly inspections for a system used 2 days a year?

Submission 14 recommends Council amend Clause 8(3) to

- *"Mechanical and Alternate users require a suitably qualified person to inspect the system every 3 years or as per manufacturers recommendations".*
- *And that "Landowner or occupiers need the ability to apply for an exemption which is not provided for in this Bylaw".*

Staff analysis

The requirement of servicing exists so that health nuisances are avoided. If a system is new, it does not mean it will not require servicing. Sometimes there are technical failures which can go unnoticed by the owner or occupier. Staff do not support that an exemption could or should be given if the system is new or is irregularly used.

For owners of alternative systems who have a service contract with either the manufacturer or installer of the system, or a third party approved by either the manufacturer or installer, the servicing is carried out by a suitably qualified person and would therefore align with the requirements of the proposed Bylaw. Often, such contracts include six monthly servicing and therefore adhere to the Bylaw requirement of an assessment every 12 months.

Staff recommendation

Council staff recommend no changes in response to this submission.

4.7 Clause 8 subclause (5) Maintenance of systems

Clause 8 (5) states that Council may inspect an on-site wastewater disposal system to protect public health or prevent nuisance.

Submission received

Submission 02 states "Council does not have the right to enter peoples property without permission. It is akin to invasion!"

Submission 14 asks Council to consider amending the proposed Bylaw to 'Owner or Occupier is responsible for maintenance' to include lease holders as discussed in section 4.3 of this report.

Staff analysis

The Bylaw accurately refers to section 172 of the Local Government Act 2002 which gives a warranted enforcement officer the power of entry for the purpose of detecting a breach of a bylaw. Under section 172 (2) the officer must, if practicable, give reasonable notice to the occupier of the land of the intention to exercise the power, unless the giving of notice would defeat the purpose of entry.

Staff recommendation

Council staff recommend no changes in response to submission 02.

Staff recommend inserting the words 'or occupier' after the word 'owner' in Clause 8, subclause (5) in response to submission 14.

Tracked changes to the clause as recommended

- (5) Council may inspect on-site wastewater disposal system to protect public health or prevent nuisance -
- (a) If the council has not received the certificate required in clause 7(2), the council may send a written notice to the owner or occupier requiring the owner or occupier to provide evidence that the required maintenance work has been carried out and giving the owner or occupier 28 working days to comply;
 - (b) If the owner or occupier does not comply with subclause (a), the council may inspect the on-site wastewater disposal system under section 172 of the Local Government Act 2002 to determine whether this bylaw has been complied with;
 - (c) If an inspection under subclause (b) provides evidence the on-site wastewater disposal system has not been maintained, the council may, by written notice, require the owner or occupier to carry out work specified in the notice and give the owner or occupier 28 working days to comply;
 - (d) If the owner or occupier does not comply with a notice given under subclause (c), the council may carry out the work required and recover any costs incurred under section 186 of the Local Government Act 2002.

4.8 Clause 9 Offences

Clause 9 states any person who breaches this bylaw commits an offence under section 239 of the Local Government Act 2002. One of the examples of breaches given is failing to provide Council with an on-site wastewater system maintenance certificate within the specified timeframe(s) at clause 7.

Submission received

Submission 12 *"cannot support it being an offence to fail to do the impossible as currently required by 7(2) for many systems."* This submission was in response to requiring owners or occupiers to adhere to operation manuals which may not be accessible.

Staff analysis

Staff have discussed this submission in section 4.4 of this report and recommended to amend the clause to allow for not having access to operation manuals.

Staff recommendation

Council staff recommend no changes in response to this submission.

4.9 Clause 10 Penalties

Clause 10 states that a person who is convicted of an offence of breaching this bylaw is liable to a fine of up to \$20,000 under section 242 (4) of the Local Government Act 2002.

Submission received

Submissions 07 believes that this clause is too simple and that penalties should be separated out for specific failures.

Staff analysis

There are a number of different ways in which an on-site wastewater system may fail and the potential public health harm and nuisance may vary considerably. It would be extremely difficult to outline in a bylaw all of the potential failures and potential penalties. There would be a risk that by doing so, a loophole would be created, which could lead to public health harm and / or nuisance.

The penalties for breach of a bylaw are stated in the Local Government Act 2002 and the “related information” box after clause 9 accurately refers to those provisions. Council staff are trained to use other methods to ensure compliance, with penalties only applied as a last resort for serious offenders.

Further to this, Council has powers of enforcement under section 124 of the Building Act 2004, and section 29, 30, and 34 of the Health Act 1956.

Staff recommendation

Council staff recommend no changes in response to this submission.

APPENDIX 1 – LIST OF SUBMISSIONS RECEIVED

Number	Organisation
1	Individual submission
2	Individual submission
3	Individual submission
4	Individual submission
5	Individual submission
6	Individual submission
7	Individual submission
8	Individual submission
9	Individual submission
10	Individual submission
11	Individual submission
12	Individual submission
13	Individual submission
14	Federated Farmers
15	Nga Tai Ora - Public Health Northland



On-site Wastewater Disposal Systems Bylaw

Governing body of the Far North District Council

Resolution in Council 24 February 2022.

Under section 146 of the Local Government Act 2002, the Governing Body of the Far North District Council made the following bylaw about the control of on-site wastewater disposal systems.

The bylaw is due for review by 24 February 2027.

Objective ID - A3547926

Last updated

24 February 2022

On-site Wastewater Disposal Systems Bylaw

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Objective ID - A3547926

1

1 Title

This bylaw is the On-site Wastewater Disposal Systems Bylaw.

2 Related information boxes

Boxes headed "Related information" in this policy are for information purposes only, and –

- (a) they do not form part of this policy; and
- (b) cannot be considered in the interpretation or application of a provision of this policy; and
- (c) may be inserted, amended or removed without any formality.

3 Commencement

This bylaw comes into force four days after the date it is made.

Related information

This bylaw is due for review by 24 February 2027.

4 Application

This policy applies to the district of the Far North District Council.

Part 1: Preliminary provisions

5 Purpose

The purpose of this bylaw is to protect public health and prevent nuisance by prescribing requirements for the maintenance of on-site wastewater disposal systems.

Related information

The design and installation of on-site wastewater disposal systems are regulated under the Building Act 2004, Resource Management Act 1991, and Plumbers Gasfitters and Drainlayers Act 2006.

6 Interpretation

- (1) In this bylaw, unless the context otherwise requires, –

alternative system means an on-site wastewater disposal system that separates all, or some of, the grey water from toilet wastewater for treatment, including waterless toilet systems such as composting toilets, and vermiculture systems; peat bed treatment systems, and powerless systems

commercial has the same meaning as in schedule 1 of the Building Regulations 1992

council means the governing body of the Far North District Council, or any person delegated to act on its behalf.

industrial has the same meaning as in schedule 1 of the Building Regulations 1992.

Related information

As at 1 January 2017, the definition is: "Applies to a building or use in which any natural resources, goods, services or money are either developed, sold, exchanged or stored. Examples: an amusement park, auction room, bank, car-park, catering facility, coffee bar, computer centre, fire station, funeral parlour, hairdresser, library, office (commercial or government), Police station, post office, public laundry, radio station, restaurant, service station, shop, showroom, storage facility, television station or transport terminal."

council means the governing body of the Far North District Council, or any person delegated to act on its behalf.

industrial has the same meaning as in schedule 1 of the Building Regulations 1992.

Related information

As at 1 January 2017, the definition is: "Applies to a building or use where people use material and physical effort to:

- (a) extract or convert natural resources,
- (b) produce goods or energy from natural or converted resources,
- (c) repair goods, or
- (d) store goods (ensuing from the industrial process).

Examples: an agricultural building, agricultural processing facility, aircraft hangar, factory, power station, sewage treatment works, warehouse or utility."

mechanical system means a system designed for the disposal of wastewater that operates in a mechanical way, and is driven by a power source, and is not a conventional septic tank, or similar type system.

occupier means any person, other than the owner, who has a right to occupy the property, by virtue of a tenancy granted by lease, licence or other authority.

on-site wastewater disposal system means:

- (a) any system for the reception and disposal of wastewater, including any septic tank, grease trap, mechanical system, alternative system, cesspit, drainage or soakage pit or bore; and,
- (b) the field tiles, scoria, or stone contained therein; and,
- (c) distribution bore, discharge field or soakage field that is a part of, or is connected to, any such system.

owner has the same meaning as in section 2(1) of the Local Government Act 1974

Related information

As at 22 October 2019, the definition is: "... in relation to any property, means the person entitled to receive the rack rent thereof, or who would be so entitled if the property were let to a tenant at a rack rent."

suitably qualified person means any person recognised by the Council as being suitably qualified to prepare appropriate reports and assessments for On-Site Wastewater Disposal Systems.

Related information

The current list of approved suitably qualified persons for assessment and effluent removal can be found on the Council's website under Onsite Wastewater disposal. Person(s) seeking Council approval as suitably qualified for Onsite Wastewater disposal services can apply on the Council's website under Onsite Wastewater disposal.

Examples of suitably qualified persons are:

- installers of the on-site wastewater disposal system; and
 - industry service technicians; and
 - persons recommended by the manufacturer of the on-site wastewater disposal system;
- and
- appropriately trained, experienced professional maintenance contractors

(2) The Interpretation Act 1999 applies to this bylaw.

Part 2: Maintenance Requirements

Related information

If the council is satisfied an on-site wastewater disposal system is injurious to health or not sanitary, the council can use its powers under sections 29, 30 and 34 of the Health Act 1956 by including issuing a notice of offence or to enter a premise and abate the nuisance without notice to the owner or occupier.

Related information

As part of the consenting processes all on-site wastewater disposal systems are required to have a manufacturers maintenance and operation manual which the owner or occupier of a property or their agent is required to follow. Further resources on on-site wastewater disposal systems can be obtained from Northland Regional Council.

7 Owner or Occupier is responsible for maintenance

- (1) The owner or occupier of the land where an on-site wastewater disposal system is located must
 - (a) operate, clean and maintain the system to ensure the system does not cause a nuisance or endanger public health; and
 - (b) comply with clause 8.
- (2) The owner or occupier of land, on which an on-site wastewater disposal system is installed, must provide evidence to the council that a suitably qualified person has certified the on-site wastewater system is functioning in accordance with the manufacturer's maintenance and operation manuals or the suitably qualified person verifies the system is functioning correctly. The owner or occupier will supply this evidence within 28 days of the system being assessed.

8 Maintenance of systems

- (1) Except as provided in subclauses (2) and (3), an on-site wastewater disposal system must be assessed by a suitably qualified person at least every five years.
- (2) Except as provided in subclause (3), if an on-site wastewater disposal system is installed on a commercial or industrial property, the system must be assessed and maintained by a suitably qualified person –
 - (a) in accordance with the manufacturer's maintenance and operation manual; or
 - (b) at least every three years.
- (3) If an on-site wastewater disposal system is –
 - (a) a mechanical system; or
 - (b) an alternative system –
 the assessment and maintenance must be carried out by a suitably qualified person at least once every year in accordance with the manufacturer's maintenance and operation manual.
- (4) If an assessment under this clause determines any physical work is required to ensure the onsite wastewater system is functioning correctly, that work must be undertaken within 28 days of the assessment.
- (5) Council may inspect on-site wastewater disposal system to protect public health or prevent nuisance -
 - (a) If the council has not received the certificate required in clause 7(2), the council may send a written notice to the owner or occupier requiring the owner or occupier to provide evidence that the required maintenance work has been carried out and giving the owner or occupier 28 working days to comply;
 - (b) If the owner or occupier does not comply with subclause (a), the council may inspect the

on-site wastewater disposal system under section 172 of the Local Government Act 2002 to determine whether this bylaw has been complied with;

- (c) If an inspection under subclause (b) provides evidence the on-site wastewater disposal system has not been maintained, the council may, by written notice, require the owner or occupier to carry out work specified in the notice and give the owner or occupier 28 working days to comply;
- (d) If the owner or occupier does not comply with a notice given under subclause (c), the council may carry out the work required and recover any costs incurred under section 186 of the Local Government Act 2002.

Related information

If the council is satisfied an on-site wastewater disposal system is dangerous, affected or insanitary, the council can use its powers under section 124 of the Building Act 2004, including issuing a notice requiring work to be carried out.

Part 3: Offences and penalties

9 Offences

Any person who breaches this bylaw commits an offence under section 239 of the Local Government Act 2002.

Related information

Examples of breaches of this bylaw include:

- failing to provide Council with an on-site wastewater system maintenance certificate within the specified timeframe(s) at clause 7; or
- failing to perform necessary repair work identified by a suitably qualified person during the maintenance assessment of the on-site wastewater system; or
- failing to comply with Council notices to remedy, repair and/or maintain the on-site wastewater system.

10 Penalties

A person who is convicted of an offence of breaching this bylaw is liable to a fine of up to \$20,000 under section 242 (4) of the Local Government Act 2002.

5.6 REVIEW OF VEHICLES ON BEACHES BYLAW

File Number: A3542878

Author: Kirsten Griffiths, Strategic Planner

Authoriser: Darren Edwards, General Manager - Strategic Planning and Policy

TAKE PŪRONGO / PURPOSE OF THE REPORT

To approve including provisions regulating vehicles on beaches in the proposed draft Road Use Bylaw, and to approve a proposal for public consultation on the new provisions in the draft Road Use Bylaw.

WHAKARĀPOPOTO MATUA / EXECUTIVE SUMMARY

- The Council's Vehicles on Beaches Bylaw 2015 was due for review by 12 March 2020.
- The review was not completed, and the bylaw will automatically revoke on 12 March 2022.
- Under section 155 of the Local Government Act 2002, the Council is now required to consider whether a new bylaw is the most appropriate way to address the perceived problem.
- Concerns raised by Far North communities regarding vehicles on beaches include dangerous vehicle speed, damage caused by vehicles on sand dunes, parked vehicles impeding access for other beach users, protection of wāhi tapu sites, and the preservation of shellfish beds, native vegetation, and shore bird habitat.
- There are several legitimate reasons for people to use vehicles on beaches for recreational and commercial purposes, such as gathering kaimoana, launching boats, and general access to and enjoyment of the coastal environment.
- The review of the Vehicles on Beaches Bylaw identified that a bylaw is still the most appropriate way to manage problems with vehicles on beaches.
- The current Vehicles on Beaches Bylaw is not in the most appropriate form, because it does not effectively address problems with vehicles on beaches, other than the prohibition of vehicles on Coopers Beach.
- Problems with vehicles on beaches should be addressed in a comprehensive manner by including provisions regulating vehicles on beaches in the proposed Road Use Bylaw, a potential Reserves Bylaw, and the review of the Speed Limits Bylaw.
- Management of vehicles on Te Oneroa-a-Tōhe (Ninety Mile Beach) will be in accordance with the approved Beach Management Plan. It is outside the scope of this report to consider issues related to Te Oneroa-a-Tōhe, as they have already been considered by the Te Oneroa-a-Tōhe Board.
- A proposal for the inclusion of provisions regulating vehicles on beaches in the draft Road Use Bylaw, including a draft of the new provisions, is in Attachment 2.
- The recommended consultation period is from 25 February 2022 to 24 March 2022 with hearings, if required to follow on 22 March 2022.

TŪTOHUNGA / RECOMMENDATION

That the Strategy and Policy Committee recommends that the Council:

- agree, under section 155(1) of the Local Government Act 2002, that a bylaw is the most appropriate way of addressing problems related to vehicles on beaches in the Far North District;**
- agree that the current Vehicles on Beaches Bylaw 2015 is not the most appropriate form, because it does not address problems with vehicles on beaches effectively;**
- agree that the most appropriate form of bylaw will be to include relevant provisions in:**

the proposed Road Use Bylaw

a potential Reserves Bylaw

the Speed Limits Bylaw;

- d) approve the inclusion of provisions regulating vehicles on beaches in the proposed draft Road Use Bylaw, to be made under section 22AB of the Land Transport Act 1998;**
- e) approve the Vehicles on Beaches Proposal in Attachment 2, including the provisions regulating vehicles on beaches in the proposed draft Road Use Bylaw, to be released for public consultation to meet the requirements of section 22AD of the Land Transport Act 1998 and section 156 of the Local Government Act 2002;**
- f) agree the period for making written submissions on the proposal will begin 25 February 2022 and end 24 March 2022;**
- g) agree the Strategy and Policy Committee will hear any people wanting to present oral submissions on Tuesday 22 March 2022 and agrees to delegate, to the Chair, the power to change the date of the oral submissions**
- h) authorise the Chief Executive Officer to make minor changes to the Vehicles on Beaches Proposal to correct grammatical or spelling errors, or formatting.**

1) TĀHUHU KŌRERO / BACKGROUND

The Council made a Vehicles on Beaches Bylaw on 12 March 2015 under section 145 of the Local Government Act 2002. It was due for review by 12 March 2020 but was not completed, and the bylaw will automatically revoke on 12 March 2022.

Currently, under the Vehicles on Beaches Bylaw, there is one scheduled Safe Zone at Coopers Beach, where vehicles are prohibited.

2) MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND OPTIONS

Council's role relating to the management of vehicles on beaches

Local Government Act 2002 (LGA)

The Vehicles on Beaches Bylaw 2015 was made under section 145 of the LGA. While this allows for the bylaw to address problems related to nuisance, health and safety, and offensive behaviour, it does not allow for addressing problems related to the protection of wāhi tapu sites or native flora and fauna. Therefore, it is not the most appropriate legislation under which to make a bylaw regulating vehicles on beaches.

Reserves Act 1977

While the Reserves Act offers some ability for the Council to control the use of vehicles on beaches, its reach is restricted to land vested in the Council under the Reserves Act, and therefore would not apply to all beaches. Due to this limitation, it is not appropriate as the sole legislation under which to make a bylaw regulating vehicles on beaches.

Areas of dunes adjacent to beaches may not be covered under the definition of road according to the Land Transport Act 1998. Problems identified with the use of vehicles on dunes include damage to vegetation, wildlife and wāhi tapu sites. Where such areas of concern are identified as being vested in the council as reserves, problems with vehicles could be managed via the Reserves Act and a Reserves Bylaw.

Land Transport Act 1998 (LTA)

Section 22AB(1)(f) of the LTA allows the Council to prohibit or restrict the use of vehicles on beaches for any reasons it thinks fit, which allows for a broader range of factors to be considered than the more limited reasons specified in the LGA. The definition of roads within the LTA includes beaches and places to which the public has access. Therefore, the LTA is the most appropriate legislation under which to make a bylaw regulating vehicles on beaches.

Problems to be addressed

The Far North District has many beaches and a diverse population. Our beaches are sites for a wide variety of commercial and recreational activities, and contain important natural and historical features, vegetation, and wildlife. The diversity of users means that the rights and wishes of different users can come into conflict, and therefore it is appropriate for the Council to consider how best to balance the needs and wishes of all beach users.

In 2021 the Council surveyed community views about the use of beaches in the district and received 477 responses mentioning 50 different beaches. Analysis of the survey results identified that the issues vary across different communities. Concerns regarding vehicles on beaches include dangerous vehicle speed, damage caused by vehicles on sand dunes, parked vehicles impeding access for other beach users, protection of wāhi tapu sites, and the preservation of shellfish beds, native vegetation, and shore bird habitat.

At the same time, there are several legitimate reasons for people to use vehicles on beaches for recreational and commercial purposes, such as gathering kaimoana, launching boats, and general access to and enjoyment of the coastal environment.

Research findings

The current Vehicles on Beaches Bylaw has been effective in addressing the following problems:

- addressing health and safety issues identified by the Coopers Beach community, through the prohibition of vehicles.
- protecting the beach environment at Coopers Beach, through the prohibition of vehicles.

Therefore, a bylaw is still the most appropriate way of addressing these problems, through the creation of scheduled zones where vehicles are prohibited or restricted, after targeted engagement and consultation with specific beach communities.

The current Vehicles on Beaches Bylaw has not been effective in addressing the following problems:

- addressing health and safety issues caused by dangerous or inconsiderate driver behaviour on beaches other than Coopers Beach.
- protecting the beach and dunes environment from damage caused by vehicles, on beaches other than Coopers Beach.
- speeding on beaches has not been addressed, as speed limits are set under the Speed Limits Bylaw. Currently, most beaches are treated as open road, so the speed limit is 100kmph. The review of this bylaw is being managed by NTA, and it can include speed limits for beaches.

Enforcement action of the current bylaw under the LGA is difficult and costly, and staff resources are limited, creating practical obstacles to implementation of the current bylaw. Some provisions in the current bylaw duplicate provisions in existing legislation and are not necessary (i.e. requirements for safe and considerate vehicle operation, regulation of structures).

Therefore, this report considers what other options may be more effective to deal with those problems.

Option One: Do nothing – allowing the Vehicles on Beaches Bylaw to revoke without replacement

The Vehicles on Beaches Bylaw 2015 will be automatically revoked on 12 March 2022.

Advantages and disadvantages of allowing the Vehicles on Beaches Bylaw to revoke without replacement

- Advantages - No costs required for consultation with communities or implementation.

- Disadvantages
 - Negative impact to the Coopers Beach community, as no regulation will remain in place. The problems that were addressed by the previous bylaw will no longer be addressed.
 - Reputational impact to the Council, because the Coopers Beach community are in favour of continuing the vehicle prohibition in the current bylaw.

Option Two: Replace the Vehicles on Beaches Bylaw

Option Two proposes replacing the current Vehicles on Beaches Bylaw 2015 with a new bylaw regulating vehicles on beaches. This bylaw could be made under the LTA rather than the LGA. This would enable the bylaw to address problems related to the protection of wāhi tapu sites and native flora and fauna (and other reasons which the Council sees fit, as per section 22AB(1)(f) of the LTA), rather than only problems related to nuisance, health and safety, and offensive behaviour, as per the LGA. It would also provide more effective tools for enforcement. Further research and consultation would be required to determine the most appropriate form of this bylaw.

Advantages and disadvantages of replacing the Vehicles on Beaches Bylaw with a new bylaw

- Advantages
 - Opportunity to address problems related to vehicles on beaches that have not been effectively addressed by the current bylaw.
 - Opportunity to make a new bylaw under the Land Transport Act 1998 rather than the Local Government Act 2002, thereby strengthening enforcement tools.
- Disadvantages
 - Far North communities will be without a bylaw regulating vehicles of beaches for at least 12 months while a new bylaw is drafted, consulted on, and adopted.
 - Reputational impact to the Council, because the Coopers Beach community are in favour of continuing the vehicle prohibition in the current bylaw and will be without a similar provision for at least 12 months.
 - Creates an additional bylaw, which is unnecessary if the problems identified can be addressed more efficiently through other existing or planned bylaws.

Option Three: Include provisions regulating vehicles on beaches in the proposed Road Use Bylaw, Reserves Bylaw, and Speed Limits Bylaw (recommended option)

Option Three proposes including provisions which address the problems with vehicles on beaches in the proposed Road Use Bylaw, Reserves Bylaw, and Speed Limits Bylaw.

In 2021 the Council surveyed community views about the use of beaches across the district. Analysis of the survey results identified that the issues vary across different communities. Responses relating to Coopers Beach were unanimously in favour of continuing the current vehicle ban. Therefore, any changes to the regulations in specific locations will require further targeted engagement and consultation.

Road Use Bylaw

The draft Road Use Bylaw has already gone out for consultation. It has been drafted under the LTA and avoids some of the difficulties with scope and enforcement in the current Vehicles on Beaches Bylaw. Beaches are defined as roads under the LTA.

Option Three proposes that the draft Road Use Bylaw will be amended by inserting new provisions which allow the Council to prohibit or restrict vehicles on scheduled beaches or parts of beaches, in

a provision like that in the existing Vehicles on Beaches Bylaw. The schedule will include Coopers Beach, to align with the current schedule. This amendment will require consultation.

Other beaches or portions of the beach could be added to the schedule by Council resolution, after targeted engagement and consultation with affected beach communities. This engagement could be included as part of wider Open Space engagement and could include engagement on all aspects of beach use.

Reserves Bylaw

Problems have been identified related to the use of vehicles on sand dunes, such as damage to vegetation, wildlife and wāhi tapu sites. Problems have been identified with the unauthorised placement, removal of, or interference with structures on beaches and sand dunes.

Option Three proposes that where beaches and adjacent areas are reserves, problems related to vehicles and structures can be addressed through a Reserves Bylaw. Further research will be required to determine the most appropriate form of bylaw.

Speed Limits Bylaw

Speed limits are set under the Speed Limits Bylaw. The review of this bylaw is being managed by the NTA and can include speed limits for beaches. Speed limits for Te Oneroa-a-Tōhe have been set by the Speed Limits Bylaw, in accordance with the Te Oneroa-a-Tōhe Beach Management Plan.

Whangārei District Council recently included beaches in a speed limits bylaw.

Option Three proposes that speed limits on beaches are considered as part of the review of this bylaw. Further research and community consultation will be required on speed limits for beaches. The NTA can include this in consultation planned for late 2022.

Advantages and disadvantages of including provisions regulating vehicles on beaches in the proposed Road Use Bylaw, Reserves Bylaw, and Speed Limits Bylaw

- **Advantages**
 - Retains the effective part of the current Vehicles on Beaches Bylaw, by prohibiting vehicles on Coopers Beach.
 - Minimises the time the Coopers Beach community will be without a bylaw providing a scheduled prohibition on vehicles.
 - Provides a mechanism for the Council to restrict or prohibit vehicles on other beaches through updates to the schedule, subject to appropriate engagement and consultation.
 - Regulates the protection of sand dunes and beaches that are reserves (under a potential Reserves Bylaw).
 - Streamlines the Council's bylaws by avoiding the creation of an additional separate bylaw for vehicles on beaches, since the problems can be addressed more efficiently through three existing and proposed bylaws.
- **Disadvantages**
 - Divides the regulation of vehicles on beaches across three separate bylaws. (However, each part is under the appropriate bylaw, and the overall bylaws are streamlined.)

Form and content of the new provisions to be included in the draft Road Use Bylaw

A draft of the new provisions regulating vehicles on beaches to be included in the proposed Road use Bylaw is in the proposal document in Attachment 2.

Council staff have addressed the appropriateness of the form and content of the new bylaw provisions by:

- not including provisions that duplicate existing legislation;
- continuing existing provisions to prohibit vehicles on scheduled beaches or parts of beaches.

New Zealand Bill of Rights Act compliance

Under section 155(3) of the Local Government Act 2002, the content of the new bylaw must be consistent with the New Zealand Bill of Rights Act 1990. Council staff have identified that the right to freedom of movement (section 18 of the New Zealand Bill of Rights Act 1990) may be impacted by the new provisions prohibiting vehicles from using some beaches or parts of beaches.

A full assessment of the impact of the new bylaw provisions on these rights cannot be done until the content of the Road Use Bylaw is finalised. However, based on the content of the draft provisions, Council staff consider any impact is justified, as the draft bylaw provisions only limit the rights of individuals to the extent it is reasonable to do so for other people's rights and freedoms to be maintained.

A summary of this assessment is included in the proposal for consultation so that people can provide feedback to be used in the full assessment of the final bylaw content.

Proposal for consultation

The new Road Use Bylaw will be made under section 22AB of the Land Transport Act 1998. Section 22AD of that Act requires the provisions of section 156 of the Local Government Act 2002 to be complied with for consultation on the bylaw. Section 156 requires the Council to use the special consultative procedure if:

- the bylaw concerns a matter identified in the Council's Significance and Engagement Policy as being of significant interest to the public
- the Council considers that there is, or is likely to be, a significant impact on the public due to the proposed bylaw.

The new provisions regulating vehicles on beaches to be included in the draft Road Use Bylaw do not concern "a matter identified in the Council's Significance and Engagement Policy" because the bylaw does not involve transfer of an asset and it will be consistent with existing policies and plans. The new provisions are also not likely to have a significant impact on the public because they will have the same effect as the current Vehicles on Beaches Bylaw. The Council therefore does not need to use the special consultative procedure to consult on the new provisions.

Section 156 then requires the consultation to comply with section 82 of the Local Government Act 2002. Section 82A of the Local Government Act 2002 sets out the requirements for information to be made available for consultation under section 82. Those requirements are to provide:

- the proposal and the reasons for the proposal
- an analysis of the reasonably practicable options, including the proposal
- a draft of the proposed bylaw

Council staff have prepared a proposal document that meets the requirements of section 82A. The proposal document is in Attachment 2.

Consultation process

Section 82 of the Local Government Act 2002 requires the Council, as part of the consultation process, to give people "a reasonable opportunity" to present their views on the proposed bylaw. Neither the Land Transport Act 1998, nor the Local Government Act 2002, specify a minimum period for this opportunity. Council staff recommend the period for making written submissions begins 25 February 2022 and ends 24 March 2022.

The window for public consultation is somewhat narrow as the Parking and Traffic Control Bylaw will automatically revoke 17 June 2022, and the proposed Road Use Bylaw, which it replaces in part, will need to be in place by this date. These dates still allow more than three weeks for consultation.

Council staff recommend people be encouraged to present their views primarily by making comments or submissions via the Council's website. A submission form will be provided for download on the website for people to print and use to make written submissions either by post or delivery to Council offices. A small number of printed copies of the proposal document and submission form

will be made available at Council offices for people to use if they are not able to print the documents themselves. A link to the webpage for making submissions will be emailed to the Council's "subscribers" database and publicised on the Council's social media pages.

The proposed new provisions may be of sufficient interest to the public that some people will want to present their submissions orally to elected members. The Strategy and Policy Committee has delegated authority to hear submissions made during consultation on a bylaw. Staff therefore recommend the Committee sets a hearing date now so it can be publicised during the period for making submissions and people will know when they will be heard.

To allow time for hearing logistics to be arranged, the most suitable date for a hearing would be Tuesday 22 March 2022. The Strategy and Policy Committee is scheduled for this date. Council staff also recommend the Committee delegate to the Chair the power to change the hearing date so that if other events, or the number of people who want to be heard, mean the date is no longer suitable, a new date can be set without the need for the Committee to convene to make that decision.

Impacts on tāngata whenua and te ao Māori

There will be impacts on tāngata whenua from the regulation of vehicles on beaches. Where the Council regulates the use of vehicles on beaches, parts of beaches, or adjacent areas, such regulation will need to consider sites that are significant to Māori. The significance could be for traditional, spiritual, religious, ritual, or mythological reasons.

The proposed new provisions to be included in the Road Use Bylaw will provide the Council with a mechanism to protect significant sites through the provision of scheduled areas where vehicles are prohibited or restricted, subject to proper engagement and consultation with iwi, hapū, and affected communities. This proposal only includes Coopers Beach, and the inclusion of other beaches would require a separate proposal and consultation process.

Take Tūtohunga / Reason for the recommendation

A bylaw is the most appropriate way of addressing problems related to vehicles on beaches in the Far North District. The current Vehicles on Beaches Bylaw 2015 is not the most appropriate form, because it does not address problems with vehicles on beaches effectively.

The most appropriate form of bylaw will be to include relevant provisions in:

- the proposed Road Use Bylaw
- a potential Reserves Bylaw
- the Speed Limits Bylaw

Council staff recommend the Council:

- approves the proposal in Attachment 2 to be published for consultation because it meets the requirements of section 82A of the Local Government Act 2002
- agrees the period for making written submissions on the proposal be from 25 February 2022 to 24 March 2022 to meet best practice of providing at least one month for people to make submissions
- agrees the Strategy and Policy Committee to hear oral presentations of submissions on 22 March 2022, because that date does not clash with scheduled Committee or Council meetings and directs Council staff to make the necessary logistical arrangements for people to present their submissions either in person in the Council Chambers or online via Microsoft Teams on that date.
- delegates the power to change the date of oral presentations of submissions to the Chair of the Strategy and Policy Committee because it is possible other events, or the number of people who want to be heard, will make the date unsuitable and it is not necessary for the whole Committee to be convened to decide on a new date.

Next steps

If the Council agrees with the recommendations, the new provisions in the proposed draft Road Use Bylaw will go out for public consultation from 25 February 2022 to 24 March 2022. The new Road

Use Bylaw will need to be in place before 17 June 2022 when the current Parking and Traffic Control Bylaw auto-revokes (which the proposed Road Use Bylaw will replace in part). The analysis of submissions and recommendations for the previous draft Road Use Bylaw consultation and the consultation regarding the proposed new provisions for vehicles on beaches will be presented to the Strategy and Policy Committee at the 03 May 2022 meeting.

3) PĀNGA PŪTEA ME NGĀ WĀHANGA TAHUA / FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION

The cost of consulting on the recommended option will be met from existing operation budgets.

ĀPITIHINGA / ATTACHMENTS

1. **Vehicles on Beaches - Research Report - A3564188** [↓](#) 
2. **Proposal - Vehicles on Beaches - A3564191** [↓](#) 
3. **Vehicles on Beaches Bylaw 2015 - A3564192** [↓](#) 

Hōtaka Take Ōkawa / Compliance Schedule:

Full consideration has been given to the provisions of the Local Government Act 2002 S77 in relation to decision making, in particular:

1. A Local authority must, in the course of the decision-making process,
 - a) Seek to identify all reasonably practicable options for the achievement of the objective of a decision; and
 - b) Assess the options in terms of their advantages and disadvantages; and
 - c) If any of the options identified under paragraph (a) involves a significant decision in relation to land or a body of water, take into account the relationship of Māori and their culture and traditions with their ancestral land, water sites, waahi tapu, valued flora and fauna and other taonga.
2. This section is subject to Section 79 - Compliance with procedures in relation to decisions.

He Take Ōkawa / Compliance Requirement	Aromatawai Kaimahi / Staff Assessment
State the level of significance (high or low) of the issue or proposal as determined by the Council's Significance and Engagement Policy	Although the proposed Road Use Bylaw is a new bylaw, the inclusion of provisions to prohibit or restrict vehicles on scheduled beaches (at this time only Coopers Beach), is effectively maintaining the status quo under the current Vehicles on Beaches Bylaw. As retaining the status quo is consistent with existing policies, the level of significance as determined by the <i>Significance and Engagement Policy</i> is low
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	The decision complies with the Council's obligations under the Local Government Act 2002 and will make appropriate use of the Council's powers under the Land Transport Act 1998.
State whether this issue or proposal has a District wide relevance and, if not, the ways in which the appropriate Community Board's views have been sought.	The proposal affects the whole District and therefore will be of interest to Community Boards. However, as the recommendation is effectively to maintain the status quo, the Community Boards' views have not been sought at this stage.
State the possible implications for Māori and how Māori have been provided with an opportunity to contribute to decision making if this decision is significant and relates to land and/or any body of water. State the possible implications and how this report aligns with Te Tiriti o Waitangi / The Treaty of Waitangi.	There are implications for Māori that are described in the body of the report. The views of tāngata whenua on issues relating to vehicles on beaches have been sought and engagement with iwi and hapū has been undertaken. Māori will be given an opportunity to contribute during the development of the draft bylaw and during the consultation stage of the bylaw development process.
Identify persons likely to be affected by or have an interest in the matter, and how you have given consideration to their views or preferences (for example – youth, the aged and those with disabilities).	Affected and interested parties will be given an opportunity to share their views and preferences during the consultation phase including: <ul style="list-style-type: none"> • Department of Conservation • Ministry for Primary Industries (Fisheries) • Northland Regional Council

	<ul style="list-style-type: none"> • NZ Police • Waka Kotahi • Tāngata whenua – iwi, hapu, marae, whānau • Recreational fishers and boat users • Tourism operators, e.g., quad biking • Kaitiaki groups for individual beaches, e.g., Cooper's Beach • Coastal communities
State the financial implications and where budgetary provisions have been made to support this decision.	The costs of the decision will be met from existing operation budgets.
Chief Financial Officer review.	This report has been reviewed by the Chief Financial Officer.

Research Report

Vehicles on Beaches

1 Purpose

To describe and discuss the research on the management of vehicles on beaches in the Far North District.

2 Context and Situation

The Council's Vehicles on Beaches Bylaw 2015 was due for review by 12 March 2020, under section 158 of the Local Government Act 2002, but has not been reviewed. It will be automatically revoked on 12 March 2022. Under section 155 of the Local Government Act 2002 (LGA), the Council is now required to consider whether a new bylaw is the most appropriate way to address the perceived problem.

3 Objectives

3.1 Purpose of research

To determine whether a bylaw is the most appropriate way to address problems regarding vehicles on beaches in the Far North District as per section 155 of the Local Government Act 2002.

3.2 Research objectives

- To define problems related to vehicles on beaches in the Far North District that are within the Council's function to control.
- To identify if a bylaw is the most appropriate way to address the regulation of vehicles on beaches in the Far North District.

4 Problem definition

The Far North District contains a large number of beaches and a diverse population spread across many different communities. Our beaches are sites for a wide variety of commercial and recreational activities, and also contain important natural and historical features, vegetation and wildlife. The diversity of user groups means that the rights and wishes of different users can come into conflict, and therefore it is appropriate for the Council to consider how best to balance the needs and wishes of all beach users.

Currently, under the Vehicles on Beaches Bylaw 2015, there is one scheduled safe zone at Coopers Beach, where vehicles are prohibited. This safe zone was established to address several concerns raised by the Coopers Beach community. These concerns included safety of children and protection of the environment from vehicle damage.

More widely, research into previous consultation and a summary of relevant Requests for Service have identified that concerns raised by Far North communities regarding vehicles on beaches include dangerous vehicle speed, damage caused by vehicles on sand dunes, parked vehicles impeding access for other beach users, protection of wāhi tapu sites, and the preservation of shellfish beds, native vegetation, and shore bird habitat.

At the same time, there are a number of legitimate reasons for people to use vehicles on beaches for recreational and commercial purposes, such as gathering kaimoana, launching boats, and general access to and enjoyment of the coastal environment. Appropriate management of vehicles on beaches can minimise risks to public health and

safety, can ensure that the needs of different beach users are balanced fairly, and can mitigate or prevent damage to the environment.

4.1 Council's role relating to the management of vehicles on beaches

4.1.1 Local Government Act 2002

Section 145 of the LGA allows the Council to make bylaws to protect the public from nuisance, to maintain public health and safety, and to minimise offensive behaviour in public places. Section 146 (b)(vi) of the LGA allows the Council to make bylaws to manage, regulate, or protect from damage, land associated with "reserves, recreation grounds, or other land under the control of the territorial authority".

The Vehicles on Beaches Bylaw 2015 was made under section 145 of the LGA. While this allows for the bylaw to address problems related to nuisance, health and safety, and offensive behaviour, it does not allow for addressing problems related to the protection of wāhi tapu sites or native flora and fauna. Both the general provisions in Section 145, and the specific provisions in Section 146 should be considered in the development of any new bylaw to regulate the use of vehicles on beaches under the LGA.

4.1.2 Reserves Act 1977

The Reserves Act contains several provisions relating to the use of vehicles on reserves. Trespassing with a vehicle on a reserve is an offence (section 94 (1)(l)). Unless authorised by the administering body, interfering with a reserve in any way is prohibited under section 105B; unauthorised activities include damaging vegetation or artifacts, injuring or disturbing wildlife, and using any vehicle.

Section 106 of the Reserves Act allows the Council to make bylaws for a number of purposes, including public safety, the management and preservation of flora and fauna, and the protection of the historic and natural features of the reserve. Under Section 106 the Council has the ability to control or prohibit vehicles of any description using the reserve. A breach of a bylaw made under the Reserves Act is subject to a fine up to \$5,000 (section 104).

While the Reserves Act offers some ability for the Council to control the use of vehicles on beaches, its reach is restricted to land vested in the Council under the Reserves Act, and therefore would not apply to all beaches. Due to this limitation, it is not appropriate as the sole legislation under which to make a bylaw regulating vehicles on beaches.

One aspect to consider is the management of areas of dunes adjacent to beaches, which may not be covered under the definition of road according to the Land Transport Act 1998. Problems identified with the use of vehicles on dunes include damage to vegetation, wildlife and wāhi tapu sites. Where such areas of concern are identified as being vested in the Council as reserves, problems with vehicles could be managed via the Reserves Act and a Reserves Bylaw.

4.1.3 Land Transport Act 1998

Section 22AB (f) of the Land Transport Act 1998 (LTA) allows the Council to create a bylaw for the purpose of "prohibiting or restricting the use of vehicles on beaches". Other relevant provisions in Section 22AB of the LTA allow bylaws made by road controlling authorities (such as the Council) to prohibit specified classes of traffic, to restrict vehicles on unformed legal roads, and to prescribe fines not exceeding \$1000 for a breach of the bylaw. The power to create a bylaw under the LTA must follow the community consultation requirements in section 156 of the LGA.

The definition of roads within the LTA includes beaches and places to which the public has access. Since the LTA treats beaches as roads, police officers can enforce the rules of the road such as speed, alcohol use, and driving behaviour.

Section 22AB (f) of the LTA allows the Council to prohibit or restrict vehicles on beaches for any reasons it thinks fit, which allows for a broader range of factors to be considered than the more limited reasons specified in the

LGA. Therefore, the LTA is the most appropriate legislation under which to make a bylaw regulating vehicles on beaches.

4.2 Scope

In scope

- Problems relating to the use of vehicles on beaches in the Far North District which are a function of the Council to control or address.

Out of Scope

- Management of vehicles on Te Oneroa-a-Tōhe (Ninety Mile Beach) will be in accordance with the approved Beach Management Plan. It is outside the scope of this research to consider issues related to Te Oneroa-a-Tōhe, as they have already been considered by the Te Oneroa-a-Tōhe Board.

4.3 Purpose of current bylaw

The purpose of the Vehicles on Beaches Bylaw 2015 is to enable the Council to control vehicles on beaches effectively. The bylaw came into effect on 17 March 2015. While some use of vehicles on beaches was widely accepted, a number of local residents in beach communities had specific concerns regarding vehicle behaviour. Issues identified included:

- speeding and hazardous driving
- damage to fragile dune vegetation and shellfish beds
- disturbing and destroying bird nesting sites and habitat.

The main objectives of the Vehicles on Beaches Bylaw 2015 are to balance the rights and wishes of all beach users, to ensure that vehicles are operated in a safe and responsible manner, and to establish safe zones where vehicles are prohibited (except for authorised purposes).

4.4 Te Oneroa-a-Tōhe (Ninety Mile Beach) Beach Management Plan

The Beach Management Plan (BMP) is a requirement of the Te Hiku o Te Ika iwi Treaty of Waitangi settlement, and became operative in January 2021. The Far North iwi who form the Te Oneroa-a-Tōhe Board – Ngāti Kuri, Te Aupōuri, Ngāi Takoto, and Te Rarawa – have a significant relationship to Te Oneroa-a-Tōhe, which is a taonga vital to their spiritual and cultural well-being.

The Beach Management Plan does not have direct legal impact and does not include rules; the main way it will be implemented is through the Regional Plan. District and Regional Plans must "recognise and provide for" the actions specified in the Beach Management Plan, and local government decision-making must "take into account" the provisions in it. Therefore, any bylaw which affects Te Oneroa-a-Tōhe must be in accordance with the Beach Management Plan.

5 Review of current bylaw

As part of determining if a bylaw is the most appropriate way to address problems relating to the management of vehicles on beaches in the Far North District, the current bylaw requires review for effectiveness.

The Vehicles on Beaches Bylaw 2015 contains the following provisions:

- general requirements
- offences and penalties
- exemptions
- speed limits
- safe zones.

5.1 General requirements

The Vehicles on Beaches Bylaw 2015 requires any person operating a vehicle on a beach to do so in a considerate, safe, and responsible manner. Vehicle users must not present a risk to the health and safety of other beach users.

People must not place fences, barriers, notices, or structures on beaches which are intended to impede vehicles without the written permission of the CEO. Similarly, people must not remove or interfere with fences, barriers, notices, or structures on beaches which have been provided by the Council or Surf Life Saving without the written permission of the CEO.

Since, under the Land Transport Act 1998, a beach is a road, vehicles on beaches must be operated according to the Act, which includes requirements that drivers must not be reckless, dangerous, or inconsiderate towards other members of the public. Driving dangerously or in a manner that contravenes the provisions in the LTA is a matter for police to deal with, and as such is already addressed in the legislation. Therefore, the general provisions of safe vehicle operation in the Vehicles on Beaches Bylaw 2015 duplicate provisions in the existing legislation and are not necessary.

The unauthorised placement, removal of, or interference with structures on beaches is also a problem addressed by the Vehicles on Beaches Bylaw that should be considered. Section 357 (1) of the Land Transport Act 1998 prohibits any unauthorised encroachments or obstructions on a road through structures or planting. Since a beach is a road, unauthorised structures are already addressed in the legislation. Therefore, the provisions regulating structures on beaches in the Vehicles on Beaches Bylaw 2015 duplicate provisions in the existing legislation and are not necessary.

5.2 Offences and penalties

Under the Vehicles on Beaches Bylaw 2015, any person who fails to comply with the bylaw is committing an offence. Offenders are required to supply their full name and address to an authorised officer, and may be required to leave the beach and be prohibited from re-entering the beach for 24 hours. If prosecuted, on conviction under the LGA, an offender is liable for a fine of up to \$20,000. There are no other fines or penalties specified in this bylaw.

In practice, there are practical obstacles to enforcement under the provisions in this bylaw. Serious concerns regarding dangerous vehicle use are more appropriately dealt with by police under the LTA. There are a limited number of Council officers available to respond to more minor complaints. Prosecution of an offence against this bylaw under the LGA would be difficult and costly, and therefore in the opinion of Council staff is unlikely to proceed.

Under section 22AB (1) (b) of the Land Transport Act 1998, a road controlling authority (i.e. the Council) may prescribe fines, "not exceeding \$1,000", for the breach of any bylaw made under this section. In the opinion of Council staff, in terms of enforcement the LTA would be more effective legislation under which to make a bylaw controlling vehicles on beaches.

5.3 Exemptions

Exemptions are specified for employees, contractors, or other authorised persons to carry out lawful activities. Similar exemptions should be included in any bylaw regulating vehicles on beaches.

5.4 Speed limits

The Vehicles on Beaches Bylaw 2015 states that speed limits are set under the Speed Limits Bylaw 2008. The review of this bylaw is being managed by NTA, and it can include speed limits for beaches. The proposed speed limit for most beaches and beach access is 30kmph, with the exception of parts of Te Oneroa-a-Tōhe, which is 30kmph within 200m of a legal beach access and 60kmph on other parts of the beach. Further research and community consultation will be required on speed limits for beaches in the Far North District.

5.5 Safe Zones

The Vehicles on Beaches Bylaw 2015 allows for the provision of scheduled Safe Zones where vehicle use is prohibited. Locations, dates, and times of Safe Zones may be created, deleted, or amended by Council resolution following appropriate consultation.

At present there is one scheduled Safe Zone at Coopers Beach, where vehicles are prohibited, which was established in response to community concerns regarding safety.

In July and August 2021, the Council ran a survey to seek community views about the use of beaches in the district. While the number of responses specifically regarding Coopers Beach was small (6), they were unanimously in favour of continuing the ban on vehicles in the Safe Zone. There was an additional survey sent specifically to a range of community groups (schools, sports clubs). Five responses were received, again all in favour of maintaining vehicle prohibition for Coopers Beach. This indicates that the Safe Zone provision at Coopers Beach should be continued in any bylaw regulating vehicles on beaches.

The survey undertaken in 2021 received responses regarding 50 different beaches. The beaches mentioned most often were Te Oneroa-a-Tōhe/Ninety Mile Beach (120 responses) and Tokerau Beach (126 responses).

Management of vehicles on Te Oneroa-a-Tōhe (Ninety Mile Beach) will be in accordance with the approved Beach Management Plan, and it is outside the scope of this review. In regard to other beaches, community members responded with a variety of views, some in favour of vehicles on beaches and some against, citing many different reasons. It is clear that there is not a simple solution to these issues.

Council staff report that there continue to be a number of requests for service to address problems with vehicles on beaches. Concerns continue to be expressed about dangerous vehicle speed, damage caused by vehicles on sand dunes, parked vehicles impeding access for other beach users, protection of wāhi tapu sites, and the preservation of shellfish beds, native vegetation, and shore bird habitat. Council staff note that population growth in the district, and increasing visitor numbers, mean that these problems may be exacerbated.

Research indicates that the provision to create scheduled zones where vehicles are prohibited or restricted in the current Vehicles on Beaches Bylaw 2015 is fit for purpose and should be retained in any bylaw regulating vehicles on beaches. The provision enables the Council to respond to community concerns in a way that is targeted to the specific needs and wishes of local communities. It may be that other beach communities have vehicle prohibitions or restrictions added to the schedule at some future date. However, this will require further targeted engagement and community consultation.

6 Other possible methods (besides a bylaw) to address problems with the use of vehicles on beaches

6.1 Dangerous driving behaviour is enforced by police under the LTA

As noted above (section 5.1), under the Land Transport Act 1998, a beach is a road, and vehicles on beaches must be operated according to the Act. Driving dangerously or in a manner that contravenes the provisions in the LTA is a matter for police to deal with, and as such is already addressed in the legislation. Therefore, a bylaw is not necessary to address the general requirements in the current Vehicles on Beaches Bylaw for drivers to behave in a safe and considerate manner.

This does not address other problems to do with vehicles on beaches such as parking and access problems, damage to the environment, and other concerns.

6.2 Council provides information, education, and advice

The Council takes a graduated approach to enforcing bylaws. Research shows that most people (70-75%) want to do the right thing and will do so if provided with information and signage. A smaller number (10-15%) will only do the right thing if there is a law in place that they must comply with. A smaller number still (around 5%) will only change their behaviour if they are caught and face consequences such as a fine.

For many situations it will be appropriate for Council officers to provide education and advice. However, Council staff consider that it is necessary for the Council to have a mechanism available for enforcement in situations where education and advice is ineffective at modifying unacceptable behaviour.

The provision of zones where vehicles are prohibited or restricted is not enforceable under other existing legislation. Therefore, a bylaw is still an appropriate mechanism to ensure that the prohibition of vehicles on Coopers Beach remains in place.

7 Discussion

7.1 Is a bylaw the most appropriate way to address problems relating to the use of vehicles on beaches in the Far North District?

A bylaw is the most appropriate way to address problems relating to the use of vehicles on beaches in the Far North District for the following reasons:

- the provision of scheduled zones where vehicles are prohibited (unless authorised) is not covered under existing legislation
- the current bylaw has been effective in addressing problems with vehicles on beaches experienced by the Coopers Beach community
- other beach communities continue to report a variety of problems relating to vehicles on beaches, and this provides the Council a mechanism to address these problems through the addition of other beaches to the schedule (with appropriate research and consultation)
- without a bylaw, the scheduled zones where vehicles are prohibited or restricted cannot be enforced.

7.2 Is the current bylaw the most appropriate form of bylaw?

While the current Vehicles on Beaches Bylaw has been effective in the prohibition of vehicles on Coopers Beach, some of the other provisions of the bylaw are no longer fit for purpose and should not be continued. Additionally, some of the other problems identified with vehicles on beaches have not been effectively addressed by the current bylaw, such as damage to the dunes environment. Therefore, the new bylaw should not retain the same provisions as the current bylaw.

This research report and review of the current bylaw indicates that an effective solution would be to address problems related to vehicles on beaches through three separate policy instruments: the proposed Road Use Bylaw, Reserves Bylaw, and Speed Limits Bylaw.

7.2.1 Proposed Road Use Bylaw

The problem of pedestrian safety addressed effectively by the current Vehicles on Beaches Bylaw could be addressed by adding new provisions into the proposed Road Use Bylaw, enabling the Council to prohibit or restrict vehicles on scheduled beaches or parts of beaches.

This proposal is made for the following reasons:

- the proposed Road Use Bylaw is being made under the LTA
- since, under the LTA, beaches are roads, it streamlines the Council's bylaws related to roads into one policy instrument
- as discussed in section 5.2, in terms of enforcement the LTA is more effective legislation under which to make a bylaw regulating the use of vehicles on beaches.

The following aspects should be considered in the drafting of new provisions to include in the Road Use Bylaw:

- effective provision of scheduled zones where vehicles are prohibited (similar to the current bylaw)
- authorised exceptions to vehicle restrictions and prohibitions
- whether or not to allow for other scheduled vehicle restrictions, such as only allowing vehicles for specified activities (e.g. to launch boats), or other specific restrictions
- whether or not to allow for the protection of other beach features through scheduled zones where vehicles are prohibited, such as wāhi tapu sites, shellfish beds, native vegetation, and shore bird habitat.

Further legal review will be required to ensure that the most appropriate form of bylaw is presented to the Council before community consultation is undertaken.

7.2.2 Proposed Reserves Bylaw

The current Vehicles on Beaches Bylaw does not effectively address problems related to the use of vehicles on sand dunes, such as damage to vegetation, wildlife and wāhi tapu sites. Where these sand dune areas are reserves, problems with vehicles could be managed through a Reserves Bylaw.

In addition, the provisions prohibiting the unauthorised placement, removal of, or interference with structures on beaches in the current Vehicles on Beaches Bylaw are appropriate. Where beaches and adjacent areas are reserves, problems related to structures could be addressed through a Reserves Bylaw.

Further research will be required to ensure that the most appropriate form of bylaw is presented to the Council before community consultation is undertaken.

7.2.3 Speed Limit Bylaw

The Vehicles on Beaches Bylaw 2015 does not contain any provisions related to speed limits on beaches, as speed limits are set under the Speed Limits Bylaw 2008. The review of this bylaw is being managed by NTA, and it may include speed limits for beaches.

Further research and community consultation will be required on speed limits for beaches in the Far North District.

8 Conclusion and Recommendation

Bylaw controls remain a necessary regulatory mechanism for ensuring the ability for the Council to provide scheduled zones where vehicles are prohibited or restricted, therefore addressing problems experienced by local beach communities. A new, appropriate form of bylaw should be made to control vehicles on beaches, through amendment to the proposed Road Use Bylaw, by inserting new provisions enabling the Council to prohibit or restrict vehicles on scheduled beaches or parts of beaches.

Proposal

Vehicles on Beaches

1 Context and Situation

The Far North District contains a large number of beaches and a diverse population spread across many different communities. Our beaches are sites for a wide variety of commercial and recreational activities, and also contain important natural and historical features, vegetation and wildlife. The diversity of user groups means that the rights and wishes of different users can come into conflict, and therefore it is appropriate for the council to consider how best to balance the needs and wishes of all beach users.

Research has identified that concerns regarding vehicles on beaches include dangerous vehicle speed, damage caused by vehicles on sand dunes, parked vehicles impeding access for other beach users, protection of wāhi tapu sites, and the preservation of shellfish beds, native vegetation, and shore bird habitat. At the same time, there are a number of legitimate reasons for people to use vehicles on beaches for recreational and commercial purposes, such as gathering kaimoana, launching boats, and general access to and enjoyment of the coastal environment. Appropriate management of vehicles on beaches can minimise risks to public health and safety, can ensure that the needs of different beach users are balanced fairly, and can mitigate or prevent damage to the environment.

To manage risks to public health and safety, the Far North District Council ("the Council") made a Vehicles on Beaches Bylaw on 12 March 2015. The Vehicles on Beaches Bylaw 2015 was made under section 145 of the Local Government Act 2002 (LGA). Under section 158 of the LGA it was due for review by 12 March 2020, but was not reviewed by that date. It will be automatically revoked on 12 March 2022, under section 160A of the LGA.

Currently, under the Vehicles on Beaches Bylaw, there is one scheduled Safe Zone at Coopers Beach, where vehicles are prohibited.

On 24 February 2022, under section 155(1) of the Local Government Act 2002, the governing body of the Council determined that:

- a bylaw is the most appropriate way of addressing problems related to vehicles on beaches in the Far North District
- the current form of the Vehicles on Beaches Bylaw is not the most appropriate form
- provisions regulating vehicles on beaches should be included in the draft Road Use Bylaw
- the prohibition of vehicles at Coopers Beach should be included in the draft Road Use Bylaw.

2 Proposal

The Council proposes to include provisions regulating vehicles on beaches in the draft new Road Use Bylaw, made under section 22AB of the Land Transport Act 1998, to regulate the use of roads and adjoining land. Beaches are defined as roads under the Land Transport Act. These provisions will be similar to those in the existing Vehicles on Beaches Bylaw 2015.

This will mean that the current situation, where vehicles are prohibited on Coopers Beach, will continue after the Vehicles on Beaches Bylaw has revoked, but under a different bylaw – the Road Use Bylaw. It will also mean that the Council will continue to have a mechanism to restrict or prohibit vehicles on other beaches in the district, in the same way as under the existing Vehicles on Beaches Bylaw.

However, the Council can only consider prohibiting or restricting vehicles on a beach after proper engagement and consultation with affected communities. This proposal only includes Coopers Beach, and the inclusion of other beaches would require a separate proposal and consultation process.

3 Reasons for the proposal

As the Vehicles on Beaches Bylaw was not reviewed in time, under section 160A of the Local Government Act 2002, the bylaw must revoke on 12 March 2022. The Council is not able to stop the bylaw from being revoked.

Therefore, to continue the regulation of vehicles on beaches, and specifically the prohibition of vehicles at Coopers Beach, a new bylaw provision must be made.

4 Analysis of the reasonably practicable options

The governing body of the Council considered three options for addressing problems relating to vehicles on beaches:

- do nothing – allow the Vehicles on Beaches Bylaw to revoke without replacement
- replace the Vehicles on Beaches Bylaw
- include provisions regulating vehicles on beaches in the proposed Road Use Bylaw, Reserves Bylaw, and Speed Limits Bylaw.

The advantages and disadvantages of the options are summarised in the following table.

Option	Advantages	Disadvantages
Option One: Do nothing – allow the Vehicles on Beaches Bylaw to revoke without replacement	No costs required for consultation with communities or implementation.	Negative impact to the Coopers Beach community, as no regulation will remain in place. The problems that were addressed by the previous bylaw will no longer be addressed. Reputational impact to the Council, because the Coopers Beach community are in favour of continuing the vehicle prohibition in the current bylaw.
Option Two: Replace the Vehicles on Beaches Bylaw	Opportunity to address problems related to vehicles on beaches that have not been effectively addressed by the current bylaw. Opportunity to make a new bylaw under the Land Transport Act 1998 rather than the Local Government Act 2002, thereby strengthening enforcement tools.	Far North communities will be without a bylaw regulating vehicles of beaches for at least 12 months while a new bylaw is drafted, consulted on, and adopted. Reputational impact to the Council, because the Coopers Beach community are in favour of continuing the vehicle prohibition in the current bylaw, and will be without a similar provision for at least 12 months. Creates an additional bylaw, which is unnecessary if the problems identified can be addressed more efficiently through other existing or planned bylaws.

2

<p>Option Three: Include provisions regulating vehicles on beaches in the proposed Road Use Bylaw, Reserves Bylaw, and Speed Limits Bylaw</p>	<p>Retains the effective part of the current Vehicles on Beaches Bylaw, by prohibiting vehicles on Coopers Beach.</p> <p>Minimises the time the Coopers Beach community will be without a bylaw providing a scheduled prohibition on vehicles.</p> <p>Provides a mechanism for the Council to restrict or prohibit vehicles on other beaches through updates to the schedule, subject to appropriate engagement and consultation.</p> <p>Regulates the protection of sand dunes and beaches that are reserves (under a potential Reserves Bylaw).</p> <p>Streamlines the Council’s bylaws by avoiding the creation of an additional separate bylaw for vehicles on beaches, since the problems can be addressed more efficiently through three existing and proposed bylaws.</p>	<p>None.</p>
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Option Three is the proposed option.

This proposal for consultation is limited to the insertion of new provisions into the proposed Road Use Bylaw. Other issues related to vehicles on beaches (such as speeding, and problems on dunes and beach areas which are reserves) can be addressed in a potential Reserves Bylaw and the review of the Speed Limits Bylaw, and will require further research and consultation.

4.1 Impacts on tāngata whenua and te ao Māori

There will be impacts on tāngata whenua from the regulation of vehicles on beaches. Where the Council regulates the use of vehicles on beaches, parts of beaches, or adjacent areas, such regulation will need to take into account sites that are significant to Māori. The significance could be for traditional, spiritual, religious, ritual, or mythological reasons.

The proposed new provisions to be included in the Road Use Bylaw will provide the Council with a mechanism to protect significant sites through the provision of scheduled areas where vehicles are prohibited or restricted, subject to proper engagement and consultation with iwi, hapū, and affected communities. This proposal only includes Coopers Beach, and the inclusion of other beaches would require a separate proposal and consultation process.

5 New Zealand Bill of Rights Act 1990 implications

Part 2 of the New Zealand Bill of Rights Act 1990 sets out twenty rights that are affirmed and protected, that may only be subject to reasonable limits that can be demonstrably justified in a free and democratic society. Section 155(2)(b) of the Local Government Act 2002 requires the Council to determine if the proposed bylaw gives rise to

any implications under the New Zealand Bill of Rights Act 1990. The Council will fully assess these implications before it makes the amended Road Use Bylaw.

However, a preliminary assessment has identified the new provisions proposed to be inserted into the Road Use Bylaw, allowing the Council to prohibit or restrict vehicles on scheduled beaches or parts of beaches, may potentially have implications on Section 18: Freedom of Movement, in that the Council may restrict vehicle access to some beaches.

The new provisions are justified because they only limit the rights of individuals to the extent it is reasonable to do so, in order for other people's rights and freedoms to be maintained.

Therefore, any limitations on the right to freedom of movement are likely to be justified in accordance with the New Zealand Bill of Rights Act 1990.

6 How to give your views on the proposal

The Council encourages any person or organisation affected by, or having an interest in, the new provisions to be inserted into the proposed Road Use Bylaw to present their views on the proposal to the Council by making a submission.

This proposal for consultation is limited to the insertion of new provisions relating to vehicles on beaches into the proposed Road Use Bylaw. The remainder of the draft Road Use Bylaw has already been through public consultation. Submissions have been received and recommendations based on the analysis of submissions will be made in due course.

You can make a submission by using any of the following methods:

- online at the Council's website www.fndc.govt.nz/have-your-say
- email your submission to submissions@fndc.govt.nz
- drop-off your submission at any Council service centre or library, details of their locations and opening times are listed at www.fndc.govt.nz/contact or you can get that information by phoning the Council on 0800 920 029
- post your submission to: Strategy Development Team, Far North District Council, Private Bag 752, Kaikohe 0440
- make an oral presentation of your submission at a meeting of the Council's Strategy and Policy Committee

Please include your full name and email address or postal address in your submission if you want:

- the Council to acknowledge receipt of your submission
- to make an oral presentation – you will be contacted about when and where the meetings for this are taking place.

Privacy statement – Please be aware, any submissions that are made on the new on-site wastewater disposal systems bylaw become part of the public consultation process. As such, all submissions, any summaries of submissions, and any documents provided with your submission, are copied and made available to the Council's governing body as well as the public. Any personal information included with a submission such as your name is treated as part of the submission and will also be released publicly. Your submission and any personal information that you supply such as your name will not be treated as confidential unless you specifically request it in your submission.

6.1 Draft Road Use Bylaw – Part 8: Vehicles on Beaches

We are only seeking submissions on Part 8: Vehicles on Beaches, which has been inserted into the draft Road Use Bylaw. The remainder of the draft Road Use Bylaw has already been through public consultation.

The draft of the new provisions to be included in the Road Use Bylaw is as follows:

Interpretation

Authorised agency means the New Zealand Police, New Zealand Fire and Emergency, St Johns Ambulance, Northland Regional Council, Department of Conservation and any surf life saving club.

beach means the foreshore being any area covered and uncovered by the ebb and flow of the tide, and any adjacent area which can reasonably be considered part of the beach environment including areas of sand, pebbles, shingle, dunes or coastal vegetation, but does not include any private property or land administered by the Department of Conservation.

Enforcement officer means any person appointed by Council under section 177 of the Local Government Act 2002, any parking warden appointed by Council under section 128D of the Land Transport Act 1998 and any person defined as an enforcement officer under section 2(1) of the Land Transport Act 1998.

Part 8: Vehicles on Beaches

30 Vehicles prohibited

All vehicles are prohibited on any beach or any part of a beach which is identified in schedule 6 at all times unless an exemption has been provided under clause 32 of this Bylaw.

31 Restriction on the use of vehicles on beaches

All vehicles are prohibited on any beach or any part of a beach which is identified in schedule 7 during the times and or dates listed in the schedule unless an exemption has been provided under clause 32 of this bylaw.

32 Exemptions

- (1) Any employee, contractor or nominee of an authorised agency who is carrying out the lawful functions of that agency is exempt from the restrictions imposed under clause 30 and 31 of this bylaw.
- (2) Council may issue an exemption to clause 30 and 31 of this bylaw to any person and may impose any conditions to that exemption. Council may revoke an exemption in its sole discretion at any time.

33 Persons to provide details

Where in the opinion of an enforcement officer a person has failed to comply with any provision of this Bylaw relating to vehicles on beaches the person shall, on demand by an enforcement officer, give his or her full name and full address. The failure to provide such information or give incorrect information shall constitute a further offence against this Bylaw

34 Offenders to leave beach

Where in the opinion of an enforcement officer a person has failed to comply with any provision of this Bylaw, the enforcement officer may direct the person to immediately leave the beach, and the person may be further prohibited by that officer from re-entering the beach for a period of 24 hours.

Schedules

41 Roads that have vehicle restrictions or prohibitions

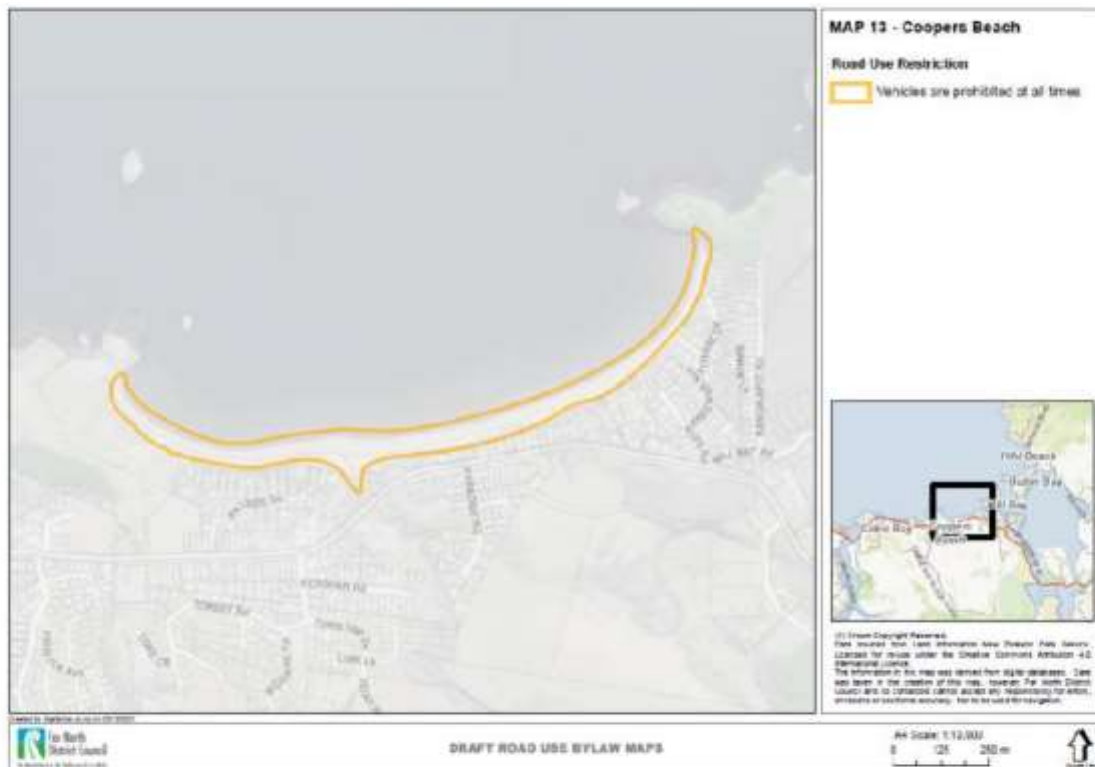
- (4) Schedule 6 lists the beaches or parts of beaches where vehicles are prohibited at all times.
- (5) Schedule 7 lists the beaches or parts of beaches where vehicles are prohibited at specified times and or dates.

43 Amendment of Schedules

- (2) The council may, by resolution, add or remove any beach, or part of any beach from schedule 6.
- (3) The council may, by resolution, add or remove any beach, or part of any beach from schedule 7 and may amend, add or remove any time or date restrictions to those beaches.

Schedule 6 – Beaches or parts of beaches upon which vehicles are prohibited

- 1. Coopers Beach – Vehicles are prohibited on the entirety of Coopers Beach (as indicated on the Map below) at all times.



Schedule 7 – Beaches or parts of beaches upon which vehicles are restricted

[No beaches or parts of beaches are included in Schedule 7 at this time.]



**FAR NORTH DISTRICT COUNCIL
BYLAWS**

VEHICLES ON BEACHES

Issued:	12 March 2015
To come into force:	24 March 2015
For the purpose of:	The purpose of this bylaw is to enable Council to have the most effective method for Council to control vehicles on beaches.

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1. Vehicles on beaches bylaw validation

This bylaw was made pursuant to a resolution of Far North District Council at a meeting on 12 March 2015 and comes into force on 17 March 2015.

2. Scope

Section 145 of the Local Government Act 2002 gives authority to Far North District Council to adopt bylaws to regulate activities which can be carried out on roads, in public places and in reserves. This Bylaw is intended to regulate the use of vehicles on the district's beaches and is intended to balance the rights and wishes of all beach users.

Nothing in this Bylaw shall derogate from any provision of, or the necessity for compliance with:

- a. The Land Transport Act 1998 or any Act passed in amendment or substitution thereof
- b. Any regulations or rules made under the Land Transport (*Road User*) Rule 2004 or the Land Transport Act 1998 or any regulations or rules made in amendment or substitution thereof
- c. Any regulatory requirements imposed by the Northland Regional Council and not limit or effect any bylaw or regulation under any enactment administered by the Department of Conservation

3. Interpretation

Definition of terms

In this Bylaw, unless inconsistent with the context:

Authorised agency includes the New Zealand Police, Fire Service, Ambulance, Northland Regional Council, Department of Conservation and any surf life saving club

Authorised officer means any person warranted to enforce bylaws by Council in accordance with section 177 of the Local Government Act 2002

Beach means the foreshore being any area covered and uncovered by the ebb and flow of the tide, and any adjacent area which can reasonably be considered part of the beach environment including areas of sand, pebbles, shingle, dunes or coastal vegetation, but does not include any private property or land administered by the Department of Conservation

Chief Executive Officer means the Chief Executive Officer of Far North District Council or a person acting under a delegated authority of the Chief Executive Officer

Council means Far North District Council

District means Far North District

Dunes includes any natural hill, mound or ridge of sediment, or any series of such, landward of a coastal beach or on the border of a large lake or river valley that is deposited by wind action or storm over wash, and sediment deposited by artificial means and serving the purpose of storm damage prevention or flood control, but does not include any private property or any land administered by the Department of Conservation

Safe zone means that area described in Schedule 1 of this Bylaw

Vehicle has the same meaning as in section 2(1) of the Land Transport Act 1998, and includes a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved.

4. Vehicles on beaches

General provisions

- a. Any person operating any vehicle, on any part of the beach must show due consideration for other users of the beach.

- b. Any person operating any vehicle on the beach, shall operate that vehicle in a courteous, appropriate, safe and responsible manner, giving due consideration to other vehicle operators and to other users of the beach at all times.
- c. Any person operating any vehicle on the beach shall not operate that vehicle in such a manner as to present a real or implied danger or threat to the wellbeing and safety of any other user of the beach at all times.

5. Other restrictions

- a. No person shall place any fence, barrier, notice or other temporary or permanent structure on any part of the beach with the intention of causing the impediment of vehicular movement without the written permission of the Chief Executive Officer
- b. No person shall displace, or otherwise interfere with any fence, barrier, notice or other temporary or permanent structure or warning device provided by Council or by any Surf Life Saving club without the express written permission of the Chief Executive Officer.

6. Offences

Any person who fails to comply with any condition, restriction or prohibition made under this bylaw commits an offence against this Bylaw.

7. Offenders required to give names

Any person who, in the opinion of an authorised officer, commits a breach of any of the provisions of this part of this Bylaw shall, if requested by the officer, supply his/her full name and address. The failure to provide such information or give incorrect information shall constitute a further offence against this Bylaw.

8. Offenders to leave beach

Any person who, in the opinion of an authorised officer, commits a breach of any provisions of this Bylaw shall, if directed by that officer, immediately leave the beach, and may be further prohibited by that officer from re-entering the beach for a period of 24 hours. That person shall nevertheless be liable to be prosecuted for breaching this Bylaw, and the failure to leave or remain away from the beach as directed by an authorised officer shall constitute a further offence against this Bylaw.

9. Offences and penalties

Any person who fails to comply with the requirements of this Bylaw commits an offence and shall be liable on summary conviction to the penalty set out in section 242(4) of the Local Government Act 2002, being a fine not exceeding \$20,000

10. Exemptions

Exemptions

- a. Any employee, contractor or nominee of an authorised agency who is carrying out the lawful functions or activities of that authorised agency may:
 - i. Use any vehicle on any part of the beach including in any safe zone; and
 - ii. Erect and, as may from time to time be necessary, remove from any place any warning, restriction or danger notices
- b. The Chief Executive Officer may issue an exemption from clause 12 of this bylaw to any person who shall be subject to any conditions as deemed necessary or advisable.

- c. In granting any permission under this Bylaw, the Chief Executive Officer may impose such conditions as is deemed necessary or advisable on matters including, but not limited to, times, speeds, locations, erection of warnings or any other matter whatsoever

11. Speed limits on beaches

Speed

Any maximum permitted speeds for ALL vehicles using beaches or portions thereof shall be set under the Far North District Council Speed Limits Bylaw 2008.

12. Safe zones

Safe zone restrictions

- a. Subject to lawful exemptions provided for elsewhere in this Bylaw, all vehicles are prohibited from any Safe Zone
- b. Subject to lawful exemptions provided for elsewhere in this Bylaw, any Safe Zone is reserved for pedestrian beach users only
- c. Subject to lawful exemptions provided for elsewhere in this bylaw, locations of Safe Zones and dates and times which apply to any Safe Zone, may be created, deleted or amended by Council resolution following appropriate consultation.

Schedule 1

Coopers Beach Safe Zone



The Safe Zone at Coopers Beach is permanent and applies all year round. It includes the full length of the beach as represented on the above diagram.

6 INFORMATION REPORTS

6.1 STRATEGIC PLANNING & POLICY BUSINESS QUARTERLY OCTOBER - DECEMBER 2021

File Number: A3552062

Author: Gayle Andersen, Executive Assistant to General Manager

Authoriser: Darren Edwards, General Manager - Strategic Planning and Policy

TAKE PŪRONGO / PURPOSE OF THE REPORT

To inform the Strategy and Policy Committee about the activities undertaken by the Strategic Planning and Policy Group.

WHAKARĀPOPOTO MATUA / EXECUTIVE SUMMARY

The Strategic Planning and Policy Business quarterly provides an overview of Strategic Planning and Policy activity for the quarter ending December 2021

TŪTOHUNGA / RECOMMENDATION

That the Strategy and Policy Committee receive the report Strategic Planning & Policy Business Quarterly October - December 2021.

TĀHUHU KŌRERO / BACKGROUND

The Strategic Planning and Policy Group is made up of four departments that have responsibility for strategy and policy development (including regulatory policy in the form of bylaws), district planning, Māori development, corporate planning, community development and funding and supporting of Council groups / departments with engagement. The Group work programme has been refined to deliver identified service outcomes and projects of strategic importance to Council.

MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND NEXT STEPS

The Strategic Planning and Policy Business Quarterly report provides an update on the broad spectrum of projects that the Strategic Planning and Policy Group is responsible for. The report, combined with the extensive range of services that the Group provides, is revised, and updated on a quarterly basis to reflect changes in projects, scope of work and complexity.

In addition to this update the business group will continue to appraise Elected Members via the usual channels of Council and Committee reports and workshops.

The purpose of the Business Quarterly is to show the planned progress of the work programme and the regular service delivery work undertaken by the Group.

PĀNGA PŪTEA ME NGĀ WĀHANGA TAHUA / FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION

There are no financial implications or budgetary provisions required.

ĀPITIHINGA / ATTACHMENTS

1. Strategic Planning Policy Business Quarterly October - December 2021 - A3565016 [↓](#)





Executive Summary

The Strategic Planning & Policy Group provides a number of services for the benefit of our communities to make it a great place to work, live and visit. The group is made up of four departments:

- **Corporate Planning & Community Development:** This team has oversight of Corporate Planning, Community Development, Funding and Engagement.
- **District Planning:** This team has responsibility for creating and maintaining the District Plan. As Council's main planning tool, we are legislatively required to achieve the sustainable management of the district's natural and physical resources.
- **Strategy Development:** This team includes Strategy (including spatial planning), Policy Development (including regulatory policy in the form of bylaws) and Climate Change.
- **Te Hono:** The team's purpose is to support the organisation to build and maintain enduring relationships with Iwi/Māori. To act as a key contact to provide support to Iwi/Māori in navigating through Council's processes and policies and to support the organisation to develop capabilities and competencies to engage effectively with Iwi/Māori

Contribution to community outcomes



Communities that are healthy, safe, connected and sustainable



Prosperous communities supported by a sustainable economy



Connected communities that are prepared for the unexpected



A wisely managed and treasured environment that recognises the role of tangata whenua as kaitiaki



Proud, vibrant communities



We embrace and celebrate our unique culture and heritage and value it as a source of enduring pride

Performance in brief

This edition of the Strategic Planning & Policy Business Quarterly report provides a summary of progress and highlights for the second quarter of the 2021 /2022 financial year. The Group achieved several successes and made good progress in the following areas:

Digital Programme

A newly appointed Programme Manager with excellent networks and relationships with all Northland Councils (having been Spark's relationship manager for all Council's) started 15 November 2021 and will implement the Nothing But Net strategy.

Community Development

We secured \$400,000 from the Mayor's Taskforce for Jobs (MTFJ) Community Recovery Fund to assist with our focussed effort on Kaikohe. Focussing on 'filling the gaps' supporting established Kaikohe groups and initiatives to thrive, funding includes a Berry Bus, providing workers transport between Kaikohe and the Ngawha Innovation Park. A Rangatahi Support role to focus our work with NEET's, working with Te Kona to develop a digital training programme, driver licensing and bespoke packages to support local business to train and employ locals.

Youth Programme

Our Far North Youth Council (FNYC), supported by Councillor Rachel Smith, came up with a great initiative to promote vaccinations across our District. They ran a competition where youth were asked to send in a photo of their vaccine card and go in the draw to win 1 of 10 \$50 prezzie gift cards. We had 20+ entries on our @Instagram page and the winners' prizes were posted out. This was a great initiative, and we are planning for the FNYC to be more involved and active in community activities in 2022.

District Plan

Three key processes continue to be developed as part of the draft plan process and have influenced the completion timeframe for the proposed plan and the subsequent notification of the proposed plan. The issues that have dominated this quarter have been:

- consultation with tangata whenua through Iwi Authorities
- targeted engagement on Heritage Areas
- updating hazard maps with new region wide flood maps and associated data

With confidence in the consultation process we have confirmed a timeline identifying the notification date for the proposed Plan in May 2022 and subsequent steps for public participation.

Engagement

The engagement team achieved a milestone with practitioner certification in the International Association of Public Participation (referred to as IAPP or IAP2). IAP2 gives us a best practice engagement and consultation foundation that we will use to formalise a centre of excellence that will be available to all in the organisation in the form of philosophy, guidance, and tools.

Strategy Development Team

The team has developed a comprehensive work programme with 29 strategy, policy, and bylaw development projects underway. A December workshop highlighted the process to develop a new policy initiation to implementation can take approximately 18 to 24 months.

Te Hono

During December we recognised and farewelled Bill Lee after 20 years' service to the Far North District Council as he began his retirement 24 December. At the same time we welcomed Llani, Mori and Simone our 3 new Kaiarahi Kaupapa Maori to the team.

I'm also pleased to announce that Patrick Smith has been appointed as the new Pouhauto - Manager Te Hono and will join the team

Corporate Planning & Community Development

Introduction

The Corporate Planning and Community Development Department includes Corporate Planning, Community Development, Funding and Engagement.

Corporate Planning

The purpose of the Corporate Planning activity is to satisfy Council's Local Government Act statutory planning obligation. We lead the development of Long-Term and Annual Plans and assist in the production and audit of the Annual Report. The Corporate Planning team also takes a lead role in the compilation of the Chief Executive's pre-election report.



Te Whakaturanga Hapori / Community Development & Funding

Empowered communities are thriving communities. The Community Development & Funding Team work under Council's Community Outcomes and our own Community Development Framework, which articulates our role in community development and identifies how we work with communities, government agencies and non-government organisations to help build strong, resilient communities.

What we do:

- *Build and strengthen internal and external relationships*
- *Increase opportunities for communities to determine the things they care about*
- *Provide opportunities for meaningful engagement and participation in public and community life*
- *Empower communities to design, prioritise and deliver local initiatives*
- *Support community groups to lead their communities*
- *Work with government agencies, non-government organisations and community leaders to create connections, maximise collective potential to contribute, and improve community wellbeing*



What we do:

- *Plan and execute large and / or complex engagement or consultation activities such as the Long Term Plan, bylaws and policies and significant projects*
- *Provide a centre of excellence and toolkit for engagement to enable effective management and consultation*
- *Provide support to teams across Council to enable them to confidently engage with communities as required to support their projects and activities*

Executive Summary

This section outlines the activities undertaken by the Corporate Planning and Community Development Department for the October - December 2021 period.

Corporate Planning

Annual Plan

July sees the beginning of confirming year two of the Long Term Plan 2021-31 in the form of an Annual Plan for 2022/23. The period from July to December focuses on workshopping potential variations, with a general agreement that variations on the table to date do not trigger significance and therefore community consultation in relation to this Annual Plan is not likely to be needed. We therefore go into the summer break with a forecast financial position that will continue to be refined in the new year. The Annual Plan for 2022/23 will be adopted in June next year.

Community Development

Placemaking

We have secured \$400,000 from the Mayors Taskforce for Jobs Community Recovery Fund to assist with our focussed effort on Kaikohe. Our proposal is centred around 'filling the gaps' by supporting already established Kaikohe groups and initiatives to thrive. Funding includes a Berry Bus, providing workers transport to and from Kaikohe to Ngawha Innovation Park/Kaikohe Berries and other employment opportunities in the mid-north, a Rangatahi Support role to focus our work with NEET's, working with Te Kona to develop a digital training programme, driver licensing and bespoke packages to support local business to train and employ locals. The aim of the funding is to create Sustainable Employment Outcomes (SEOs) for NEET's, (people who have lost their jobs due to COVID-19, disabled and rangatahi) and is delivered in two tranches. The first tranche is \$250,000. Once 15 SEO's have been created, the second tranche of \$150,000 can be uplifted to create 25 SEOs, so 40 SEOs in total.

Council have supported (by resolution) the old Warehouse building in Kaitaia to be converted into a Te Hiku Community Hub/Basketball Stadium. This project is being driven by Northland Basketball and Te Hiku Iwi. Work is about to start on the Old Warehouse building to bring it up to code and we are supporting the Property Management team in creating a lease.

Community Development

Staff continue to support community-led initiatives and the rest of the business. Examples include supporting the Animal Management Team in the Aroha Voucher (De-Sexing) Programme of work, working across Council and with contractors and our communities to identify projects for TIF consideration, Towai Market, fibre to Mangamuka, and Totara North Community Plan implementation which includes relocation of the old Kerikeri Domain playground to Totara North.

COVID-19 lockdowns have slowed up our community plan work as public meetings have been on hold, however the Awanui Community Plan meetings are planned to begin in February with one meeting already having been held between staff and the Awanui Community Board representative to develop an appropriate approach.

Community Plan - Bulk Refresh	Progress
Opononi-Omapere refresh 2010 plan	Green
Ohaeawai refresh 2007 plan	Green
Okaihau refresh 2008 plan	Green
Awanui refresh 2008 plan	Green
Pukenui-Houhora refresh 2007 plan	Red
Taipa, Oruru, Parapara, Paranui and Peria refresh 2010 plan	Yellow
Moerewa refresh 2007 plan	Yellow
Whangaroa refresh 2011 plan	Green
Kaikohe refresh 2019 plan	Yellow

Community Boards

The Community Board Working Party's priority project to empower community boards gained traction during the past few months. The Community Development team has committed to designing a suite of processes and policies that will finalise and incorporate strategic plans in Council's statutory planning cycles, enabling them to better exercise their delegated authority. Strategic plans will continue to be a highlight in the team's work programme leading up to the next local body election when each Board's plans will be adopted by the outgoing Board and received by the incoming one. In the meantime, the framework will continue to be developed so that it is ready for the new triennium.

Youth Programme

Our Far North Youth Council (FNYC), supported by Councillor Rachel Smith, has supported the vaccination drive for our District. They ran a competition where youth were asked to send in a photo of their vaccine card and go in the draw to win 1 of 10 \$50 prezzie gift cards. We had 20+ entries on our @Instagram page and the winners' prizes were posted out. This was a great initiative, and we are planning for the FNYC to be more involved and active in community activities in 2022.

The final candidate of our Outward-Bound scholarship programme was scheduled to attend the course in Anakiwa in November, but due to the Far North being at alert level three in the weeks prior to travel, Outward Bound pushed the start date out to April 2022. Two other candidates have completed their courses.

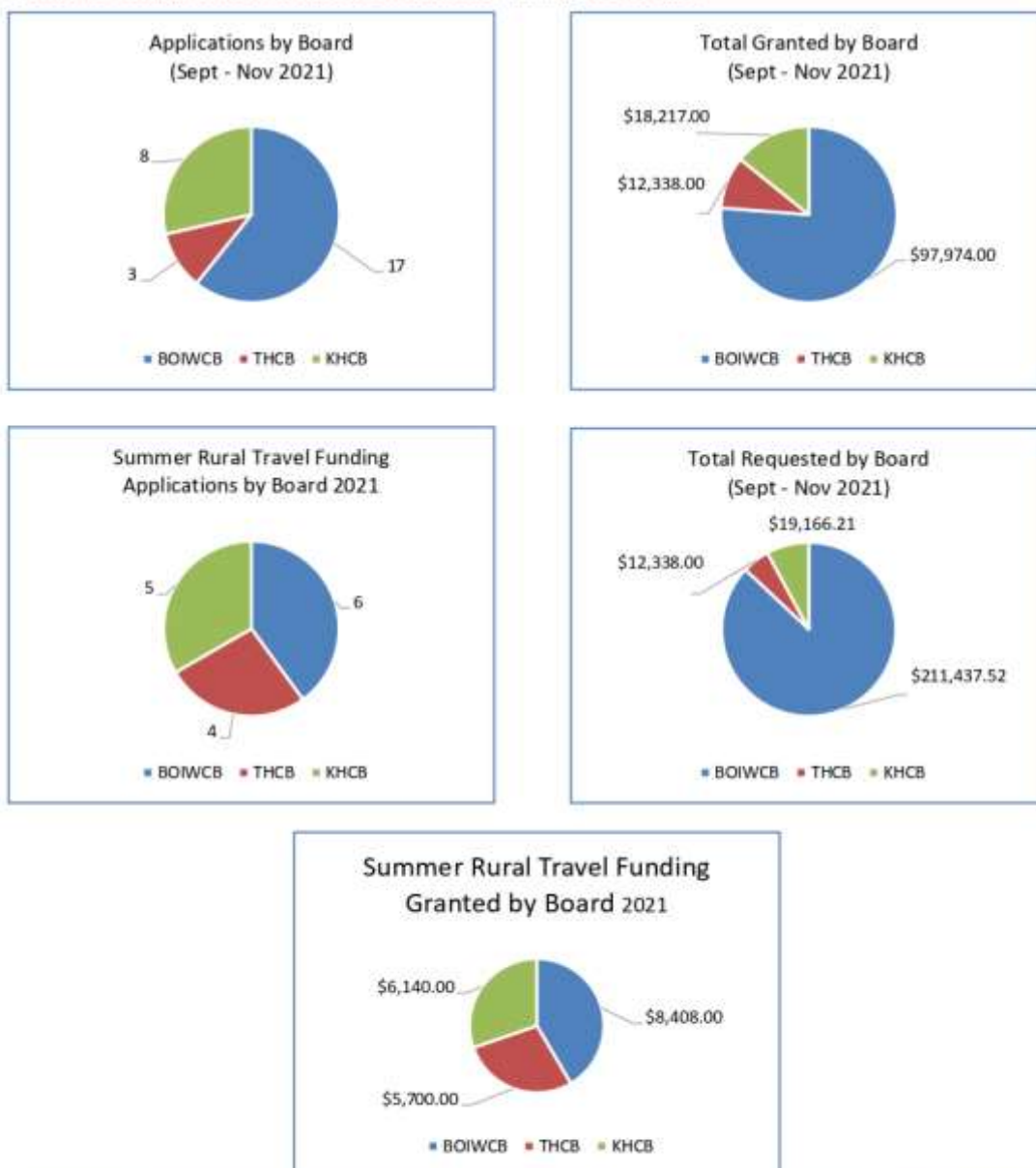
Our 2021 TUIA youth delegate, completed their programme in mid-November. TUIA trialed Regional Hubs for the first time around Aotearoa in Northland, Bay Of Plenty, East Coast, Wellington and the South Island. Anyone unable to attend a Regional Hub connected into wananga via Zoom. The Northland hub was held in Whangarei. Our Northland delegates (teina) liked the Regional Hub because it gave them that sense of being a part of the *Marae Style* wananga that TUIA traditionally ran pre COVID-19. Our two mentors (tuakana) from previous years helped in making our hub as enjoyable as possible with lots of laughing and yummy kai for us all.

Funding

Rural travel funding applications for summer are usually lower than in winter, and we noted the number of applications was lower still, as many sports activities have been unable to go ahead or be confirmed due to COVID-19 restrictions. We anticipate higher application numbers in the winter round (mid 2022).

We have been successful in securing \$205,550 of Northland Regional Council’s Regional Sporting Facilities Funding for the new Kerikeri Squash facility. This project now has just over \$900,000 available however it is still underfunded, and staff continue to work with Kerikeri Squash to identify and apply for alternative funding sources.

With the significant increase in Community Board funding to distribute, we are very grateful to have had an additional Funding Advisor recruited to increase our funding team to two.



Engagement

Strategic Planning and Policy's engagement team achieved a milestone with practitioner certification in the International Association of Public Participation (referred to as IAPP or IAP2). IAP2 gives us a best practice engagement and consultation foundation that we will use to formalise a centre of excellence that will be available to all in the organisation in the form of philosophy, guidance, and tools. It is expected that the engagement team will continue to maintain an advisory role for most consultation and engagement, with a hands-on approach for anything that needs specialist support and attention. The team have been busy doing their accreditation, building tools, and taking a lead role in several high-profile engagement activities including climate change, consent renewals, representation review and more.

Engagement Programme

Project	Team	Engagement status	Highest level of community engagement (IAP2)
Climate Change	SPP	Design	Empower
Discharge to Land Investigations – Kaikohe	IAM	Plan	Consult
Discharge to Land Investigations – Kaitaia	IAM	Plan	Consult
Easter Sunday Trading Policy	SPP	Plan	Consult
Engineering Standards	IAM	Manage	Consult
Freese Park	IAM	Manage	Involve
Hihi WWTP RC Renewal	IAM	Design	Consult
Hihi WWTP upgrade	IAM	Plan	Involve
Housing (Accelerated Inf.)	SPP	Design	Involve
Innovating Streets Kaikohe	NZTA / NTA	Manage	Collaborate
Innovating Streets Kawakawa	NZTA / NTA	Manage	Collaborate
Innovating Streets Moerewa	NZTA / NTA	Manage	Collaborate
Kaeo WWTP Consent Renewal	IAM	Design	Consult
Kaitaia Golf Course Project - land-based discharge	IAM	Design	Involve
Kaitaia Stormwater (Commerce Street)	IAM	Design	Inform
Kaitaia WWTP Consent Renewal	IAM	Manage	Consult
Kerikeri Domain	ESEO / PGF	Manage	Collaborate
Kerikeri off leash dogs	IAM	Manage	Consult
Kerikeri Sport Complex Trees	IAM	Design	Consult
Kerikeri Waipapa Spatial Plan	SPP	Design	Collaborate
Manawhaka Hono a Rohe - Nga Puhi	SPP	Design	Collaborate
Moerewa Stormwater	IAM	Plan	Inform

Project	Team	Engagement status	Highest level of community engagement (IAP2)
Naming Policy	SPP	Design	Involve
Onsite Wastewater Disposal Systems Bylaw	SPP	Manage	Consult
Open Spaces Strategy	SPP	Identified	Collaborate
Paihia Water Supply	IAM	Design	Consult
Parking Bylaw	SPP	Manage	Consult
Parks and Reserves Policy	SPP	Plan	Inform
Proposed District Plan Notification	SPP	Plan	Consult (RMA)
Regional Accessibility Strategy	IAM	Design	Collaborate
Road use (signage)	SPP	Manage	Consult
Taipa WWTP Consent Renewal	IAM	Manage	Collaborate
Vehicles on Beaches	SPP	Plan	Consult

District Planning

Introduction

The District Planning Department has the responsibility of creating and maintaining the District Plan. This is Council's main planning tool to achieve the sustainable management of the district's natural and physical resources, as required by the Resource Management Act 1991. The plan is a living document that must be updated to align with national direction and the changing nature of the district's resource management issues. In addition, plan content must be subject to a review within a minimum of ten years and a consolidated review of the District Plan is currently underway.



What we do and how we do it

The following are key contributors to the development of the draft plan supported by public participation:

1. *The role of a district plan under the RMA is to manage land use and subdivision. The plan has a ten-year life and certain content is subject to review within shorter periods. A consolidated review is being undertaken to align with a range of national and regional directions that have direct implications for far north communities.*
2. *The Plan is being authored in accordance with new national planning standards, changing the structure of the plan and incorporating mandatory content.*
3. *The Plan must also play a role in representing a new strategic direction for the district. The Plan's ten-year lifespan must bring together strands from Council's long term strategic direction that will be represented in FN2100 whilst demonstrating how we can meet our statutory requirements to ensure that the supply of zoned land and infrastructure meets the district's expected demands for housing and business land.*
4. *The Plan has been developed in a new digital format designed to allow more direct access to site specific information, allowing individuals, landowners, and communities more direct access to property information and how land use and subdivision is managed. This new format will require guidance and support to maximise utility and efficiency.*

Executive Summary

This section outlines the activities undertaken by the District Planning Department for the October – December 2021 period.

Developing the District Plan – Progress

The draft District Plan was released for community feedback on 6 March 2021. The non-statutory engagement allowed for Far North communities to become aware of the new draft plan, understand how it may affect them and provide feedback on key issues. Further discussion with Far North communities, stakeholders and iwi authorities has continued through the period from May to October with targeted engagement.

The consolidated review of the plan has been developed to incorporate the following updates and changes to the resource management methods:

- Incorporation of new engineering standards, representing replacement of out-of-date standards and references
- Adopting an activities-based plan – getting the right activities in the right place, as opposed to the operative effects-based plan
- Creating a new framework for supply of development capacity (zoned land and development infrastructure) allowing for improved programmed approaches to service existing and future housing and business land demands
- Creating supply of housing density, diversity of housing typology and business land supply including the ability to achieve up to 3 times the density of housing in residential zones and further capacity in new mixed-use zones in town centres
- Responses to national direction including the 2011 New Zealand Coastal Policy Statement
- Giving effect to the 2016 Northland Regional Policy Statement
- Identifying land subject to natural hazards incorporating our updated understanding of the diversity of natural hazards and the effects of climate change and plan methods for management

Focus of the October to December Quarter

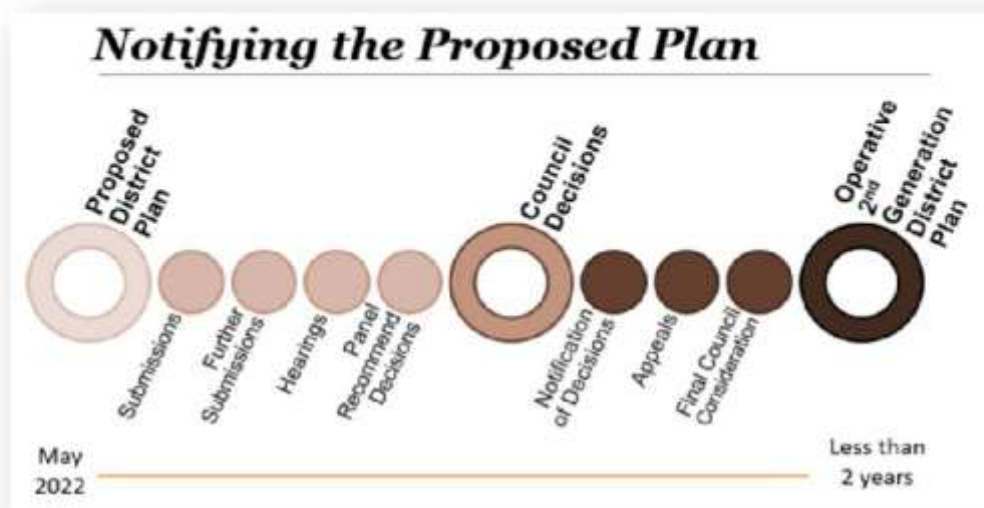
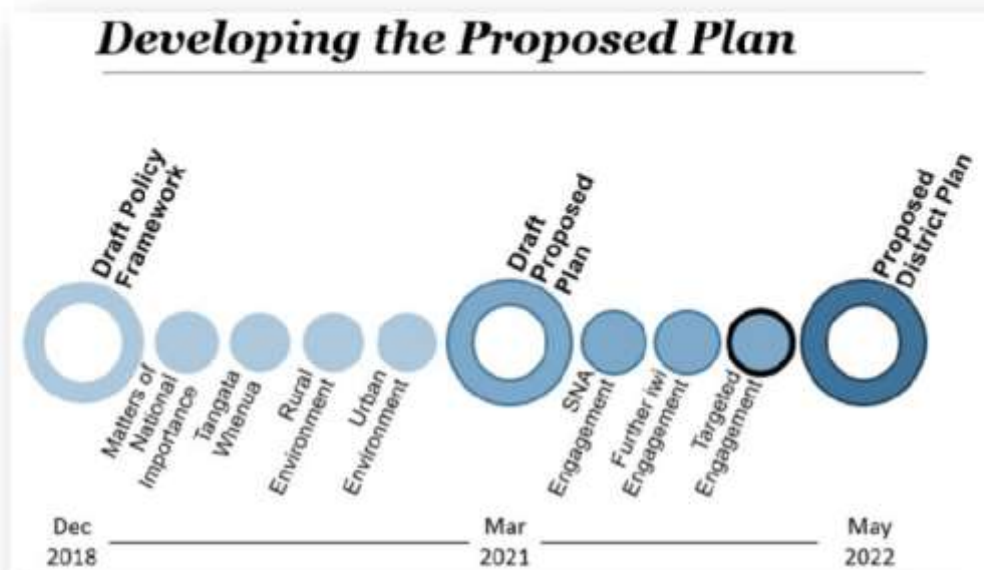
There are three key processes that continue to be developed as part of the draft plan process and have influenced the completion timeframe for the proposed plan and the subsequent notification of the proposed plan. The issues that have dominated the quarter have been:

- consultation with tangata whenua through Iwi Authorities
- targeted engagement on Heritage Areas
- updating hazard maps with new region wide flood maps and associated data.

The new e-plan format of the district plan provides for efficient digital cross referencing and plan content integration of provisions with spatial data. This requires detailed analysis and quality assurance processes to offer the cohesive and functional e-plan platform. This work has been a focus in the quarter and will be dominating the plan finalisation process prior to notification.

The team have also contributed to cross Council planning processes including the Kerikeri Waipapa Spatial Plan, where the future development strategic approach for the urban environment is being evaluated. The District Plan will set a new baseline for future development, and it is important to consider the most effective and efficient means to provide for integrated development capacity, consisting of zoned land and development infrastructure.

Two separate timelines set out below summarise the process and key steps and dates for plan development. The first timeline identifies the process for consulting on the draft district plan and developing the proposed plan. The second timeline identifies the notification date for the proposed Plan in May 2022 and subsequent steps for public participation.



A series of elected member workshops have been programmed for February 2022 to allow for elected member discussion on key plan content including Tangata Whenua Provisions, Historic Heritage and Heritage Areas, Indigenous Biodiversity and responses to Urban Growth, appropriate information, options, and recommendations to achieve sustainable management outcomes through the district plan. This includes a briefing on next steps for suggested Heritage Areas.

A final version of the proposed plan will be brought to the 3 May 2022, Strategy and Policy Committee meeting for elected member authorisation for notification.

Strategy Development

Introduction

The Strategy Development Team includes Strategy (including spatial planning) and Policy Development (including regulatory policy in the form of bylaws) and Climate Change.



Team Goal

To be the centre of excellence for the development of policy and strategy at the Far North District Council.

Team Kaupapa

- *We are committed to learning and growing as individuals and as a team*
- *We leverage the shared strengths, experiences, and differences in our team*
- *We question assumptions and norms to develop robust and reliable policy advice*
- *We form productive relationships with our peers and the community*
- *We effectively communicate what we are working on with each other, the wider Council, and the community*
- *We celebrate our successes*
- *We prioritise our work based on what is important and not on what others might consider is urgent*

Policy Management Framework

The process to develop a new policy takes approximately 18 to 24 months from project initiation to implementation. These are managed as individual projects with many projects dictated by legislative requirements.

Far North District Council has developed a Project Management Framework for policy and engagement projects. Policy and engagement projects include strategy development (including spatial plans), strategic policy and regulatory policy (bylaws). An overview of the different stages of bylaw and policy development are as follows:

Research:	Legislative requirements, evidence analysis, initial engagement with key parties, scoping, problem definition
Conceive:	Options analysis and assessment, options report
Design:	Early engagement, drafting, implementation planning, consultation, and engagement planning, legal assessment, proposal report
Consult:	Formal consultation, engagement activities, oral submissions, submission analysis, re-drafting, adoption report
Activate:	Formal notification, implementation

Status of Policy Projects

The following tables provide a status of the active strategy, policy, and bylaw development projects.

Status Key





- on target to complete policy project
- at risk of not completing on time
- will not meet dates without major interventions and / or decision by Council





Strategy Development

Strategy Project	Current Stage	Actions Undertaken October - December	Next Touchpoint	Status
Far North 2100	Activate	Council adopted Far North 2100 on 4 November 2021.	Activation Plan to be developed in 2022 and reported to 22 March 2022 Strategy and Policy Committee.	●
Regional Climate Change Adaptation Strategy: Climate Change Roadmap	Consult/Activate	Draft Strategy developed and submitted to Joint Committee Climate Change on 29 November 2021	<ul style="list-style-type: none"> Strategy for adoption by the Strategy and Policy Committee on 22 March 2021 for adoption by Council on 7 April 2022 14 April 2022: Workshop with elected members and community board chairs on case study sites for climate change adaptation planning. 	●
Population Reforecast	Activate	Infometrics awarded the contract for the population reforecast	First population reforecast due first quarter 2022	●
Kerikeri/Waipapa Spatial Plan (Revision of the Kerikeri/Waipapa Structure Plan 2007)	Research	<ul style="list-style-type: none"> Kick off workshop with elected members - 22 September 2021 Workshops with staff lead by principal consultant Engagement planning underway with first engagement events planning for February 2022. 	Paper on timeframes and options for the development of the Kerikeri/Waipapa Spatial Plan to 8 February 2022 Strategy and Policy Committee	●

Strategy Project	Current Stage	Actions Undertaken October - December	Next Touchpoint	Status
Te Waka Hourua – Far North Spaces & Places (Facilities) Plan 2021-2030	Activate	Council approved the support in principle of the Far North Spaces and Places Plan on 4 November 2021	Enablement/Activation Plan to be developed in support of 2022 Annual Plan as per the resolution from the 11 October 2021 Strategy and Policy Committee.	
Open Spaces Strategy	Research	Project planning commenced	Second quarter 2022: Information paper on initial steps for an Open Spaces Strategy	
Art, Culture, and Heritage Strategy	Concept	Project concept to be developed	First quarter 2022: Options paper on way forward for an Arts, Culture and Heritage Strategy	
Solid Waste Strategy	Research	Project planning commenced	Second quarter 2022: Information paper on initial steps for a Solid Waste Strategy	
Stormwater Strategy (supporting Infrastructure and Asset Management)	Research	<ul style="list-style-type: none"> Project Planning commenced Engagement planning commenced 	Options report to Committee March 2022	
Regional Accessibility Strategy (support Whangarei District Council as the lead Council)	Research	<ul style="list-style-type: none"> Information report delivered to Northland Forward Together 23 November 2021 Information report to Committee 24 November 2021 Engagement planning commenced 	Options report due to committee second quarter 2022	

Policy Development

Policy Project	Current Stage	Actions Undertaken October - December	Next Touchpoint	Status
Climate Change Assessment Policy: Climate Change Roadmap	Research	Principle Consultant (Te Whakahaere) engaged to lead the development of the policy.	27 January 2022: Climate Change assessment policy workshop with elected members	
Roading Policy Review (8 policies)	Activate	<ul style="list-style-type: none"> Options report presented to Committee 19 October 2021 Options report presented to Council 04 November 2021 Implementation of decisions underway Website updated 	Project complete. Two separate policy projects underway (see below)	
Community Initiated Infrastructure Roading Contribution	Design	<ul style="list-style-type: none"> Council agreed to continue with amendment 04 November 2021 Drafting research commenced 	Workshop to discuss funding criteria second quarter 2022	
Limits of Council Responsibility for Formation Maintenance of Roads	Design	Internal engagement commenced	Proposal report due to Committee third quarter 2022	
Class 4 Gambling and TAB Venue	Conceive	<ul style="list-style-type: none"> Research ongoing Initial Workshop with Elected members 15 December 2021 	Options report to Committee 8 February 2022	
Equity and Access for People with Disabilities	Conceive	<ul style="list-style-type: none"> Research completed Options analysis and assessment completed 	Options report to Committee 8 February 2022	
Litter Infringement Policy	Conceive	<ul style="list-style-type: none"> Research completed Options analysis and assessment completed Options report to Committee 24 November 2021 Options report to Council 16 December 2021 Public Notice complete 	Project Complete	





Policy Project	Current Stage	Actions Undertaken October - December	Next Touchpoint	Status
Naming Policy	Design	Engagement planning underway	Workshop to discuss engagement outcomes second quarter 2022	
Reserves Policy	Design	<ul style="list-style-type: none"> Engagement and consultation planning completed Internal workshop completed Drafting completed 	Final report to Committee 8 February 2022	
Easter Sunday Trading	Conceive	<ul style="list-style-type: none"> Research underway Options analysis and assessment complete Engagement planning underway Initial engagement complete 	Options report due to Committee 8 February 2022	
Parking	Conceive	<ul style="list-style-type: none"> Research completed Options analysis and assessment underway Engagement planning underway 	Options report due to Committee 22 March 2022	

Next tranche of proposed policy development projects awaiting concept development and approval

- Smokefree Environments
- Placemaking policies (subject to change)
 - Placemaking Policy
 - Urban Design Guidelines
 - Street Lighting
 - Footpaths
 - Tree Management / Noxious Plant Control

Bylaw development

Bylaw Project	Current Stage	Actions Undertaken October – December	Next Touchpoint	Status
Parking Bylaw	Design	<ul style="list-style-type: none"> Formal consultation completed 15 October 2021 Oral submissions heard 26 October 2021 Analysis of submissions underway Technical review of recommended changes underway 	Final Draft report due to Committee by 3 May 2022	
Road Use Bylaw	Design	<ul style="list-style-type: none"> Formal consultation completed 15 October 2021 Oral submissions heard 26 October 2021 Analysis of submissions underway Technical review of potential changes underway Workshop with Elected Members regarding Vehicles on Beaches 15 December 2021 	Final Draft Report for to Committee by 3 May 2022	
On-site Wastewater Disposal System	Design	<ul style="list-style-type: none"> Formal consultation completed 15 October 2021 Oral submissions heard 26 October 2021 Analysis of submissions completed Drafting of recommended amendments to bylaw undertaken Final report completed to be presented to committee 	Final Draft report due to Committee 22 March 2022	
Solid Waste	Consult	<ul style="list-style-type: none"> Analysis of submissions completed Final report presented to Committee 24 November 2021 Final report presented to Council 16 December 2021 	Project completed	
Speed Limits	Ongoing	<ul style="list-style-type: none"> Formal consultation completed on proposed amendments to the Speed Limits Bylaw within the Kaitiāia-Awaroa; Broadwood-Kohukohu; and Moerewa urban areas, as well as on Te Oneroa-a-Tōhē / Ninety Mile Beach Oral submissions heard 26 October 2021 and 02 November 2021 Analysis of submissions underway 	Report due to Committee first quarter 2022	

Bylaw Project	Current Stage	Actions Undertaken October - December	Next Touchpoint	Status
Pou Herenga Tai Twin Coast Cycle Trail	Design	<ul style="list-style-type: none"> • GIS mapping completed • Drafting of potential amendments completed • Engagement underway 	Draft and Proposal for consultation due to Committee 22 March 2022	
Vehicles on Beaches	Conceive	<ul style="list-style-type: none"> • Research completed • Workshop with Elected Members 15 December 2021 • Options analysis and assessment completed 	Options Report due to Committee 8 February 2022	
Reserves	Design	<ul style="list-style-type: none"> • Drafting of Bylaw underway • Engagement planning underway 	Draft and proposal for consultation due to Committee 3 May 2022	
Maritime Facilities and Mooring Charges	Research / Conceive	<ul style="list-style-type: none"> • Research completed by Allen and Clarke • Options analysis and assessment completed by Allen and Clarke • Workshop with Elected Members 15 December • Final report completed to be presented to Committee 	Options report due to Committee 8 February 2022	

Next tranche of bylaw development projects awaiting concept development and approval

- Animal Control
- Nuisances

Te Hono

Introduction

The purpose of Te Hono is to:

- Support the organisation, leadership, and its groups/departments to build and maintain enduring relationships with Iwi/Māori
- Act as key contact to provide navigation support to Iwi/Māori for Council processes and policies
- Support the organisation to develop capabilities and competencies to engage effectively with Iwi/Māori






To advance the above over the next 3 years, our work programme is clearly set out in Te Pae Tawhiti [Council’s 2021-31 Long Term Plan] – Te Mahi Tahī me Te Māori [Working with Māori]. Additionally, we will need to be adaptable to the changes within Local Government through legislation, meaning some priorities may change as others emerge or take greater precedence. The work being undertaken is set out in the tables below.



Work Programme

Status Key

- on target
- in progress
- stalled or not started

Project	Progress	Milestones	Expected completion	Status
Undertake a Tiriti Audit to assess the organisations performance in acting in accordance with statutory obligations; and to understand opportunities for improvements	Investigation of other Councils who have undertaken the audit and outcomes. Discussion of a joined-up contract across Northland TLAs to lessen costs	Investigation complete	February 2022	●
		Course of action decided	March 2022	
	Discussions are taking place. WDC	Contract or through recruitment, undertake audit	May 2022	
		Report results	July 2022	
		Organisation agrees implementation	August 2022	
		Funding, if required, in time for Annual Plan 23/24 for consideration		

Project	Progress	Milestones	Expected completion	Status
Work with Māori to co-design a mechanism to enable Participation of Māori in decisions of Council – at a governance level	Discussion underway with Elected Member - Te Ao Māori Portfolio. Decision to proceed and engage but likely outcome is not to make significant committee changes until new Triennium.	Mandate and support from Te Kahu o Taonui Membership of Working Group Start co-design Implement	Feb 2022 March 2022 April 2022 New Triennium	
Provide an annual contestable fund to assist two Māori in the Far North to attend the Making Good Decisions Course	Investigated timetable for courses in Auckland and requested consideration be given to Whangarei in the new Year Courses for 2022 have not been scheduled yet	Confirmation of 2022 Dates Advertise and promote Selection (and process)	February 2022	
Develop a Competencies Framework to grow the responsiveness capabilities of staff to Māori	Having the capability in Te Hono to deliver is paramount and is part of recruiting the right talent. Included in the development of the framework will be an internal Te Reo Policy Research Current thinking for framework is: All of organisation – the basic competencies, then stepping up: Those who engage occasionally Those whom engagement is a core component of their BAU The Leadership Team	Kaiarahi Recruitment Planning and research are underway on existing frameworks Organisation mandate Framework levels and content Replicate and reinforce is ongoing	Completed	

Project	Progress	Milestones	Expected completion	Status
Provide Information sessions on legislative obligations to Māori, Treaty settlement legislation, environmental management plans and on Māori perspectives	<p>The first of these are being developed for the first on-boarding session for new staff. Once this is completed and assessed will develop targeted sessions to other parts of the business.</p> <p>Trial completed - discussion underway with P & C for onboarding</p>	<p>Trial assessment at on-boarding</p> <p>Content and approach evaluation</p> <p>Wider rollout</p> <p>Targeted sessions</p> <p>Replicate, adapt and reinforce is ongoing</p>	<p>Oct 2021</p> <p>February 2022</p>	
External Te Reo Policy and/or guidelines	The internal policy will be developed in 2022. The external policy or guidelines will be developed alongside LINZ, who have the Far North programmed for 2023. As many of the requests beside Road naming are for reserves, waterways, maunga, it is expedient to align processes within the policy implementation or in guidelines.	Waiting on LINZ. Schedule for engagement and naming in the Far North	2023	

Māori Relationships

Māori Representation

Having resolved to establish Māori seats on Council for the 2022 and 2025 Local Body Elections, a proposal was developed and will be considered by the Local Government Commission. Te Hono has 4 fluent Te Reo speakers, so will bring translation services back in-house. Te Hono will work alongside the Corporate Services Governance staff member appointed to run the 2022 Local Body Elections to develop media and other material in Te Reo Māori to support increasing participation for the election of Councillors to Māori Wards.

Māori Participation in Council Decision-making

Alongside the provision for Māori representation, Council also resolved to ensure a mechanism to allow greater Māori input into decisions. In doing so, Council was also cognisant of the feedback they received from iwi during discussions about Māori representation, that Council should look to co-design a mechanism/s with Māori. While the working party will be in place and direction of travel determined, it is likely, given the short time frame before the 2022 Elections, that implementation will occur in the new Triennium.

Ongoing Iwi/Hapū Relationships

Over the reporting period Te Hono has provided support to:

- 2 meetings of the Te Oneroa-a-Tōhe Beach Management Board
- 2 meetings of the Iwi Local Government Authorities Chief Executive Forum (ILGACE)
- IAM staff with Mana Whenua engagement for Hihi Wastewater Plant and Kaeo Wastewater Plant Resource Consent Renewal
- The Climate Change Adaptation Group (led by Kaipara District Council) to develop a Mana Whenua engagement framework (led by Whangārei District Council)
- The 3 Waters Transition Team (Tangata Whenua engagement) – led by Auckland City

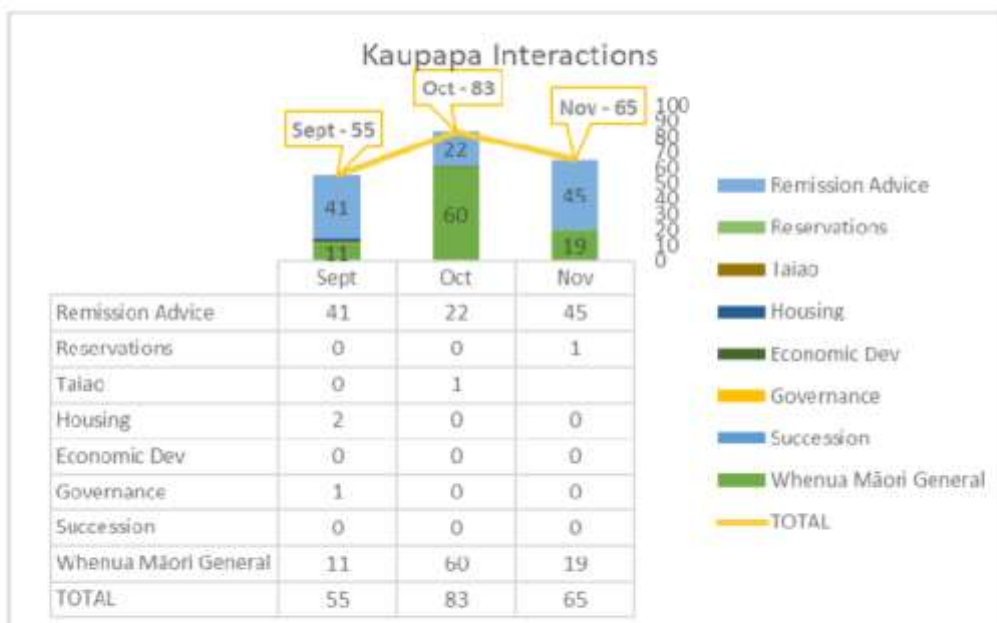
Māori Development

Whenua Māori / Rating

The implications of the Local Government (Rating of Whenua Māori) Amendment Act 2021 on internal processes continue to be a focus for the Team. A mailout to 1500 property owners has been completed and owners have been advised that their whenua has been identified as non-rateable and that any arrears will also be written off. Should enquiries be received in relation to becoming non-rateable, a new Request for Service code has been created whereby the Rating Team can assist the customer.

Te Hono interactions with customers by Kaupapa

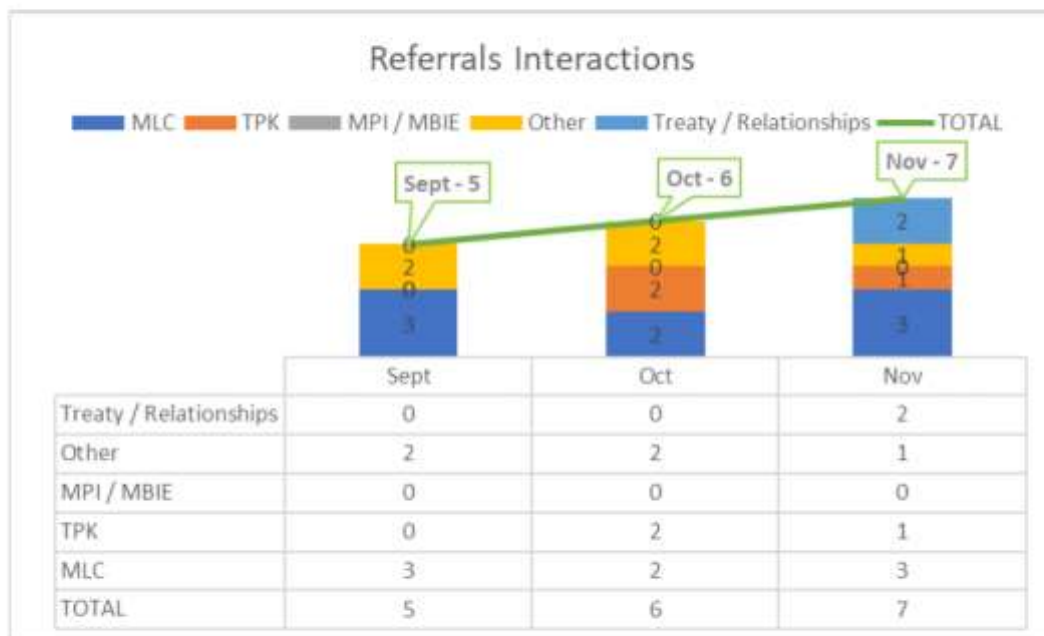
The volume of staff interactions with customers has been steady this last quarter but there is a small but noticeable decline since the legislative changes to the Rating of Whenua Māori, with remissions reducing from 163 for the last quarter to 108.



The highest single volume of interactions (60 in October) for general enquiries around whenua Māori. Examples of the types of enquiries range from transaction histories to legal rights.

Referral interactions

Referrals to external / other agencies continue to reduce (24 last quarter to 18) indicating that customers are becoming more informed and knowledgeable prior to their contact with FNDC along with better advice at first point of contact.



“Whenua Māori Expo” - a multi-agency initiative

The coordination of a regional “Whenua Māori Expo” has been ongoing from April 2021. This is a multi-agency approach being led by the Māori Land Court and Te Puni Kōkiri with Far North District Council, Kaipara District Council, Whangārei District Council and Northland Regional Council.

The overarching intent of the expo has been to share with whenua Māori landowner’s, advice on what they need to do to derive economic and/or social benefit from their land - what funding assistance can be accessed, what Council processes need to be fulfilled.

Due to the August COVID-19 Delta variant alert, it has been agreed amongst the agencies to defer holding this event until early 2022 (originally planned to be held over September 2021). An online information sharing forum identified an interim platform to begin engaging with Whenua Māori landowners. The forum took place in November 2022 and was supported by Te Hono and the Council Rates Team.

Agencies were wanting to continue the momentum of collaboration by having a combined booth/tent at the 2022 Waitangi Day events, before embarking on the actual Expo, with dates that were planned to be staggered from February through to April 2022, as opposed to condensing to four weekends across one month. The cancellation of Waitangi Day commemorations led to the cancellation of the multi-agency booth/tent and the current red traffic light in Northland will mean that the expo timetable will be revisited in early 2022.

Digital Strategy

Executive Summary

Nothing But Net (NBN) is an award winning, community led strategy to deliver and bridge the digital divide across the Far North. Focussed on digital equity, affordability, education, and economic growth across the region, whilst engaging and reviewing outcomes with the communities we support.



A newly appointed Programme Manager with excellent networks and relationships with all Northland Councils (having been Spark's relationship manager for all Council's) started 15 November 2021 and will implement the Nothing But Net strategy.

Goals for the Far North Digital Strategy – 3-year outlook – Nothing But Net:

- **Tuhono** - Connect. The Far North will have world class mobile and broadband infrastructure by 2023 and every school aged child will have internet access in the home.
- **Whakatipu** - Grow. The Far North will challenge the pre-covid economic model and use technology to create a new state of being that embraces disruption, collaboration and localism and has positive social impacts.
- **Korero mai, Korero atu** – Speak up, Speak out. The Far North will be known as a tech-friendly district with a skilled workforce.
- **Manaaki** – Care. Our people will be digitally literate and have the support they need to use connectivity to help take better care of themselves, each other, our culture and our environment.
- **Whakarato** – Deliver. The Far North District Council will embrace new technology and use connectivity to create great places and support our people.

Key Achievements

- Joined and actively participating in the Northland Digital Enablement Group, made up of the four Northland Councils and Northland Inc.
- Engaged with the Community Board and beginning to understand their requirements.
- Working with the Tourism Infrastructure Funding (TIF), as there is cross-over to the Nothing But Net strategy around public Wi-Fi. Working to finalise and agree outcomes.
- Developing a Public Wi-Fi stream to “fill the gaps” in coverage areas and leverage current digital infrastructure. With a future focus on Smart Cities.
- Working closely with several partners, including Chorus, Spark, Takiwa and others to provide community outcome initiatives for the Far North.
- Initial meeting with the Ngawha Innovation & Enterprise Park, around developing a Digital Lab, for education in Ngawha and Kaikohe.
- Developing a plan to work with local providers and Te Kona (Kaikohe) around digital learning programmes, with outcomes for internships, scholarships, and further education.
- Created and working on a monthly NBN Steering Group, to determine cadence, outcomes, and deliverables, in an agile way.

Looking ahead - next quarter:

- Workshop with Spark, including their mobile team, Māori Development team and Spark Foundation.
- Joined the Digital Equity Coalition Aotearoa (DECA). Meeting around affordability in Feb 2022.
- Organising meetings with other Partners for the future state objectives of the Nothing But Net Strategy, including the Digital Marae programme & Network for Learning (N4L) to leverage their networks and community engagement.
- Proof of Concept (PoC) for public wi-fi, late January, early February 2022
- Delivery of the TIF public Wi-fi, February/March 2022 (to cover Paihia, Opua and Russell).
- Progressing and developing the Ngawha Innovation Park and getting partners to work with Far North District Council to assist in delivery solutions.
- Continued active engagement with the Northland Digital Enablement Group, with cooperation around the Digital Strategy to cover all of Northland.
- Developing a Nothing But Net – Plan on a Page.

6.2 STRATEGY AND POLICY ACTION SHEET UPDATE JANUARY 2022

File Number: A3562863

Author: Marlema Baker, Meetings Administrator

Authoriser: Aisha Huriwai, Team Leader Democracy Services

TAKE PŪRONGO / PURPOSE OF THE REPORT

To provide the Strategy and Policy Committee with an overview of outstanding decisions from 1 January 2020.

WHAKARĀPOPOTO MATUA / EXECUTIVE SUMMARY

- Action sheets provide the meeting with oversight of decisions not yet implemented.
- This report and attachment are as at January 2022.
- There were 10 outstanding action sheet items.
- A verbal update on the Action Sheet items will be provided at the request of the committee members.

TŪTOHUNGA / RECOMMENDATION

That the Strategy and Policy Committee receive the report Action Sheet Update January 2022.

1) TĀHUHU KŌRERO / BACKGROUND

The Democracy Services Team have been working on a solution to ensure that elected members can receive regular updates on progress against decisions made at meetings, in alignment with a Chief Executive Officer key performance indicator.

Action sheets are a mechanism to communicate with elected members, progress by staff on implementing resolutions of a formal meeting.

2) MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND OPTIONS

This report includes 19 outstanding items. A majority of the outstanding tasks are multi-facet projects that take longer to fully complete.

The Democracy Services staff are working with staff to ensure that the project completion times are updated so that action sheets provided to members differentiate between work outstanding and work in progress.

Staff are encouraged to provide commentary that keeps in mind

- Consistent wording indicating a traffic light, on track off track terminology.
- The date and promise culture that the organisation strives for.

Take Tūtohunga / Reason for the recommendation

To provide the Strategy and Policy Committee with an overview of outstanding committee decisions from 1 January 2020.

3) PĀNGA PŪTEA ME NGĀ WĀHANGA TAHUA / FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION

There are no financial implications or need for budgetary provision in receiving this report.

ĀPITIHINGA / ATTACHMENTS

1. ACTION SHEET - SPP January 2022 - A3562866 [↓](#) 

OUTSTANDING ACTIONS REPORT			
Division: Committee: Strategy and Policy Committee Officer:		Printed: Monday, 24 January 2022 5:19:45 pm Date From: 1/01/2020 Date To: 24/01/2022	
Meeting	Title	Resolution	Notes
Strategy and Policy Committee 30/07/2020	Options Report - Parks and Reserves General Policies Development	<p>COMMITTEE RESOLUTION 2020/3</p> <p>Moved: Cr Moko Tepania Seconded: Cr John Vujcich</p> <p>The Strategy and Policy Committee agrees and recommends to Council that new general policies for the management of parks and reserves be developed.</p> <p style="text-align: right;">CARRIED</p> <p>Note: The Committee requested the minutes note that the process needs to be inclusive of Community Boards in recognition of their delegations.</p>	<p>27 Oct 2020 11:36am Hammond, Kim - Reallocation Action reassigned to Sargent, Chris by Hammond, Kim - Caitlin entered this report on behalf of Chris</p> <p>08 Mar 2021 4:15pm Hammond, Kim - Reallocation Action reassigned to Ackers, Roger by Hammond, Kim - This was assigned to Chris Sargent - reassigning to you.</p> <p>12 Oct 2021 11:29am Baker, Marlema - Reallocation Action reassigned to Macken, Briar by Baker, Marlema - Reallocated this action item as per your request</p> <p>12 Oct 2021 11:29am Baker, Marlema Briar Macken - "The Parks and Reserves policy is in the process of being drafted. Engagement with Elected Members and Domain Boards has been undertaken. Planning regarding engagement with iwi / hapū is underway."</p> <p>29 Oct 2021 3:33pm Andersen, Gayle Update on behalf of Ross Baker, • That two separate internal staff workshops have been held, followed by an elected members workshop held on 10 June 2021, • A questionnaire was presented to and responses received from the Domain Boards and Reserve Committees, • Drafting of the Parks and Reserves Policy is nearly completed, • A final staff internal workshop on the wording of the draft Parks and Reserves Policy is scheduled for 19 November 2021, • It is proposed to present the draft Parks and Reserves Policy to the first SPP Committee meeting of 2022 for consideration and to seek approval to commence public consultation.</p>
Strategy and Policy Committee 23/03/2021	Solid Waste Bylaw Review	<p>RESOLUTION 2021/8</p> <p>Moved: Cr Kelly Stratford Seconded: Bay of Islands-Whangaroa Community Board Belinda Ward</p> <p>That the Strategy and Policy Committee recommends that the Council:</p> <p>a) agree, under section 155(1) of the Local Government Act 2002, the Solid Waste Bylaw 2016 is the most appropriate way of addressing solid waste problems in the Far North District</p>	<p>29 Apr 2021 10:36am Macken, Briar Next steps: Work on consultation requirements underway. Proposal due 20 July meeting.</p> <p>03 Sep 2021 9:09am Macken, Briar Formal consultation period completed. Oral submissions booked to be heard 07/09/2021. Analysis to be presented to committee 24 November 2021, Cross-Council solid waste strategic policy working group initiated to begin development on WMMP.</p> <p>03 Sep 2021 10:27am Hammond, Kim - Target Date Revision Target date changed by Hammond, Kim from 06 April 2021 to 02 January 2023</p>

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		b) agree, under section 155(2) of the Local Government Act 2002, the Solid Waste bylaw 2016: <ul style="list-style-type: none"> i) is the most appropriate form of bylaw ii) does not give rise to any implications under the New Zealand Bill of Rights Act 1990 c) agree the provisions of the Solid Waste Bylaw be reassessed in conjunction with the Waste Management and Minimisation Plan review, which is due by 2023, or after central government legislation comes into effect. <p style="text-align: right;">CARRIED</p>	
Strategy and Policy Committee 1/07/2021	Speed Limit Bylaw Review - Consultation and Timeline Update	COMMITTEE RESOLUTION 2021/25 Moved: Cr David Clendon Seconded: Cr Moko Tepania That the Strategy and Policy Committee: <ul style="list-style-type: none"> a) revokes the following resolution of the Strategy and Policy Committee made on 15 June 2021, Item 5.3 - Speed Limit Bylaw Review Statement of Proposal. <p style="text-align: center;">RESOLUTION 2021/1</p> Moved: Cr Kelly Stratford Seconded: Cr Felicity Foy <i>That the Strategy and Policy Committee:</i> <ul style="list-style-type: none"> c) confirms that the submission period will last for a period of six weeks from 29th June 2021 to 10th August 2021. <p style="text-align: right;">CARRIED</p>	

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		b) agree that the submission period will last for a period of six weeks from 12 July 2021 to 24 August 2021. CARRIED	
Strategy and Policy Committee 15/06/2021	Resident Opinion Survey	RESOLUTION 2021/20 Moved: Chair Rachel Smith Seconded: Cr Moko Tepania That the Strategy and Policy Committee agrees to the changes of the frequency for the Resident Opinion Survey from annually to quarterly in 2021/2022. CARRIED	09 Jul 2021 3:14pm Edmondson, Richard A report outlining how the Council will transition from an annual survey to a quarterly survey will go to the Strategy & Policy Committee meeting on 7 September. This report will also include the results of the 2020/21 survey.
Strategy and Policy Committee 15/06/2021	Speed Limit Bylaw Review Statement of Proposal	RESOLUTION 2021/22 Moved: Cr Kelly Stratford Seconded: Cr Felicity Foy That the Strategy and Policy Committee: a) adopt the attached "Statement of Proposal – Proposed Amendments to the Speed Limits Bylaw 2019" for consultation. b) agrees to undertake consultation on the proposed changes to speed limits set out in the attached Statement of Proposal in accordance with the Special Consultative Procedures set out in Section 83 of the Local Government Act 2002. c) confirms that the submission period will last for a period of six weeks from 29 th June 2021 to 10 th August 2021.	

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		<p>d) authorises the Chief Executive to make any necessary minor drafting or presentation amendments to the attached Statement of Proposal and to approve the final design and layout of the documents prior to final printing and publication.</p> <p>At 10:40 am, Chair Rachel Smith left the meeting and Cr Clendon took the Chair. At 10:43 am, Chair Rachel Smith returned to the meeting and took the Chair.</p> <p>At 11:00 am, Cr Kelly Stratford left the meeting. At 11:03 am, Cr Kelly Stratford returned to the meeting.</p> <p>At 11:15 am, Deputy Mayor Ann Court returned to the meeting.</p> <p style="text-align: right;">CARRIED</p> <p><u>Abstained:</u> Cr Ann Court</p>	
Strategy and Policy Committee 20/07/2021	Solid Waste Bylaw Consultation	<p>RESOLUTION 2021/27</p> <p>Moved: Deputy Mayor Ann Court Seconded: Cr Kelly Stratford</p> <p>That the Strategy and Policy Committee:</p> <p>a) agrees, under section 160(3)(b)(ii) of the Local Government Act 2002, to consult on the continuation without amendment of the Solid Waste Bylaw in a manner that gives effect to the requirements of section 82 of the Local Government Act 2002, noting that Central Government is in the process of consulting and implementing several waste related proposals which may impact bylaw development.</p> <p>b) approves the Solid Waste Bylaw Proposal, including the bylaw, in attachment one and two, be made publicly available for the purpose of the consultation;</p>	<p>03 Sep 2021 9:18am Macken, Briar Formal consultation period closed. Oral submissions booked to be heard 07 september 2021. Analysis of submissions due to committee 24 November 2021</p>

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		<p>c) agrees the period for making written submissions on the proposal will begin on 26 July 2021 end on 27 August 2021;</p> <p>d) agrees that if any person wishes to make an oral presentation of their submission, that presentation will take place on Tuesday 7 September 2021 and the hearing will be conducted by the whole Committee and delegates authority to change the date of the oral presentations to submissions if necessary, to the Chair;</p> <p>e) authorises the Chief Executive Officer to make minor changes to the Solid Waste Bylaw Proposal to correct grammatical or spelling errors, or formatting.</p> <p style="text-align: right;">CARRIED</p> <p><u>In Favour:</u> Crs Rachel Smith, David Clendon, Deputy Mayor Ann Court, Dave Collard, Felicity Foy, John Vujcich and Belinda Ward</p> <p><u>Against:</u> Cr Kelly Stratford</p>	
Strategy and Policy Committee 7/09/2021	New On-site Wastewater Disposal Systems Bylaw - Approval of Draft Bylaw for Public Consultation	<p>COMMITTEE RESOLUTION 2021/41</p> <p>Moved: Cr Felicity Foy Seconded: Chair Rachel Smith</p> <p>That the Strategy and Policy Committee:</p> <p>a) approves the proposal for a new On-site Wastewater Disposal Systems Bylaw in Attachment 1 to be released for public consultation to meet the requirements of section 156 of the Local Government Act 2002.</p> <p>b) agrees the period for making written submissions on the proposal be from 13 September 2021 to 15 October 2021.</p>	<p>12 Oct 2021 11:38am Macken, Briar Bylaw currently out for formal consultation. Submission period closes 15/10/2021. Oral submissions planned for 26/10/2021</p> <p>19 Nov 2021 11:19am Macken, Briar Formal consultation period closed. Oral Submissions heard. Analysis of submissions underway.</p>

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		c) agrees the Committee will hear any people wanting to present their submissions orally on Tuesday 26 October 2021 and agrees to delegate, to the Chair, the power to change the date of the oral presentations of submissions. d) directs Council staff to make all necessary logistical arrangements for people to be heard, on 26 October 2021, either in person in the Council Chambers or online via Microsoft Teams. <u>In Favour:</u> Crs Rachel Smith, David Clendon, Mayor John Carter, Deputy Mayor Ann Court, Dave Collard, Felicity Foy, Kelly Stratford, Moko Tepania, John Vujcich and Member Belinda Ward <u>Against:</u> Nil <p style="text-align: right;">CARRIED</p>	
Strategy and Policy Committee 19/10/2021	Roading Policies Review	MOTION Moved: Deputy Mayor Ann Court Seconded: Mayor John Carter That the Strategy and Policy Committee recommend that Council: a) agree, the Road Speed Limits Policy continue without amendment. <u>In Favour:</u> Mayor Carter, Deputy Mayor Court, Crs Rachel Smith, David Clendon, Dave Collard, Felicity Foy, Kelly Stratford, Moko Tepania, John Vujcich and Belinda Ward <u>Against:</u> Nil <p style="text-align: right;">CARRIED 10/0</p>	

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		b) agree, the Community Initiated Infrastructure – Roading Contributions Policy, and the Limits of Council Responsibility for Formation / Maintenance of Roads Policy be continued with amendment. <u>In Favour:</u> Mayor Carter, Deputy Mayor Court, Crs Rachel Smith, David Clendon, Dave Collard, Felicity Foy, Kelly Stratford, Moko Tepania, John Vujcich and Belinda Ward <u>Against:</u> Nil CARRIED 10/0 c) agree, the Dust Management Policy, Private Roads and Rights of Way Policy, Road Maintenance Policy, and Road Mirrors – Private Crossings Policy be revoked. AMENDMENT Moved: Cr Kelly Stratford Seconded: Cr Felicity Foy b) agree, the Community Initiated Infrastructure – Roading Contributions Policy, and the Limits of Council Responsibility for Formation / Maintenance of Roads Policy, Dust Management Policy, and the Private Roads and Right of Ways Policy be continued with amendment; c) agree, the Road Maintenance Policy and Road Mirrors – Private Crossings Policy be revoked. <u>In Favour:</u> Crs David Clendon, Felicity Foy, Kelly Stratford, Moko Tepania and John Vujcich <u>Against:</u> Mayor Carter, Deputy Mayor Court, Crs Rachel Smith, Dave Collard and Member Belinda Ward LOST	

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		<p>RESOLUTION 2021/37</p> <p>Moved: Deputy Mayor Ann Court Seconded: Mayor John Carter</p> <p>That the Strategy and Policy Committee recommend that Council:</p> <p>a) agree, the Road Speed Limits Policy continue without amendment.</p> <p><u>In Favour:</u> Mayor Carter, Deputy Mayor Court, Crs Rachel Smith, David Clendon, Dave Collard, Felicity Foy, Kelly Stratford, Moko Tepania, John Vujcich and Belinda Ward</p> <p><u>Against:</u> Nil</p> <p style="text-align: right;">CARRIED 10/0</p> <p>b) agree, the Community Initiated Infrastructure – Roading Contributions Policy, and the Limits of Council Responsibility for Formation / Maintenance of Roads Policy be continued with amendment.</p> <p><u>In Favour:</u> Mayor Carter, Deputy Mayor Court, Crs Rachel Smith, David Clendon, Dave Collard, Felicity Foy, Kelly Stratford, Moko Tepania, John Vujcich and Belinda Ward</p> <p><u>Against:</u> Nil</p> <p style="text-align: right;">CARRIED 10/0</p> <p>c) agree, the Dust Management Policy, Private Roads and Rights of Way Policy, Road Maintenance Policy, and Road Mirrors – Private Crossings Policy be revoked.</p> <p><u>In Favour:</u> Mayor Carter, Deputy Mayor Court, Crs Rachel Smith, Dave Collard, Moko Tepania and Belinda Ward</p>	

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		<u>Against:</u> Crs David Clendon, Felicity Foy, Kelly Stratford and John Vujcich <p style="text-align: right;">CARRIED 6/4 CARRIED</p>	
Strategy and Policy Committee 19/10/2021	Naming Policy Proposal	<p>RESOLUTION 2021/38</p> Moved: Chair Rachel Smith Seconded: Cr Moko Tepania That the Strategy and Policy Committee recommend that Council agree to develop a new Naming Policy for roads, open spaces, and Council facilities. <u>In Favour:</u> Mayor Carter, Deputy Mayor Court, Crs Rachel Smith, David Clendon, Dave Collard, Felicity Foy, Kelly Stratford, Moko Tepania, John Vujcich and Belinda Ward <u>Against:</u> Nil <p style="text-align: right;">CARRIED 10/0CARRIED</p>	<p>02 Dec 2021 11:47am Griffiths, Kirsten Early engagement and research into potential policy options has commenced. A draft naming policy is planned to be prepared by June 2022.</p>
Strategy and Policy Committee 24/11/2021	Litter Infringement Policy Review	<p>RESOLUTION 2021/53</p> Moved: Chair Rachel Smith Seconded: Cr Felicity Foy That the Strategy and Policy Committee recommend the Council: a) Revoke the Litter Infringement Policy 2017.	

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		b) Adopts the provisions to infringe littering offences in the Far North District pursuant to Section 13 of the Litter Act 1979. c) Agree that no infringement fee shall exceed \$400, as per Section 13 of the Act. d) Agree infringement notices shall be served as per Section 14 of the Act. <u>In Favour:</u> Crs Rachel Smith, David Clendon, Ann Court, Dave Collard, Felicity Foy, Kelly Stratford, Moko Tepania, John Vujcich and Belinda Ward <u>Against:</u> Nil <p style="text-align: right;">CARRIED</p>	
Strategy and Policy Committee 24/11/2021	Solid Waste Bylaw - Recommendation to continue Bylaw	<p>RESOLUTION 2021/54</p> Moved: Cr Felicity Foy Seconded: Cr Kelly Stratford That the Strategy and Policy Committee recommends that the Council: a) agree, in response to the consultation under 160 (3)(b)(ii), no amendments are to be made to the Solid Waste Bylaw. b) agree, under section 160 of the Local Government Act 2002 the Solid Waste Bylaw be continued without amendment. <u>In Favour:</u> Crs Rachel Smith, David Clendon, Ann Court, Dave Collard, Felicity Foy, Kelly Stratford, Moko Tepania, John Vujcich and Belinda Ward <u>Against:</u> Nil <p style="text-align: right;">CARRIED</p>	

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7 KARAKIA WHAKAMUTUNGA – CLOSING PRAYER

8 TE KAPINGA HUI / MEETING CLOSE