



**Far North  
District Council**



**Te Kaunihera o Tai Tokerau ki te Raki**

# **AGENDA**

## **Ordinary Council Meeting**

**Thursday, 9 February 2023**

**Time: 10:00 am**  
**Location: Council Chambers**  
**Memorial Ave**  
**Kaikohe**

**Membership:**

Kahika - Mayor Moko Tepania - Chairperson  
Kōwhai - Deputy Mayor Kelly Stratford  
Cr Ann Court  
Cr Felicity Foy  
Cr Hilda Halkyard-Harawira  
Cr Babe Kapa  
Cr Penetaui Kleskovic  
Cr Steve McNally  
Cr Mate Radich  
Cr Tāmami Rākena



**Far North District Council  
Ordinary Council Meeting**  
**will be held in the Council Chambers, Memorial Ave, Kaikohe on:  
Thursday 9 February 2023 at 10:00 am**

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**Te Paeroa Mahi / Order of Business**

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**1 KARAKIA TIMATANGA / OPENING PRAYER****2 NGĀ 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 Council 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 Services (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 NGĀ TONO KŌRERO / DEPUTATIONS**

- GRANT HARNISH – FOCUS PAIHIA. ITEM 6.1 REFERS.
- CHARLES PARKER – BUSINESS PAIHIA. ITEM 6.1 REFERS.

**4 NGĀ KŌRERO A TE KAHIKA / MAYORAL ANNOUNCEMENTS**

**5 NOTICE OF MOTION****5.1 NOTICE OF MOTION - HE WHAKAPUTANGA DAY - 28 OCTOBER****File Number: A4071464**

I, Councillor Hilda Halkyard-Harawira, give notice that at the next Ordinary Meeting of Council to be held on 9 February 2023, I intend to move the following motion:

**MŌTINI / MOTION**

**That the Far North District Council Plan reference to Oct 28 exclusively acknowledge He Whakaputanga and delete the inclusion of NZ Colonial Wars.**

**TAKE / RATIONALE**

It would be a small but significant announcement at Waitangi to acknowledge a digital correction to the internal reference of Oct 28 as a commemoration of He Whakaputanga and the NZ colonial wars in the FNDC plan. Oct 28 is not observed as a public nor local holiday. In our plan FNDC has agreed not to hold meetings Oct 28 in observance of He Whakaputanga and the NZ colonial wars.

I have been advised by staff that the government made a decision to combine two observances in one day despite the historical differences of the two occasions being poles apart. He Whakaputanga declares the independence of hapu Oct 28 to French, English and United States interests .

Jane Hindle confirms the NZ colonial wars began 10 years later at Kororareka 11 March, 1845. The council may wish to acknowledge 11 March as the day for the start of the NZ Colonial Wars, given it began in Kororareka.

This Waitangi weekend, the gaze of Tai Tokerau will be upon us. It is incumbent on us as a local council to be correct in our information of local history. It would be small, economical but significant correction and would require the goodwill of the CEO and one hour of an IT support person.

I commend this Notice of Motion to Council.

**ĀPITI HANGA / ATTACHMENTS****Nil**

## 6 CONFIRMATION OF PREVIOUS MINUTES

### 6.1 CONFIRMATION OF PREVIOUS MINUTES

**File Number:** A4042052

**Author:** Joshna Panday, Democracy Advisor

**Authoriser:** Aisha Huriwai, Team Leader Democracy Services

#### PURPOSE OF THE REPORT

The minutes are attached to allow Council to confirm that the minutes are a true and correct record of previous meetings.

#### RECOMMENDATION

**That Council confirms the minutes of the Council meeting held 15 December 2022 and extraordinary Council meeting 20 December 2022 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 meetings 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 as a result of this report.

#### ATTACHMENTS

1. Council Minutes - 15 December 2022 - A4027273 [↓](#) 
2. Council Extraordinary Minutes - 20 December 2022 - A4035147 [↓](#) 

**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 <a href="#">Council's Significance and Engagement Policy</a>	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 for 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 (for example, youth, the aged and those with disabilities).	This report is asking for 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.



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Ordinary Council Meeting Minutes

15 December 2022

**MINUTES OF FAR NORTH DISTRICT COUNCIL  
ORDINARY COUNCIL MEETING  
HELD AT THE COUNCIL CHAMBER , MEMORIAL AVE, KAIKOHE  
ON THURSDAY, 15 DECEMBER 2022 AT 10:00 AM**

**PRESENT:** Kahika - Mayor Moko Tepania, Kōwhai - Deputy Mayor Kelly Stratford, Cr Ann Court, Cr Felicity Foy, Cr Hilda Halkyard-Harawira, Cr Babe Kapa, Cr Penetaui Kleskovic, Cr Steve McNally, Cr Mate Radich, Cr Tāmāti Rākena, Cr John Vujcich

**IN ATTENDANCE:** Adele Gardner (Te Hiku Community Board Chairperson), Belinda Ward (Bay of Islands-Whangaroa Community Board Chairperson) and Chicky Rudkin (Kaikohe-Hokianga Community Board Chairperson)

**STAFF PRESENT:** Blair King (Chief Executive Officer), Andy Finch (General Manager Infrastructure & Asset Management), Janice Smith (General Manager Corporate Services), Aisha Huriwai (Team Leader – Democracy Services), George Swanepoel (In-House Counsel), Glenn Rainham (Manager – Infrastructure Operations), Christina Rosenthal (Team Leader – Environmental Health Services), Rochelle Deane (Manager – Environmental Services), Joshna Panday (Democracy Services Advisor),

**1 KARAKIA TIMATANGA / OPENING PRAYER**

Kahika - Mayor Moko Tepania commenced the meeting with Council prayer in both Te Reo and English.

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

Nil

**3 NGĀ TONO KŌRERO / DEPUTATION**

- Paula Beck from SOS (Save Opuā's Soul) regarding Puketiti Land – Photos tabled (document number A4031127 refers)
- Tony Williams and Maiki Marks from Nga Uri o Pumuka Hapu regarding Puketiti Land
- Victoria Heta regarding Rawhiti Rd Petition – Presentation tabled (document A4031142 refers)
- Dallas King representing Te Mauri o te Wai regarding a proposal of a preferred option for wastewater treatment for Rawene as per the agreement with FNDC
- Te Kahu o Taonui representatives Harry Burkhardt, Mariameno Kapa-Kingi and Huhana Lyndon spoke in support of Three Waters Reform 'Better Off Funding' Programme (Item 6.8 refers)
- Andrew Kendall from Kaiwhakahaere Matua regarding Reinstatement of West Coast Road slips

**4 NGĀ KŌRERO A TE KAHIKA / MAYORAL ANNOUNCEMENTS**

- Acknowledged previous Kaikohe Borough Council Mayor Brian Thorburn and Deputy Mayor Mike Colebrook's attendance at the meeting.
- Congratulated Bay of Islands-Whangaroa Community Board Chairperson Belinda Ward for her appointment to Waitangi National Trust Board as Tangata Tiriti Representative

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- Thanks to Deirdre Healy, Executive Assistant to the previous Mayor and Deputy Mayor who has left the Far North District Council
- Congratulations to Kōwhai - Deputy Mayor Kelly Stratford for being elected as the Chair of Regional Civil Defence and Emergency Management Committee.
- Congratulations to Councillor Paniora of Kaipara District Council for her appointment to the Te Maruata Executive seat.
- Congratulations to Councillor Connop of Whangarei District Council for his appointment of Young Elected Member Executive seat.
- Congratulations to Janice Smith for her position as Group Manager - Corporate Services at Far North District Council.
- Thanks and farewell to Sheryl Gavin, Manager - Corporate Planning & Community Development who has left the Far North District Council after playing an integral part.
- Thanks to all our community groups for the Christmas Parades and events over December.
- Te Moringai - Council committed to holding a workshop in early 2023.

**5 CONFIRMATION OF PREVIOUS MINUTES**

**5.1 CONFIRMATION OF PREVIOUS MINUTES**

Agenda item 5.1 document number A3970398, pages 6 - 14 refers

**RESOLUTION 2022/86**

Moved: Cr Mate Radich  
 Seconded: Cr John Vujcich

**That Council confirms the minutes of the 10 November 2022 Council meeting and 23 November 2022 Extraordinary meeting as a true and correct record.**

**CARRIED**

**6 REPORTS**

**6.1 2022 FAR NORTH DISTRICT COUNCIL GOVERNANCE STRUCTURE**

Agenda item 6.1 document number A3978939, pages 15 - 27 refers.

**RESOLUTION 2022/87**

Moved: Kōwhai - Deputy Mayor Kelly Stratford  
 Seconded: Cr John Vujcich

**a) That Council establish the following committees:**

- i. Te Miromiro - Assurance, Risk and Finance Committee**
- ii. Te Kuaka – Te Ao Māori Committee**
- iii. Te Pīpīwharau - External Members Appointment Committee**

**CARRIED**

**RESOLUTION 2022/88**

Moved: Cr John Vujcich  
 Seconded: Cr Felicity Foy

**b) That Council adopt the attached terms of reference for Te Miromiro - Assurance, Risk and Finance Committee.**

**CARRIED**

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**RESOLUTION 2022/89**

Moved: Kōwhai - Deputy Mayor Kelly Stratford

Seconded: Cr Steve McNally

**c) Appoint Councillors Cr John Vujcich (as Chair), Cr Penetaui Kleskovic and Cr Steve McNally to the Te Pīpīwharauora – External Members Appointment Committee**

**CARRIED**

**RESOLUTION 2022/90**

Moved: Cr Steve McNally

Seconded: Cr Hilda Halkyard-Harawira

**d) That Councillors be appointed as the following portfolio holders:**

- i. Communications - (Councillors Vujcich and Rākena)**
- ii. Reform - (Councillors Halkyard-Harawira and Foy)**
- iii. Waters - (Councillors Radich and Kleskovic)**
- iv. Transport - (Councillors Court and McNally)**
- v. Housing - (Deputy Mayor Stratford and Councillor Kapa)**

**CARRIED**

**RESOLUTION 2022/91**

Moved: Kahika - Mayor Moko Tepania

Seconded: Kōwhai - Deputy Mayor Kelly Stratford

**That Council Standing Order Section 20 be suspended for free discussion around item 6(e).**

**CARRIED**

**RESOLUTION 2022/92**

Moved: Cr Felicity Foy

Seconded: Kōwhai - Deputy Mayor Kelly Stratford

**e) That the following members be appointed to external organisations, as follows:**

<b>Northland Regional Transport Committee</b>	<b>1. Cr Steve McNally</b>	<b>1. Cr Ann Court (alternative)</b>
<b>Te Oneroa a Tōhē Beach Board</b>	<b>1. Mayor Moko Tepania</b> <b>2. Cr Hilda Halkyard-Harawira</b>	
<b>Joint Climate Change Adaptation</b>	<b>1. Cr Tāmati Rākena</b>	<b>1. Deputy Mayor Kelly Stratford (alternative)</b>
<b>Joint Regional Economic Development</b>	<b>1. Cr John Vujcich</b> <b>2. Cr Penetaui Kleskovic</b>	
<b>Mayoral Taskforce for Jobs</b>	<b>1. Mayor Moko Tepania</b>	<b>1. Cr Penetaui Kleskovic (alternative)</b>
<b>Creative Communities Funding Assessment Committee</b>	<b>1. Cr Felicity Foy</b>	<b>1. Cr Tāmati Rākena (alternative)</b>

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<b>Kaikohe Library &amp; Civic Hub Steering Group (KLCHSG)</b>	1. Cr Tāmami Rākena
	2. Cr Babe Kapa
	3. Cr Felicity Foy
<b>Turner Centre</b>	1. Cr Babe Kapa
<b>Ngakahu Steering Group</b>	1. Cr John Vujcich
	2. Cr Hilda Halkyard-Harawira
	3. Cr Babe Kapa
	4. Cr Mate Radich
	5. Cr Steve McNally
<b>Cycle Trail Trust</b>	1. Cr John Vujcich
	2. Cr Babe Kapa
<b>Road Controlling Authority Forum</b>	1. Cr Ann Court
<b>North Chamber</b>	1. Cr John Vujcich
<b>Te Hiku Sports Hub</b>	1. Cr Felicity Foy
<b>Te Ahu Charitable Trust</b>	1. Cr Felicity Foy
Note: Caroline Wilson to follow up on the Te Hiku Sports Hub and Te Ahu Charitable Trust and take it offline with a request to 1 appointment to each.	
<b>CARRIED</b>	

**RESOLUTION 2022/93**  
 Moved: Kahika - Mayor Moko Tepania  
 Seconded: Cr John Vujcich  
**That Council resume Standing Orders.**

**CARRIED**

**RESOLUTION 2022/94**  
 Moved: Cr Tāmami Rākena  
 Seconded: Kōwhai - Deputy Mayor Kelly Stratford  
**f) That the Executive Review Committee be renamed Te Huia – Executive Review Committee.**

**CARRIED**

**6.8 THREE WATERS REFORM 'BETTER OFF FUNDING' PROGRAMME**

Agenda item 6.8 document number A3972698, pages 72 - 74 refers

**MOTION**  
 Moved: Kōwhai - Deputy Mayor Kelly Stratford  
 Seconded: Cr John Vujcich  
 That Council:

- i. approve the following Tranche 1 Three Waters Reform 'Better Off' Funding projects:

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Project Management & reporting	\$ 250,000.00
Drinking Water Reliability and Safety Risk Reduction Programme	\$ 1,870,000.00
Taipā Wastewater Consent/BPO Work	\$ 277,200.00
Otiria-Moerewa Flood Mitigation	\$ 1,650,000.00
Russell - capping the landfill	\$ 385,000.00
Rāwene - Wastewater treatment	\$ 1,100,000.00
Lindvart Park	\$ 827,000.00
Total	\$ 6,359,200.00

- ii. Approve, subject to staff working with Te Kahu o Taonui to prepare an expressions of interest for specific projects by Tuesday 20 December 2022, a further \$2,073,000 of projects that align with the guidelines for Better Off Funding.
- iii. Delegate to the General Manager Infrastructure and Asset Management authority to:
  - a. Complete the Tranche 1 funding application.
  - b. To negotiate and approve the final Tranche 1 funding agreement with the Department of Internal Affairs

AMENDMENT

Moved: Cr Penetaui Kleskovic  
 Seconded: Cr Ann Court

That Council:

- i. approve the following Tranche 1 Three Waters Reform 'Better Off' Funding projects:

Project Management & reporting	\$ 250,000.00
Drinking Water Reliability and Safety Risk Reduction Programme	\$ 1,870,000.00
Taipā Wastewater Consent/BPO Work <del>Wastewater Treatment</del>	\$ <del>277,200.00</del> 927, 000.00
Otiria-Moerewa Flood Mitigation	\$ <del>1,650,000.00</del> 1,000,000.00
Russell - capping the landfill	\$ 385,000.00
Rāwene - Wastewater treatment	\$ 1,100,000.00
Lindvart Park	\$ 827,000.00
Kāeo Flood Hazard Planning Mitigation	\$ 673 000,00
Total	\$ 7, 032,000.00

- i. Approve, subject to staff working with Te Kahu o Taonui to prepare an expressions of interest for specific projects by Tuesday 20 December 2022, a further \$1,400,000 of projects that align with the guidelines for Better Off Funding.
- ii. Delegate to the General Manager Infrastructure and Asset Management authority to:
  - a) Complete the Tranche 1 funding application.

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b) To negotiate and approve the final Tranche 1 funding agreement with the Department of Internal Affairs  
Against: Crs Kelly Stratford and Babe Kapa  
Abstained: Cr Moko Tepania

CARRIED

*The amendment has become a substantive motion.*

**RESOLUTION 2022/95**

Moved: Kōwhai - Deputy Mayor Kelly Stratford  
 Seconded: Cr John Vujcich

**That Council:**

- i. **approve the following Tranche 1 Three Waters Reform ‘Better Off’ Funding projects:**

<b>Project Management &amp; reporting</b>	<b>\$ 250,000.00</b>
<b>Drinking Water Reliability and Safety Risk Reduction Programme</b>	<b>\$ 1,870,000.00</b>
<b>Taipā Wastewater Consent/Wastewater Treatment</b>	<b>\$ 927, 000.00</b>
<b>Otiria-Moerewa Flood Mitigation</b>	<b>\$ 1,000,000.00</b>
<b>Russell - capping the landfill</b>	<b>\$ 385,000.00</b>
<b>Rāwene - Wastewater treatment</b>	<b>\$ 1,100,000.00</b>
<b>Lindvart Park</b>	<b>\$ 827,000.00</b>
<b>Kāeo Flood Hazard Planning Mitigation</b>	<b>\$ 673 000,00</b>
<b>Total</b>	<b>\$ 7,032,000.00</b>

- ii. **Approve, subject to staff working with Te Kahu o Taonui to prepare an expressions of interest for specific projects by Tuesday 20 December 2022, a further \$1,400,000 of projects that align with the guidelines for Better Off Funding.**
- iii. **Delegate to the General Manager Infrastructure and Asset Management authority to:**
  - a. **Complete the Tranche 1 funding application.**
  - b. **To negotiate and approve the final Tranche 1 funding agreement with the Department of Internal Affairs**

Against: Cr Kelly Stratford  
Abstained: Cr Babe Kapa

CARRIED

**6.2 SETTING OF REMUNERATION FOR COUNCILLORS FOR THE 2022-2025 TRIENNium**

Agenda item 6.2 document number A3951456, pages 28 - 30 refers

**RESOLUTION 2022/96**

Moved: Kahika - Mayor Moko Tepania  
 Seconded: Kōwhai - Deputy Mayor Kelly Stratford

**That the Council submit the following levels of remuneration to the Remuneration Authority**

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<b>for approval:</b>		
<b>Deputy Mayor (1)</b>	<b>\$125,022</b>	
<b>Councillor base salary (9)</b>	<b>\$ 85,015</b>	<b>CARRIED</b>

At 3:13 pm, Cr Ann Court declared a conflict of interest and left the debate for item 6.3.

**6.3 DISTRICT LICENSING COMMITTEE APPOINTMENTS**

Agenda item 6.3 document number A3972557, pages 31 - 40 refers

<b>RESOLUTION 2022/97</b>	
Moved: Kahika - Mayor Moko Tepania	
Seconded: Kōwhai - Deputy Mayor Kelly Stratford	
<b>That:</b>	
i)	<b>Council appoint Cr Ann Court as Chair of the District Licensing Committee;</b>
ii)	<b>Council appoint Cr Felicity Foy as Deputy Chair of the District Licensing Committee;</b>
iii)	<b>the committee members become the pool from which the Chairperson allocates two members to attend District Licensing Committee hearings as required: Martin Macpherson, Murray Clearwater, Stewart Wright, Kirsty Parsonson, John Thorne and Lisa McNab;</b>
iv)	<b>Council agree that the term of appointment for members of the District Licensing Committee be a period of three years, ending upon the appointment of the post 2025 election District Licensing Committee.</b>
<u>Against:</u>	Cr Mate Radich
<b>CARRIED</b>	

At 3:21 pm, Cr Ann Court returned to the meeting.

**6.4 SETTING OF 2023 MEETING SCHEDULE**

Agenda item 6.4 document number A3980802, pages 41 - 46 refers

<b>RESOLUTION 2022/98</b>			
Moved: Cr John Vujcich			
Seconded: Kōwhai - Deputy Mayor Kelly Stratford			
<b>That Council adopt the following 2023 meeting dates:</b>			
<b>Council</b>	<b>Te Huia - Executive Review Committee</b>	<b>Te Kuaka – Te Ao Māori Committee</b>	<b>Te Miromiro – Assurance, Risk and Finance Committee</b>
<b>9 February</b>	<b>23 February</b>	<b>23 February</b>	<b>22 February</b>
<b>9 March</b>	<b>18 April</b>	<b>21 March</b>	<b>27 April</b>
<b>6 April</b>	<b>16 May</b>	<b>18 April</b>	<b>25 July</b>
<b>4 May</b>	<b>13 June</b>	<b>16 May</b>	<b>31 October</b>
<b>1 June</b>	<b>11 July</b>	<b>13 June</b>	
<b>29 June</b>	<b>8 August</b>	<b>11 July</b>	
<b>3 August</b>	<b>7 September</b>	<b>8 August</b>	

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<b>24 August</b>	<b>3 October</b>	<b>7 September</b>	
<b>21 September</b>	<b>1 November</b>	<b>3 October</b>	
<b>19 October</b>	<b>28 November</b>	<b>1 November</b>	
<b>31 October</b>		<b>28 November</b>	
<b>16 November</b>			
<b>7 December</b>			

And that Council note the following 2023 Reserve dates

- January 31
- February 1, 8, 21, 28
- March 8, 22, 23, 29
- April 5, 19, 20, 26
- May 2, 17, 23, 25
- June 14, 20, 22, 27
- July 12, 19, 20
- August 9, 16, 17, 22
- September 5, 12, 13, 19
- October 4, 11, 12, 17
- November 7, 9, 14, 29
- December 6

**CARRIED**

**6.7 NTA RECOMMENDATION TO AWARD THE FNDC CONTRACT 7/22/159 - EMERGENCY WORKS SLIP - FAIRBURN ROAD**

Agenda item 6.7 document number A3969943, pages 65 - 71 refers

**RESOLUTION 2022/99**

Moved: Cr Felicity Foy

Seconded: Cr Penetaui Kleskovic

**That subject to confirmation by Waka Kotahi regarding the increased subsidy required for this project, Council:**

- a) approve the award of Contract 7/22/159 to Donovan Drainage & Earthmoving Ltd. for a contract value of \$1,148,325.00 + GST (one million one hundred and forty eight thousand, three hundred and twenty five dollars and zero cents)
- b) approve an additional 10% contingency of \$115,675.00 + GST to be expended as directed by the General Manager Infrastructure and Asset Management
- c) delegates authority to the Chief Executive to execute the associated document approval
  - a. Contract signing
  - b. Supplier recommendation approval
  - c. Purchase Order approval

**CARRIED**



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**6.9 TEMPORARY ROAD CLOSURE ROSEMAY LANE – WAIPAPAKAURI CONCERT**

Agenda item 6.9 document number A3981187, pages 75 - 78 refers

**RESOLUTION 2022/100**

Moved: Cr Mate Radich

Seconded: Cr John Vujcich

**That Council approves the proposed temporary road closure of Rosemay Lane to accommodate the safe operation of the Waipapakauri Concert.**

**CARRIED**

**6.10 NTA - INCREASE IN TOTAL VALUE CONTRACT 7/22/150 - FNDC SLIP REPAIRS SUITE 01**

Agenda item 6.10 document number A3992075, pages 79 - 85 refers

**RESOLUTION 2022/101**

Moved: Cr Felicity Foy

Seconded: Cr John Vujcich

**That subject to approval of increased subsidy by Waka Kotahi, Council:**

- a) approve an increase to the current Contract and Purchase Order amount from \$986,000.00 +GST to a maximum amount of \$1,078,000.00 +GST (including contingency), and**
- b) delegates authority to the Chief Executive to execute the associated document approvals to vary the existing Purchase Order amount described in a) above, and**
- c) delegates authority to the Engineer to Contract to execute the associated contractual document approvals for Variation to Contract described in a) above.**

**CARRIED**

**6.11 TEMPORARY 60KPH SPEED LIMIT ON KERIKERI ROAD**

Agenda item 6.11 document number A4001312, pages 86 - 93 refers

**RESOLUTION 2022/102**

Moved: Kōwhai - Deputy Mayor Kelly Stratford

Seconded: Cr John Vujcich

**That the Council approves the continuation of a 60kph temporary speed limit on the section of Kerikeri Road between approximately RP000 and RP1335 and *extends this temporary 60kph limit through to the current 50kph transition at RP2500*, until such time that the finalised speed limit presently being consulted on for this section of road is adopted and implemented. (Option 2).**

Abstained: Cr Steve McNally

**CARRIED**

**6.12 TEMPORARY ROAD CLOSURE FOR WAITANGI DAY 2023**

Agenda item 6.12 document number A4005051, pages 94 - 97 refers

**RESOLUTION 2022/103**

UNCONFIRMED

Ordinary Council Meeting Minutes

15 December 2022

Moved: Cr Hilda Halkyard-Harawira  
 Seconded: Cr Mate Radich

**That Council approves the proposed temporary road closures to accommodate the safe operation of Waitangi Day 2023.**

**CARRIED**

At 3:50 pm, Cr Mate Radich left the meeting.

## 7 INFORMATION REPORTS

### 7.1 COMMUNITY BOARD UPDATES NOVEMBER 2022

Agenda item 7.1 document number A3970413, pages 98 - 116 refers

#### RESOLUTION 2022/104

Moved: Kahika - Mayor Moko Tepania  
 Seconded: Cr John Vujcich

**That Council note the following Community Board minutes:**

- a) **16 November 2022 - Kaikohe-Hokianga Community Board.**
- b) **17 November 2022 - Bay of Islands-Whangaroa Community Board.**
- c) **18 November 2022 - Te Hiku Community Board.**

**CARRIED**

## MEETING DURATION

#### RESOLUTION 2022/105

Moved: Kahika - Mayor Moko Tepania  
 Seconded: Kōwhai - Deputy Mayor Kelly Stratford

**That Council agrees that the meeting continue beyond the six hour duration in Standing Order 4.2 - Meeting Duration, to discuss the remaining items left on the agenda.**

**CARRIED**

## MAJOR ITEM NOT ON THE AGENDA

#### RESOLUTION 2022/106

Moved: Kahika - Mayor Moko Tepania  
 Seconded: Kōwhai - Deputy Mayor Kelly Stratford

**That Council resolve:**

**That the item regarding Executive Review Committee minutes be considered at this meeting with the public excluded as a major item not on the agenda, pursuant to Section 46A(7)(a) of the Local Government Official Information and Meetings Act 1987, to enable a timely decision to be made.**

**CARRIED**

## 8 TE WĀHANGA TŪMATAITI / PUBLIC EXCLUDED

### RESOLUTION TO EXCLUDE THE PUBLIC

UNCONFIRMED

Ordinary Council Meeting Minutes

15 December 2022

**RESOLUTION 2022/107**

Moved: Kahika - Mayor Moko Tepania

Seconded: Cr John Vujcich

**That the public be excluded from the following parts of the proceedings of this meeting.**

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

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48 for the passing of this resolution
<b>8.1 - Confirmation of Previous Minutes - Public Excluded</b>	s7(2)(a) - the withholding of the information is necessary to protect the privacy of natural persons, including that of deceased natural persons  s7(2)(b)(ii) - the withholding of the information is necessary to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information  s7(2)(f)(i) - free and frank expression of opinions by or between or to members or officers or employees of any local authority  s7(2)(h) - the withholding of the information is necessary to enable Council to carry out, without prejudice or disadvantage, commercial activities	s48(1)(a)(i) - the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7
<b>8.2 - Consent to acquire the land and easements surrounding the bore at Monument Hill</b>	s7(2)(h) - the withholding of the information is necessary to enable Council to carry out, without prejudice or disadvantage, commercial activities  s7(2)(i) - the withholding of the information is necessary to enable Council to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)	s48(1)(a)(i) - the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7
<b>8.3 - Naicker v Far North District Council Mediation.</b>	s7(2)(g) - the withholding of the information is necessary to maintain legal professional privilege	s48(1)(a)(i) - the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure

UNCONFIRMED

Ordinary Council Meeting Minutes

15 December 2022

	s7(2)(i) - the withholding of the information is necessary to enable Council to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)	of information for which good reason for withholding would exist under section 6 or section 7
<b>8.4 - Funding Proposal for Regional Multi-Agency Emergency Coordination Centre</b>	<p>s7(2)(a) - the withholding of the information is necessary to protect the privacy of natural persons, including that of deceased natural persons</p> <p>s7(2)(b)(ii) - the withholding of the information is necessary to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information</p> <p>s7(2)(h) - the withholding of the information is necessary to enable Council to carry out, without prejudice or disadvantage, commercial activities</p>	s48(1)(a)(i) - the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7

**CARRIED**

<p><b>RESOLUTION 2022/108</b></p> <p>Moved: Kahika - Mayor Moko Tepania                  Seconded: Kōwhai - Deputy Mayor Kelly Stratford</p> <p><b>That the meeting of Council be adjourned to 2pm, Tuesday, 20<sup>th</sup> December 2022 at Council Chambers in Kaikohe to address items:</b></p> <p><b>REPORTS</b></p> <ul style="list-style-type: none"> <li>• 6.5 Turner Centre Stormwater Catchment</li> <li>• 6.6 Road Maintenance of the Upper Section of Road - Peninsula Parade, Hihi</li> </ul> <p><b>INFORMATION REPORTS</b></p> <ul style="list-style-type: none"> <li>• 7.2 Elected Member Report - New Zealand Future Roads Conference 2022: Claudelands Hamilton</li> <li>• 7.3 Council Action Sheet Update December 2022</li> </ul> <p><b>PX ITEM</b></p> <ul style="list-style-type: none"> <li>• 8.5 ERC minutes</li> </ul> <p style="text-align: right;"><b>CARRIED</b></p>
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**9 KARAKIA WHAKAMUTUNGA / CLOSING PRAYER**

Kahika – Mayor Moko Tepania closed the meeting with a karakia

UNCONFIRMED

Ordinary Council Meeting Minutes

15 December 2022

**10 MEETING CLOSE**

The meeting closed at 4:46pm.

The minutes of this meeting will be confirmed at the Ordinary Council Meeting held on 9 February 2023.

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CHAIRPERSON

UNCONFIRMED

Extraordinary Council Meeting Minutes

20 December 2022

**MINUTES OF FAR NORTH DISTRICT COUNCIL  
EXTRAORDINARY COUNCIL MEETING  
HELD AT THE COUNCIL CHAMBERS, 5 MEMORIAL AVENUE , KAIKOHE  
ON TUESDAY, 20 DECEMBER 2022 AT 2:00 PM**

**PRESENT:** Kahika - Mayor Moko Tepania, Kōwhai - Deputy Mayor Kelly Stratford, Cr Ann Court, Cr Felicity Foy (virtual), , Cr Babe Kapa (virtual), Cr Penetaui Kleskovic, Cr Steve McNally, Cr Mate Radich (virtual), Cr Tāmati Rākena, Cr John Vujcich

**IN ATTENDANCE:** Belinda Ward (Chairperson Bay of Islands-Whangaroa (virtual))

**STAFF PRESENT:** Blair King (Chief Executive Officer), Andy Finch (General Manager Infrastructure & Asset Management), Janice Smith (General Manager Corporate Services (virtual)), Jacine Warmington (Acting General Manager District Services (virtual)), Aisha Huriwai (Team Leader – Democracy Services) and Joshna Panday (Democracy Advisor)

**1 KARAKIA TIMATANGA / OPENING PRAYER**

Kahika - Mayor Moko Tepania commenced the meeting with a karakia.

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

**APOLOGY**

**RESOLUTION 2022/93**

Moved: Kahika - Mayor Moko Tepania

Seconded: Cr Tāmati Rākena

**That the apology received from Cr Hilda Halkyard-Harawira be accepted and leave of absence granted.**

**CARRIED**

**3 NGĀ TONO KŌRERO / DEPUTATION**

Nil

**4 REPORTS**

**5.1 TURNER CENTRE STORMWATER CATCHMENT**

Agenda item 5.1 document number A4032128, pages 6 - 11 refers.

**RESOLUTION 2022/94**

Moved: Cr Tāmati Rākena

Seconded: Kōwhai - Deputy Mayor Kelly Stratford

**That Council:**

- a) notes the storm water flooding risk within the Turner Centre sub-catchment
- b) approves a budget of \$200,000 to progress a design to mitigate this risk through a future physical works contract
- c) approves the direct appointment of Trine Kel to undertake the design work.

UNCONFIRMED

Extraordinary Council Meeting Minutes

20 December 2022

**CARRIED**

2:42 Cr Hilda Halkyard-Harawira joined the meeting (virtual) during discussion of Item 5.2

**5.2 ROAD MAINTENANCE OF THE UPPER SECTION OF ROAD - PENINSULA PARADE, HIHI**

Agenda item 5.2 document number A4032270, pages 12 - 15 refers.

<b>RESOLUTION 2022/95</b>	
Moved: Cr Ann Court	
Seconded: Kōwhai - Deputy Mayor Kelly Stratford	
<b>That Council:</b>	
a)	<b>Notes the Northland Transportation Alliance Report dated 8th November 2022 – Road Maintenance of the upper section of Road – Peninsula Parade, Hihi</b>
b)	<b>Approves Option 2: Confirm the inclusion of Peninsula Parade RP517-810m in the schedule of FNDC-maintained roads at the cost to Council to bring it up to standard</b>
c)	<b>Approves unbudgeted capital expenditure of \$40,000 to bring Peninsula Parade RP517-810m to an appropriate maintenance standard</b>
d)	<b>Notes the risk of setting a precedent for the request for upgrading other unformed legal roads across the District.</b>
<u>Against:</u>	Kōwhai – Deputy Mayor Kelly Stratford, Crs Babe Kapa, Mate Radich and Tāmami Rākena
<u>Abstained:</u>	Crs Hilda Halkyard-Harawira and Penetaui Kleskovic
<b>CARRIED</b>	

**5 NGĀ KŌRERO A TE KAHIKA / MAYORAL ANNOUNCEMENTS**

Noted the media release that Waka Kotahi NZ Transport Agency has secured \$100m of funding to restore SH1 Mangamuka Gorge to its original condition and acknowledged and congratulated Cr Ann Court and Cr Steve McNally for the work that they have done.

**6 TE WĀHANGA TŪMATAITI / PUBLIC EXCLUDED**

**RESOLUTION TO EXCLUDE THE PUBLIC**

<b>RESOLUTION 2022/96</b>		
Moved: Kahika - Mayor Moko Tepania		
Seconded: Kōwhai - Deputy Mayor Kelly Stratford		
<b>That the public be excluded from the following parts of the proceedings of this meeting.</b>		
<b>The general subject matter of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48 of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:</b>		
<b>General subject of each matter to be considered</b>	<b>Reason for passing this resolution in relation to each matter</b>	<b>Ground(s) under section 48 for the passing of this resolution</b>

UNCONFIRMED

Extraordinary Council Meeting Minutes

20 December 2022

<p><b>8.1 – Executive Review Committee Minutes</b></p>	<p>s7(2)(a) - the withholding of the information is necessary to protect the privacy of natural persons, including that of deceased natural persons.</p>	<p>s48(1)(a)(i) - the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7</p>
<p><b>CARRIED</b></p>		

**7 KARAKIA WHAKAMUTUNGA / CLOSING PRAYER**

Kahika - Mayor Moko Tepania acknowledged those who have passed and wished everyone a safe season. The meeting closed with a karakia.

**8 MEETING CLOSE**

The meeting closed at 3:46 pm.  
 The minutes of this meeting will be confirmed at the Ordinary Council Meeting held on 9 February 2023.

.....  
**CHAIRPERSON**



## 7 REPORTS

### 7.1 PAIHIA WATERFRONT IMPROVEMENT PROJECT

**File Number:** A4049223

**Author:** Nicola Smith, Community Board Coordinator

**Authoriser:** Roger Ackers, Acting General Manager - Strategic Planning & Policy

#### TAKE PŪRONGO / PURPOSE OF THE REPORT

For Council to approve an agreement allocating \$1.7 million toward waterfront improvements for Paihia, delivered as a community-led project in partnership with Focus Paihia Charitable Trust, Business Paihia Inc. and local hapū.

#### WHAKARĀPOPOTO MATUA / EXECUTIVE SUMMARY

- In June 2022 Council voted not to proceed with the Paihia Waterfront Storm Mitigation Project, specified in the Long-Term Plan (LTP) as 'Maritime Facilities, Waterfront Storm Mitigation, Paihia'
- A public meeting was held in Paihia on 8 September 8, 2022, to allow members of the Paihia community to put forward options for spend of the \$5.84 million allocated in the 2021-31 Long Term Plan to Maritime Facilities, Waterfront Storm Mitigation, Paihia
- In September 2022, staff were asked by The Mayor to establish a partnership agreement with community groups Focus Paihia Charitable Trust and Business Paihia Inc. aimed at delivering improvements to the Paihia Waterfront to the value of \$1.7 million. The \$1.7 million figure was advised by Far North Holdings Ltd (FNHL) as being the amount of funding Council should retain for waterfront improvements identified in the original project plan for the Maritime Facilities, Waterfront Storm Mitigation Paihia Project.
- Focus Paihia have agreed to fund an additional \$300,000 towards the project to make the overall funds available \$2 million. This funding would be at risk if the agreement is not approved.
- Staff signed an agreement with Focus Paihia as the key group responsible for delivering all aspects of the improvements and Far North District Council (FNDC) Infrastructure and Asset Management as the business unit responsible for the assets to delivered by the new project
- Short term operational improvements to existing amenity lighting along the waterfront have been completed, a lighting design for King's Road is in development, and longer-term outcomes are on track with community engagement being undertaken throughout December 2022-January 2023. Community placemaking workshops for the first phase of improvement works took place in Waitangi on January 14 and 15, 2023. All planned potential works are within the agreed and approved areas identified for improvement in the original Maritime Facilities, Waterfront Storm Mitigation, Paihia Project by FNHL
- Staff are now seeking Council approval for the transfer of \$1.7 million from the cancelled Maritime Facilities, Waterfront Storm Mitigation, Paihia Project to a project aimed at delivering improvements to the Paihia waterfront.

#### TŪTOHUNGA / RECOMMENDATION

**That Council approves the allocation \$1.7 million toward waterfront improvements for Paihia as per the attached agreement for the Paihia Waterfront Improvement Project.**

#### 1) TĀHUHU KŌRERO / BACKGROUND

At the Council Extraordinary meeting 15 June 2022 Council accepted advice from Far North Holdings that a planned \$13.84 million-dollar Paihia Waterfront Storm Mitigation Project was unaffordable due to rapidly escalating construction costs, and a resolution to end the project was carried.

The project was to be jointly funded with an \$8 million dollar grant to Far North Holdings Ltd through the central government's COVID-19 Response and Recovery fund, and \$5.84 million from FNDC

LTP funds. The project's major focus was to build breakwaters and other storm protections. Some improvements of the landside waterfront were also planned.

As part of the decision not to proceed, The Mayor asked staff to provide a report on potential projects across the district that the \$5.84 million could be used for. The Mayor also asked staff to arrange a public meeting in Paihia so Council could meet with residents, mana whenua, businesses, and community leaders to hear options on alternative projects. The meeting was facilitated by the Mayor on 8 September 8, 2022 in Paihia.

The Mayor then asked staff to work with community groups Focus Paihia Charitable Trust and Business Paihia Inc. to draw up a partnership agreement that focused on delivering community-led improvements to areas of the waterfront as identified in the original Maritime Facilities, Waterfront Storm Mitigation, Paihia Project. The purpose of the partnership agreement is to deliver waterfront improvements for Paihia at a value of \$1.7 million, leaving \$4.1 million to be allocated to other projects from the now cancelled Maritime Facilities, Waterfront Storm Mitigation, Paihia Project. The funding amount of \$1.7 million for specific areas of waterfront improvement was identified by FNHL as part of the Maritime Facilities, Waterfront Storm Mitigation, Paihia Project.

As requested by The Mayor, staff worked with community representatives to establish a working group. Membership of the working group includes a Bay of Islands-Whangaroa Community Board member, key community stakeholders including Focus Paihia, Business Paihia, and local hapū representatives, and FNDC staff. The Northern Transport Alliance and Waka Kotahi NZ Transport Agency will be approached to join the working group if the agreement is approved.

The specified focus areas for waterfront improvement that have been identified to be funded from the \$1.7 million are:

- a. Lighting improvements between King's Road and Alfresco restaurant to improve accessibility and public safety, aligning with the LTP community outcome of healthy, safe, connected, and sustainable communities. This was raised at the community meeting as an issue of importance to the community (waterfront lighting completed, King's Road lighting design currently being priced).
- b. Horotutu - Our Place improvements such as seating, paths, and lighting to improve waterfront ambience and usage in the central business district (CBD), aligning with the LTP community outcome of proud, vibrant communities (community placemaking design workshops held in January, works to be completed by April 2023 in time for bicentennial celebrations).
- c. Nihonui ('The Bluff') improvements such as widening the walkway, safety railings upgrade, lighting of murals, enabling installation of more informational storyboarding from groups such as Ngāti Kawa and the Paihia Legacy Society to highlight the historical importance of the area and support improved multimodal transportways from Waitangi through to Paihia CBD, aligning with the LTP strategic priority of deepening our sense of place and connection (hapū consultation to commence by April 2023).

As per the map below, Nihonui or 'the Bluff' area (outlined in blue) refers to the hairpin bend turn area on Marsden Road, and 'Horotutu-Our Place' (outlined in red) to the waterfront area from Bayview Road to the wharf.



The partnership agreement (Attachment 1) drafted by staff is between FNDC and Focus Paihia as the key entity responsible for project management, procurement, construction and operational handover of any new assets that are created by the project.

Upgrades to the existing amenity lighting array from Alfresco Restaurant to Horotutu-Our Place were completed in late December 2022, but no claims have been submitted to FNDC or funds drawn down to date. The upgrades have improved lighting effectiveness and extended the operational life of these assets through corrosion removal and fittings updates. Should Council approve the attached agreement, this work would be considered an operational project cost and be funded through the \$300,000 contribution that Focus Paihia have agreed to fund.

Initial engagement about ideas for Horotutu-Our Place was conducted from 12 December 2022-13 January 2023 and feedback collated to inform community placemaking workshops held January 14 and 15 2023. A community-led design for Horotutu is being finalised, however Council approval of the agreement is required for the project to progress further.

**2) MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND OPTIONS**

The Paihia Waterfront Improvement project has been socialised within the Paihia community through media releases, Focus Paihia and Business Paihia social media posts, digital engagement on ideas for Horotutu-Our Place, and community placemaking workshops that will result in a final design for Horotutu-Our Place. Hapū consultation planning for potential works at Nihonui is underway.

Factors to consider include project activity and publicity to date and additional funding stream availability should the project proceed to completion. As a Charitable Trust, Focus Paihia are well positioned to leverage further external funding efforts should the longer-term works prove to be insufficiently funded by LTP budgets. Focus Paihia additionally intend to allocate funding of \$300,000 toward the project to be formalised through an inserted clause into the attached agreement.

There are three options:

<b>Option One: Approve the agreement</b>	
<p><b>Advantages</b></p> <ul style="list-style-type: none"> <li>Upholds Mayoral and FNHL commitment to Paihia community to fund improvements for the waterfront</li> </ul>	<p><b>Disadvantages</b></p> <ul style="list-style-type: none"> <li>Reduction of available LTP funds for reallocation from \$5.84 to \$4.1 million.</li> </ul>

<ul style="list-style-type: none"> <li>• Opportunity to reunite relationships strained by original project being cancelled, positively galvanizing community to deliver together on some of the previous goals</li> <li>• Improvements to the waterfront delivered</li> <li>• Outcomes likely to replace some existing, aging assets</li> <li>• Additional \$300,000 fund from Focus Paihia to contribute to the project</li> <li>• Help address King’s Road safety concerns through lighting improvements</li> <li>• Opportunity to improve waterfront CBD area in time for April 2023 bicentennial celebrations</li> <li>• Community-led placemaking.</li> </ul>	
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<p><b>Option Two: Decline the agreement</b></p>	
<p><b>Advantages</b></p> <ul style="list-style-type: none"> <li>• \$5.84 million of available LTP funds remains for allocation.</li> </ul>	<p><b>Disadvantages</b></p> <ul style="list-style-type: none"> <li>• Reputational risk to Council of not upholding Mayoral commitment to the Paihia community</li> <li>• Community expectations not met</li> <li>• Working relationships with community groups Focus Paihia and Business Paihia severely negatively impacted</li> <li>• Potential legal action taken against Council due to breach of agreement</li> <li>• Improvements to the waterfront not delivered</li> <li>• Missed opportunity to improve the waterfront in time for April 2023 bicentennial celebrations</li> <li>• Missed opportunity to reunite relationships strained by original project being cancelled and positively galvanize community to deliver together on some of the previous goals</li> <li>• Lighting array improvements already completed to be funded through existing operational maintenance budget</li> <li>• No further progress made on helping to address King’s Road safety concerns through lighting improvements.</li> </ul>

<p><b>Option Three: Review the project and form a new agreement for the Paihia Waterfront</b></p>	
<p><b>Advantages</b></p> <ul style="list-style-type: none"> <li>• Opportunity to re-examine the project</li> <li>• \$5.84 million of available LTP funds remain for allocation until a further agreement is reached.</li> </ul>	<p><b>Disadvantages</b></p> <ul style="list-style-type: none"> <li>• Reputational risk to Council of potentially not upholding Mayoral commitment to the Paihia community</li> <li>• Community expectations potentially not met</li> </ul>

	<ul style="list-style-type: none"> <li>• Working relationships with community groups Focus Paihia and Business Paihia negatively impacted</li> <li>• Potential legal action taken against Council due to breach of agreement</li> <li>• Current project progress stalls and potential future improvement becomes uncertain</li> <li>• Missed opportunity to improve the waterfront in time for April 2023 bicentennial celebration due to works delay</li> <li>• Potential future plans struggle to regain community support</li> <li>• Missed opportunity to reunite relationships strained by original project being cancelled and positively galvanize community to deliver together on some of the previous goals</li> <li>• Lighting array improvements already completed to be funded through existing operational maintenance budget due to timing delays.</li> </ul>
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**Relevant legislation and/or policies**

The outcomes to be delivered align with Council’s LTP strategic priorities and community outcomes:

- deepening our sense of place and connection,
- community outcomes of proud and vibrant communities, and
- communities that are healthy, safe, connected, and sustainable.

The recommended option is to approve the agreement.

**Take Tūtohunga / Reason for the recommendation**

Staff recommend proceeding due to the advantages listed in the Option One.

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

The project is budgeted for in an existing LTP funding line.

Further external budget of \$300,000 is to be granted to the project by partner group Focus Paihia should Council approve agreement.

**ĀPITIHINGA / ATTACHMENTS**

1. PWP Agreement - signed copy 8 November 2022 - A4050578 [↓](#) 

**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.

<b>He Take Ōkawa / Compliance Requirement</b>	<b>Aromatawai Kaimahi / Staff Assessment</b>
State the level of significance (high or low) of the issue or proposal as determined by the <a href="#">Council's Significance and Engagement Policy</a>	Low significance as per Council's significance and engagement policy.
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	Supports strategic LTP priority of deepening our sense of place and connection, and LTP community outcomes of proud and vibrant communities, and communities that are healthy, safe, connected, and sustainable.
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.	Relevant to the Paihia community. The Paihia ward representative sits on the working group to ensure Board oversight.
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.	Relevant to the Paihia community. The Paihia ward representative sits on the working group to ensure Board oversight.
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).	Affects the community of Paihia, all community views are being considered through participatory project processes.
State the financial implications and where budgetary provisions have been made to support this decision.	Financial implications as stated in Section 3 of this report.
Chief Financial Officer review.	The Chief Financial Officer has reviewed this report.

**Agreement between**  
**Far North District Council (FNDC) – the Funding Agent**  
**and**  
**Focus Paihia Community Charitable Trust (Focus Paihia) – the Recipient**  
**For design and delivery of the Paihia Waterfront Project – the Project**

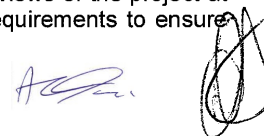
Focus Paihia Community Charitable Trust is registered under the Incorporated Societies Act 1908 and undertakes community-led programmes initiated by the local community, which promote and develop its local community.

FNDC recognises the role that Focus Paihia has in contributing to the development of its local community stretching from Watea and Haruru Falls through to Waitangi and Paihia. Focus Paihia works closely with key stakeholders in the area, including iwi/hapū, resident and ratepayer groups, and Business Paihia, all of which contribute to the development of an empowered community and a dynamic local business environment.

FNDC wishes to partner with Focus Paihia and key stakeholders to deliver improvements along the Paihia waterfront. These improvements were identified in the "Maritime facilities, waterfront storm mitigation, Paihia" project that was recently cancelled. These improvements have now been put into a standalone project.

In signing this agreement, the parties agree to the following:

1. To work together in good faith and establish a working group to enable collaborative delivery. The working group is to include at least one elected representative of FNDC, at least one FNDC staff member, and key community stakeholders including Focus Paihia, Business Paihia and local hapū. Representatives from Waka Kotahi and the Northland Transportation Alliance are to be invited to join the working group to help progress matters relating to their area of responsibility (e.g. Bluff improvements, street lighting etc). The working group is to remain in place until the project is complete and as-built information has been supplied to for any assets FNDC has agreed to take ownership of.
2. Far North District Council will fund the project, allocating a maximum budget of \$1.7 million (plus GST) to complete all elements of design and delivery.
3. Far North District Council will provide advice and support as needed, for example, in the planning and execution of community engagement, providing design input as required and general subject matter advice.
4. Focus Paihia will ensure design and delivery of the project to FNDC standards, and that all parties agree that solutions and improvements are adequately engineered, and risks are understood and mitigated.
5. Focus Paihia is responsible for the procurement of goods and services relating to the project.
6. General outcomes to be achieved are:
  - a. Lighting improvements between King's Road and Alfresco restaurant to improve accessibility and public safety and support positive community outcomes.
  - b. Horotutu improvements such as seating, paths, and lighting.
  - c. Bluff improvements such as widening the walkway, safety railings upgrade, lighting of murals, enabling installation of more informational storyboarding from groups such as Ngāti Kawa and the Paihia Legacy Society to highlight the historical importance of the area.
7. Focus Paihia agrees to manage the design and delivery of the project to a professional standard.
8. The responsibility, accountability and reporting for the funding is to sit at the appropriate level. For this project that means Focus Paihia will offer informal fiscal overviews of the project at working group meetings in addition to any FNDC formal reporting requirements to ensure transparency.



9. Vesting of Assets: Any assets created using the funding provided by FNDC under the terms of this agreement will not automatically transfer to FNDC as vested assets. If Focus Paihia wishes assets to be vested in Council, approval to the vesting through working group discussion is required prior to any work being undertaken. Any asset that is to be owned by Focus Paihia but be placed on Council land will require prior approval of Council.
10. Regardless of ownership of the assets created, Focus Paihia will provide a full list of asset information to enable FNDC to track the assets within FNDC systems as public or private (where the ownership resides with Focus Paihia). FNDC will specify the asset information format to Focus Paihia and this may change as requirements within Council systems change or are updated.
11. Variations: If investigations of planned deliverables uncover design limitations or specifics that mean another party such as NTA are more suited to deliver the outcome, FNDC reserves the right to reallocate funds to another party for completion of the specified deliverable.
12. FNDC reserves the right to review the use of funds allocated to the project; the needs for audit; and financial viability of the project (to be exercised reasonably). Focus Paihia will submit quarterly funding allocation updates to FNDC for the duration of the agreement.
13. FNDC reserves the right to undertake (at FNDC's expense) random audits on any aspect of the project (to be exercised reasonably).

**Payment**

Subject to the above, Council will make payments to Focus Paihia up to an allocated maximum budget of \$1.7 million (plus GST) to complete all elements of design and delivery.

Each of the general outcomes to be achieved will require submission and approval of a full plan to FNDC, including detailed costing overview for delivery of the outcome.

To enable community-driven delivery of this project, upon each plan's acceptance an initial 25% claim will be lodged at works commencement, with the remaining 75% of the agreed funding to be paid in progress or final claims per plan specifications.

The funding will be paid on the Deliverable milestones as follows:

Milestone Date	Milestone Event	Payment %	Amt
November 2022	Lighting improvements between Kings Road and Alfresco's restaurant	25% initial claim 75% progress and/or final payment(s)	To be agreed
February 2023	Horotutu improvements	25% initial claim 75% progress and/or final payment(s)	To be agreed
April 2023	Bluff improvements	25% initial claim 75% progress and/or final payment(s)	To be agreed
	<b>Total Cost</b>	<b>100%</b>	<b>\$ 1,700,000.00</b>

Payment will be made on a valid tax invoice and be subject to normal payment terms of 20<sup>th</sup> of the month following invoice date. Invoices must explicitly demonstrate breakdown of costs if claiming for multiple goods or services.



FNDC's obligations under this agreement are subject to Council's processes, policies, and legislative obligations.

Nothing in this agreement creates any partnership obligations between the parties.

Subject to any variation, this agreement will take effect from 1 October 2022 and will continue until 30 June 2024. Either party may terminate this agreement by 3 months' written notice to the other party.

This is executed as an agreement and is signed by the following on behalf of their respective organisations.

Signed on behalf of **Focus Paihia**

Signed on behalf of **Far North District Council**

Signature: 

Signature: 

Name: Grant Harnish

Signature:

Name: Andy Finch

Position: Chair

Position: General Manager – Infrastructure & Asset Management

Date: 7 November 2022

Date: 8 November 2022

## 7.2 STORMWATER ISSUES 323 STATE HIGHWAY 10 - CABLE BAY

**File Number:** A4043397

**Author:** Tania George, EA to GM - Infrastructure and Asset Management

**Authoriser:** Andy Finch, General Manager - Infrastructure and Asset Management

### TAKE PŪRONGO / PURPOSE OF THE REPORT

The purpose of this report is to obtaining funding to resolve a long-standing stormwater issue impacting the property at 323 State Highway 10 at Cable Bay.

### WHAKARĀPOPOTO MATUA / EXECUTIVE SUMMARY

- There has been a long-standing issue with Council's stormwater reticulation which currently passes through the property located at 323 State Highway 10 Cable Bay.
- This reticulation is currently damaged and the consequential discharge of stormwater on to the property owners land may cause land instability.
- The cause of the damage to the reticulation is not conclusive.
- A project has been prepared to decommission the existing reticulation on the property and divert the stormwater flow into new pipes to be installed into State Highway 10.
- The cost of this work is \$300,000 and is unbudgeted capital expenditure.
- It is proposed to use the existing storm water reserve fund for this project.

### TŪTOHUNGA / RECOMMENDATION

**That Council approves expenditure of up to \$300,000 to undertake a project to decommission the existing stormwater reticulation from the property located at 323 State Highway 10 and install new reticulation into the State Highway 10.**

### 1) TĀHUHU KŌRERO / BACKGROUND

323 State Highway10 is located in Coopers Beach being lot 2 DP85116 and is 811sqm in area.

The property is bounded by State Highway 10 to the south, residential properties to the east and west and Cable Bay to the north.

The property comprises a dwelling, sleepout, timber decks that surround the dwelling and sleepout, a carparking deck adjacent to State Highway 10, a stand-alone garage, concrete water tank and several retaining walls. Vegetation is present along the southern property boundary and there are a number of garden areas.

The property is generally sloping to the north, north-east. A relatively flat grassed area is present to the north of the sleepout that is retained by a timber pole retaining wall. Beyond the northern property boundary the land slopes moderately to steeply down to Cable Bay and is fully consented.

Records indicate that the property has wastewater and stormwater reticulation. The stormwater pipes within the property are 375mm diameter concrete pipes and the wastewater 150mm diameter UPVC gravity main. No as-built records have been identified although the stormwater reticulation is recorded as being installed in the 1970's.



Figure 1- Existing Reticulation. Red Wastewater, Green Stormwater

A landslip occurred at the property during or following a high intensity rainfall event on 27-28 March 2003. The landslip occurred on the northern side of the property and resulted in land movement and the undermining of the foundations of the dwelling, sleepout and attached decks. The landslip also dislocated the stormwater line that passes through the property. Remediation of the slip, including reported repairs to the stormwater reticulation, was subsequently completed and a code of compliance certificate issued by Council on 7 March 2013.

In June 2021, Council was contacted by the owner of the property reporting damage to the stormwater reticulation and suggesting that it had undermined part of the foundations of the sleepout. On inspection it was found that the collar had separated from the pipe by about 200mm and that some movement in the ground may be continuing.

During the period of August to October 2021, a consultant was engaged to identify the cause and propose a mitigation strategy to address the issue. CCTV of the reticulation was completed by March 2022. The CCTV inspection confirmed that the stormwater pipes have significant damage, in the form of circumferential cracking, joint faults, and defective lateral pipes joining into the concrete pipe. The damage is not limited to the section of the pipe that is present beneath the sleepout.

The consultant’s assessment of the cause of the damage to the reticulation was not conclusive, attributing the current damage to the stormwater reticulation beneath the sleepout to one or a combination of the following:

- Poor installation of the stormwater piping.
- Damage during the previous landslip that was not correctly fixed during the slip remediation works.
- Damage caused by the landslip remediation works.
- The stormwater pipe not having sufficient bulkheads installed to reduce the downhill flow velocity of the stormwater.
- Ongoing ground movement.

If no remediation to the stormwater reticulation is undertaken, then stormwater will continue to jet out of the stormwater pipe where it is damaged causing further land instability.

## 2) MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND OPTIONS

A preferred option has been identified which decommissions the existing stormwater pipes beneath the sleepout at the property. A 450mm diameter stormwater pipe will be installed within the State Highway and connected to the existing stormwater drainage at Cable Bay. It is currently proposed to undertake this work using directional drilling to minimise the impact to traffic flows on the State Highway, noting that State Highway 10 is currently a diversion route for State Highway 1. The work will be undertaken by Far North Waters.

The estimated cost of the project is \$300k. Due to current disruption with material supply chains, materials for this project were placed on order in December. If the project is not approved by Council, these materials can be reallocated to other projects.

The existing property owner has become increasingly frustrated with Council's tardiness in progressing a solution to this issue, particularly as he is planning on undertaking some works to replace the existing sleepout. This work is planned for early 2023 and would involve increased costs to work around the existing stormwater reticulation.

The time taken from first notification of the issue in June 2021 to now seeking approval for funding in February 2023 would seem to support that position. In part this has been the result of the prioritisation of the numerous stormwater issues that exist around the District and mitigating the increased frequency and intensity of storms due to climate change.

The property owner is likely to seek legal redress from Council for costs incurred and has asked Council to accept liability for the issues caused by the damaged stormwater reticulation. Whilst this is not the subject of this report this information has been included for transparency.

### Reason for the recommendation / Te Take Tūtohunga

Approval of the recommendation will enable a long-standing stormwater issue at 323 State Highway 10 to be resolved and will stop ongoing stormwater impacts to the existing property.

This project was not identified during the preparation of the current Long-Term Plan or Annual Plan. It is therefore unbudgeted expenditure and is beyond the Delegated Financial Authority of staff. Council approval is therefore required for this project to progress.

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

Council holds a stormwater reserve budget that is sufficient to accommodate the cost of the diversion of the existing stormwater reticulation into the State Highway. If approved no other capital funding will be required.

## ĀPITIHINGA / ATTACHMENTS

1. **Layout Design - A4043400**  

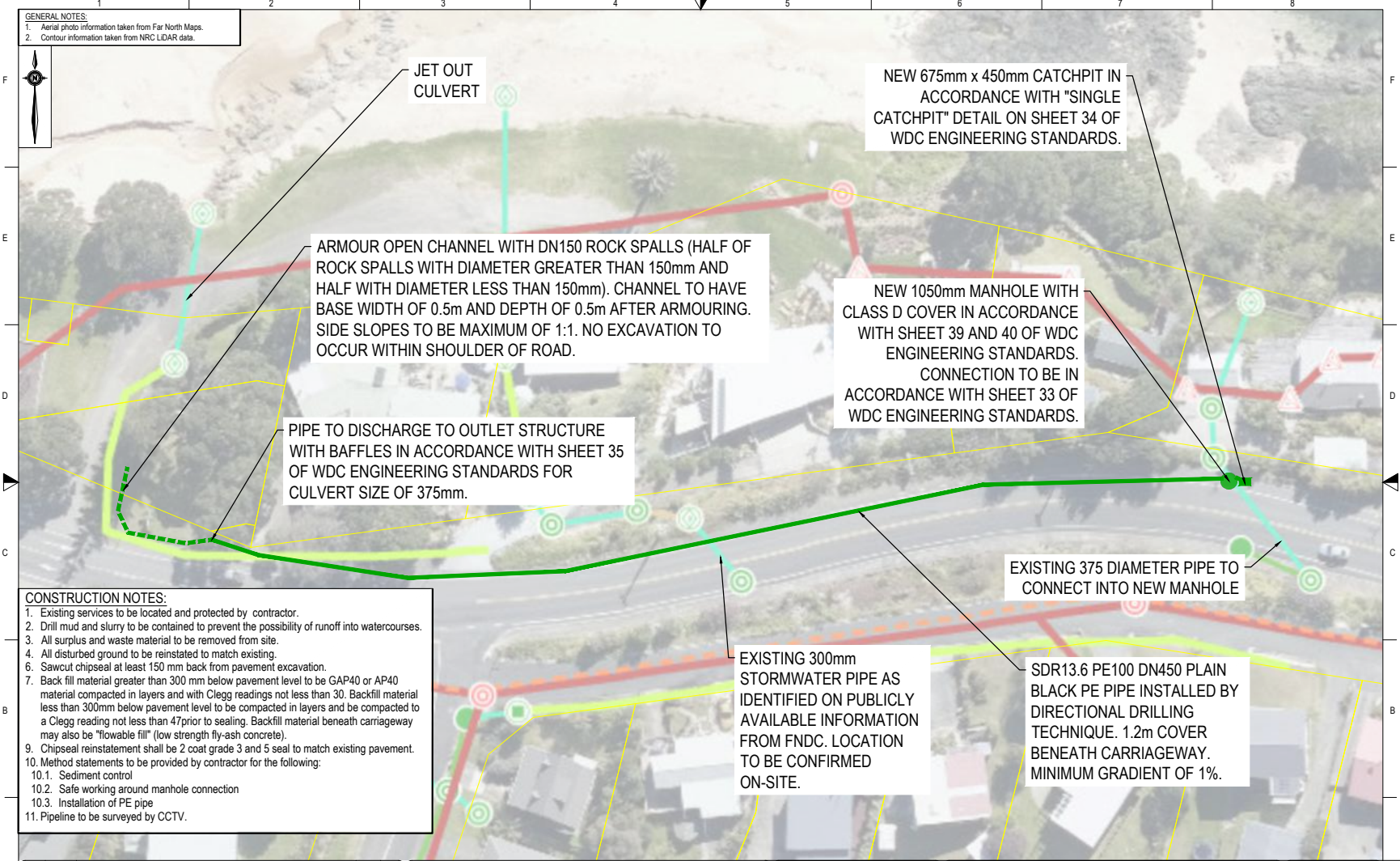
**Hōtaka Take Ōkawa / Compliance Schedule:**

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.

<b>He Take Ōkawa / Compliance Requirement</b>	<b>Aromatawai Kaimahi / Staff Assessment</b>
State the level of significance (high or low) of the issue or proposal as determined by the <a href="#">Council's Significance and Engagement Policy</a>	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.	N/A
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.	Local Relevance
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.	No specific implications for Māori have been identified.
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).	N/A
State the financial implications and where budgetary provisions have been made to support this decision.	As detailed in the report
Chief Financial Officer review.	The Chief Financial Officer has reviewed this report.

**GENERAL NOTES:**  
 1. Aerial photo information taken from Far North Maps.  
 2. Contour information taken from NRC LIDAR data.



**CONSTRUCTION NOTES:**

- Existing services to be located and protected by contractor.
- Drill mud and slurry to be contained to prevent the possibility of runoff into watercourses.
- All surplus and waste material to be removed from site.
- All disturbed ground to be reinstated to match existing.
- Sawcut chipseal at least 150 mm back from pavement excavation.
- Back fill material greater than 300 mm below pavement level to be GAP40 or AP40 material compacted in layers and with Clegg readings not less than 30. Backfill material less than 300mm below pavement level to be compacted in layers and be compacted to a Clegg reading not less than 47 prior to sealing. Backfill material beneath carriageway may also be "flowable fill" (low strength fly-ash concrete).
- Chipseal reinstatement shall be 2 coat grade 3 and 5 seal to match existing pavement.
- Method statements to be provided by contractor for the following:
  - Sediment control
  - Safe working around manhole connection
  - Installation of PE pipe
- Pipeline to be surveyed by CCTV.

Rev	Date	Description	By	Checked
1	28/11/2022	FOR COMMENT	JT	RH
2	09/12/22	FOR CONSTRUCTION	JT	RH

**DWG SITE PLAN**

A3 SCALE 1:500

Date 24/11/2022

Drawn JT Checked RH Approved TA

File G:\SUBMITTALS\WDC\WORK\323-333 STATE HWY\10 CABLE BAY\DWG\22-372\323-333 STATE HWY\10 CABLE BAY\LOT 73P\22-372\ENGINEERING\DRAWINGS\22\_372\_CIVIL\_SDR13.6.DWG

**HAIGH WORKMAN**  
Civil & Structural Engineers

6 Farney Drive  
Keriker, BCO

T: 09 427 8227  
F: 09 427 8278  
E: info@haighworkman.co.nz

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Project	PROPOSED STORMWATER PIPELINE 323-333 STATE HIGHWAY 10 CABLE BAY	Stage	
Client	FAR NORTH DISTRICT COUNCIL	Dwg No.	P1
Project No.	22 372	Sheet No.	1 of 1
RC no.			

### 7.3 EASEMENT ON LOCAL PURPOSE ESPLANADE RESERVE-WAIRAWARAWA STREAM

**File Number:** A4053944

**Author:** Inna Shibalova, Senior Solicitor

**Authoriser:** Janice Smith, General Manager - Corporate Services

#### TAKE PŪRONGO / PURPOSE OF THE REPORT

To seek a decision from Council, via the Bay of Islands-Whangaroa Community Board, for a request to obtain a right of way (“**ROW**”) on part Council owned Local Purpose Esplanade Reserve Lot 16 DP 146302 in Rural Production zone in Kerikeri (“**Esplanade Reserve**” or “**Reserve**”).

Council’s Reserve Policy is the guiding mechanism for decisions regarding occupation of reserves. In keeping with Council policy and given the matter concerns Local Purpose Esplanade Reserve, the matter was first brought to the Bay of Islands - Whangaroa Community Board for recommendation to Council. At 12 December 2022 meeting Bay of Islands - Whangaroa Community Board resolved in favour of the requested ROW easement and recommended the Council approves the granting of the ROW easement as per recommendation below.

#### WHAKARĀPOPOTO MATUA / EXECUTIVE SUMMARY

- The owners of properties at 2276C State Highway 10 Kerikeri, 2228 State Highway 10, Kerikeri and 15 Conifer Lane Kerikeri propose to construct a vehicular and pedestrian bridge over Wairawarawa Stream and seek Council’s consent to create a ROW easement over small part of Council-owned Esplanade Reserve land situated between the subject properties.
- It is not viable, engineering-wise, to construct the bridge in any other relevant area of Wairawarawa Stream as the soil/ground is either unsuitable or too steep.
- An ongoing (35 years maximum) Resource Consent for the construction and use of the bridge will be processed through the Northland Regional Council (“**NRC**”) by ‘Bridge It NZ Limited’. NRC indicated they do not generally object to this proposal.
- In keeping with the provisions of the Reserves Act 1977 and Council’s Reserves Policy, Council is required to consider the relevant factors and the options as set out below and either grant a ROW easement to the applicant, as requested, or not.
- Staff recommendation is to approve the request and grant a ROW easement over part of the Reserve subject to conditions and agreed compensation.
- If the staff recommendation is accepted and before granting the ROW easement, Council must in accordance with sections 48(2), 119 and 120 of the Reserves Act 1977 carry out public consultation.

#### TŪTOHUNGA / RECOMMENDATION

**That Council approve the granting of a right of way easement pursuant to section 48(1)(f) of the Reserves Act 1977 on Local Purpose Esplanade Reserve Lot 16 DP 146304 for the purpose of constructing and using a private bridge over the Wairawarawa Stream connecting:**

- 2276C State Highway 10 Kerikeri - Lot 1 DP 91402 contained in record of title NA64B/178; and**
- 15 Conifer Lane Kerikeri - Lot 1 DP 535123 and Lot 14 DP 158690 contained in record of title 884105; and**
- 2228 State Highway 10, Kerikeri - Lot 1 DP 457586 contained in record of title 593590.**

**and that approval is provided subject to:**

- 1. NRC granting Resource Consent for construction of the bridge; and**

2. **public consultation in accordance with sections 48(2), 119 and 120 of the Reserves Act 1977; and**
3. **compensation being negotiated and finalised in a written Compensation Agreement payable by the landowners to the Council; and**
4. **Landowners -**
  - a) **bearing all costs and disbursements in relation to the required public consultation.**
  - b) **if required by law and prior to commencing construction works, seeking relevant consent(s) and / or permits from the Council under Local Government Act 1974, Resource Management Act 1991 and / or Building Act 1991.**
  - c) **bearing all legal and survey costs and disbursements in relation to creating and registering the easement instrument on all relevant titles;**
  - d) **bearing full responsibility for the construction, maintenance, upkeep, repair, removal of the bridge (if required) during its lifetime, and end of its lifetime;**
  - e) **the bridge being the landowner's asset, which if abandoned, neglected or on becoming a nuisance of any kind or degree, must be removed or decommissioned and Reserve land remediated to Council's satisfaction;**
  - f) **indemnifying the Council of all costs, claims and expenses arising from use and operation of the bridge during its lifetime.**

## 1) TĀHUHU KŌRERO / BACKGROUND

The Esplanade Reserve land was originally given to this Council, in accordance with requirements of Part 20 (ss 284-290) Local Government Act 1974, by the current landowners as part of their 1990 subdivision RC 792608.

### 1.1 RC 2001575-LGA348 Application

In January 2020 the landowners approached Council with RC 2001575-LGA348 application for approval of ROW over the Reserve pursuant to s 348 Local Government Act 1974 seeking to:

1. construct a bridge over Wairawarawa Stream - connecting
  - a. 2276C State Highway 10 Kerikeri - Lot 1 DP 91402 contained in record of title NA64B/178; and
  - b. 15 Conifer Lane Kerikeri - Lot 1 DP 535123 and Lot 14 DP 158690 contained in record of title 884105; and
  - c. 2228 State Highway 10, Kerikeri - Lot 1 Deposited Plan 457586 contained in record of title 593590

(“three properties”).
2. create a ROW easement over small part of the Esplanade Reserve – to enable construction, use and operation of the bridge.

The application was declined by Council planning staff.

### 1.2 Current Application

In May 2022 the landowners, again, approached Council through their lawyers, seeking a ROW easement to enable construction and use of a private bridge. The purpose of the bridge is to provide safe travel for people, vehicles and farm machinery between the three properties in Rural Production Zone avoiding use of State Highway 10.

The landowners have considered building the bridge on their own properties so that the bridge does not have to be on the Esplanade Reserve. However, the engineering advice was that it was not



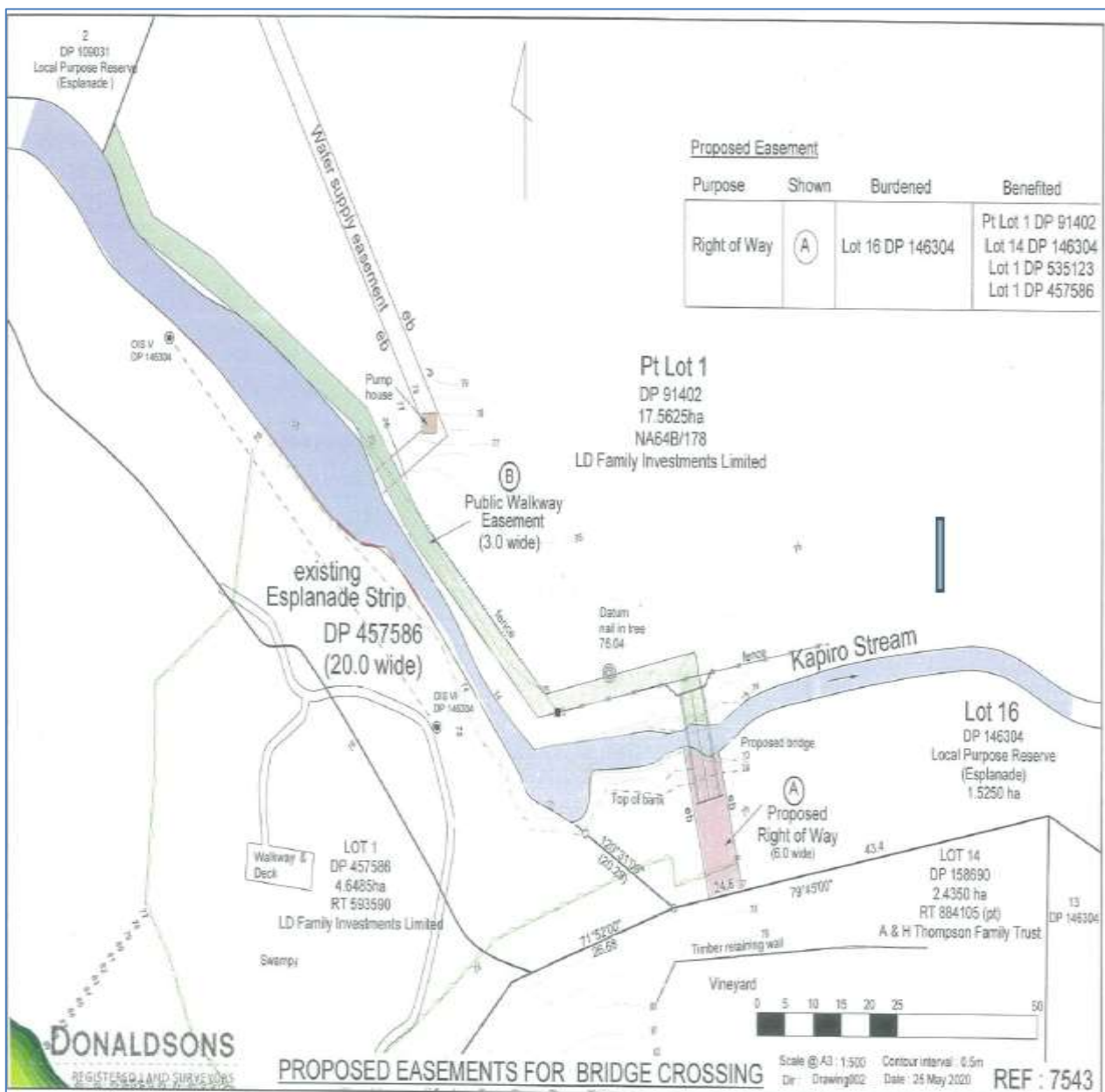
viable to construct the bridge in any other relevant part of Wairararawa Stream as the soil/ground is either unsuitable or too steep.

Further, the environmental impact of trying to build a bridge in any other relevant part of Wairararawa Stream would be much greater than at the proposed location – some ecosystems will be either wiped out or significantly depleted. The proposed location is the flattest, the most stable and least ‘swampy’ allowing the engineering and ground works to be less invasive or damaging for the ecosystems of the Stream.

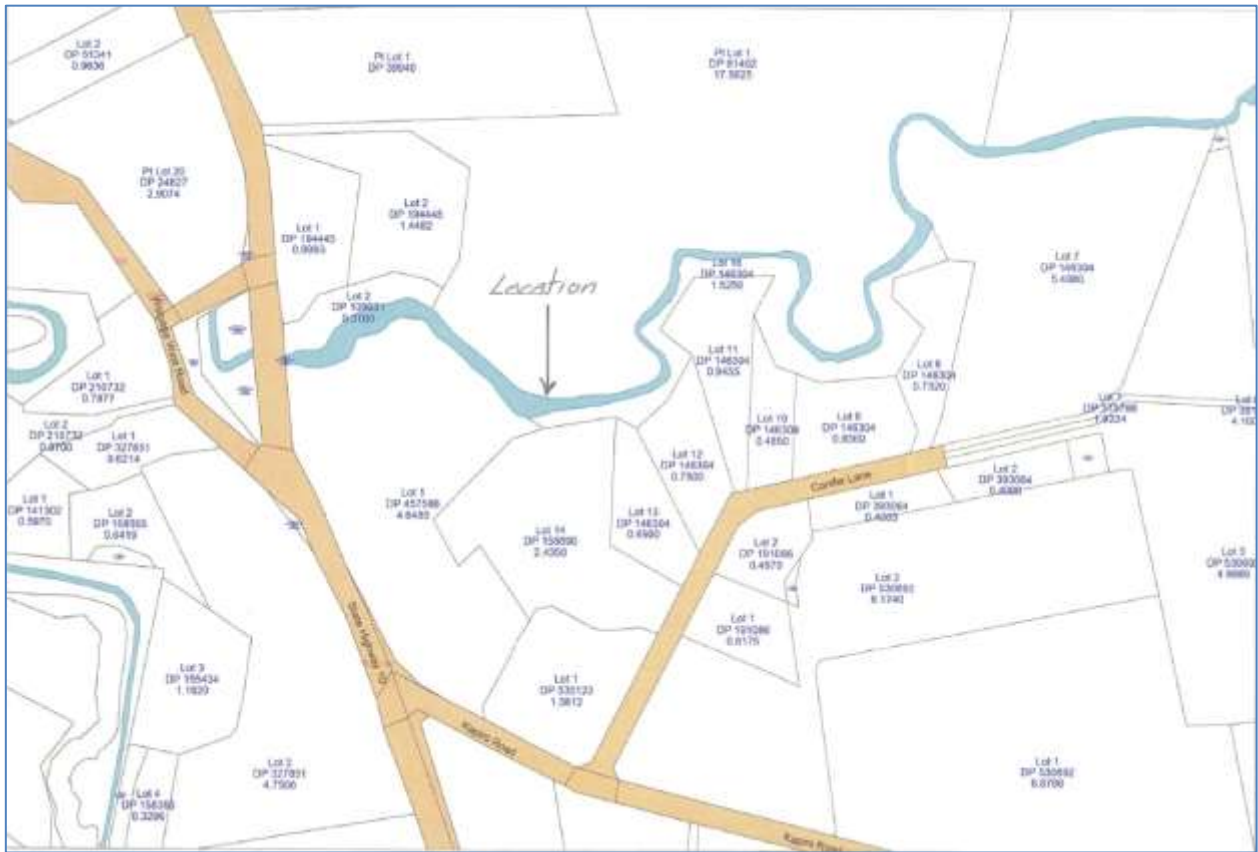
The landowners offer public access to and use of the bridge by members of the public, should the Council wish to accept it. The public access to the proposed bridge will be via:

1. easement in gross granted in favour of this Council by landowners of Lot 1 DP 91402 contained in NA64B/178 - on northern side of Wairararawa Stream; and
2. existing esplanade strip on Lot 1 Deposited Plan 457586 contained in record of title 593590 – on the southern side of Wairararawa Stream.

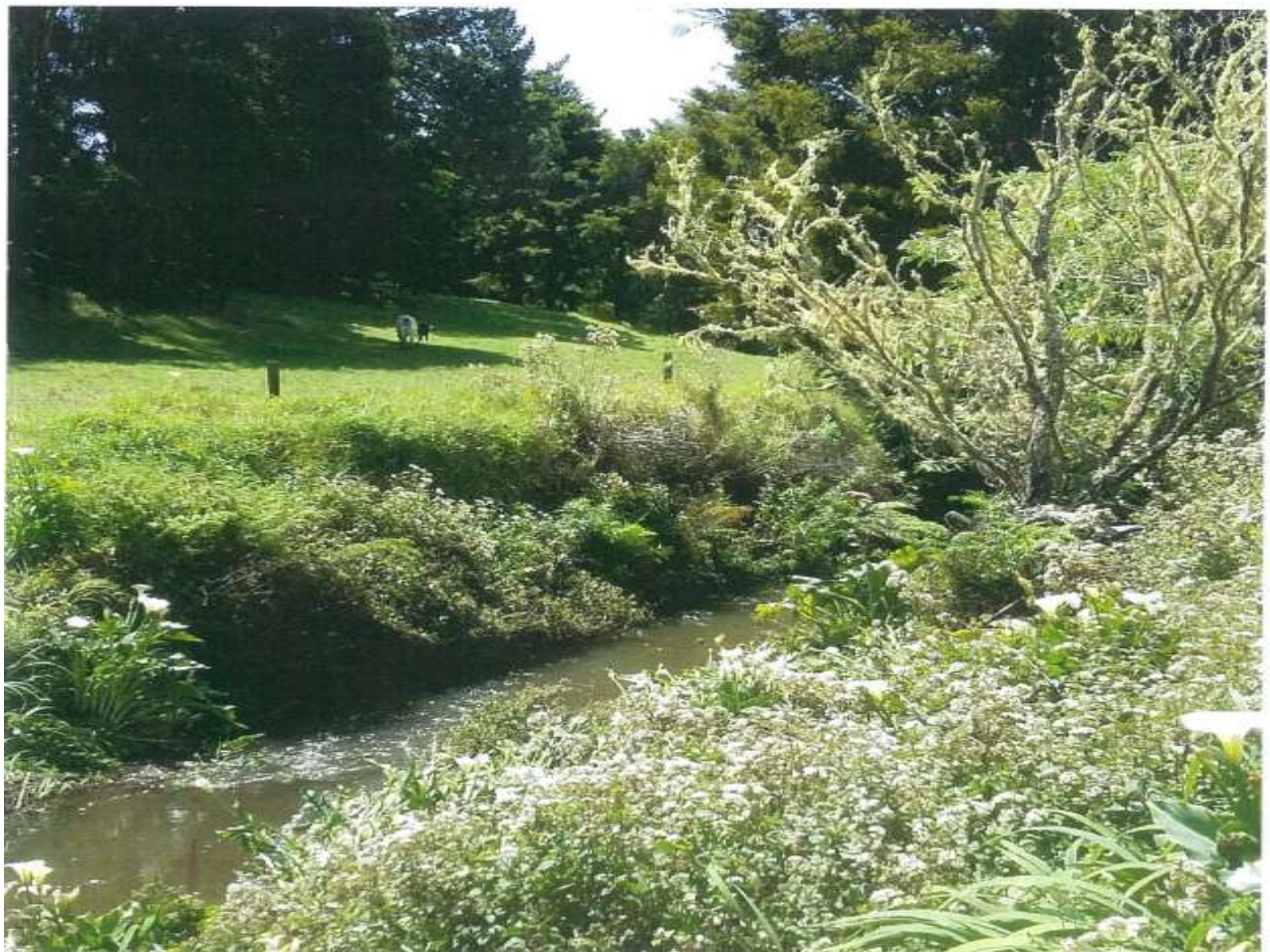
**Diagram 1 – Location of the Bridge and proposed Easement in Gross.**



**Diagram 2 – Topographical and cadastral map showing location of the Bridge.**



**Diagram 3 – Photo of proposed location of the bridge**



Should the Council accept easement in gross in favour of this Council, that would create an opportunity for a future 'full circle' public walkway around the Stream – in clockwise direction - starting at the water hole on the other side of SH10, along Council reserve land Lot 2 DP 109031, along the proposed easement in gross on Lot 1 DP91402, over the proposed bridge, over Council Reserve Lot 16 DP 146304, along the Esplanade Strip on Lot 1 DP 457586, under the SH10 bridge and back to the waterhole on the other side of SH10. See **Diagram 4** below.

It should be noted, that should a full circle public walkway opportunity be realised, budgetary implications will arise with regard to maintenance for that public access that is currently not there.

**Diagram 4 - 'Full circle' public walkway around the Stream**



**1.3 Affected Reserve Land**

Council’s Esplanade Reserve, subject to this application, is located between Wairawarawa Stream and eight properties running on the left of Conifer Lane, Kerikeri in the Rural Production Zone. The Reserve is a Local Purpose (Esplanade) Reserve within the meaning of the Reserves Act 1977. The Reserve land is shown in blue in **Diagram 5** below.

The approximate location and size of the proposed bridge in relation to the Reserve land is depicted in red. That location has been recommended by Bridge It NZ Limited engineers as the flattest, the most viable from an engineering perspective and the least damaging for the ecosystems of the Stream.

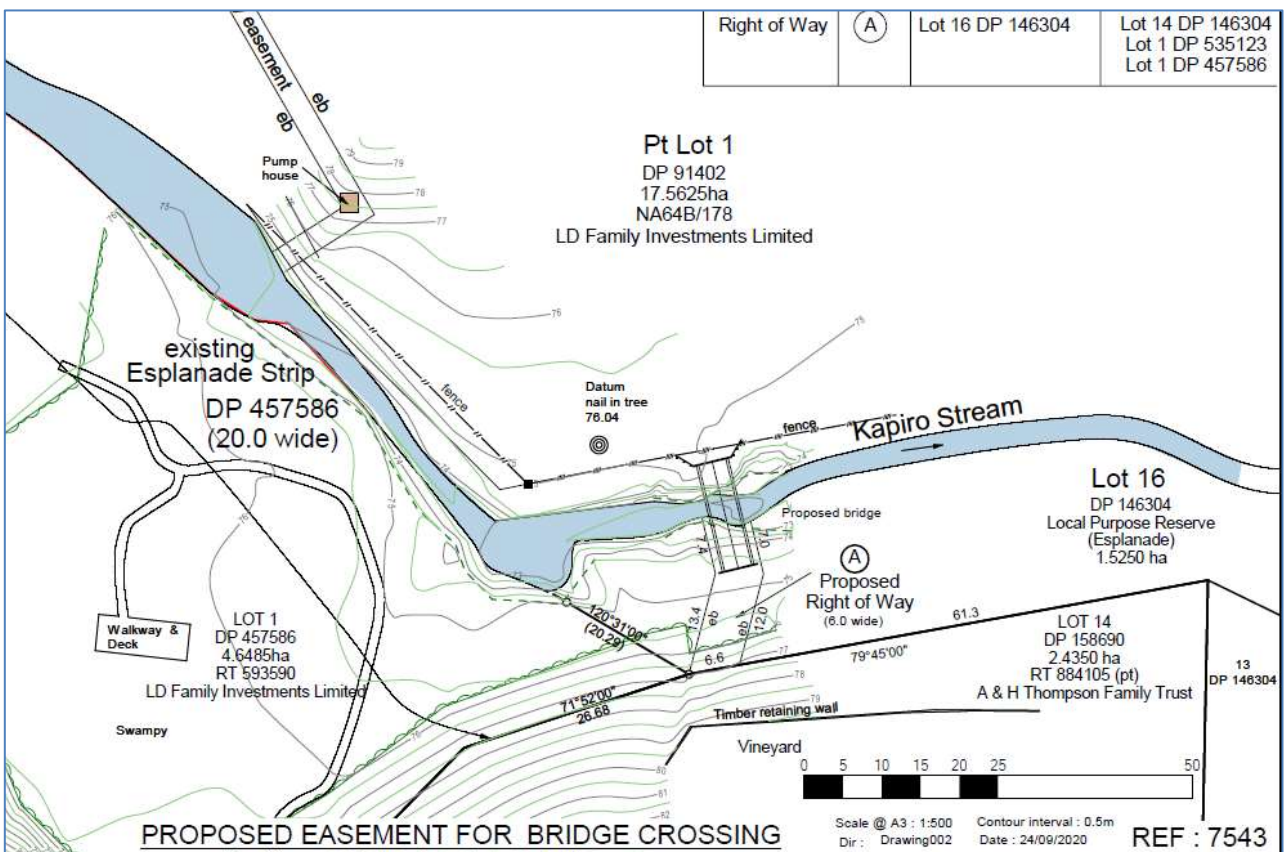
The bridge and the requested ROW Easement area will affect a small part of the Reserve.

**Diagram 5 – Reserve land affected by the bridge structure and ROW easement outlined in red**



The bridge structure will start on Lot 1 DP 91402, go over the Wairararawa Stream and will end on the Reserve land. Applicant requires a right of way from the Stream boundary to the boundary of Lot 14 DP 158690 as shown in **Diagram 6** below.

**Diagram 6 – Proposed Easement for bridge crossing**



The Reserve, as it currently is:

1. Inaccessible to public – the esplanade strip that comes off SH10 and runs along the boundary of on Lot 1 DP 457586 is not formed and has a steep terrain densely covered in vegetation;
2. Is not maintained or managed by Council. It is overgrown by invasive foreign species of vegetation such as gores and wild ginger. The applicant, who runs a vineyard and a horticultural business, carries out regular weed eradication program at its own cost to keep the weeds at bay.

## **2) MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND OPTIONS**

### **2.1 Matters relevant to the decision**

#### **2.1.1 Reserves Act 1977 requirements**

Council is the administering body for the Reserve. Section 40 of the Reserves Act 1977 charges the administering body with managing and controlling reserves so as to ensure the use, enjoyment, development, maintenance, protection, and preservation, as the case may require, for the purpose for which it is classified.

The Reserve is designated Local Purpose Reserve (Esplanade) Reserve Under the Reserves Act 1977. The purpose of esplanade reserve is further defined in the Resource Management Act 1991 as being:

*An esplanade reserve or an esplanade strip has 1 or more of the following purposes:*

- (a) *to contribute to the protection of conservation values by, in particular, —*
  - i. *maintaining or enhancing the natural functioning of the adjacent sea, river, or lake; or*
  - ii. *maintaining or enhancing water quality; or*
  - iii. *maintaining or enhancing aquatic habitats; or*
  - iv. *protecting the natural values associated with the esplanade reserve or esplanade strip; or*
  - v. *mitigating natural hazards; or*
- (b) *to enable public access to or along any sea, river, or lake; or*
- (c) *to enable public recreational use of the esplanade reserve or esplanade strip and adjacent sea, river, or lake, where the use is compatible with conservation values.*

Taking the above into account and should the Council accept public walkway easement over Applicant's Lot 1 DP 91402, it is considered that granting ROW easement over part of the Esplanade Reserve to allow for the construction of the bridge is generally in keeping with the purposes of esplanade reserves set out in the RMA, and the broad responsibilities of administering bodies set out in Section 40 of the Reserves Act 1977. Granting of the requested Easement will enable public access, use and enjoyment of the Reserve.

Section 48(2) of the Reserves Act 1977 requires the Council to consult with and have regard to the views of the public before undertaking certain actions in respect of reserves, for which it is the administering body. This includes consultation with relevant tangata whenua. Given the proposed bridge over the Stream will materially impact the Esplanade Reserve, public consultation must be carried out before the easement can be granted.

#### **2.1.2 Relevant FNDC Policy**

##### **Reserves Policy March 2017**

FNDC has a reserves policy dated March 2017. Section 4 of the Reserves Policy contains policies covering encroachments on Council owned land.

Policy 2 sets out that Council will decline all future requests for private use of public land for access or occupation unless such use provides a benefit to the proper use and enjoyment of the public land. At the moment the Reserve is inaccessible to the public and even if one manages to get to the Reserve via the Stream bed, such access would be of limited recreational value as the Reserve 'exits' / abuts only private properties. The benefit to the public in this case would be to secure a public walkway/accessway over private land towards and around the Reserve.

Policy 3 requires Council to give consideration to the context of the public land when considering the resolution options. Currently the Reserve is inaccessible to and is unused by the public. Only a small part of the reserve will be affected by the required ROW Easement.

Policy 4 requires Council to take into account the effect of the encroachment on members of the public. The effect of proposed encroachment / easement on members of the public is likely to be positive. The Reserve is currently unused by members of the public. Making it more accessible will benefit members of the public.

As discussed in the previous section it is considered that granting approval to the proposal is generally in keeping with the purposes of esplanade reserves set out in the RMA, and the broad responsibilities of administering bodies set out in Section 40 of the Reserves Act 1977 because it will enable public access to the Reserve and over the Stream and will enable public recreational use of the Esplanade Reserve.

Given the proposed bridge and easements will have the effect of allowing better use and enjoyment of the Reserve land by members of the public, it is considered that the grant of ROW easement is not inconsistent with FNDC Reserve Policy.

### **2.1.3 Resource Consent Requirements**

The proposed bridge works and the bridge itself will require resource consents from the NRC. Earthworks associated with the enabling works on the Reserve Land is also required by the Far North District Council and the NRC. Importantly, advice from the NRC is that diversion of stormwater associated with the bridge structure will require an ongoing (maximum 35 years) resource consent for ongoing occupation and use of the bridge. This means that the owners of the asset will be bound by any consent requirements, including requirements for on-going maintenance, addressing any adverse effects that may arise and/or removing the structure should it be abandoned or create a nuisance.

As Council is an affected party within the meaning of s 95 of the Resource Management Act 1991 as well as an administering body of the Reserve, NRC will consult the Council as to the terms and conditions that should be imposed in its resource consent.

### **2.1.4 Public Access and Use of the Reserve**

The Reserve land is currently land-locked and not easily accessible to any member of the public including the adjoining landowners. The Reserve is a wetland with escarpments on both sides of various degrees of steepness. The only limited benefit (if any) of this Reserve at the moment is to the adjoining landowners. That limited benefit, however, is usurped by the wet and boggy nature of the soil and necessary weed-eradication program that the landowners undertake on a regular basis at their own cost to keep the proliferating weed species at bay.

Public access to and use of the affected portion of the Reserve will be positively affected by the proposed bridge structure. At the moment the public is unable to access and use the Reserve as is. Allowing the ROW easement to the landowners and accepting public access and walkway

easement on their Lot 1 DP 91402 would allow public to traverse through private land on a formed walkway or track towards the bridge, over the Wairawarawa Stream and onto the Esplanade Reserve.

It should be noted that the applicant already has legal access to its land holdings at 15 Conifer Lane, 2228 and 2276C State Highway 10. Allowing the bridge structure and ROW Easement on the Reserve will significantly benefit the applicant and increase capital value of their land holdings as it will connect the applicant's properties and will allow movement of people, farm machinery and vehicles between the properties without having to go via State Highway 10, Kapiro Road or Conifer Lane.

### **2.1.5 Ownership**

The bridge structure will be owned by the private landowners. Ongoing resource consent from NRC will impose obligations on the landowners to carry out on-going maintenance, address any adverse effects or potential nuisance that may arise and/or remove the structure at the end of its life, if abandoned or neglected or if required by NRC.

If ROW Easement is granted, the easement instrument will contain similar requirements allowing the Council to enforce them should it be required. The easement instrument will also contain an indemnity clause protecting the Council from any liability for any claim or injury.

## **2.2 Consideration of Alternatives**

The assessment of environmental effects includes an assessment of alternative options. These alternatives are summarised below.

### **2.2.1 OPTION 1 - Decline the Request for ROW Easement over part of the Reserve**

If this option is adopted, the status quo will remain –

- The applicant will continue to use their existing legal access to its land holdings at 15 Conifer Lane, 228 and 2276C SH10 and manage health and safety of their farm machinery operators who use SH10 to transit between the applicant's properties.
- The Reserve land will remain as is – not easily accessible to or used by the public.

This is the safest and most conservative option that does not benefit any stakeholder. The benefit to the Council is that it avoids setting a precedent going forward and will not require budget to maintain the Reserve to a standard that would be required if public access was feasible.

### **2.2.2 OPTION 2 (Recommended) - Provide written approval for ROW Easement subject to conditions**

This option will allow the three properties - Lot 1 DP 91402, Lot 14 DP 158690 (held in the same title as Lot 1 DP 535123) and Lot 1 DP 457586 - in the Rural Production Zone to be connected by the proposed bridge structure circumventing the use of SH10 by the farm machinery and vehicles.

This option will enable public access to and use of the Reserve through a public walkway on private land with minimal environmental impact on the existing Reserve land. The option also broadly promotes social, economic, environmental, and cultural well-being of the local community.

It is considered any liability that Council would be exposed to by granting this Easement is minimal (if any) and will be suitably limited or mitigated by terms and conditions of the relevant resource consent and legal instruments registered on the titles of applicant's properties.

Given that benefit to the public is quite limited and distinctly outweighed by a private benefit in other words, landowners stand to gain much more than the members of the public, it is appropriate to seek and negotiate a compensation amount for this ROW Easement.

As this option requires public consultation, drafting and registration of the easement as well as surveying of the easement area and negotiating a Compensation Agreement, all such costs must be borne by the landowners.

### **2.2.3 OPTION 3 - Application to cancel the Reserve status and sell the Reserve land or part of the Reserve land to the landowners for an agreed sum on condition that it will be an Esplanade strip**

This option is the most complex and time-consuming as it will require the Council to first revoke or cancel the classification of this Reserve land. Once the classification is revoked the Council must follow a disposal process set out in the Reserves Act 1977 which includes public consultation, consultation with Iwi and the Department of Conservation. The method of disposal is linked to how the Council originally acquired the land – as this Reserve derived from private ownership and was given to the Council as a result of 1990 private subdivision, the Council may retain the proceeds of this disposal.

This option is not recommended or necessary in this case as only small part of the Reserve is affected by the proposed bridge structure. The costs of disposal will outweigh any benefit to the ratepayers. Also, this option does not 'future-proof' public access along the Stream – it would take Council backward – meaning we should not be selling public land or public rights into private ownership when the legislation and policy insist on protecting riparian and coastal margins for public access, use and enjoyment.

#### **Take Tūtohunga / Reason for the recommendation**

Option 2 is the recommended option for the following reasons:

1. It will allow the Reserve to serve the purpose it was intended for when originally created in 1990 and as currently provided for in s 6(d) of the Resource Management Act 1991- providing opportunities for public access and recreational use of a natural watercourse.
2. It will 'future proof' and develop public access and use of that Reserve by securing easement in gross for public access over private land which land is unlikely to be subdivided in the near future.
3. The Easement and the bridge structure will occupy a small part of the Reserve. The rest of the Reserve will remain unaffected and as is.
4. It will have minimal effect on Reserve and public right to and use and enjoyment of that Reserve.
5. The proposed bridge structure will promote access to the Reserve and around the Stream – allowing the public to walk from the water hole on the other side of SH10 over private properties and back to the water hole again.
6. The proposed location of the bridge structure will have minimal environmental impact compared to if this bridge was built elsewhere on private land. The proposed location is the flattest, the most stable and least 'swampy' allowing the engineering and ground works to be less invasive or damaging for the ecosystems of the Stream.
7. In addition to improved public access and use of the Stream and the Reserve, the negotiated or agreed compensation for the required ROW easement will provide financial benefit to the ratepayers of the district.

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

All costs and disbursements associated with public consultation, drafting and registration of the easement as well as surveying of the easement area and negotiating a Compensation Agreement are to be borne by the landowners that are seeking to construct the bridge structure and the grant of ROW Easement on Council owned Reserve land.

Given the NRC's resource consent and the easement conditions will place the responsibility of the upkeep, maintenance, and eventual removal of the bridge on the owners of the properties described



as Lot 1 DP 91402, Lot 1 DP 535123 and Lot 14 DP 158690, Lot 1 DP 457586, it is not expected the recommended resolution will carry any ongoing financial implications.

**ĀPITI HANGA / 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.

<b>He Take Ōkawa / Compliance Requirement</b>	<b>Aromatawai Kaimahi / Staff Assessment</b>
State the level of significance (high or low) of the issue or proposal as determined by the <a href="#">Council's Significance and Engagement Policy</a>	Low
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	Reserves Act 1977, FNDC Reserves Policy
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.	BOI -Whangaroa Community Board was consulted prior to this matter being brought to Council. At a meeting on 12 December 2022 BOI -Whangaroa Community Board, the board considered the report, recommendation and resolved to recommend that Council approves the granting of the sought ROW easement.
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.	Consultation will be required.
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).	Council is the affected party – owner of the Reserve.
State the financial implications and where budgetary provisions have been made to support this decision.	None – potential compensation to Council.
Chief Financial Officer review.	The Chief Financial Officer has reviewed this report

**7.4 ŌMĀPERE WHARF - APPROVAL TO INCREASE BUDGET****File Number: A4065796****Author: Darren James, Asset Manager - District Facilities****Authoriser: Janice Smith, General Manager - Corporate Services****TAKE PŪRONGO / PURPOSE OF THE REPORT**

To request Council retrospectively endorse an additional \$265,773 Council budget for the Ōmāpere Wharf Head Section replacement project.

**WHAKARĀPOPOTO MATUA / EXECUTIVE SUMMARY**

- The Ōmāpere Wharf Head section replacement was completed by Far North Holdings Limited (FNHL) in December 2022 and included the Intertidal Steps requested by the Kaikohe Hokianga Community Board.
- FNHL approached staff for a budgetary uplift in April 2022 but due to timing and the change in Committees following the election this has not been done.
- Total cost of the project was \$1.25m and the current approval is \$977,917.
- Current project deficit is \$265,773 and can be drawn from existing Long-Term Plan approved budgets.
- FNHL are currently carrying the deficit on their books and are seeking the additional funding as a matter of urgency.

**TŪTOHUNGA / RECOMMENDATION**

**That Council approves \$265,773 additional budget for Ōmāpere Wharf - Approval to increase budget, to be funded from existing budgets within the Maritime activity.**

**1) TĀHUHU KŌRERO / BACKGROUND**

FNDC owns the Ōmāpere Wharf. It was constructed in 1989 by the Hokianga County Council with funding assistance from the Northland Harbour Board. Maintenance works have been carried out over the years, including replacing the wharf head and end steps in 2006. The structures are maintained by FNHL under contract to Council.

In November 2020 the wharf was damaged by a Merchant Vessel, a subsequent Insurance claim was successful and Council were awarded \$355,543.48 to undertake repairs.

In August 2021 a purchase order was raised for the acquisition of steel piles which were a known short supply item. This Purchase order was for \$76,000.

The October 2021 the Kaikohe-Hokianga Community Board and subsequent Council meeting passed the following resolution:

**6.5 ŌMĀPERE WHARF - RENEWAL OF END SECTION**

Agenda item 7.5 document number A3325907, pages 74 - 76 refers

**RESOLUTION 2021/65**

Moved: Member Louis Toorenburg

Seconded: Member Emma Davis

**That the Kaikohe-Hokianga Community Board:**

- Receive the report Ōmāpere Wharf - Renewal of End section.**
- Supports the new design concept for the replacement section of the Wharf; and**
- that inter-tidal steps be strongly recommended and incorporated into the design.**

**CARRIED**

In May 2022 the approval to release budget up to \$977,917.48 was approved by the Chief Executive. Construction of the wharf end commenced in August 2022. During construction a number of modifications needed to be undertaken to the design which resulted in a requirement for extra piles to account for inconsistencies in the Geotech within the construction area. In October and November significant weather caused delays to construction. A combination of both the weather and extra piling consumed the contingency within the project.

The project completed in early December 2022 and the final cost of the project was \$1,243,690.

A deficit of \$265,773 in authorised funding remains.

## 2) MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND OPTIONS

It is recommended that Council accept this report and approves the uplift of budget for the Ōmāpere wharf end section renewal.

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

Funding is a combination of the insurance pay out and budgeted funds in the LTP.

Project funding sources are in Table 1

Budget Name	Account no	Available Funds	Funds to be released
Insurance	141388.1.1.1909	\$355,543.48	\$355,543.48
Hokianga Harbour Programme	141653.1.1.4917	\$622,374.00	\$622,374.00
New Maritime Recreation	141690.1.1.4917	\$725,693.00	\$265,772.52
<b>Total Budget</b>			<b>\$1,243,690.00</b>

Project actual costs in Table 2

Contractor	Category	Task	Cost Estimate
Shorewise	Prof Fees	Engineering & observation	\$64,900
Halletts Steel	steel piles	extra piles	\$42,992
Halletts Piles	Steel Piles		\$76,000
FNHL	project management		\$25,000
Halletts Enterprises	Contractor	Ōmāpere Tender price	\$976,798
Williams and King	Surveyors		\$8,000
		Contingency	\$50,000
<b>Ōmāpere Wharf Total</b>			<b>\$1,243,690</b>

The deficit of \$265,773 is available within existing LTP approved budgets. The shortfall will be drawn from the New Maritime Recreation budget.

All budgets, excluding the insurance compensation, identified in Table 1 are district wide rated and funded from the General Rate.

**ĀPITI HANGA / 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.

<b>He Take Ōkawa / Compliance Requirement</b>	<b>Aromatawai Kaimahi / Staff Assessment</b>
State the level of significance (high or low) of the issue or proposal as determined by the <a href="#">Council's Significance and Engagement Policy</a>	This activity is assessed as having low significance to our engagement policy. Project was consulted on and resolutions passed for final design aspects by Council.
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	The Project met compliance with the Resource Consent and contributed to the following community outcomes: A wisely managed and treasured environment that recognises the role of tangata whenua as kaitiaki. Connected communities that are prepared for the unexpected. Communities that are healthy, safe connected and sustainable.
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 Community Board supported the project and resolution passed.
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 were no known implications to Māori, Consultation took place with various community groups and solution sought for modified design.
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).	As above, various community groups, including Coastguard were part of the design solution for the new wharf head. This resulted in the incorporation of intertidal steps.
State the financial implications and where budgetary provisions have been made to support this decision.	Budgetary provision exists in year this report seeks approval for expenditure of that budget.
Chief Financial Officer review.	The GM Corporate Services has reviewed and approved this report

**7.5 PROCUREMENT PLAN AND CONTRACT AWARD > \$1M - FNDC CONTRACT 7/22/100 – FNDC RAISED TRAFFIC FACILITIES 2021-24****File Number: A4053351****Author: Franz Wagner, Project Manager - Transport and Roading****Authoriser: Andy Finch, General Manager - Infrastructure and Asset Management****TAKE PŪRONGO / PURPOSE OF THE REPORT**

To seek Council Delegated Authority approval to award Contract 7/22/100 - FNDC Raised Traffic Facilities 2021-24 to a maximum contract value of \$1,961,000.00 including contingency upon satisfactory conclusion of the Tender Evaluation phase.

**WHAKARĀPOPOTO MATUA / EXECUTIVE SUMMARY**

- The procurement of the physical works for the FNDC Contract 7/22/100 - FNDC Raised Traffic Facilities 2021 - 24 is for the implementation of the highest priority traffic calming and pedestrian improvement measures in the district as identified by the NTA Road Safety Team.
- The anticipated value of the associated physical works will be > \$1m. The tendering and the evaluation methods will follow the Government Rules of Sourcing, i.e., Open tender and Lowest Price Conforming respectively.
- The Supplier Recommendation and other associated documents will require Council approval delegated to the CEO to expedite the award process allowing works to proceed at a pace so that delivery timeframes can be comfortably achieved in the last year of the LTP, and to also avoid the risk of not meeting the tender validity period.

**TŪTOHUNGA / RECOMMENDATION****That Council:**

- i) acknowledge the approved NTA Procurement Proposal, and,**
- ii) delegate authority to the FNDC Chief Executive Officer (CEO) to award Contract 7/22/100 - FNDC Raised Traffic Facilities 2021-24 to a maximum contract value of \$1,961,000.00 (including contingency) upon satisfactory conclusion of the Tender Evaluation phase, including:**
  - **Supplier Recommendation approval.**
  - **Contract Signing**
  - **Purchase Order approval**

**1) TĀHUHU KŌRERO / BACKGROUND**

Refer to '*Background*' in Attachment 1: Procurement Plan and Contract award - 7-22-100 - FNDC Raised Traffic Facilities 2021-24

**2) MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND OPTIONS**

Refer to '*Discussion*' in Attachment 1: Procurement Plan and Contract award - 7-22-100 - FNDC Raised Traffic Facilities 2021-24

**Take Tūtohunga / Reason for the recommendation**

Refer to '*Discussion*' in Attachment 1: Procurement Plan and Contract award - 7-22-100 - FNDC Raised Traffic Facilities 2021-24

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

Refer to '*Financial Considerations*' in Attachment 1: Procurement Plan and Contract award - 7-22-100 - FNDC Raised Traffic Facilities 2021-24

#### **ĀPITIHINGA / ATTACHMENTS**

- 1. 7-22-100 Procurement Plan - FNDC Raised Traffic Facilities 2021-24 - A4053345**  



**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.

<b>He Take Ōkawa / Compliance Requirement</b>	<b>Aromatawai Kaimahi / Staff Assessment</b>
State the level of significance (high or low) of the issue or proposal as determined by the <a href="#">Council's Significance and Engagement Policy</a>	LOW SIGNIFICANCE: Given the advanced project stage and that the decisions being made fall under Schedule 1: Strategic Assets for Rooding Network activities that don't reduce the Levels of Service, however, Council has chosen to inform the public of what they are doing.
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	<ul style="list-style-type: none"> <li>• FNDC's Financial strategy for 2018-28</li> <li>• FNDC's Infrastructure strategy for 2018-48</li> <li>• FNDC's Risk Management Policy adopted: 29 August 2019</li> <li>• Government Procurement Rules</li> </ul>
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.	Contract 7/22/100 - FNDC Raised Traffic Facilities 2021 - 24 will promote safe traffic speeds and encourage active modes of transport as a way of addressing the concerns related to excessive speed which were received from the community.
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.	No direct implications for Māori has been identified. However, the appropriate level of engagement is being conducted with key stakeholders.
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).	Lower speed will decrease the risk of injury on local roads and encourage active modes of transportation in the interest of the entire local community.
State the financial implications and where budgetary provisions have been made to support this decision.	Refer Financial Considerations in Appendix 1
Chief Financial Officer review.	CFO has reviewed the report.



<b>Meeting:</b>	<b>FNDC Council Meeting, 9th of February 2023</b>
<b>Name of item:</b>	<b>Procurement Plan and Contract Award - 7-22-100 - FNDC Raised Traffic Facilities 2021-24</b>
<b>Author:</b>	<b>Franz Wagner – NTA Project Manager</b>
<b>Authoriser: Management</b>	<b>Andy Finch, General Manager – Infrastructure and Asset</b>
<b>Date of report:</b>	<b>21/12/2022</b>

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## 1 Purpose

To seek:

- 1.1. NTA Delegated Authority approval of the Procurement Proposal for Contract 7/22/100 - FNDC Raised Traffic Facilities 2021-24, and,
- 1.2. Endorsement of Council Delegated Authority approval to award Contract 7/22/100 - FNDC Raised Traffic Facilities 2021-24 to a maximum contract value of \$1,961,000.00 including contingency upon satisfactory conclusion of the Tender Evaluation phase.

## 2 Recommendations

2.1. That NTA Department and General Manager approve the Procurement Proposal contained herein, and endorsement of 2.2 below.

2.2. That Council:

- i) Acknowledge the approved NTA Procurement Proposal, and,
- ii) Delegate authority to the FNDC Chief Executive Officer (CEO) to award Contract 7/22/100 - FNDC Raised Traffic Facilities 2021-24 to a maximum contract value of \$1,961,000.00 including contingency upon satisfactory conclusion of the Tender Evaluation phase, including:
  - Supplier Recommendation approval.
  - Contract Signing
  - Purchase Order approval

## 3 Background:

The primary objective of the Raised Traffic Facilities programme is to reduce the risk of death and serious crash injury outcomes by introducing traffic calming and pedestrian safety measures to reduce traffic speeds and improve pedestrian safety within the urban and residential environment where vulnerable road users are present.

The Far North District Road Safety Reviews were undertaken by the NTA Road Safety Team which has informed the Raised Traffic Facilities and Pedestrian Improvements programmes. These programmes are subsidised by NZTA Waka Kotahi as part of their Low-Cost Low Risk Road to Zero and Pedestrian Improvements programmes. The following sites are identified for construction in the 2021-24 period.



Ward	Location
Te Hiku	Ahipara township
Te Hiku	Commerce Street and Pukepoto Road, Kaitaia
Te Hiku	Redan Road, Kaitaia
BOI-Whangaroa	Moerewa
Kaikohe-Hokianga	Kaikohe North

#### 4 Discussion:

The procurement amount exceeds \$1m. The approval process will thus follow the current FNDC DFA (Delegated Financial Authorisations) limits as outlined below:

<b>Value of Procurement</b>	Great than \$1.0 million	Complies with 2022 FNDC DFA Limits
<b>Proposed Procurement Method</b>	Open Market	Complies with Government Rules of sourcing
<b>Proposed Tender Evaluation Method</b>	Lowest Price Conforming	Complies with Government Rules of sourcing
<b>Approval Mechanism</b>	<ul style="list-style-type: none"> <li>Procurement Plan</li> <li>Supplier Recommendation Report</li> </ul>	Complies with 2022 FNDC DFA Limits
<b>Approver</b>	Delegations to CEO approved through Ordinary Council Meeting	Complies with 2022 FNDC DFA Limits

Council approval to delegate authority to the CEO to approve the recommended supplier and award the contract once evaluated is being sought to allow contract commencement up to 2 months earlier based on the current progress of the procurement phase and council meeting times. Delegating authority will also ensure the contract can be awarded within the Tender Validity Period once evaluated.

The total budget of the 2022/23 and 2023/24 Raised Traffic Facilities and Pedestrian Improvements programmes is \$2,197,903.00 and has a remaining available budget of \$2,004,842.88 at the time of writing this report. The estimated construction cost of Contract 7/22/100 - FNDC Raised Traffic Facilities is \$1,961,000.00 including contingency. There are sufficient available funds for this procurement. Refer '**Financial Considerations**' section below for further information.

The contract will be divided into Separable Portions for 2022/23 and 2023/24 to ensure construction spends align with annual available budgets. The contractor will only be instructed to commence the 2023/24 Separable Portion once budgets have been approved through the annual plan process for 23/24.

The Procurement Proposal includes advertising the tender package to the open market, then evaluating submissions based on the Lowest Price Conforming method in accordance with the



Government Rules of Sourcing. This method will allow an open and fair contest for local and other suppliers, while also ensuring value for money is maintained for the construction works.

The tender evaluation process will include the following PASS / FAIL Minimum Requirements on Relevant Experience, Relevant Skills, Methodology, Track Record and Financial Viability. Specifically, the Tender Evaluation Team may exclude a tender submission from further consideration if:

- Attribute submissions are not made on the forms provided in the RFT-enclosed Template.
- The Contractor has not indicated agreement as appropriate with - and / or not signed the Declaration.
- The Contractor is not registered on SITEWISE or has a score  $\leq 60\%$ .
- The nominated financial referees are not independent of the Contractor's company, and / or provide unfavourable financial references and / or would not be available to provide a complete financial reference and / or are not appropriately qualified to advise on the Contractor's financial performance over the last two years and / or the Contractor's ability to finance the Contract Works. Evaluators are looking for: Banking portfolio manager or external accountant or auditor, or such like as being acceptable.
- The nominated Relevant Experience Project performance referees are not independent of the Contractor's company, and / or provide unfavourable project performance references and / or would not be available to provide a complete project performance reference and / or are not appropriately qualified to advise on the Contractor's nominated Relevant Experience Project performance.
- The nominated Technical Skill performance referees are not independent of the Contractor's company, and / or provide unfavourable Technical Skill performance references and / or would not be available to provide a complete Technical Skill performance reference and / or are not appropriately qualified to advise on the Technical Skill performance of the nominated Contract Manager and the nominated Site Foreman respectively.
- The Contractor does not provide Evidence of Company Insurance
- The Contractor has not provided 3 relevant projects of comparable scope, traffic exposure and complexity which shall all have attained Practical Completion Certificates in the last five years.
- The Contractor and his nominated Sub-Contractor (if relevant) has received PACE Scores less than 60 from FNDC / NZTA / NTA / Local Authority in the last FIVE years. (Evaluators will interrogate the NTA PACE register for previous performance assessments). If no PACE is available, then the nominated referee must attest performance across all PACE criteria at a minimum of 3 out of 5 for every criterion respectively, i.e. "ACCEPTABLE - meets the criterion in full, but at a minimal level".
- The Contractor has not provided a programme demonstrating completion within the project period and / or not provided a list of resources which the Contractor will have at his disposal to deliver this contract.

## 5 Summary:

- The procurement of the physical works for the FNDC Contract 7/22/100 - FNDC Raised Traffic Facilities 2021 - 24 is for the implementation of the highest priority traffic calming and pedestrian improvement measures in the district as identified by the NTA Road Safety Team.
- The anticipated value of the associated physical works will be > \$1m. The tendering and the evaluation methods will follow the Government Rules of Sourcing, i.e. Open Tender and Lowest Price Conforming respectively.
- The Procurement Proposal requires NTA Department and General Manager approval.



- The Supplier Recommendation and other associated documents will require Council approval delegated to the CEO to expedite the award process allowing works to proceed at a pace so that delivery timeframes can be comfortably achieved in the last year of the LTP, and to also avoid the risk of not meeting the tender validity period.

## 6 Financial Considerations:

These works are subsidised by Waka Kotahi as Minor Improvements/ Low-Cost Low Risk at the current FAR of 69%. High-level construction cost estimates for this procurement (Contract 7/22/100) including contingency, and financial information for the 2022/23 and 23/24 programmes are provided below.

Project	22/23 – 23/24 Budget (\$)	Spend/ Commitments to date (\$)	Remaining Available Budget (\$)	Cost Estimate of this Procurement (\$)
Low-Cost Low Risk (Raised Traffic facilities)	2,093,903.00	141,343.62	1,952,559.38	1,910,000.00
Low-Cost Low Risk (Pedestrian Improvements)	104,000.00	52,716.50	52,283.50	51,000.00
<b>TOTALS</b>	<b>2,197,903.00</b>	<b>194,060.12</b>	<b>2,004,842.88</b>	<b>1,961,000.00</b>

## 7 Significance and Engagement

The decisions or matters of this Agenda do not trigger the significance criteria outlined in Council’s Significance and Engagement Policy, and the public will be informed via the publication of this agenda on the Council website and the website created for this purpose.

## 8 Report Approval

Review by:

Jon Wyeth,  
Capital Works Team Leader, NTA  
Date: 16/01/2023

Approved by:

Greg Monteith  
Capital Works and Procurement Manager, NTA  
Date: 17/01/2023

Approved by:

Calvin Thomas,  
General Manager, NTA  
Date: 18/01/2023

**7.6 PROCUREMENT PLAN AND CONTRACT AWARD > \$1M - FNDC CONTRACT 7/23/185 – FNDC FOOTPATH PROJECTS SUITE 03****File Number: A4053347****Author: Franz Wagner, Project Manager - Transport and Roading****Authoriser: Andy Finch, General Manager - Infrastructure and Asset Management****TAKE PŪRONGO / PURPOSE OF THE REPORT**

To seek Council Delegated Authority approval to award Contract 7/23/185 - FNDC Footpath Projects Suite 3 to a maximum contract value of \$2,747,000.00 including contingency upon satisfactory conclusion of the Tender Evaluation phase.

**WHAKARĀPOPOTO MATUA / EXECUTIVE SUMMARY**

- The procurement of the physical works for the FNDC Contract 7/23/185 - FNDC Footpaths Suite 03 is for the implementation of the highest priority footpaths in the district as agreed with the Community Boards.
- The anticipated value of the associated physical works will be > \$1m. The tendering and the evaluation methods will follow the Government Rules of Sourcing, i.e., Open tender and Lowest Price Conforming respectively.
- The Supplier Recommendation approval and other associated documents require Council approval delegated to the CEO to expedite the award process allowing works to proceed at a pace so that delivery timeframes can be comfortably achieved in the last year of the LTP, and to also avoid the risk of not meeting the tender validity period.

**TŪTOHUNGA / RECOMMENDATION****That Council:**

- a) acknowledge the approved NTA Procurement Proposal, and,**
- b) delegate authority to the FNDC Chief Executive Officer (CEO) to award Contract 7/23/185 - FNDC Footpath Projects Suite 3 to a maximum contract value of \$2,747,000.00 including contingency upon satisfactory conclusion of the Tender Evaluation phase, including:**
  - **Supplier Recommendation approval.**
  - **Contract Signing**
  - **Purchase Order approval**

**1) TĀHUHU KŌRERO / BACKGROUND**

Refer to '*Background*' in Attachment 1: Procurement Plan and Contract Award - 7-23-185 - FNDC Footpath Projects Suite 3.

**2) MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND OPTIONS**

Refer to '*Discussion*' in Attachment 1: Procurement Plan and Contract Award - 7-23-185 - FNDC Footpath Projects Suite 3.

**Take Tūtohunga / Reason for the recommendation**

Refer to '*Discussion*' in Attachment 1: Procurement Plan and Contract Award - 7-23-185 - FNDC Footpath Projects Suite 3.

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

Refer to '*Financial Considerations*' in Attachment 1: Procurement Plan and Contract Award - 7-23-185 - FNDC Footpath Projects Suite 3.

#### **ĀPITIHINGA / ATTACHMENTS**

- 1. 7-23-185 Procurement Plan - FNDC Footpath Projects Suite 3 - A4053344** [↓](#) 

**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.

<b>He Take Ōkawa / Compliance Requirement</b>	<b>Aromatawai Kaimahi / Staff Assessment</b>
State the level of significance (high or low) of the issue or proposal as determined by the <a href="#">Council's Significance and Engagement Policy</a>	LOW SIGNIFICANCE: Given the advanced project stage and that the decisions being made fall under Schedule 1: Strategic Assets for Rooding Network activities that don't reduce the Levels of Service, Council has chosen not to engage the public.
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	<ul style="list-style-type: none"> <li>• FNDC's Financial strategy for 2018-28</li> <li>• FNDC's Infrastructure strategy for 2018-48</li> <li>• FNDC's Risk Management Policy adopted: 29 August 2019</li> <li>• Government Procurement Rules</li> </ul>
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.	Contract 7/23/185 - FNDC Footpath Project Suite 03 will improve Level of Service and walking environment for pedestrians by removing identified missing links and barriers to the FNDC Footpath Network. The Community Boards have been consulted and have agreed with the New Footpaths programmes as recorded in the September Community board Meeting Minutes.
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.	No direct implications for Māori have been identified. However, the appropriate level of engagement will be conducted with key stakeholders as the design work progresses.
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).	The New Footpaths programme has been developed in conjunction with the requirements and approval of the Community Boards. The footpaths are being designed in accordance with the Council standards and the NZTA Waka Kotahi Pedestrian Planning and Design Guide.



<p>State the financial implications and where budgetary provisions have been made to support this decision.</p>	<p>Refer to Financial Considerations in Appendix 1</p>
<p>Chief Financial Officer review.</p>	<p>The Chief Financial Officer has reviewed this agenda.</p>



**Meeting:** FNDC Council Meeting, 9th of February 2023  
**Name of item:** Procurement Plan and Contract Award - 7-23-185 - FNDC Footpath Projects Suite 3  
**Author:** Franz Wagner – NTA Project Manager  
**Authoriser:** Andy Finch, General Manager – Infrastructure and Asset Management  
**Date of report:** 21/12/2022

## 1 Purpose

To seek:

- 1.1. NTA Delegated Authority approval of the Procurement Proposal for Contract 7/23/185 - FNDC Footpath Projects Suite 3, and,
- 1.2. Endorsement of Council Delegated Authority approval to award Contract 7/23/185 - FNDC Footpath Projects Suite 3 to a maximum contract value of \$2,747,000.00 including contingency upon satisfactory conclusion of the Tender Evaluation phase.

## 2 Recommendations

2.1. That NTA Department and General Manager approve the Procurement Proposal contained herein, and endorsement of 2.2 below.

2.2. That Council:

- i) Acknowledge the approved NTA Procurement Proposal, and,
- ii) Delegate authority to the FNDC Chief Executive Officer (CEO) to award Contract 7/23/185 - FNDC Footpath Projects Suite 3 to a maximum contract value of \$2,747,000.00 including contingency upon satisfactory conclusion of the Tender Evaluation phase, including:
  - Supplier Recommendation approval
  - Contract Signing
  - Purchase Order approval

## 3 Background:

The primary objectives of the New Footpath programmes are to prioritise and improve footpath connections and safety for pedestrians.

The Far North District footpath review was undertaken by the NTA Road Safety Team in conjunction with each of the three FNDC Community Boards. The New Footpath programmes were Carried and recorded by each Community Board summarised as follows.

Community Board	Meeting Date	Resolution No.	Agenda Item	Outcome
Te Hiku	20-Sept-2022	2022/82	2022-24 New Footpaths Programme	Carried
BOI-Whangaroa	1-Sept-2022	2022/89	2022-24 New Footpaths Programme	Carried
Kaikohe-Hokianga	14-Sept-2022	2022/45	2022-24 New Footpaths Programme	Carried



The following New Footpaths are proposed to be procured as one package of work through an open market contest as Contract 7/23/185 - FNDC Footpath Projects Suite 3.

**Te Hiku Ward**

<b>Road</b>	<b>Location Description</b>
Cable Bay Block Rd	From SH10 to Pekama Drive
Taupata Place	To fill two gaps in existing footpath
Mill Bay Road	SH10 to Rangakapiti Road
Takahe Road	Golf course entrance to Kaka Street
SH 1@ Gill	Gill Road to Back2Wood

**Bay of Islands-Whangaroa Ward**

<b>Road</b>	<b>Location Description</b>
Whangaroa Road	From Lewers Road to Kent Bay

**Kaikohē – Hokianga Ward**

<b>Road</b>	<b>Location Description</b>
Horeke Road	Quick Win sections from existing footpath to School
SH12, Ohaeawai	From Preschool to existing & existing to Rugby Field
Manning Street, Rawene	Existing to #54 (14 Manning St-Marmon St)
Parnell Street, Rawene	Gap between Honey Street & School
Parnell Street, Rawene	Existing gap from #89 - 93, requires Nimmo Street East Closure
SH 12, Kaikohē	Reservoir Rd to Showgrounds

Note: New footpath projects not included in this Procurement Proposal for Contract 7/23/185, and have already been delivered or are currently in progress are:

1. Reed Street, Moerewa
2. Taumatākuku Settlement Road, Moerewa
3. Ahipara Road, Ahipara
4. Kotare Street, Ahipara
5. Oruru Road, Taipa

**4 Discussion:**

The procurement amount exceeds \$1m. The approval process will thus follow the current FNDC DFA (Delegated Financial Authorisations) limits as outlined below:



<b>Value of Procurement</b>	Greater than \$1.0 million	Complies with 2022 FNDC DFA Limits
<b>Proposed Procurement Method</b>	Open Market	Complies with Government Rules of sourcing
<b>Proposed Tender Evaluation Method</b>	Lowest Price Conforming	Complies with Government Rules of sourcing
<b>Approval Mechanism</b>	<ul style="list-style-type: none"> <li>Procurement Plan</li> <li>Supplier Recommendation Report</li> </ul>	Complies with 2022 FNDC DFA Limits
<b>Approver</b>	<ul style="list-style-type: none"> <li>Delegations to CEO approved through Ordinary Council Meeting</li> </ul>	Complies with 2022 FNDC DFA Limits

Council approval to delegate authority to the CEO to approve the recommended supplier and award the contract once evaluated is being sought to allow contract commencement up to 2 months earlier based on the current progress of the procurement phase and council meeting times. Delegating authority will also ensure the contract can be awarded within the Tender Validity Period once evaluated.

The total budget of the 3-year New Footpaths programme is \$4,137,609.00 and has a remaining available budget of \$3,510,782.27 at the time of writing this report. The estimated construction cost of Contract 7/23/185 - FNDC Footpath Projects Suite 3 is \$2,747,000.00 including contingency. There are sufficient available funds for this procurement. Refer **'Financial Considerations'** section below for further information.

The contract will be divided into Separable Portions for 2022/23 and 2023/24 to ensure construction spends align with annual available budgets. The contractor will only be instructed to commence the 2023/24 Separable Portion once budgets have been approved through the 23/24 annual plan process.

The Procurement Proposal includes advertising the tender package to the open market, then evaluating submissions based on the Lowest Price Conforming method in accordance with the Government Rules of Sourcing. This method will allow an open and fair contest for local and other suppliers, while also ensuring value for money is maintained for these predominantly low complexity footpath construction works.

The tender evaluation process will include the following PASS / FAIL Minimum Requirements on Relevant Experience, Relevant Skills, Methodology, Track Record and Financial Viability. Specifically, the Tender Evaluation Team may exclude a tender submission from further consideration if:

- Attribute submissions are not made on the forms provided in the RFT-enclosed Template.
- The Contractor has not indicated agreement as appropriate with - and / or not signed the Declaration.
- The Contractor is not registered on SITEWISE or has a score ≤ 60%.
- The nominated financial referees are not independent of the Contractor's company, and / or provide unfavourable financial references and / or would not be available to provide a complete financial reference and / or are not appropriately qualified to advise on the Contractor's financial performance over the last two years and / or the Contractor's ability to finance the Contract Works. Evaluators are looking for: Banking portfolio manager or external accountant or auditor, or such like as being acceptable.



- The nominated Relevant Experience Project performance referees are not independent of the Contractor's company, and / or provide unfavourable project performance references and / or would not be available to provide a complete project performance reference and / or are not appropriately qualified to advise on the Contractor's nominated Relevant Experience Project performance.
- The nominated Technical Skill performance referees are not independent of the Contractor's company, and / or provide unfavourable Technical Skill performance references and / or would not be available to provide a complete Technical Skill performance reference and / or are not appropriately qualified to advise on the Technical Skill performance of the nominated Contract Manager and the nominated Site Foreman respectively.
- The Contractor does not provide Evidence of Company Insurance
- The Contractor has not provided 3 relevant projects of comparable scope and complexity which shall all have attained Practical Completion Certificates in the last five years.
- The Contractor and his nominated Sub-Contractor (if relevant) has received PACE Scores less than 60 from FNDC / NZTA / NTA / Local Authority in the last FIVE years. (Evaluators will interrogate the NTA PACE register for previous performance assessments). If no PACE is available, then the nominated referee must attest performance across all PACE criteria at a minimum of 3 out of 5 for every criterion respectively, i.e. "ACCEPTABLE - meets the criterion in full, but at a minimal level".
- The Contractor has not provided a programme demonstrating completion within the project period and / or not provided a list of resources which the Contractor will have at his disposal to deliver this contract.

## 5 Summary:

- The procurement of the physical works for the FNDC Contract 7/23/185 - FNDC Footpaths Suite 03 is for the implementation of the highest priority footpaths in the district as agreed with the Community Boards.
- The anticipated value of the associated physical works will be > \$1m. The tendering and the evaluation methods will follow the Government Rules of Sourcing, i.e. Open Tender and Lowest Price Conforming respectively.
- The Procurement Proposal requires NTA Department and General Manager approval.
- The Supplier Recommendation and other associated documents will require Council approval delegated to the CEO to expedite the award process allowing works to proceed at a pace so that delivery timeframes can be comfortably achieved in the last year of the LTP, and to also avoid the risk of not meeting the tender validity period.

## 6 Financial Considerations:

These works are local share only and do not attract Waka Kotahi subsidy. High-level construction cost estimates for this procurement (Contract 7/23/185) including contingency, and financial information for the whole 3-year New Footpaths programme is provided below.



Wards	21/22 - 23/24 (3year) Budget (\$)	Spend/ Commitments to date (\$)	Remaining Available Budget (\$)	Cost Estimate of this Procurement (\$)
Te Hiku	1,370,425.00	417,522.42	952,902.58	897,000.00
BOI - Whangaroa	1,290,449.00	142,089.33	1,148,359.67	700,000.00
Kaikohe - Hokianga	1,476,735.00	67,214.98	1,409,520.02	1,150,000.00
<b>Totals</b>	<b>4,137,609.00</b>	<b>626,826.73</b>	<b>3,510,782.27</b>	<b>2,747,000.00</b>


Funding will come from the approved Community Boards Unsubsidised New Footpath Programme.

### 7 Significance and Engagement

The decisions or matters of this Agenda do not trigger the significance criteria outlined in Council’s Significance and Engagement Policy, and the public will be informed via the publication of this agenda on the Council website.

### 8 Report Approval

Review by:   
 Jon Wyeth,  
 Capital Works Team Leader, NTA  
 Date: 16/01/2023

Approved by:   
 Greg Monteith  
 Capital Works and Procurement Manager, NTA  
 Date: 17/01/2023

Approved by:   
 Calvin Thomas,  
 General Manager, NTA  
 Date: 18/01/2023

## **7.7 AMENDED CLASS 4 GAMING AND TAB VENUE POLICY - APPROVAL OF DRAFT FOR PUBLIC CONSULTATION**

**File Number: A4044481**

**Author: Kirsten Griffiths, Strategic Planner**

**Authoriser: Angie Thomas, Acting Chief Financial Officer**

### **TAKE PŪRONGO / PURPOSE OF THE REPORT**

To obtain approval for the amended Class 4 Gaming and TAB Venue Policy to be released for public consultation and set a date for hearing oral presentations of submissions.

### **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 2014 was due for review in 2017, however, under subsection 102(6) of the Gambling Act 2003, it does not cease to have effect and remains in place while it is due for review
- On 24 February 2022, the Policy was reviewed under section 102 of the Gambling Act 2003 and section 97 of the Racing Industry Act 2020. Council resolved that the policy should continue with amendment
- Section 102 of the Gambling Act 2003 requires that Council consult when amending a Class 4 gaming policy. Section 97 of the Racing Industry Act 2020 requires that Council consult when amending a TAB venue policy
- A statement of proposal for an amended Class 4 Gaming and TAB Venue Policy, including a draft of the amended policy, is in Attachment 1
- The recommended consultation period is for one month from 15 February 2023 to 15 March 2023 and oral submissions, if required, to be held on 6 April 2023.

### **TŪTOHUNGA / RECOMMENDATION**

**That the Council:**

- a. approves the proposal for an amended Class 4 Gaming and TAB Venue Policy in Attachment 1 to be released for public consultation to meet the requirements of section 102 of the Gambling Act 2003 and section 97 of the Racing Industry Act 2020**
- b. approves the period for making written submissions on the statement of proposal in attachment 1 be from 15 February 2023 to 15 March 2023**
- c. approves Council will hear any people wanting to present their submissions orally on 6 April 2023 and agrees to delegate, to the Mayor, 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 6 April 2023, either in person in the Council chambers or online via Microsoft Teams.**

### **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 2014 was due for review in 2017, however, under subsection 102(6) of the Act, it does not cease to have effect and remains in place while it is due for review.

When adopting or reviewing this policy, the Council must have regard to the social impact of gambling within the district.

Section 102 of the Gambling Act 2003 and section 97 of the Racing Industry Act 2020 require that this policy must also be adopted or amended in accordance with the special consultative procedure in section 83 of the Local Government Act 2002.

Following the review of the Class 4 Gaming and TAB Venue Policy 2014, on 24 February 2022, the Council approved the following (Resolution 2022/5):-

- a) 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,
- b) 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; and,
- c) 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.

## **2) MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND OPTIONS**

### **Summary of the review**

The review of the policy identified the following key points:-

- 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 electronic gaming 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.
- a restrictive relocation policy is the most appropriate way to address the relocation of Class 4 gaming venues in the district as this approach aligns with the intent of a sinking lid policy
- a sinking lid policy is 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.
- The relocation policy could be amended to 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.
- 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.

### **Form and content of amended policy**

A draft of the amended policy is in the statement of proposal document (Attachment 1). A "Track Changes" copy of the proposed amendments to the policy is also attached (Attachment 2), to enable the changes to be easily seen.



The policy setting of a 'sinking lid' on the number of Class 4 gaming machines in the Far North district remains in place, and many of the proposed amendments are intended to align with the sinking lid approach in a consistent manner throughout the policy document. The proposed amendments may be summarised as follows:

- References to the legislation have been updated to reflect the change from the Racing Act 2003 to the Racing Industry Act 2020. The terminology referring to standalone TAB venues has also been updated to align with the language used in the Racing Industry Act 2020.
- Policy statement 1 has been amended to clarify what is meant by a 'sinking lid' policy.
- Policy statement 2 has been amended to clarify the circumstances under which the Council will consider applications for relocation.
  - 2 (a) has been removed, to further align with the intent of the Class 4 gaming sinking lid policy.
  - 2 (c) has been amended (now 2b) to incorporate the criteria in the 'Procedures' section of the existing policy, with the exception of Procedures 15 (c) iii.
  - Criteria (e) and (f) have been added to restrict venues from moving to areas of higher deprivation, and to limit proximity to other class 4 Gaming venues.
  - The Waikiwi precedent has been acknowledged.
- Policy statement 4 regarding standalone TAB venues has been replaced by a sinking lid policy
- Amendments have been made to the 'Procedures' section, to be consistent with the policy that applications for new venues will only be considered for relocations of existing licensed venues
- The criterion for relocation under Procedures 15 (c) iii 'Financial reasons relating to the business' has been deleted. Other criteria that were in the 'Procedures' section have been incorporated into the 'Policy' section, to remove duplication and ensure consistency
- Some internal operational details have been deleted, as they are unnecessary and may become outdated (e.g. names of roles and departments may change)
- Amendments have been made to improve clarity and accuracy, remove duplication, and correct typographical errors.

### **Statement of proposal for consultation**

Section 102 of the Gambling Act 2003 and section 97 of the Racing Industry Act 2020 require that amendments to this policy must be made in accordance with the special consultative procedure in section 83 of the Local Government Act 2002. As described in section 83 of the Local Government Act 2002, the Special Consultation Procedure requires the Council to:

- prepare and adopt a statement of proposal or a summary of this proposal
- make publicly available the statement of proposal (or summary), a description of how people can present their views, and how long the consultation period will be (with a minimum of one month)
- make the statement of proposal as widely available as is reasonably practicable
- provide an opportunity for people to present their views to the local authority in a manner that enables spoken (or New Zealand sign language) interaction between the person and the local authority including via an audio or audio-visual link.

### **Consultation process**

Section 83 of the Local Government Act 2002 requires that at least one month is allowed for public consultation. Therefore, Council staff recommend that written consultation on the statement of proposal opens on 15 February 2023 and closes on 15 March 2023, which is a period of one month.

To ensure wide communication of the consultation, public notices will be placed in local community newspapers. 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. In accordance with section 102 of the Gambling Act 2003, the Council will give notice of the proposed policy to each

corporate society that holds a class 4 venue licence for a venue, and organisations representing Māori, in the Far North district. Other interested parties will also be contacted directly.

Council staff recommend people be encouraged to present their views primarily via the Council's website. In addition, 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.

The proposed amended policy is likely to be of high interest to some members of the public and Council staff expect some people will want to present their submissions orally to elected members. Staff therefore recommend Council 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 earliest suitable date for a hearing would be 6 April 2023.

Council staff also recommend the Council delegates to the Mayor 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 Council to convene to make that decision.

### **Take Tūtohunga / Reason for the recommendation**

On 24 February 2022, Council resolved that the Class 4 Gaming and TAB Venue Policy should continue with amendment.

Section 102 of the Gambling Act 2003 and section 97 of the Racing Industry Act 2020 require that Council consult when amending this policy.

A statement of proposal for an amended Class 4 Gaming and TAB Venue Policy, including a draft of the amended policy, is in Attachment 1.

The recommended consultation period is for one month from 15 February 2023 to 15 March 2023 and oral submissions, if required, to be held on 6 April 2023.

### **Next steps**

If the Council approves the recommendation, staff aim to present an analysis of submissions and a proposed final version of the amended policy to the Council by 03 August 2023.

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

The costs of the consultation on the proposal to amend the Class 4 Gaming and TAB Venue Policy will be met from within existing budgets.

### **ĀPITIHINGA / ATTACHMENTS**

1. **Statement of Proposal - Class 4 Gaming and TAB Venue Policy - A4044479**  
2. **Class 4 Gaming and TAB Venue Policy 2023 TRACK CHANGES - A4044255**  

**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.

<b>He Take Ōkawa / Compliance Requirement</b>	<b>Aromatawai Kaimahi / Staff Assessment</b>
<p>State the level of significance (high or low) of the issue or proposal as determined by the <a href="#">Council's Significance and Engagement Policy</a></p>	<p>In line with the Significance and Engagement Policy the recommendation to continue the policy with amendment will have little effect on financial thresholds, ratepayers, or levels of service. The recommendation is consistent with existing plans and policies and we have already consulted on the original policy. Therefore, the level of significance is low. However, experience from other consultations on class 4 gaming suggests that there may be public interest in the topic. A special consultative procedure is required under Section 102 of the Gambling Act 2003 and section 97 of the Racing Industry Act 2020.</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 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. When adopting or reviewing a policy under these Acts, the Council must have regard to the social impact of gambling within the district.</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 proposal has district-wide relevance and is not within the delegations of Community Boards to consider.</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.  State the possible implications and how this report aligns with Te Tiriti o Waitangi / The Treaty of Waitangi.</p>	<p>Seeking the views and input of iwi in the development of policy is integral. Māori will be given an opportunity to contribute during the consultation stage. In accordance with section 102 of the Gambling Act 2003, the Council will give notice of the proposed policy to organisations representing Māori in the Far North district.</p>
<p>Identify persons likely to be affected by or have an interest in the matter, and</p>	

<p>how you have given consideration to their views or preferences (for example – youth, the aged and those with disabilities).</p>	<p>Affected and interested parties will be given an opportunity to share their views and preferences during the consultation phase including:</p> <ul style="list-style-type: none"> <li>○ organisations representing Māori</li> <li>○ societies that hold a class 4 venue licence in the District</li> <li>○ Public Health</li> <li>○ Police</li> <li>○ agencies working with problem gamblers</li> <li>○ community groups</li> </ul>
<p>State the financial implications and where budgetary provisions have been made to support this decision.</p>	<p>The costs of the consultation on the proposal to amend the Class 4 Gaming and TAB Venue Policy will be met from within existing budgets.</p>
<p>Chief Financial Officer review.</p>	<p>The Chief Financial Officer has reviewed this report.</p>

## Statement of Proposal

### Class 4 Gaming and TAB Venue Policy

#### 1 Context and Situation

There are four main types of gambling allowed in New Zealand: New Zealand Lotteries Commission (Lotto), casinos, sports betting through the TAB, and (non-casino) class 4 Electronic Gaming Machines (EGMs) also known as pokie machines. The Department of Internal Affairs administers most gambling regulation, however local authorities must have policies about the location and number of class 4 EGMs and standalone TAB venues. 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 previously 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 follow a “sinking lid” policy model. Under this model, no new class 4 gaming machines are allowed in the district, and machines cannot be redistributed.

On 24 February 2022, following a review of the Class 4 Gaming and TAB Venue Policy 2014, the Council approved the following (Resolution 2022/5):-

- a) 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,
- b) 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; and,
- c) 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.

#### 2 Proposal

The Council proposes to continue with amendment the Class 4 Gaming and TAB Venue Policy, to improve clarity and certainty, and further align with the sinking lid policy model.

#### 3 Reasons for the proposal

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 remains in place.

When adopting a class 4 gaming venue policy and / or a TAB venue policy, or considering a relocation policy, the Council must have regard to the social impact of gambling within the district. As part of the 2022 review, the Council considered a report on the social impacts of gambling in the Far North District. The demographics of the district mean that our communities are more vulnerable to the detrimental effects of problem gambling. Furthermore, a significant amount of money is removed from the district due to class 4 gambling. Therefore, a sinking lid policy continues to be the most appropriate way to manage the establishment of class 4 and TAB venues in the Far North.

Under section 102 of the Gambling Act 2003 and section 97 of the Racing Industry Act 2020, amendments to the Council’s policy on class 4 gaming and TAB venues must be adopted in accordance with the special consultative procedure set out in section 83 of the Local Government Act 2002.

#### 4 Analysis of the reasonably practicable options

The Council considered four options for addressing problems relating to the establishment of class 4 gaming and TAB venues:

- Continue the Policy with minor amendments
- Continue the Policy with amendments to the relocation policy components
- Continue the Policy with amendments to the TAB policy components
- Continue the Policy with amendments to both the relocation and the TAB policy components

The advantages and disadvantages of the options are summarised in the following table.

Option	Advantages	Disadvantages
<b>1. Status quo: The Policy continues with minor amendments</b>	<ul style="list-style-type: none"> <li>• Policy aligns with the relevant legislation</li> <li>• Policy is more certain regarding the intent of the sinking lid policy.</li> </ul>	<ul style="list-style-type: none"> <li>• Relocation Policy continues to have provisions that are unnecessary because of the precedent set by the Waikiwi Decision (2019).</li> <li>• Relocation Policy does not align with the intent of the sinking lid policy.</li> <li>• Council continues to allow the establishment of stand-alone TAB venues which may have a detrimental effect on our vulnerable communities.</li> </ul>
<b>2. The Policy continue with amendments to the relocation policy components</b>	<ul style="list-style-type: none"> <li>• Removing provisions that are unnecessary because of the precedent set by the Waikiwi Decision (2019).</li> <li>• Removing provisions that do not align with the intent of a sinking lid policy.</li> <li>• Improves the effectiveness of a sinking lid policy.</li> <li>• Policy aligns with the relevant legislation</li> <li>• Policy is more certain regarding the intent of the sinking lid policy.</li> </ul>	<ul style="list-style-type: none"> <li>• Council continues to allow the establishment of stand-alone TAB venues which may have a detrimental effect on our vulnerable communities.</li> </ul>
<b>3. The Policy continues with</b>	<ul style="list-style-type: none"> <li>• No stand-alone TAB venues will be able to be established which takes into</li> </ul>	<ul style="list-style-type: none"> <li>• Relocation Policy continues to have provisions that are unnecessary because</li> </ul>

<p><b>amendments to the TAB policy components</b></p>	<p>consideration the detrimental effect of gambling on our vulnerable communities.</p> <ul style="list-style-type: none"> <li>• Policy aligns with the relevant legislation.</li> <li>• Policy is more certain regarding the intent of the sinking lid policy.</li> </ul>	<p>of the precedent set by the Waikiwi Decision (2019).</p> <ul style="list-style-type: none"> <li>• Relocation Policy does not align with the intent of the sinking lid policy.</li> </ul>
<p><b>4. The Policy continues with amendments to both the relocation and the TAB policy components (recommended option)</b></p>	<ul style="list-style-type: none"> <li>• Removing provisions that are unnecessary because of the precedent set by the Waikiwi Decision (2019).</li> <li>• Removing provisions that do not align with the intent of a sinking lid policy.</li> <li>• No stand-alone TAB venues will be able to be established which takes into consideration the detrimental effect of gambling on our vulnerable communities</li> <li>• Improves the effectiveness of the sinking lid policy.</li> <li>• Policy aligns with the relevant legislation.</li> <li>• Policy is more certain regarding the intent of the sinking lid policy.</li> </ul>	<p>None</p>

The Council resolved that Option Four is the preferred option, for the following reasons:

- to ensure the Policy is consistent with relevant legislation
- to improve certainty
- to take a consistent approach to minimise the harm caused by gambling in the Far North District.

## 5 How to give your views on the proposal

The council encourages any person or organisation affected by, or having an interest in, the Class 4 Gaming and TAB Venue Policy to present their views on the proposal to the Council by making a submission.

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](http://www.fndc.govt.nz/have-your-say)
- email your submission to [submissions@fndc.govt.nz](mailto: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](http://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

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 amended Class 4 Gaming and TAB Venue Policy 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 Draft Class 4 Gaming and TAB Venue Policy

The draft policy is as follows:

### Background

The Class 4 Gaming and TAB Venue Policy is made under Section 101 of the Gambling Act 2003 and section 96 of the Racing Industry Act 2020. The review and amendments to the Policy are made under Section 102 of the Gambling Act 2003 and section 97 of the Racing Industry Act 2020.

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, and if so where. The policy may also include a relocation policy, and may restrict the maximum numbers of machines below the statutory limits (in the Act this is 18 for venues licenced as at 17 October 2001, and 9 after that date, with some exceptions for clubs).

Under Section 96 of the Racing Industry Act 2020, territorial authorities must adopt a policy on TAB venues. The policy must specify whether or not new standalone TAB 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 Acts, 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, Council will not grant consent for the establishment of any new Class 4 gaming venues, except where an existing licensed venue needs to relocate for the reasons specified below. Council will not grant consent for additional Class 4 gaming machines, and machines will not be 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. Where two or more clubs, with existing licenses, may legally merge, at which time the maximum number of machines should not exceed 18, and the venue must be suitably located to meet the criteria of this Policy; or,
  - b. Where a business which holds an existing Class 4 gaming license wishes to relocate from its current premises to a new venue within the District, and take all or fewer of its existing machines to those new premises. Council will only consider such applications for relocations due to:
    - i. Fire or other damage to the present venue, or
    - ii. Expiry of lease on present venue, or
    - iii. The building of a new premises or refurbishment of an existing building as a new venue.
  - c. No machines may be left at the current 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. Applications for relocation of machines to a new premise will be subject 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, Te Whatu Ora).
  - f. A new Class 4 gaming venue must not be within 100 metres of any other Class 4 gaming venue.
  - g. A new Class 4 gaming venue must not be in a higher deprivation area than the existing venue.
  - h. 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 any Residential, Coastal Residential, Coastal Living, or Recreational Activities zones.
  - i. 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.
  - j. Following the Waikiwi precedent, certain kinds of moves will not trigger the Council's relocation policy. If the relocation to a different site meets the following criteria, it may not be a change of venue:
    - a. the new building is in very close proximity to the existing site
    - b. the venue name will be the same
    - c. ownership and management of the venue will be the same

- d. patrons and the public will regard it as the same venue.

### TAB Venues

3. TAB venues in on-licence premises do not require a TAB venue consent from Council.
4. In alignment with the sinking lid policy on class 4 gaming machines, the Far North District Council will not accept TAB NZ applications for new TAB venues.

## Procedures

### Application requirements

1. All applications for consent for Class 4 Gaming machines or TAB Venues must be accompanied by 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 Relocation Applications

2. Applications will be checked by Council 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. This information shall include payment of any appropriate fees.
3. All accepted applications will be checked to ensure compliance with District Plan requirements. At this point, the applicant will be notified of the need for any Resource Consents, if applicable.
4. Applications for relocation of machines to a new premise will be subject 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, Te Whatu Ora).
5. Applications will be assessed for compliance with the Class 4 Gaming and TAB Venue Policy.
6. Consents will be issued following compliance with Resource Planning requirements if necessary and compliance with the Class 4 Gaming and TAB Venue Policy.

7. Applications for the relocation of machines shall not be subjected to specified processing time scales due to the need for consultation.

### Monitoring and Review

8. The Council may amend this at any time.
9. The Council will complete a review of the policy every 3 years as specified in the legislation.
10. 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

11. 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.
12. 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)

## Class 4 Gaming and TAB Venue Policy (~~#3117~~)

Adopted: 28 April 2004

Reviewed: ~~30 October 2014 XX~~

### 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. The Class 4 Gaming and TAB Venue Policy is made under Section 101 of the Gambling Act 2003 and section 96 of the Racing Industry Act 2020. The review and amendments to the Policy are made under Section 102 of the Gambling Act 2003 and section 97 of the Racing Industry Act 2020.~~

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, ~~and if so where. The policy may also include a relocation policy, and may restrict the maximum numbers of machines below the statutory limits (in the Act this is 18 for venues licenced as at 17 October 2001, and 9 after that date, with some exceptions for clubs), 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~~ Under Section 96 of the Racing Industry Act 2020, territorial authorities must adopt a ~~Board venue~~ policy ~~for stand alone "TABs" on TAB venues operated by the New Zealand Racing Board.~~ The policy must specify whether or not new ~~Board standalone~~ TAB 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 Acts, 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.~~ Council will not grant consent for the establishment of any new Class 4 gaming venues, except where an existing licensed venue needs to relocate for the reasons specified below. Council will not grant consent for additional Class 4 gaming machines, and machines will not be 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 must be~~ suitably located to meet the criteria of this Policy; or,
- c. Where ~~an existing~~ business which holds an existing Class 4 gaming license wishes to relocate~~d~~ 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.~~ Council will only consider such applications for relocations due to:
  - i. Fire or other damage to the present venue, or
  - ii. Expiry of lease on present venue, or
  - iii. The building of a new premises or refurbishment of an existing building as a new venue.
- d. No machines may be left at the current venue.
- e. 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.
- ~~f. The intent to consider a relocation will be publically notified, including on the Council website.~~ Applications for relocation of machines to a new premise will be subject 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, Te Whatu Ora).
- g. A new Class 4 gaming venue must not be within 100 metres of any other Class 4 gaming venue.
- h. A new Class 4 gaming venue must not be in a higher deprivation area than the existing venue.
- i. 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~~ any Residential, Coastal Residential, Coastal Living, or Recreational Activities zones.
- j. 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.
- k. Following the Waikiwi precedent, certain kinds of moves will not trigger the Council's relocation policy. If the relocation to a different site meets the following criteria, it may not be a change of venue:
  - a. the new building is in very close proximity to the existing site
  - b. the venue name will be the same
  - c. ownership and management of the venue will be the same
  - d. patrons and the public will regard it as the same venue.

## TAB Venues

3. TAB venues in on-licence premises do not require a ~~gaming~~ TAB venue consent from Council.
4. In alignment with the sinking lid policy on class 4 gaming machines, the Far North District Council will not accept ~~New Zealand Racing Board~~ TAB NZ applications for new 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

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### 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~~ by 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 Relocation 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~~ Council 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~~ will be checked to ensure compliance with District Plan requirements ~~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 for relocation of machines to a new premise will be subject 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, Te Whatu Ora).
7. Applications will be assessed ~~by a Monitoring officer~~ for compliance with the **Class 4** Gaming and TAB Venue Policy.
8. Consents will be issued following compliance with Resource Planning requirements if necessary and compliance with **the Class 4** Gaming and TAB Venue Policy.
- ~~9. 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).~~
10. Applications for the relocation of machines shall not be subjected to ~~the 30-day~~ specified processing time scales due to the need for consultation ~~outlined in 5) Criteria for Relocation.~~

### Monitoring and Review

11. The Council may amend this at any time.
12. The Council will complete a review of the policy ~~after every~~ 3 years as specified in the legislation.
13. 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

14. 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.
15. 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

- ~~16. 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 holds 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~~~~~~

- ~~17. 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.~~
- ~~18. Any variation for less than 100 metres will be determined by Council.~~
- ~~19. Only the number of machines (or fewer) in the existing venue will be considered for relocation.~~
- ~~20. The application will be referred to the relevant Community Board for consideration and comment.~~
- ~~21. No machines may be left at the existing venue.~~

DRAFT



## 7.8 PARKING BYLAW - RECOMMENDATIONS FOR MAKING AMENDMENTS

**File Number:** A4031936

**Author:** Dan Bowmar, Policy Advisor

**Authoriser:** Angie Thomas, Acting Chief Financial Officer

### TAKE PŪRONGO / PURPOSE OF THE REPORT

To approve the adoption of the amended Parking Bylaw.

### WHAKARĀPOPOTO MATUA / EXECUTIVE SUMMARY

- On 10 February 2022 the Far North District Council received an Instrument of Delegation from Waka Kotahi NZ Transport Agency authorising the Council to control parking on the scheduled portions of State Highways in the district
- On 07 April 2022 Council determined that the Parking Bylaw, to be made under section 22AB of the Land Transport Act 1998, be amended to include the regulation of parking and stationary vehicle offences on State Highways as per the delegation given by Waka Kotahi NZ Transport Agency
- The Waka Kotahi NZ Transport Agency delegation agreement requires Council to consult when amending a bylaw to include the delegations
- On 06 September 2022, the Strategy and Policy Committee approved a proposal for an amended Bylaw to be released for public consultation
- Consultation took place from 19 October to 16 November 2022
- Council staff have analysed the submissions and recommend no changes to the draft amended Bylaw in response to these submissions (attachment 1)
- Attachment 2 is the proposed final amended bylaw for adoption.

### TŪTOHUNGA / RECOMMENDATION

**That Council:**

- approve, the recommendations in the staff report on amendments to the Parking Bylaw in attachment 1 that no changes are made in response to submissions.**
- amend schedule 1, Clause 7, to Include Wendywood Lane to the Parking Bylaw - the east side of Wendywood Lane from the intersection with Stella Drive to the cul-de-sac.**
- amend the Parking Bylaw under section 22AB of the Land Transport Act 1998.**

### 1) TĀHUHU KŌRERO / BACKGROUND

On 10 February 2022 the Far North District Council received an Instrument of Delegation from the Waka Kotahi NZ Transport Agency authorising the Council to control parking on the scheduled portions of State Highways in the district.

On 07 April 2022 Council determined that the Parking Bylaw, to be made under section 22AB of the Land Transport Act 1998, be amended to include the regulation of parking and stationary vehicle offences on State Highways as per the delegation given by Waka Kotahi NZ Transport Agency.

The Waka Kotahi NZ Transport Agency delegation agreement requires Council to consult when amending a bylaw to include the delegations.

On 06 September 2022 the Strategy and Policy Committee approved a proposal for an amended Bylaw to be released for public consultation.

Consultation took place from 19 October to 16 November 2022 and no oral submissions were requested.

**2) MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND OPTIONS**

The report in Attachment 1 summarises the public submissions and recommends no change to the draft amended bylaw in response to these submissions. If these recommendations are agreed to Council staff advise that the amended parking Bylaw in Attachment 2 is an appropriate form of bylaw for the purposes of section 22AB of the Land Transport Act 1998.

**Compliance with the New Zealand Bill of Rights Act 1990**

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 two rights that may be impacted by the new bylaw.

The bylaw may potentially have implications on Section 19: Right to freedom from discrimination on the grounds of discrimination in the Human Rights Act. The provisions for disabled parking may impact on this right.

However, based on the content of the draft bylaw, Council staff consider any impact is justified. The draft bylaw provisions for specified parking spaces to be used only by people with disabilities are permitted under section 19(2) of the New Zealand Bill of Rights Act 1990, as “measures taken in good faith for the purpose of assisting or advancing persons or groups of persons disadvantaged”.

The bylaw may also have implications on section 21: Right to be secure against unreasonable search or seizure, whether of the person, property, or correspondence. Vehicles to be removed from the road may impact on this right.

However, the bylaw does not contain any new powers for search or seizure, the applicable powers (that are cross-referenced in the bylaw) are in statutes.

**Resolutions for the Bylaw**

According to the current Bylaw the council may, by resolution, add or remove any road, or part of a road, from Schedules 1, 2 or 3.

Consultation on the mobility parking was not a requirement. However, since consultation was required for the State Highway delegations, staff decided to consult on the mobility parking amendments.

Since the completion of the consultation on the amendments to the Parking Bylaw, Northland Transport Alliance would like to include Wendywood Lane into Schedule 1, Clause 7. This does not require consultation.

In order to enact the delegations, they must be in the bylaw.

1. Include the four sections of State Highway that Waka Kotahi has delegated the power of control of parking and stationary vehicle offences to the Far North District Council into the Parking Bylaw.

The four sections of Highway are:

Description	Road Positions	Approximate locations of delegation extent
Kawakawa	SH01N,198,12535 to SH011,0,1133	Whitemans Road to Rayner Street
Paihia	SH011,14,2892 to SH011,14,1254	Public toilets corner Seaview and Marsden Roads to roundabout at Marsden and Puketona Roads
Kaitaia	SH01N,104,5250 to SH01N,104,8343	Te Ahu to North Park Drive
Kaikohe	Between SH012,10,1062 and SH012,09,276 and SH015,9,1293	Quarry Road to Orrs Road, and Junction of SH12 and 15 to Cumber Road

2. Include the following mobility parking amendments to the Parking Bylaw, to Schedule 2, Part B:

<b>Location</b>	<b>Township</b>	<b>Comments</b>
Broadway (SH 12) near Westpac Bank	Kaikohe	Renew markings & sign face
Broadway (SH 12) at Post Office	Kaikohe	New parallel bay & signing
Broadway (SH 12) near Paint Shop	Kaikohe	Renew markings & drop kerb
Dickeson Street	Kaikohe	Remark 2 bays & shift to accommodate clearance zones between spaces
Broadway (SH 12) outside Hire Shop	Kaikohe	Create new angled bay with clearance zone, remount signage
Broadway (SH 12) outside Thai Takeaway	Kaikohe	Remove mobility parking
*New* Memorial Ave near WINZ	Kaikohe	Create new parallel bay & signage
Clendon Esplanade outside Foursquare	Rawene	Create new angled bay with clearance zone
Kohukohu Road outside Post Office	Kohukohu	Create new angled bay with clearance zone
Kohukohu Road at intersection with Rakautapu Rd.	Kohukohu	Create new parallel bay and signage
Gillies Street at Post Office	Kawakawa	Create new perpendicular bay with clearance zone. New signage and drop kerb
Gillies Street (SH 1) at Wynard Street	Kawakawa	Remark existing car parallel bay, install new signage
Williams Road near Post Office	Paihia	Create new parallel bay and signage
Chapel Street @ the RSA	Russell	Remark perpendicular bay
Fairway Drive serving Community Fitness	Kerikeri	Create new parallel bay and signage
Melba Street at Remembrance Park	Kaitaia	Create two new parallel bays with signage
Melba Street at Shackleton's Pharmacy	Kaitaia	Relocate existing parallel bay
Commerce Street at Old Pak'n'Save	Kaitaia	Removal of mobility car park
Commerce Street near ANZ Bank	Kaitaia	Remark existing parallel bay, remove No Stopping markings
Commerce Street at Post Office	Kaitaia	Create new parallel bay, signage and drop kerb
Bank Street @ Commerce Street	Kaitaia	Remark parallel bay, create new drop kerb
Bank Street near Boxing Club	Kaitaia	Remark two parallel bays, create new drop kerbs
Commerce Street @ Bank Street	Kaitaia	Create new parallel bay, signage and drop kerb

3. Include Wendywood Lane to the Parking Bylaw - the east side of Wendywood Lane from the intersection with Stella Drive to the cul-de-sac, to Schedule 1, Clause 7.

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

- drafting the bylaw under section 22AB of the Land Transport Act 1998.
- ensuring best practice drafting standards have been followed (as advocated by Parliamentary Counsel Office).
- using plain English.

### **Take Tūtohunga / Reason for the recommendation**

The amended Parking Bylaw in attachment 2 can be made, under section 22AB of the Land Transport Act 1998, 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 amendments to the bylaw will come from existing operational budgets.

### **ĀPITIHINGA / ATTACHMENTS**

1. **Analysis of Submissions - Amendment to Parking Bylaw - A4034694** [↓](#) 
2. **Final Parking Bylaw - A3678643** [↓](#) 

**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.

<b>He Take Ōkawa / Compliance Requirement</b>	<b>Aromatawai Kaimahi / Staff Assessment</b>
State the level of significance (high or low) of the issue or proposal as determined by the <a href="#">Council's Significance and Engagement Policy</a>	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, 83, 145, 155 and 160 and the Land Transport Act 1998, Section 22AB, 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 Parking Bylaw is not within the delegations of the Community Boards. However, the Community Boards views were sought at a combined community board workshop.
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.	The implications for Māori from the regulation of parking are similar to the impacts on communities generally. The amended 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:  •Disability Awareness Group •Northern Transport Alliance •CCS Northland

<p>State the financial implications and where budgetary provisions have been made to support this decision.</p>	<p>The costs to implement the amendments to the bylaw will come from existing operational budgets.</p>
<p>Chief Financial Officer review.</p>	<p>The Chief Financial Officer has reviewed this report.</p>



## Analysis of submissions

### Amendment to Parking Bylaw 2022

#### 1 Background

On 19 May 2022, Council made a Parking Bylaw, under section 22AB of the Land Transport Act 1998.

The purpose of this bylaw is to restrict or prohibit parking on roads and prescribe conditions for the use of parking places by:

- (a) limiting the period of time that vehicles may park on any part of the road;
- (b) limiting the parking of vehicles on some roads to vehicles of a specified class or description,
- (c) regulating any parking-related matters including (but not limited to) charges for the use of parking places, enhancing or promoting road safety and providing protection for the environment.

Waka Kotahi NZ Transport Agency has delegated the power of control of parking and stationary vehicle offences along four sections of highway to the Far North District Council. To enable the delegations, council must make a bylaw.

The four sections of highway are

Description	Road Positions	Approximate locations of delegation extent
Kawakawa	SH01N,198,12535 to SH011,0,1133	Whitemans Road to Rayner Street
Paihia	SH011,14,2892 to SH011,14,1254	Public toilets corner Seaview and Marsden Roads to roundabout at Marsden and Puketona Roads
Kaitaia	SH01N,104,5250 to SH01N,104,8343	Te Ahu to North Park Drive
Kaikohe	Between SH012,10,1062 and SH012,09,276 and SH015,9,1293	Quarry Road to Orrs Road, and Junction of SH12 and 15 to Cumber Road

Council determined that amending the Parking Bylaw 2022 is the most appropriate way of controlling parking on the scheduled portions of State Highways.

In addition, staff identified several areas that would benefit from mobility parking in the Far North District and proposed to increase mobility parking spaces.

On 6 September 2022, the Strategy and Policy Committee approved the proposal for a new Parking Bylaw for public consultation.

This report analyses the submissions received and makes recommendations for the governing body to consider.

#### 2 Summary of submissions

Twenty-six submissions were received in total, with twenty-five of these received using the online submissions form. Of the online submissions, nine supported the amendments in full, five supported the amendments in part, twelve submitters did not support the amended bylaw, and one was unsure.

The remaining submission was made via email. This submission suggested changes to the proposal.

### 3 General feedback

#### 3.1 Support for Council amending the bylaw

Nine of the submissions (01, 03, 04, 05, 17, 20, 22, 23, 25) that support the bylaw in full, made general comments that they support the proposed amendments to the Bylaw as it is reasonable, and consistent with the current bylaw.

For example:

- Submission 04 *"simplification of local government by law (sic) on Parking".*
- Submission 23 *"It makes sense".*
- Submission 25 *"Better parking arrangements and more accessible parks would be very beneficial to the community".*

Submitter 01 suggested that there is currently not enough parking, especially for the disabled.

Submitter 05 outlined concerns of increased traffic movement coinciding with poor and inadequate roads and the need for a higher level of safety features on our highways.

Submitter 17 stated that the business association has been wanting these amendments for years. They suggest that people currently park all day without penalty and that the amended bylaw will add strength to the street parking signage.

Submitter 22 commented they should see improvements following the amendments to the bylaw and submitter 23 shared that better parking arrangements and more accessible parks would be very beneficial to the community.

Submitter 25 was supportive of allowing Council jurisdiction over speed and parking restrictions on the State Highways within the district, particularly the built-up areas that State Highways pass through.

#### Staff analysis

General feedback in support of the proposed amended bylaw reinforces that the proposed amendments do not change the intent of the current bylaw.

Some of the feedback in support of the proposed amended bylaw suggests that the amendments will strengthen the current bylaw and this is expected to be beneficial to the community.

#### Staff recommendation

Council staff recommend no changes in response to these submissions.

#### 3.2 Not in support of Council amending the bylaw

Twelve submissions (07, 08, 09, 10, 11, 12, 15, 16, 18, 19, and 26) do not agree that Council should regulate parking.

For example:

- Submission 08 *"disable[d] parking remains largely unused and increasing their number has the reverse effect of moving accessible parking away from the services they seek to us[e]." [sic]*
- Submission 10 *"Local business will suffer. There are not enough long term parks for tourists or workers anyway."*
- Submission 15 *"There is no concrete or dire need to change the status quo."*
- Submission 18 *"Not required. People don't overstay in parking. Not needed!!!"*

Submission 11 does not support the bylaw but did not make further comment regarding their reasons for this.



#### *Staff analysis*

All twelve submissions state that Council should not regulate parking as it is not needed, warranted, or required.

Submissions 15 and 19 state that it is a Council revenue collecting exercise and that the cost of tickets is too high. Submission 16 states that Council should be reducing its powers not increasing them and submission 08 suggests that Waka Kotahi is passing on economic and administrative burden to Council.

Submission 18 does not think that people are staying beyond the time limits of parking but that planter boxes are taking parking away from those wanting to park.

The intent of the bylaw is to encourage the public to exercise self-regulation when parking for the good of the whole community and to allow fair opportunity for everyone to access quality parking at a reasonable distance from goods and services. However, it also enables Council to enforce parking management when these regulations are not complied with.

Research and discussion around planter boxes and parklets are currently underway. This is out of scope of the Parking Bylaw amendments at this time but will be addressed by Council as part of a parking policy.

Submission 8 states that disabled parking is largely unused and that increasing the number of mobility parking spaces means that mature residents are forced to park further away from services. However, additional mobility parks are being introduced to cater for the increasing numbers of elderly with mobility issues in the district.

Submission 26 asks why kaumatua are unable to park in mobility parking spaces. The increased number of mobility parking spaces are being introduced to cater for the increasing numbers of kaumatua in the district with mobility issues.

Submission 26 also suggests that humps are needed in streets near kaumatua homes. This is a roading issue and outside the scope of the Parking Bylaw.

#### *Staff recommendation*

Council staff recommend no changes in response to these submissions.

### **3.3 Unsure of support for Council of amending the bylaw**

Submission 14 was unsure whether to support the amendment to the Parking Bylaw 2022. They stated they were unable to make an informed decision and requested that the logic behind changes is shared by Council. They thought that Council has dictated to the public in the past rather than given the thinking and explanation behind decisions made.

#### *Staff analysis*

Submitter 14 states is interested in the reasoning behind the amendments to the bylaw, particularly, the delegations of the four stretches of state highway to Council from Waka Kotahi NZ Transport Agency.

Waka Kotahi NZ Transport Agency has previously decided the regulations for the 4 new delegations of state highway and Council is taking them over as they currently stand. Future work programmes such as parking policy will review these regulations.

#### *Staff recommendation*

Council staff recommend no changes in response to these submissions.

### **3.4 Support in part for Council amending the bylaw**

Five submissions (02, 06, 13, 21, 24) supported the amendments to the bylaw in part. Submitters have shared where they do not agree with the bylaw. The disagreement is predominantly around regulation and enforcement of parking, and the suggested changes to mobility parking within the district.

### Staff analysis

Submission 02 states *"I've noticed able bodied drivers mostly young people but also well to do people using the disabled parking. There are already plenty of disabled car parks already."*

The intent of the bylaw is to encourage the public to exercise self-regulation when parking, for the good of the whole community and to allow fair opportunity for everyone to access quality parking, at a reasonable distance from goods and services. However, it also gives Council the option to enforce parking management when these regulations are not complied with. Council has the option of increasing parking management enforcement if evidence supports this.

Submission 06 states *"I can see a time limit would enable parking spaces are available for everyone. But the time limit needs to be reasonable to allow for activities like ocean swimming"*.

Paihia currently has long term parking available along the waterfront. Other areas in the district covered by the Bylaw are unlikely to be used for ocean swimming.

Submission 13 states *"... having parking wardens ticketing people for parking or not having registrations and warrants is an added pressure our community doesn't need. Our community is suffering from low income high rate of meth and homelessness"*.

Reducing inequities and improving wellbeing is out of scope of the bylaw. However, improving wellbeing is a key component of other council work programmes.

Submission 21 states *"I oppose any time-imposed charges. I'd like time parking restrictions to remain at 120 mins... it gives ppl enough time to eat meals in a timely manner."*

The timings of parking restrictions have not changed through amendments to the parking bylaw. The restrictions are consistent with the current restrictions imposed by Waka Kotahi NZ Transport Agency.

Submission 24 states *"I have visited some of these sites and this is what I have found. Broadway (SH 12) at Post Office Kaikohe New parallel bay. Please do not put it by the rubbish bin this is an obstruction."*

Northland Transport Alliance has advised that a new drop kerb will be created to create better access to the footpath.

*"Broadway (SH 12) outside Hire Shop Kaikohe. Create new angled bay with clearance zone. This position is a long way from town, yes it has a clearance zone, you then if you are in a wheelchair have to travel south and enter the footpath via a driveway-not safe."*

Northland Transport Alliance has advised that a new angled bay will be created with drop kerb. This location is adjacent to the physiotherapist and prioritised by the Disability Action Group.

*"Fairway Drive serving Community Fitness Kerikeri. Create new parallel bay. This will be very difficult and not safe if you are unloading a wheelchair, you would have to push the wheelchair on the road and enter into the lane. In the past we have had to park the van in the Lane with hazard lights on while unloading the wheelchair, we have a maximum weight of 160kg and we had a client that was just that, we did him for a year 3 days a week at the Gym."*

Northland Transport Alliance has advised the new bay will be positioned parallel with loading bay and new drop kerb to eliminate the need to unload into the street.

*‘Not everyone is in a wheelchair but there are a lot of walking frames which when they disembark from the vehicle they have to step up with their frame onto the footpath. We need more drop kerbs for ease of movement.’*

Northland Transport Alliance advises that all new spaces will have associated drop kerbs. Additionally, they are working with the Disability Advisory Group to prioritise upgrades to ramps and drop kerbs throughout the district.

*‘There is a mobility parking outside Bay of Islands vet on Main Rd Kawakawa, this one is totally useless as the passenger can not get in or out of the car as there is a seat obstructing the door from opening far enough.’*

Northland Transport Alliance will investigate this.

*‘There is Mobility Park outside Briscoes in Kerikeri (which may not be councils) that is close to Fairway Gym but I would never use it as you have to push downhill and back up again- too dangerous.’*

Northland Transport Alliance advises that this is a private carpark and is therefore not within Council’s powers to make improvements.

*Staff recommendation*

Council staff recommend no changes in response to these submissions.

APPENDIX 1 – LIST OF SUBMISSIONS RECEIVED

Number	Organisation
01	Arkininstall
02	Individual submission
03	Individual submission
04	Individual submission
05	Individual submission
06	Individual submission
07	North Hedge
08	Individual submission
09	Individual submission
10	Individual submission
11	Individual submission
12	Individual submission
13	Individual submission
14	Individual submission
15	Individual submission
16	Individual submission
17	Kawakawa Business Association
18	Individual submission
19	Individual submission
20	Individual submission
21	Individual submission
22	Vision Kerikeri
23	Individual submission
24	Driving Miss Daisy Kerkikeri

25	Individual submission
26	Individual submission



## **Parking Bylaw 2022**

Governing body of the Far North District Council  
Resolution in Council 19 May 2022  
Bylaw made under section 22AB of the Land Transport Act 1998.

The bylaw is due for review by 19 May 2027.

**Last updated  
19 May 2022**

**Parking Bylaw**

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**Last updated  
19 May 2022**

**Parking Bylaw**

**1 Title**

This bylaw is the Parking Bylaw 2022.

**2 Related information boxes**

Boxes headed “Related information” in this bylaw are for information purposes only, and –

- (a) they do not form part of this bylaw; and
- (b) cannot be considered in the interpretation or application of a provision of this bylaw; and
- (c) may be inserted, amended or removed by Council without any formality.

**3 Commencement**

This bylaw comes into force 23 May 2022.

**Related information**

This bylaw is due for review by 19 May 2027.

**4 Application**

This bylaw applies to roads within the Far North District that are under the control of the Far North District Council.

**Related information**

This bylaw does not apply to roads in the district that are state highways. State highways are regulated by Waka Kotahi (New Zealand Transport Agency).

**Part 1: Preliminary provisions**

**5 Purpose**

The purpose of this bylaw is to restrict or prohibit parking on roads and prescribe conditions for the use of parking places by:

- (a) limiting the period of time that vehicles may park on any part of the road;
- (b) limiting the parking of vehicles on some roads to vehicles of a specified class or description,
- (c) regulating any parking-related matters including (but not limited to) charges for the use of parking places, enhancing or promoting road safety and providing protection for the environment.

**6 Interpretation**

- (1) In this bylaw, unless the context otherwise requires, –
  - approval** means an approval granted under this bylaw and includes all conditions to which the approval is subject.
  - approved disabled person’s parking permit** has the same meaning as in clause 1.6 of the Land Transport (Road User) Rule 2004.

**Related information**

As at 01 May 2021 the definition is: means a disabled person’s parking permit or mobility parking permit —

- (a) issued by CCS Disability Action Incorporated or Sommerville Centre for Special Needs Wanganui Incorporated; or
- (b) approved by the territorial authority having control of the parking area.

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**Parking Bylaw**

**council** means means the governing body of the Far North District Council, or any person delegated to act on its behalf.

**electric vehicle** has the same meaning as in clause 1.6 of the Land Transport (Road User) Rule 2004.

**Related information**

As at 01 May 2021 the definition is: means a motor vehicle with motive power wholly or partly derived from an external source of electricity.

**emergency vehicle** has the same meaning as in clause 1.6 of the Land Transport (Road User) Rule 2004.

**Related information**

As at 01 May 2021 the definition is: means a vehicle used for attendance at emergencies and operated —

- (a) by an enforcement officer:
- (b) by an ambulance service:
- (c) as a fire service vehicle:
- (d) as a civil defence emergency vehicle:
- (e) as a defence force emergency vehicle.

**goods vehicle** has the same meaning as in clause 1.6 of the Land Transport (Road User) Rule 2004.

**Related information**

As at 01 May 2021 the definition is: means a motor vehicle that is —

- (a) designed exclusively or principally for the carriage of goods; or
- (b) used for the collection or delivery of goods in the course of trade.

**motorcycle** has the same meaning as in section 2(1) of the Land Transport Act 1998.

**Related information**

As at 1 April 2021 the definition is:

- (a) means a motor vehicle running on 2 wheels, or not more than 3 wheels when fitted with a sidecar; and
- (b) includes a vehicle with motorcycle controls that is approved as a motorcycle by Waka Kotahi; but
- (c) does not include a moped.

**parking warden** means a person appointed by the council as a parking warden under section 128D of the Land Transport Act 1998.

**passenger service vehicle** has the same meaning as in section 2(1) of the Land Transport Act 1998.

**Related information**

As at 1 April 2021 the definition is:

- (a) means a vehicle used or available for use in a passenger service for the carriage of passengers; but
- (b) does not include—
  - (i) a vehicle designed or adapted to carry 12 or fewer persons (including the driver) provided by one of the passengers being carried; or
  - (ii) a vehicle specified as an exempt passenger service vehicle in the regulations or the rules.

The term "passenger service" is also defined in section 2(1) of the Land Transport Act 1998.

**road** has the same meaning as in section 2(1) of the Land Transport Act 1998.



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Parking Bylaw

**Related information**  
As at 1 April 2021 the definition is:  
Road includes—  
(a) a street; and  
(b) a motorway; and  
(c) a beach; and  
(d) a place to which the public have access, whether as of right or not; and  
(e) all bridges, culverts, ferries, and fords forming part of a road or street or motorway, or a place referred to in paragraph (d); and  
(f) all sites at which vehicles may be weighed for the purposes of this Act or any other enactment.

**small passenger service vehicle** has the same meaning as in section 2(1) of the Land Transport Act 1998.

**Related information**  
As at 1 April 2021 the definition is: means any passenger service vehicle that is designed or adapted to carry 12 or fewer persons (including the driver).

**trailer** has the same meaning as in clause 1.6 of the Land Transport (Road User) Rule 2004.

**Related information**  
As at 01 May 2021 the definition is:  
(a) means a vehicle without motive power that is capable of being drawn or propelled by a vehicle from which it is readily detachable; but  
(b) does not include—  
(i) a sidecar attached to a motorcycle; or  
(ii) a vehicle normally propelled by mechanical power while it is being temporarily towed without the use of its own power.

**vehicle** has the same meaning as in section 2(1) of the Land Transport Act 1998.

**Related information**  
As at 1 April 2021 the definition is:  
(a) means a contrivance equipped with wheels, tracks, or revolving runners on which it moves or is moved; and  
(b) includes a hovercraft, a skateboard, in-line skates, and roller skates; but  
(c) does not include—  
(i) a perambulator or pushchair;  
(ii) a shopping or sporting trundler not propelled by mechanical power;  
(iii) a wheelbarrow or hand-trolley;  
(v) a pedestrian-controlled lawnmower;  
(vi) a pedestrian-controlled agricultural machine not propelled by mechanical power;  
(vii) an article of furniture;  
(viii) a wheelchair not propelled by mechanical power;  
(ix) any other contrivance specified by the rules not to be a vehicle for the purposes of this definition;  
(x) any rail vehicle.

(2) The Interpretation Act 1999 applies to this bylaw.

**Related information**  
This means that words or phrases used in this bylaw that are defined in the Interpretation Act 1999 have the meanings given in that Act. For example, section 29 of that Act defines

Last updated  
19 May 2022

Parking Bylaw

“person” as “includes a corporation sole, a body corporate, and an unincorporated body”.

Part 2: Prohibited, restricted or limited parking

**Related information**

“Keep clear” areas are not included in this bylaw because they are created under clause 10.6 of the Land Transport Rule: Traffic Control Devices 2004. Clause 10.6 is as follows:  
 10.6 ‘Keep Clear’ zone at intersections  
 10.6(1) A road controlling authority may mark the road surface of an intersection, or a place used as a vehicle entrance or exit, to indicate the area that a road user must not enter when the road user’s intended passage through that area is blocked by traffic.  
 10.6(2) An area in 10.6(1) must be marked, in compliance with Schedule 2, by means of either:  
 (a) yellow reflectorised material in the form of diagonal crosshatched markings; or  
 (b) the words ‘keep clear’ marked between lines that define the area.

7 Places where parking is prohibited

- (1) A person is prohibited from stopping, standing, or parking a vehicle on roads or parts of roads listed in Schedule 1. These roads or parts of roads will be marked with broken yellow lines parallel to, and at a distance of not more than one metre from, the edge of the roadway.

**Related information**

These places may also have “No parking” signs erected.

- (2) Where Schedule 1 specifies a class or description of vehicle, the restriction in subclause (1) only applies to vehicles of that class or description.
- (3) Where Schedule 1 restricts parking to specified dates or times, the restriction in subclause (1) only applies during those specified dates times.

8 Places where parking is restricted to certain types of vehicles

- (1) A person is prohibited from stopping, standing or parking a vehicle, other than a goods vehicle, on the roads, or parts of roads listed in Part A of Schedule 2. These roads or parts of roads will have loading zone signs erected. If Part A of Schedule 2 specifies a time period, a person may only stop, stand, or park a goods vehicle for that specified period.

**Related information**

These places may also be marked on the roadway with broken yellow lines. Under clause 6.4(2) of the Land Transport (Road User) Rule 2004, a sign that relates to a loading zone applies between the hours of 8am and 6pm on days other than public holidays, unless otherwise specified on the sign or on a supplementary sign. Under clause 6.16(1) of the Land Transport (Road User) Rule 2004, a driver or person in charge of a vehicle must not stop, stand, or park the vehicle on a loading zone —  
 (a) if the vehicle is not a goods vehicle; or  
 (b) if the driver leaves the vehicle unattended for more than five minutes or any period longer than that specified on the sign; or  
 (c) if goods or passengers are not actually being loaded or unloaded from the vehicle.

- (2) A person is prohibited from stopping, standing or parking a vehicle, other than a vehicle displaying an approved disabled person’s parking permit, on the roads, or parts of roads listed in Part B of Schedule 2. These roads or parts of roads will have signs erected with the disabled symbol on them. If Part B of Schedule 2 specifies a time period, a person may only stop, stand,

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or park the vehicle displaying an approved disabled person's parking permit for that specified period.

**Related information**

Under clause 6.4(1A) of the Land Transport (Road User) Rule 2004 a person must not park a vehicle in a place reserved for vehicles displaying an approved disabled person's parking permit unless the driver or a passenger is disabled and the permit is prominently displayed in the vehicle.

- (3) A person is prohibited from stopping, standing or parking a vehicle, other than a passenger service vehicle, on the roads, or parts of roads listed in Part C of Schedule 2. These roads or parts of roads will that have bus stop signs erected. If Part C specifies a time period, a person may only stop, stand, or park a passenger service vehicle for that specified time period.

**Related information**

These places may also be marked on the roadway with broken yellow lines. Under clauses 6.8(2) and (3) and 6.15(3) of the Land Transport (Road User) Rule 2004, a bus may stop or stand within six metres of a bus stop sign, or, if the area in which stopping or standing is marked out is longer or shorter than six metres, the driver or person in charge of the bus must not leave the vehicle unattended on the area. Under clause 6.8(1) of the Land Transport (Road User) Rule 2004, a driver or person in charge of a vehicle other than a bus must not stop, stand, or park the vehicle within 6 metres of a bus stop sign.

- (4) A person is prohibited from stopping, standing or parking a vehicle, other than a small passenger service vehicle, on the roads, or parts of roads listed in Part D of Schedule 2. These roads or parts of roads will have Taxi or Small PSV signs erected. If Part D of Schedule 2 specifies a time period, a person may only stop, stand, or park a small passenger service vehicle for that specified time period.

**Related information**

These places may also be marked on the roadway with broken yellow lines. Ride sharing services are small passenger service vehicles and can park on places with "Taxi" signs.

- (5) A person is prohibited from stopping, standing or parking a vehicle, other than an emergency vehicle, on the roads, or parts of roads listed in Part E of Schedule 2. These roads or parts of roads will have Emergency Vehicles signs erected.

**Related information**

These places may also be marked on the roadway with broken yellow lines.

- (6) A person is prohibited from stopping, standing or parking a vehicle, other than a boat trailer, on the roads, or parts of roads listed in Part F of Schedule 2. These roads or parts of roads will have Boat trailer signs erected. In this subclause "boat trailer" means a vehicle:
  - (a) designed and constructed for the carriage of a boat; and
  - (b) without motive power that is capable of being drawn or propelled by a vehicle from which it is readily detachable.
- (7) A person is prohibited from stopping, standing or parking a vehicle, other than an electric vehicle, on the roads, or parts of roads listed in Part G of Schedule 2. These roads or parts of roads will have signs erected with the electric vehicle charging symbol.

**Related information**

There are some places provided for electric vehicle charging on private land that are not listed in the Schedule, all EV charging places can be seen on the map at this link: <https://charge.net.nz/map/>

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- (8) A person is prohibited from stopping, standing or parking a vehicle on the roads, or parts of roads listed in Part H of Schedule 2 unless the vehicle is displaying a label from the council showing approval for the vehicle to stop, stand or park there. These roads or parts of roads will have Authorised Vehicle signs erected. If Part H of Schedule 2 specifies a time period, a person displaying a label from Council showing approval for the vehicle to stop, stand or park there may only stop, stand, or park a vehicle for that specified time period.

**Part 3: Time restricted parking**

**Related information**  
Under clause 6.4(2) of the Land Transport (Road User) Rule 2004, a sign that incorporates the symbol "P" on the top of the sign, or relates to a loading zone, applies between the hours of 8am and 6pm on days other than public holidays, unless otherwise specified on the sign or on a supplementary sign. All other signs apply at all hours of the day and night, unless a time period is specified on the sign.

**9 Short-stay parking restrictions (P5 – P30)**

A person must not stop, stand or park a vehicle on the roads or parts of roads listed in Part A of Schedule 3 for more than the time period specified in the Schedule for that road, or part.

**10 Long-stay parking restrictions (more than P30)**

A person must not stop, stand or park a vehicle on the roads or parts of roads listed in Part B of Schedule 3 for more than the time period specified in the Schedule for that road, or part.

**11 Places where parking restricted to certain times of the day or year**

A person must not stop, stand or park a vehicle on the roads or parts of roads listed in Part C of Schedule 3 except on, or during, the days of the year, or the times of the day, specified in Part C for that road, or part.

**Part 4: Parking places**

**12 Use of parking places**

Use of the parking places listed in Schedule 4 is subject to the following conditions:

- (a) A person is prohibited from stopping, standing, or parking a vehicle on places that are marked with broken yellow lines (with or without "no parking" signs), or diagonal yellow crosshatched markings (with or without the words "keep clear" marked or signed):
- (b) A person must not stop, stand or park a vehicle, other than a vehicle displaying an approved disabled person's parking permit, in the parking spaces that have signs erected with the disabled symbol on them. If the sign specifies a time period, a person may only stop, stand, or park the vehicle displaying an approved disabled person's parking permit for that specified period:
- (c) A person must not stop, stand or park a vehicle in the parking spaces that have "Authorised Vehicle" signs erected, unless the vehicle is displaying a label from the council showing approval for the vehicle to stop, stand or park there. If the sign specifies a time period, a person may only stop, stand, or park a vehicle for that specified time period:

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- (d) A person must not stop, stand or park a vehicle in the parking spaces that have signs stating they are reserved for use, either generally or at specified times, only by a specified person, unless that person is such a specified person:
- (e) A person must not stop, stand or park a vehicle in the parking spaces that have a "P" sign erected for more than the time period specified on the sign:
- (f) A person must not stop, stand or park a vehicle, in the parking spaces that have signs stating that only a specified class of vehicle is entitled to use that space, unless they are stopping, standing or parking a vehicle of the class specified on the sign. If the sign specifies a time period, a person may only stop, stand, or park the vehicle for that specified period:
- (g) Where a parking place has signs, delineators or markings indicating the travel path to follow, a person must drive a vehicle in that travel path:
- (h) Where a parking place has signs that specify "no entry" or "no exit", a person must not enter or exit the parking place in contravention of that sign.

## Part 5: Approvals

### 13 Approval to use authorised vehicle parking spaces

- (1) A person who requires an authorised vehicle label to enable them to stop, stand or park a vehicle on a road or part of a road restricted by clause 8(8) or clause 12(c) ("**the applicant**") must apply to the council for an approval and the application must be:
  - (a) in the form required by the council; and
  - (b) accompanied by the applicable fee set in the council's Fees and Charges Policy.
- (2) The council may grant or decline an application for an approval in its absolute discretion. Nothing in this subclause affects the right of an applicant to apply for judicial review of a decision to decline an application for an approval or a decision to include conditions on an approval.
- (3) An applicant may withdraw their application at any time before a decision is made, but any fee paid with the application will not be refundable unless the council, in its absolute discretion, decides a refund, or partial refund, is reasonable in the circumstances.
- (4) Approvals are not transferable to another person.
- (5) An approval does not affect or limit the obligations of any person to comply with any legislation or regulatory requirements that applies to the matters covered by the approval.

### 14 Conditions on approval

- (1) The council may include the following conditions on any approval granted by Council:
  - (a) requiring a label, in the form specified by the council, to be displayed on a vehicle showing the approval:
  - (b) the duration of the approval and how the approval may be renewed, if at all:
  - (c) any other matter the council considers is necessary to enhance or promote road safety or provide protection for the environment.

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**15 Amendment of approval**

A person granted an approval may, at any time within the duration of the approval, apply to the council to amend the approval or its conditions. An application for amendment must be made in the same manner as an application for an approval, including the payment of the applicable fee with any necessary modifications.

**16 Suspending or cancelling approval**

- (1) The council may suspend or cancel an approval in its absolute discretion if:
  - (a) any conditions are not complied with; or
  - (b) the road or part of the road the approval applies to is removed from Part H of Schedule 2 or Schedule 4; or
  - (c) the limits or restrictions on the use of the road or part of the road the approval applies to are changed; or
  - (d) the council considers the suspension or cancellation is necessary to enhance or promote road safety or provide protection for the environment.
- (2) The suspension or cancellation takes effect from the date the person who was granted the approval receives written notice of the council's decision to suspend or cancel the approval. The notice must include the reasons for the council's decision.
- (3) Suspending or cancelling an approval does not affect the council's powers to take other enforcement action under this bylaw or any other legislation for the acts or omissions that may have contributed to the suspension or cancellation.
- (4) Except where the approval is cancelled under subclause (1)(b) and 1(c), the person who was granted an approval that is suspended or cancelled under this clause may object to the council about the suspension or cancellation by lodging an objection in writing within 20 working days after the date of the suspension or cancellation.
- (5) The council will make a decision on an objection within 20 working days of the date the objection is received and will provide the decision, in writing, to the applicant. The decision must include the reasons for the decision.
- (6) Nothing in subclauses (4) or (5) affects the right of the person to apply for judicial review of a decision to suspend or cancel an approval.

**Part 6: Enforcement, offences and penalties**

**17 Removal of vehicles in breach of bylaw**

- (1) Where any vehicle is parked on any road or part of a road or parking place in breach of this bylaw, the council may remove the vehicle.
- (2) Where a vehicle is removed under subclause (1), the council may recover from the person who committed the breach of this bylaw the reasonable costs of the removal.

**Related information**

The council can also remove abandoned motor vehicles from a road under section 356 of the Local Government Act 1974.

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#### 18 Offences under transport legislation

- (1) Any person who fails to comply with any control, restriction, limitation or prohibition prescribed by this Bylaw commits an offence under the Act and is liable to the penalties set out in the Act.

#### **Related information**

The penalties for stationary vehicle offences are prescribed in the Land Transport (Offences and Penalties) Regulations 1999. A person may either be issued with an infringement notice for a fee of up to \$150, or may be prosecuted and, if convicted, fined up to \$1000.

#### Part 7: Savings and transitional provisions

#### 19 Parking and Traffic Control Bylaw revoked in part

- (1) Clauses 2001, 2002, 2003, 2007 and 2008 and Schedules 1 and 9 of the Parking and Traffic Control Bylaw made by the council on 17 June 2010 and all amendments made to those clauses or schedules are revoked.
- (2) All resolutions made pursuant to the provisions referred to in subclause (1) are also revoked.
- (3) The revocations in this clause do not prevent any legal proceedings, criminal or civil, commenced, before the date of commencement of this bylaw, to enforce the bylaw or resolutions from continuing to be dealt with and completed as if the bylaw or resolutions had not been revoked.

#### 20 Applications, approvals etc under revoked bylaw

All applications, approvals, permits, documents, matters, acts, and things that were made, approved or authorised under the provisions of the Parking and Traffic Control Bylaw revoked in clause 19, and are continuing at the commencement of this bylaw, will continue, and be treated, as if they are applications made, or approvals granted, under this bylaw, except:

- (a) any approval, permit or authorisation will only continue until the date that is 12 months from the date this bylaw commenced; and
- (b) any approval, permit or authorisation granted under revoked bylaws, cannot be renewed under this bylaw, and must be treated as a new application.

#### Schedules

#### 21 Roads that have parking restrictions, limits or prohibitions

- (1) Schedule 1 lists the roads, or parts of roads, where parking is prohibited under clause 7.
- (2) Schedule 2 lists the roads, or parts of roads, where parking is restricted to certain types of vehicles under clause 8. Schedule 2 has 8 parts:
- (a) Part A lists the locations where only goods vehicles may stop, stand, or park:
- (b) Part B lists the locations where only vehicles with approved disabled person's parking permit may stop, stand, or park:
- (c) Part C lists the locations where only passenger service vehicles may stop, stand, or park:
- (d) Part D lists the locations where only small passenger service vehicles may stop, stand, or park:
- (e) Part E lists the locations where only emergency vehicles may stop, stand, or park:

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- (f) Part F lists the locations where only boat trailers may stop, stand, or park:
- (g) Part G lists the locations where only electric vehicles may stop, stand, or park:
- (h) Part H lists the locations where only vehicles with an approval may stop, stand, or park:
- (3) Schedule 3 lists the roads, or parts of roads, where the time a vehicle can be parked is restricted under clauses 9 to 11. Schedule 3 has 3 parts:
  - (a) Part A lists the locations where the time period is between 5 minutes and 30 minutes.
  - (b) Part B lists the locations where the time period is more than 30 minutes.
  - (c) Part C lists the locations where the time is restricted to days of the year or the times of the day.
- (4) Schedule 4 lists parking places that clause 12 applies to.
- (5) The co-ordinates in the Schedules are measured at the centreline of the road.
- (6) The Schedules 1 to 4 are organised by the type of parking restriction or prohibition. Schedule 5 groups the restrictions or prohibitions by the town or area they apply to, for ease of reference only. Schedule 5 is not part of this bylaw and if there is any conflict or inconsistency between the Schedules, Schedules 1 to 4 prevail.

**22 Amendment to Schedules**

- (1) The council may, by resolution, add or remove any road, or part of a road, from Schedules 1, 2 or 3.
- (2) Where a road, or part of a road, is added to a Schedule under subclause (1), the resolution may also specify the class or description of vehicle, or dates or times, that apply on that road, or part of a road and for Schedule 3 the resolution may specify the period of time that applies.
- (3) The council may, by resolution, add or delete any parking place listed in Schedule 4.



## 7.9 EASTER SUNDAY SHOP TRADING POLICY - RECOMMENDATIONS FOR MAKING A NEW POLICY

**File Number:** A4023210

**Author:** Donald Sheppard, Sustainability Programme Coordinator

**Authoriser:** Angie Thomas, Acting Chief Financial Officer

### TAKE PŪRONGO / PURPOSE OF THE REPORT

To recommend that the Council adopt the Easter Sunday Shop Trading Policy.

### WHAKARĀPOPOTO MATUA / EXECUTIVE SUMMARY

- On 24 February 2022, Council approved the development of a new policy allowing shops to open on Easter Sunday throughout the Far North District
- A new policy is required because the current policy will automatically revoke on 17 February 2024
- On 3 May 2022, the Strategy and Policy Committee approved a Statement of Proposal for a new Easter Shop Trading Policy to be released for public consultation
- The initial consultation took place from 9 May to 10 June 2022. A second round took place from 28 July to 26 August 2022, as the Strategy and Policy Committee requested further consultation with religious groups
- In total, 140 written submissions were received - 113 in Stage One and 27 in Stage Two
- Overall, 62% of the submissions were in favour of the draft policy with 36% against
- Council staff have analysed the submissions, including further submissions from religious organisations and interdenominational associations from the second round of consultation. See Attachment 1 – Updated Analysis of Submissions
- Attachment 2 is the proposed final policy, which staff recommend for adoption.

### TŪTOHUNGA / RECOMMENDATION

**That the Council:**

- a) **uplift the report ‘Easter Sunday Shop Trading Policy – Recommendations for making a new policy’ from the table;**
- b) **agree to the recommendations in the staff report analysing the submissions that:**
  - i) **the word “shop” is replaced with “Shop” throughout the Policy;**
  - ii) **in the definition of the word “Shop”, the words “shop in section 2 of” is added after “the same meaning as in”;**
  - iii) **the definition of “Shop employee” is deleted;**
  - iv) **in the ‘Application’ section of the policy, the words “legislative provisions” are replaced with “legislative instruments” and the words “licensing provisions” are replaced with “licensing laws”;**
  - v) **in the ‘Legislative Context’ section, the date of the Supply of Alcohol Act is changed from “2021” to “2012”.**
- c) **under section 5A of the ‘Shop Trading Hours Act 1990’, adopt the Easter Sunday Shop Trading Policy as per attachment 2;**
- d) **revoke the Easter Sunday Trading Policy 2017.**

## 1) TĀHUHU KŌRERO / BACKGROUND

Under section 5C of the Shop Trading Hours Act 1990, the current Easter Sunday Trading Policy 2017 will revoke on 17 February 2024 as it was not reviewed by 17 February 2022. Therefore, a new policy is required.

On 24 February 2022, Council, as the governing body, resolved that a new policy should be developed to allow shops to open on Easter Sunday throughout the Far North District (Resolution 2022/5 refers).

On 3 May 2022, the Strategy and Policy Committee approved the release of a statement of proposal for a new Easter Shop Trading Policy for public consultation (Resolution 2022/22 refers).

As required by section 5B of the Act, consultation followed the special consultative procedure.

Public consultation took place between 9 May and 10 June 2022. 113 written submissions were received, with 76% in favour of the proposed policy. The consultation was widely advertised in community newspapers and through social media. Over 3,000 people on the Council's consultation mailing list were also invited to submit.

On 26 July 2022, the Strategy and Policy Committee resolved that the proposed policy should *'lie on the table' to provide for email-invited input from religious organisations, including any inter-denomination associations, in the district*" (Resolution 2022/46 refers).

In the second round of consultation, email invitations were sent to a comprehensive list of religious organisations including interdenominational associations in the District inviting their feedback on the proposed policy. This additional round took place from 28 July to 26 August 2022, and 27 new written submissions were received, with 96% opposing the draft policy.

In total 140 written submissions were received with 62% in favour of the draft policy, 36% against, and 2% either unclear regarding what they wanted or unsure.

## 2) MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND OPTIONS

### Report analysing the submissions and making recommendations

The report in Attachment 1 summarises the submissions from the public and analyses their content. This report recommends that the draft policy is adopted by the Council under section 5A of the Act, subject to several minor drafting changes.

### Content and form of the proposed policy

The proposed new policy is consistent with the current Easter Sunday Trading Policy 2017, allowing shops to open on Easter Sunday throughout the Far North District.

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

- drafting the policy under section 5A of the Shop Trading Hours Act 1990
- ensuring best practice drafting standards have been followed (as advocated by Parliamentary Counsel Office)
- using plain English
- including a map of the area of jurisdiction (the Far North District).

### Take Tūtohunga / Reason for the recommendation

The new Easter Sunday Shop Trading Policy can be adopted because it follows the requirements of the Act. In addition, 62% of submitters are in favour of allowing Easter Sunday trading across the district.

Reasons to adopt the new policy are:



- The Policy supports the social and economic wellbeing of communities in the District
- The Policy supports businesses that rely on tourist trade during the long Easter weekend
- No complaints or issues have been recorded with the current Policy which allows Easter Sunday shop trading across the District
- Applying the Policy throughout the District is fair to all businesses

- The Policy does not prevent workers from opting not to work on Easter Sunday. The right to refuse to work on Easter Sunday is protected in section 5H of the Act
- The Policy does not stop Christians observing their faith on this holy day.

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

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

#### **ĀPITIHINGA / ATTACHMENTS**

1. **Updated Analysis of Submissions - Easter Sunday Shop Trading Policy - A4025994**  [↓](#)
2. **Easter Sunday Shop Trading Policy 2023 - A4025996**  [↓](#)

**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.

<b>He Take Ōkawa / Compliance Requirement</b>	<b>Aromatawai Kaimahi / Staff Assessment</b>
State the level of significance (high or low) of the issue or proposal as determined by the <a href="#">Council's Significance and Engagement Policy</a>	The Easter Sunday Shop Trading Policy has a low level of significance as: a) it does not involve the transfer of ownership or control of a strategic asset or other important asset; and b) it is not inconsistent with current Council plans and policies.
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	The Easter Sunday Shop Trading Policy will be made under the Shop Trading Hours Act 1990.  The Policy will help achieve a key community outcome listed in Council's Long Term Plan 2021-2031: <i>Having prosperous communities supported by a sustainable economy</i> . The Policy will support businesses who rely on the tourist trade during the long Easter weekend. Applying this Policy across the whole District is considered fair for all retail businesses in the district.
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 is not within the delegations of Community Boards to consider.  However, in December 2021 Community Board members and Councillors were invited to provide feedback on the Policy via an informal poll on the elected members' lounge. All the poll responses were in favour of continuing to allow Easter Sunday trading across the whole district.
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.	The proposed Policy does not relate to land and/or any body of water. The implications for Māori from the Policy provisions are similar to the impacts on communities generally.  Seeking the views and input of iwi in the development of policies is integral. Māori were given the 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	It is likely that the Policy will have broad interest across the community including from shop employers and

<p>their views or preferences (for example – youth, the aged and those with disabilities).</p>	<p>employees and those who may wish to purchase goods and services on Easter Sunday.</p> <p>Interested and affected parties are likely to include:</p> <ul style="list-style-type: none"> <li>a. Christians in general</li> <li>b. leaders of religious organisations and interdenominational associations</li> <li>b. unions representing shop workers</li> <li>c. business associations.</li> </ul> <p>All four of these groups received personalised email invitations to submit on the proposed policy</p>
<p>State the financial implications and where budgetary provisions have been made to support this decision.</p>	<p>The cost of implementing a new Easter Sunday Shop Trading Policy (largely relating to publicising the Policy) will be met from existing budgets.</p>
<p>Chief Financial Officer review.</p>	<p>This report has been reviewed by the Chief Financial Officer.</p>



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## Analysis of submissions

### Easter Sunday Shop Trading Policy

#### 1. Background

The Shop Trading Hours Act 1990 (the Act) was amended in 2016 to enable councils to make a policy to allow shops to open on Easter Sunday. The shops involved exclude garden centres, dairies, pharmacies, petrol stations and other shops which are allowed to open under the Act. Also excluded are liquor outlets which are covered by liquor licensing regulations.

On 17 February 2017, the governing body adopted the current Easter Sunday Trading Policy in consultation with the community. This Policy allows shops to open on Easter Sunday throughout the District.

Under Section 5C of the Act, the current Policy will automatically revoke on 17 February 2024, as it was not reviewed by 17 February 2022. To continue having an Easter Sunday Trading Policy, a new policy must be adopted.

On 24 February 2022, the governing body resolved that a new Easter Sunday Shop Trading Policy should be developed to continue to allow shops to open on Easter Sunday throughout the Far North District.

On 22 March 2022, the Strategy and Policy Committee agreed that a Statement of Proposal, including a draft policy allowing Easter Sunday trading throughout the District, would be the subject of public consultation.

#### 1. Consultation on the draft policy

Consultation took place from 9 May to 26 August 2022, with an initial round of consultation from 9 May to 10 June, and a second round from 28 July to 26 August 2022.

The initial round of consultation was communicated widely via public notices placed in community newspapers, social media postings and email invitations sent to over 3,000 people on the Council's consultation mailing list. In addition, personalised email invitations to submit were sent to unions representing shop workers as well as to business associations in the District.

On 26 July 2022, the results of the first round of consultation were reported to the Strategy and Policy Committee with a recommendation to adopt a new policy to allow Easter Sunday shop trading to continue across the District. However, at this meeting, the Committee resolved that the proposed policy should 'lie on the table' to *"provide for email-invited input from religious organisations, including any inter-denomination associations, in the District"* (resolution 22/46 refers) and a second round of consultation took place with these religious groups. For the second round of consultation, a comprehensive list of email addresses of religious organisations and inter-denominational associations was prepared, initially from an Internet search and then supplemented by a further database of contacts provided by a church leader. The list was cross-referenced against the religious affiliations of people in the Far North District recorded in the 2018 Census to make sure it included contacts from all religious

denominations in the Far North representing 1% or more of the population<sup>1</sup>. NB. Religious organisations with less than 1% of the population were not excluded from the mailing.

This report analyses the submissions received from both rounds of the consultation and makes recommendations. A numbered list of submissions is included in the Appendix and these numbers are used to refer to individual submissions in this report.

## 2. Summary of submissions

### 2.1 Overview

In total, 140 written submissions were received:

- 113 were from the first round of consultation and 27 from the second round
- 134 were made via a link on the council's website, while 6 were by email
- 122 were from individuals and 18 from organisations
- no submissions were presented orally.

In total, 62% of submitters were in favour of the draft policy, compared with 36% who were opposed and 2% who were not sure or unclear

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<sup>1</sup> From the 2018 Census, main religious affiliations in the Far North are: Anglican (11% of the population), Catholic (8%), Māori religious beliefs (mainly Ratana) (6%), Christian no denomination (6%), Latter Day Saints (3%), Presbyterian, Congregational & Reformed (3%), Methodist (2%), Pentecostal (1%), Evangelical, Born Again (1%), Baptist (1%), and Jehovah's Witness (1%).

Support for the policy has increased from 48% in favour in 2017 to 62% in favour in 2022, as shown in Table 2 below. It should be noted that the 2017 and 2022 results are not strictly comparable, as the consultation in 2017 did not include emailed invitations to interested parties such as unions, business associations and religious organisations/ interdenominational associations.

Table 1: Level of support for a policy permitting Easter Sunday trading in 2017 compared with 2022

	2017 results		2022 results	
	Number of submissions	%	Number of submissions	%
In favour	22	48%	87	62%
Opposed	24	52%	50	36%
Unclear from their submissions	-	-	2	1%
I'm not sure	-	-	1	1%
Total	46	100%	140	100%

2.2 Reasons for supporting the draft policy

Following are the main reasons why submitters supported the policy.

**Support for Far North businesses relying on tourism**

*"I believe the current policy of allowing shops to be open be continued. Tourism is a significant economic driver in the Far North, and it is essential that tourists who travel to the Far North be able to enjoy shopping for essentials and also for recreation"* (submission 107)

*"The Far North depends heavily on tourism. The shops need to be open on Easter"* (112)

**It is not an issue as shops close on Sundays anyway**

*"Most shops are closed year-round on a Sunday in the Far North anyway"* (118)

*"In Kaikohe, where I am based, Easter is the peak time of retail sales over the year. It seems to be a time when family reconnects. I note that many of the shops and businesses close voluntarily"* (140)

**Support for Sunday markets**

*"We provide markets on Saturday but attend Kerikeri [market] on Sundays"* (111)

**Trading on Easter Sunday reflects current society**

*"It's the twenty-first century, after all"* (30).

**It's what the public would expect**

*"The public expects shops to be open during the holiday"* (113)

**Some shops can open on Easter Sunday anyway**

*"Understandably, some shops can open with conditions, or they have an area exemption for Easter Sunday local policy"* (133)

**General support**

*"Tautoko the shops opening on Easter Sunday"* (110)

2.1 Reasons for opposing the draft policy

**Work and commercial activity should not take precedence over free time, getting together with family and focusing on God and Jesus**

*"I think we should spend more time home with the family and less shopping"* (6)



*"Why should there be pressure to work all the time. I believe a 4-day working week and public holidays would be beneficial to the physical and mental health of our nation" (92)*

*"Easter is a time to be spent with whanau, but that is taken away when they're having to work" (118)*

*"As a follower of Jesus Christ, the focus should be on what Easter is really about, which is not spending money on things. But spending the Sunday focusing on Jesus and our families would be all the better for the health and well-being physically, emotionally and spiritually for our communities" (127)*

*"As a society, we are too focused on working and consuming goods rather than stopping, reflecting on life and spending quality time with friends and family" (132)*

*"Holidays (from "Holy Days" - referring to religious festivals) [are for] esteeming God, family and community above money. This is about esteeming the worth of the individual, separate to their work" (140)*

#### **Respect for Christian values and the Christian faith**

*"Why can't we still remember the Christian values handed down to us at Easter and use them to create a better society" (95)*

*"Easter Sunday is a very sacred day for Christians" (55)*

*"It's Easter Sunday!!! The most historical and special Sunday of the year. Keep it closed, keep it sacred" (116)*

*"I believe Easter Sunday is a sacred day and should be kept free" (120)*

*"Although there are many that may not believe in God and Jesus Christ, our religious beliefs ... should be accepted by all denominations, nationalities and cultures" (133)*

*"[Christianity] is ... integral to our values as a nation, and also to Te Tiriti. When considering the place of this faith (and religious festivals) in the future of our nation, an argument certainly could be made to suggest we are still significantly 'Christian' - and that this faith (or some of its traditions) does therefore merit significant esteem" (140)*

#### **Shops should not open on Sundays at all**

*"Sunday is the Lord's Day and too many people in too many places already overly commercialise sacred days. Not appropriate in my opinion" (117)*

*"Sunday is a day unto our God and Saviour Jesus Christ" (125)*

*"Six days of trading is sufficient enough, Sundays especially Easter Sunday should be reserved and dedicated to the Saviour Jesus Christ" (138)*

*"Before the influence of Christianity, slaves, servants and the lower classes were required to work all day, every day, and this is true of most cultures globally. A distinction of the Jewish, Christian and Muslim faiths is that 'God rested on the seventh day'. The point was that people are not supposed to be defined by their work. They should instead be recognised as individuals, defined by their relationships with family, community and God. So, quite apart from a time to stop to consider God / spiritual things in our lives, the idea of a 'day for no work' was about the protection of the poor and vulnerable" (140)*

#### **Shop workers may be pressured to work on Easter Sunday**

*"It is all very well for those in management and government to say 'no one HAS to work'. Having been at the coal face, as it were, I know that in many environments workers do not actually have that choice" (105)*

#### **People can shop in advance**

*"Shops open long enough already for people to get all their shopping in advance" (19)*

**People can shop online 24x7**

*“People have the opportunity to shop online 24/7 as it is, so I really don’t see the purpose of opening on Easter Sunday” (119)*

**3. Analysis and Recommendations**

**3.1 Should the Council adopt a new policy to continue to allow Easter Sunday shop trading across the District?**

**Submissions in support of the proposed policy**

**Support for Far North businesses (including Sunday markets) relying on tourism**

*Staff analysis*

Staff note that, as in 2017 when the current policy was adopted, the long Easter weekend involves an influx of visitors to the District. Allowing shops (including markets) to open for an additional day this weekend provides increased economic opportunities for the Far North and reflects the Council’s vision of A District of Sustainable Prosperity and Well-Being.

Supporting the tourist trade is particularly important as COVID-19 restrictions severely hit local tourist businesses, especially those relying on overseas tourists. Assisting businesses relying on tourism to trade on Easter Sunday will help their economic recovery.

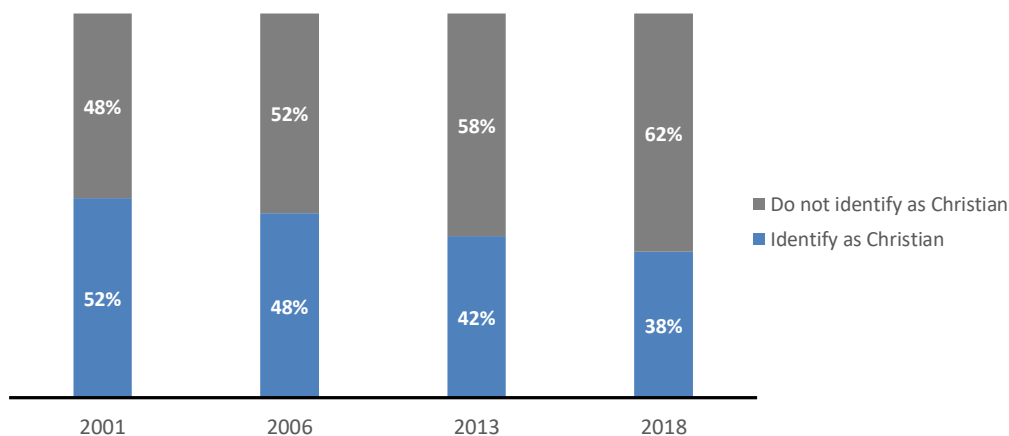
Regarding the economic benefits of Easter Sunday trading, in 2016 the Council made a submission to the government in support of the Shop Trading Hours Act being amended to allow shops to trade on Easter Sunday [see [Shop Trading Hours Amendment Bill Submission \(A1668683\)](#)] This submission pointed out that *“the Far North District’s economy is underpinned by tourism and our economic growth will be influenced by growing the tourism sector responsibly”*.

**Trading on Easter Sunday reflects current society – it’s what the public would expect**

*Staff analysis*

Staff consider that the balance of the submissions received (62% in favour vs. 36% opposed) reflects the fact that society in the Far North is becoming increasingly secular. See the figure below:

*Figure 1: Census results for religious affiliation in the Far North District*



Coincidentally, the fact that 62% of those who made submissions are in favour of shops trading on Easter Sunday exactly reflects the most recent Census result that 62% of people in the Far North do not identify as Christian.

**It is not an issue as shops close on Sundays anyway**

*Staff analysis*

If the new policy is adopted, shops will still be free to close when they wish, including on Sundays and on Easter Sunday in particular.

**Some shops can open on Easter Sunday anyway**

*Staff analysis*

Under the Act, a range of shops such as dairies, petrol stations, garden centres and pharmacies are permitted to open on Easter Sunday. Also, as a tourist town, Paihia has a dispensation for its shops to open on Easter Sunday. In this regard, Council staff consider it is unfair to allow only some shops in the Far North district to open and make other shops close.

In 2016, the Council's submission to the government in support of amending the Act said "*Council supports the intention of the Bill to address current trading inequities. Under the current legislation, Paihia retailers may legally open and trade on Easter Sunday whilst the remaining retailers in the wider Bay of Islands and throughout the Far North District have to remain closed. This includes tourism destinations such as Hokianga, Doubtless Bay and North Cape as well as emerging tourism destinations along the Pou Herenga Tai Twin Coast Cycle Trail*".

**Submissions against the proposed policy**

**Work and commercial activity should not take precedence over free time, getting together with family and focusing on God and Jesus**

*Staff analysis*

Staff note that Section 5H of the Act protects workers who do not wish to work on Easter Sunday, as they can refuse to work on Easter Sunday even if asked to by their employer. This allows them to choose to have a family day or practice their religion if they wish.

**Respect for Christian values and the Christian faith***Staff analysis*

Council staff acknowledge the strongly held views expressed by religious organisations and interdenominational associations that Easter Sunday is a sacred day.

However, staff consider that observance of a religious sacred day is a personal choice. Section 5H of the Act protects this personal choice by safeguarding employees from being forced to work on Easter Sunday. In addition, the personal choices of employers are protected as they are not required to open their shops on Easter Sunday if they do not wish to.

Section 3(1) of the Act recognises the importance of Easter for the Christian faith by making Good Friday a public holiday where shops must remain closed, and protects the right of workers to refuse to work on Easter Sunday.

**Shops should not open on Sundays at all***Staff analysis*

The topic of the consultation was whether shops should be allowed to open on Easter Sunday, not whether they should open on Sunday at all. Local Councils do not have the authority to decide whether shops should close every Sunday.

As noted by some submitters, many shops in the Far North close on Sundays anyway. The decision to open or close on Sundays is the personal choice of these shop owners.

**Shop workers may be pressured to work on Easter Sunday***Staff analysis*

Staff note that section 5H of the Act is intended to protect shop workers from pressure of this nature, by protecting them from being forced to work on Easter Sunday. They can refuse to work on Easter Sunday without giving a reason to their employer.

**People can shop in advance and/or shop online 24x7***Staff analysis*

Shopping in advance is an option if shops are closed on Easter Sunday and people can also shop online. However, both these options do not offer the convenience of being able to purchase items from a physical shop, especially for tourists visiting the Far North on this long weekend. Also, physical shops may lose business to online retailers if they must close on Easter Sunday.

**Recommendation**

With 62% of submissions in favour of the draft policy to allow Easter Sunday shop trading throughout the District, **council staff recommend that the policy is adopted by the governing body**. Adopting the Policy will provide consistency with the two other local councils in Northland.

Reasons for this recommendation are summarised in the Statement of Proposal ([Statement of Proposal - Easter Sunday Shop Trading Policy 2022 \(A3675941\)](#)):

- “To support the social and economic well-being of communities in the District.
- The policy supports businesses that rely on tourist trade during the long Easter weekend.
- No complaints or issues have been recorded with the current policy which allows Easter Sunday shop trading across the District.
- Applying the Policy throughout the District is fair to all businesses.

- 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”.

Council staff consider that the perceived disadvantages of Easter Sunday trading which emerged in the second round of consultation, that were not mentioned in the first round , are not sufficient to change this recommendation, for the reasons below:

Perceived new disadvantages of Easter Sunday trading that emerged from consultation with religious organisations and inter-denominational associations	Reasons these perceived disadvantages do not change the overall recommendation in favour of adopting the Policy
Easter Sunday is not a time for work. It is a time for getting together with family and focusing on God and Jesus	Under the Act, if Easter Sunday shop trading is permitted by the Council, shop workers can opt out of working on Easter Sunday to spend this time with family and/or focus on God and Jesus.
Shops should not open on Sundays at all – “ <i>Sunday is the Lord’s Day</i> ”	The topic of consultation was whether shops should be allowed to open on Easter Sundays, not whether they should open at all on Sundays. The Council does not have the authority to stop shops trading on Sundays other than Easter Sunday.
People can shop online 24x7. Therefore, it is not necessary for shops to open on Easter Sunday	This viewpoint does not consider the potential inconvenience to customers of not being able to purchase goods from shops on Easter Sunday, or the potential lost business by physical shops in the District if people shop online.

### 3.2 Submissions on the draft policy wording

#### Staff recommendation

As no submissions referred to the wording of the draft policy document, council staff recommend no changes to the policy wording based on the submissions received.

### 3.3 Staff recommendations for drafting clarification

#### Staff recommendations

Staff recommend the following minor drafting changes based on a final legal review of the draft policy document and to clarify the definition of “shop” as requested in the Strategy and Policy Committee meeting on 22 March 2022. As these changes are minor, there is no requirement to re-consult on the draft policy.

#### Amend the Policy wording as follows:

1. Replace the word “shop” with “Shop” throughout the Policy.
2. In the Definitions section amend the definition of “Shop” by adding the words “Shop has the same meaning as shop”. Capitalising the word “shop” in the Policy is a legal convention to indicate that this word has a special meaning in the Definitions section.
3. Also in the Definitions section, add the words “section 2 of” before “the Shop Trading Hours Act 1990” and delete the definition of “Shop employee” as this is not referred to in the Policy.
4. In the Application section of the policy, replace the words “legislative provisions” with “legislative instruments” and replace the words “licensing provisions” with “licensing laws”
5. In the Legislative Context section, change the date of the Sale and Supply of Alcohol Act from “2021” to “2012”.

“Tracked changes” to the draft policy showing recommended changes:

### Background

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The Shop Trading Hours Act 1990 was amended in 2016 to enable councils to decide whether retailers in their Districts can open on Easter Sunday. Council first adopted a policy to allow ~~shops~~ **Shops** to open on Easter Sunday in 2017.

### Application

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This Policy applies to all ~~shops~~ **Shops** in the Far North District.

This Policy does not override other legislative ~~provisions instruments~~, such as liquor licensing ~~provisions laws~~.

The Shop Trading Hours Act 1990 includes protective provisions so no ~~shop~~ **Shop** employee will be required to work on Easter Sunday.

### Definitions

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The following definitions apply to this Policy:

- **Council** – means the Far North District Council
- **Far North District** – means the area of jurisdiction of the Far North District Council (see attached map)
- **Policy** – means the Council’s adopted Easter Sunday Shop Trading Policy
- **Shop** – has the same meaning as **shop** in **section 2 of** the Shop Trading Hours Act 1990
- ~~Shop employee – has the same meaning as employee in section 5F of the Shop Trading Hours Act 1990.~~

### Legislative Context

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Easter Sunday shop trading is subject to various legislative controls including, but not limited to, the Shop Trading Hours Act 1990 and the Sale and Supply of Alcohol Act ~~2021~~ **2012**.

### Objective

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To support economic and social wellbeing by permitting ~~shops~~ **Shops** to open on Easter Sunday throughout the Far North District.

### Policy

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The Council permits ~~shops~~ **Shops** to open on Easter Sunday throughout the Far North District.

### Monitoring and Implementation

---

Implementation of the Policy will be monitored by the Council.

The Policy must be reviewed no later than 5 years after it is adopted.

The Policy may also be reviewed in response to issues that may arise, at the request of the Council or in response to changes to legislative or statutory requirements (whichever occurs first).

Amending this Policy following a review will be subject to public consultation.

Map of the Far North District

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**APPENDIX 1 – LIST OF SUBMISSIONS RECEIVED**

Number	Organisation
<b>First Round of Consultation</b>	
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	LL Copland
10	Individual submission
11	Individual submission
12	Far North ITM
13	Individual submission
14	Individual submission
15	Individual submission
16	Individual submission
17	Individual submission
18	Individual submission
19	Individual submission
20	Individual submission
21	Individual submission
22	Church
23	Individual submission
24	Individual submission
25	Individual submission
26	Northland Experiences
27	Individual submission
28	Individual submission
29	Individual submission
30	Individual submission
31	Individual submission
32	Individual submission
33	Individual submission
34	Individual submission
35	Individual submission
36	Individual submission
37	Individual submission
38	Individual submission
39	Individual submission
40	Individual submission
41	Puketi Farms
42	Individual submission
43	Individual submission
44	Individual submission



Number	Organisation
45	Individual submission
46	Individual submission
47	Individual submission
48	Individual submission
49	PartisanZ
50	Individual submission
51	Individual submission
52	Individual submission
53	Individual submission
54	Individual submission
55	Individual submission
56	Kaitaia Business Association
57	Individual submission
58	Individual submission
59	Individual submission
60	Te Puna Aroha
61	Individual submission
62	Individual submission
63	Individual submission
64	Individual submission
65	Alfa Boutique Motel
66	Individual submission
67	Individual submission
68	Individual submission
69	Individual submission
70	Individual submission
71	Individual submission
72	Individual submission
73	Individual submission
74	Individual submission
75	Individual submission
76	Hokianga Tourism Association
77	Individual submission
78	Individual submission
79	Te Kōtiu
80	Individual submission
81	Individual submission
82	Individual submission
83	Individual submission
84	Individual submission
85	Individual submission
86	Individual submission
87	Individual submission
88	Individual submission
89	Individual submission
90	Kapiro Residents Association
91	Individual submission

Number	Organisation
92	The Scullery Kerikeri
93	Individual submission
94	Individual submission
95	Individual submission
96	Te Rangi Orchards Ltd
97	Individual submission
98	Individual submission
99	Individual submission
100	Individual submission
101	Individual submission
102	Individual submission
103	Individual submission
104	Individual submission
105	Individual submission
106	Individual submission
107	Individual submission
108	Individual submission
109	Individual submission
110	Individual submission
111	Individual submission
112	Individual submission
113	Individual submission
<b>Second Round of Consultation</b>	
114	Individual submission
115	The Church of Jesus Christ of Latter Day Saints
116	Individual submission
117	Individual submission
118	Individual submission
119	Individual submission
120	Individual submission
121	Individual submission
122	Individual submission
123	The Church of Jesus Christ of Latter Day Saints
124	Individual submission
125	The Church of Jesus Christ of Latter Day Saints
126	Individual submission
127	Individual submission
128	Individual submission
129	Individual submission
130	Individual submission
131	Individual submission
132	Lifepoint Baptist Church
133	Waimate Taumarere Pastorate (Māori Anglican Church)
134	Individual submission

Number	Organisation
135	Individual submission
136	Individual submission
137	Individual submission
138	Individual submission
139	Individual submission
140	Individual submission

## Easter Sunday Shop Trading Policy 2022

Adopted: xxx

### Background

The Shop Trading Hours Act 1990 was amended in 2016 to enable councils to decide whether retailers in their Districts can open on Easter Sunday. Council first adopted a policy to allow Shops to open on Easter Sunday in 2017.

### Application

This Policy applies to all Shops in the Far North District.

This Policy does not override other legislative instruments, such as liquor licensing laws.

The Shop Trading Hours Act 1990 includes protective provisions so no Shop employee will be required to work on Easter Sunday.

### Definitions

The following definitions apply to this Policy:

- **Council** – means the Far North District Council
- **Far North District** – means the area of jurisdiction of the Far North District Council (see attached map)
- **Policy** – means the Council's adopted Easter Sunday Shop Trading Policy
- **Shop** – has the same meaning as shop in section 2 of the Shop Trading Hours Act 1990.

### Legislative Context

Easter Sunday shop trading is subject to various legislative controls including, but not limited to, the Shop Trading Hours Act 1990 and the Sale and Supply of Alcohol Act 2012.

### Objective

To support economic and social wellbeing by permitting Shops to open on Easter Sunday throughout the Far North District.

### Policy

The Council permits Shops to open on Easter Sunday throughout the Far North District.

### Monitoring and Implementation

Implementation of the Policy will be monitored by the Council.

The Policy must be reviewed no later than 5 years after it is adopted.

The Policy may also be reviewed in response to issues that may arise, at the request of the Council or in response to changes to legislative or statutory requirements (whichever occurs first).

Amending this Policy following a review will be subject to public consultation.

Map of the Far North District

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## 7.10 PARKS AND RESERVES BYLAW - RECOMMENDATIONS FOR MAKING A NEW BYLAW

**File Number:** A4023177

**Author:** Zac Whitsitt, Policy Advisor

**Authoriser:** Angie Thomas, Acting Chief Financial Officer

### TAKE PŪRONGO / PURPOSE OF THE REPORT

To approve the adoption of the Parks and Reserves Bylaw based on staff recommendations.

### WHAKARĀPOPOTO MATUA / EXECUTIVE SUMMARY

- On 21 May 2020 Council agreed that a bylaw under the Local Government Act 2002 is the most appropriate way to address problems with nuisance and health and safety on Council-controlled parks and reserves
- On 30 June 2022, based on staff recommendations, Council approved that a new Parks and Reserves Bylaw be drafted under both the Reserves Act 1977 and the Local Government Act 2002
- On 30 June 2022 Council approved a proposal for a new Parks and Reserves Bylaw to be released for public consultation
- The period for written submissions was 1 July to 29 July 2022 and 24 written submissions were received
- Two oral submissions were heard by the Strategy and Policy Committee, one on 26 July 2022 and one on 6 September 2022
- Upon analysis of the submissions, Council staff recommend the bylaw proceed subject to minor amendments.

### TŪTOHUNGA / RECOMMENDATION

**That Council:**

**a. agree to staff recommendations in the analysis of submissions that:**

- i. in clause 10(3) and 10(4) of the proposed bylaw the line “This restriction does not apply to emergency services” is added.**
- ii. in clause 12, a new sub-clause is added 12(3) that says, “No person shall bring any dog on to any park or reserve or allow any dog in their custody or under their control to remain on any park or reserve that is specified in the Council's Dog Management Policy as parks or reserves where dogs are not permitted.”**

**the subclauses be renumbered correctly.**

**b. make the Parks and Reserves Bylaw under Section 106 of the Reserves Act 1977 and Section 145 of the Local Government Act 2002**

### 1) TĀHUHU KŌRERO / BACKGROUND

The Reserves Bylaw 2017 revoked under section 160A of the Local Government Act 2002, due to not being reviewed in the required timeframe. Since 2017, the Far North District Council has been regulating behaviour on parks and reserves directly under various pieces of legislation. Often, this has resulted in council being unable to adequately respond to instances of nuisance and public health and safety concerns.

On 21 May 2020, council determined that a new bylaw made under the Local Government Act 2002 is the most appropriate way to address perceived and known problems on council-controlled parks and reserves. (Resolution 2020/28).

During the process of creating a draft bylaw, council staff determined that making a bylaw under the Reserves Act 1977 and Local Government Act 2002 was the most appropriate way to address concerns relating to parks and reserves by providing council with greater options for enforcement against nuisance and public health and safety breaches.

On 14 June 2022, the Strategy and Policy Committee recommended that council approve a proposed bylaw made under both the Reserves Act 1977 and Local Government Act 2002 for public consultation (Resolution 2022/39). Council further resolved on 30 June 2022 to release the proposed Parks and Reserves Bylaw for public consultation (Resolution 2022/1).

24 written responses were received during the consultation which ran from 1 July to 29 July 2022. One oral submission was heard by the Strategy and Policy Committee on 26 July 2022, and a second oral submission on 6 September 2022.

## **2) MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND OPTIONS**

The analysis of submissions (attachment 1) provides analysis and summaries of all submissions received during the public consultation period. Two recommendations were made as a result of the submissions, if these recommendations are agreed to, Council staff advise that the Parks and Reserves Bylaw (attachment 2) is an appropriate form of bylaw under section 155(2)(a) of the Local Government Act 2002.

### **Impact on Māori**

The proposed Parks and Reserves Bylaw does not interfere with or limit the ability for iwi and hapū to manage and contribute to the preservation and access of their taonga, wāhi tapu and/or areas of significance.

It is envisaged that this bylaw will protect those special and sacred sites from nuisance, damage, and disrespectful behaviour by other users of parks and reserves and provide council with enforcement opportunities when this is jeopardised. This bylaw does not impede the kaitiaki responsibilities of tangata whenua over their significant landmarks.

Through the approvals process, iwi/hapū can seek written permission to conduct certain activities as permitted in the bylaw.

### **Bill of Rights assessment**

Section 155(2)(b) of the Local Government Act 2002 requires the council to consider whether the proposed bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990. The New Zealand Bill of Rights Act 1990 affirms, protects, and promotes our human rights and fundamental freedoms in Aotearoa, New Zealand and is designed to protect New Zealanders against actions of the state.

An assessment of the proposed bylaw has identified that there may be some implications under Section 18(1) which states that everyone lawfully in New Zealand has the right to freedom of movement by preventing people from entering a reserve when it is closed, or an event is being held. As the Council is the owner of park and reserve land, reasonable measures to ensure the protection of the land and other people's rights and freedoms are maintained.

The proposed bylaw may also have implications on Section 21: Security Against Unreasonable Search or Seizure, whether of the person, property, or correspondence. Enforcement of the bylaw is provided for under section 163 of the Local Government Act 2002. This bylaw does not confer new abilities that are not already provided for under legislation.

Section 5 of the New Zealand Bill of Rights Act 1990 provides a mechanism to outline reasonable limits as prescribed by law. Limitations on rights prescribed are made in accordance with Section 5 of the New Zealand Bill of Rights Act 1990.

### **Take Tūtohunga / Reason for the recommendation**

The Parks and Reserves Bylaw can be made under section 145 of the Local Government Act 2002 and Section 106 of the Reserves Act 1977. Following the changes recommended in the analysis of submissions (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.

### **Next Steps**

It is a requirement of section 108 of The Reserves Act 1977 to seek approval by the minister before the bylaw has any force or effect. This is delegated to the Department of Conservation. Staff propose that the bylaw come into effect on the 16th February to allow for this approval to be obtained.

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

Costs associated with making this bylaw will be met from existing budgets.

### **ĀPITIHINGA / ATTACHMENTS**

1. **Analysis of Submissions - Parks and Reserves - A3813647** [↓](#) 
2. **Final Parks and Reserves Bylaw 2023 - A3817974** [↓](#) 



**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.

<b>He Take Ōkawa / Compliance Requirement</b>	<b>Aromatawai Kaimahi / Staff Assessment</b>
State the level of significance (high or low) of the issue or proposal as determined by the <a href="#">Council's Significance and Engagement Policy</a>	The Parks and Reserves policy has a low level of significance as it does not result the transfer or ownership, or control of a strategic asset or other important asset. The bylaw does not result in a significant spend or a decrease in services provided.
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	This bylaw is made under the Reserves Act 1977 and the Local Government Act 2002. It supports access to parks and reserves and contributes to the Long-term plan 2021-2031 value of <i>Kaitiakitanga: Environmental stewardship and sustainability</i> and the community outcome of <i>A wisely managed and treasured environment that recognises the role of tangata whenua as kaitiaki</i>
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 proposed Parks and Reserves Bylaw has district-wide implications and is beyond the scope of community board delegations.
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.	The Parks and Reserves Bylaw has the same impact for iwi and hapū as communities generally. The bylaw does not prevent or prohibit any access to taonga and sites of significance for iwi/hapū and does not result in a transfer of kaitiaki responsibilities.  The bylaw recognises the role of tangata whenua as kaitiaki over their significant taonga and wāhi tapu sites.
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	The proposed Parks and Reserves Bylaw has an impact on all public users of parks and reserves. The proposal was publicly consulted where members of the public who use parks and reserves were able to provide their feedback and views on the proposal.

<p>– youth, the aged and those with disabilities).</p>	
<p>State the financial implications and where budgetary provisions have been made to support this decision.</p>	<p>There is no financial implication to make this bylaw. The cost of monitoring this policy will be met from existing budgets.</p>
<p>Chief Financial Officer review.</p>	<p>The Chief Financial Officer Acting has reviewed the report</p>

## Analysis of submissions

### Parks and Reserves Bylaw

#### 1 Background

The Reserves Bylaw 2010 automatically revoked in December 2017, under Section 160A of the Local Government Act 2002 as it was not reviewed in time.

On 21 May 2020 council determined that a new bylaw made under the Local Government Act 2002 is the most appropriate way to address perceived and known problems on council-controlled parks and reserves (Resolution 2020/28). On 30 June 2022, council approved that the Parks and Reserves Bylaw be drafted under both the Local Government Act 2002 and the Reserves Act 1977, as it is the most appropriate way of addressing the problems of nuisance, health and safety and offensive behaviour on council-controlled parks and reserves. On 30 June 2022 council further approved the release of the proposal for a new Parks and Reserves Bylaw for public consultation (Resolution 2022/51). The consultation period began 1 July 2022 and closed 29 July 2022.

We received 24 written responses and two oral submissions on the proposal. This report analyses the submissions and makes suggested amendments to the draft bylaw. One oral submission was heard by the Strategy and Policy Committee on 26 July 2022. The other oral submission was heard by the same committee on 6 September 2022.

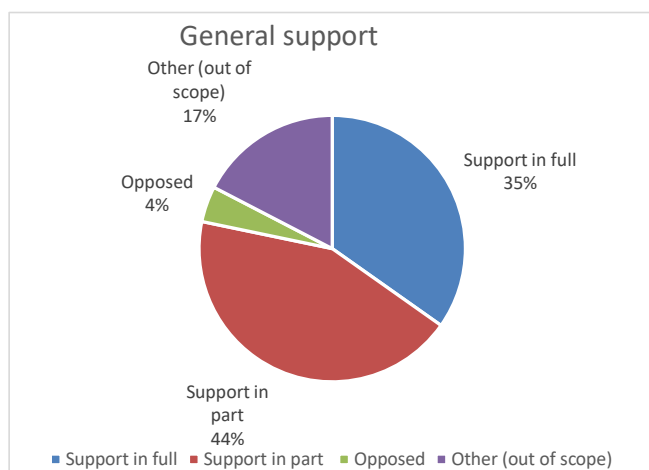
Appendix A to this report is a numbered list of submissions that is referred to in the body of this report.

#### 2 Summary of submissions

24 people provided written submissions to the proposed Parks and Reserves Bylaw. 15 submissions were received through the "Have Your Say" online portal. 8 submissions were emailed directly to council. Two of the submitters spoke to their written submissions at the Strategy and Policy Committee. A summary of the responses is provided in the table below.

Of the written submissions received, submissions 18-22 all related to driving on Tauranga Bay which is out of scope of this bylaw and is being addressed through the ongoing vehicles on beaches work program.

The chart and table below indicate general bylaw support from online survey responses. Further analysis where suggestions were received on individual clauses is provided for in the analysis in section 4 of this report.



	Number
Support in Full	8
Support in part	11
Opposed	1
Other (Out of scope)	4
<b>Total</b>	<b>24</b>

### 3 General feedback

#### 3.1 General support for the proposed Parks and Reserves Bylaw

Eight submissions were generally in support of the proposed bylaw. No written responses expressed general opposition to the proposed bylaw.

Submission number	Response
1	<i>The General Public should be kept safe from Dogs, Vehicles and abusive people. This should include all Beaches.</i>
2	<i>It all seems good to me and can keep these amenities in public hands unlike what we see in Auckland.</i>
3	<i>Needs to be monitored and people who damage or behaviour affects others safety.</i>
8	<i>Sounds reasonable, although some conditions might not be obvious to users, who may then breach accidentally.</i>
9	<i>It seems reasonable to introduce a new law as the old one appears to have been elapsed.</i>
11	<i>Reasonable way to protect the parks and reserves.</i>
12	<i>Reasonable way to protect Parks and Reserves.</i>
14	<i>In principal I'm fine with the suggested changes.</i>

#### Staff analysis

The responses received above indicate general acceptance of the proposed bylaw. In the absence of an appropriate bylaw, council has relied on ad-hoc management and other bylaw or statutory tools to address concerns raised by members of the public. This bylaw provides council with greater opportunities for enforcement where a nuisance or public health and safety risk is identified.

#### Staff recommendation

No changes are recommended based on the above submissions.

### 4 Analysis and recommendations regarding the bylaw wording

The following table indicates support for individual elements of the proposed bylaw. Many responses were incomplete and did not indicate support or opposition for individual elements of the bylaw.

Where survey responses are supported with written comment, analysis is provided below.

	Number of online submissions			
	Support in full	Support in part	Do not support	Total
<b>Support in part overview</b>				
Preliminary provisions (Part 1)	1			1
Substantive Provisions (Part 2)			2	2
Approvals (Part 3)	1		1	2
Enforcement (Part 4)	2			2
Savings and transitional provisions (Part 5)				0

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 specifically about the following clauses in the draft bylaw:

- Clause 1 Title
- Clause 2 Related Information
- Clause 3 Commencement
- Clause 4 Application
- Clause 7 Obstructing Access to Parks and Reserves
- Clause 14 Commercial Activity
- Clause 15 Encroachments
- Clause 16 Trees and Vegetation
- Clause 17 Aircraft
- Clause 19 Requirement to leave a park
- Clause 20 Approvals
- Clause 23 Bylaw does not limit any other enactment

#### 4.2 Submissions on clauses in the draft bylaw

Submissions below were received for specific parts of the bylaw. Analysis is provided including any recommendations for suggested amendments.

##### Clause 5 Interpretation

###### Submission

Submitter 23 provided feedback on clause 5. The submission states *“Because this is not obvious to most lay readers of the Bylaw, it would be helpful (especially to promote compliance) if the coverage of the rules was made explicit. Not all parts of the Queen’s Chain are included within the definition of Park, as some, especially Esplanade Reserves, but not Esplanade Strips, are included in the Reserves Act definition.”*

###### Staff analysis

The definition of park is the same as section 138(2) of the Local Government Act 2002. We align with the legislative definition of a park for the purposes of this bylaw to achieve compliance in line with the statute. The reserve definition is sourced from section 2(1) of the Reserves Act 1977. This bylaw only covers parks and reserves owned or controlled by the Far North District Council and excludes private, Department of Conservation, or Land Information New Zealand owned land. Esplanade strips which were noted by the submitter are not covered by this bylaw. This was intentional as esplanade strips are located on private land and are governed by agreements between the landowner and council. Issues that arise on esplanade strips can be dealt with by council through the relevant landowner and through the agreement between council and the landowner.

Further information is provided in the Parks and Reserves Policy which is accessible on the council website.

#### Staff recommendation

Staff recommend no changes are made because of this submission.

#### Part 2: Substantive provisions

Part 2 of the Bylaw comprises the substantive provisions of the bylaw.

Submitter 7 provided comment on clauses 6, 8, 9, 10, 11, 12, 13, and 16. The submission pertained to a member of public who is heavily involved in maintaining and preserving one of the council-controlled reserves. This submission was accompanied by an oral submission heard at the Strategy and Policy Committee on 26 July 2022. Although this submission covered many aspects of the proposed Parks and Reserves Bylaw, it focussed on one core issue. The submitter was concerned that existing volunteer activities, particularly maintenance activities would be negatively affected by the proposed bylaw.

#### Staff analysis

The concerns raised in this submission are accounted for in the approvals section (Clause 20). Appropriate written approval may be provided to members of the public to carry out certain activities in a park or reserve that would otherwise be a breach of the proposed bylaw. These written approvals form an agreement between council and a member of the public and specify the activities that may be permitted.

#### Staff recommendation

Staff recommend no changes are made because of this submission.

#### Clause 6 Entry and Access to Parks and Reserves

Clause 6 outlines rules and information regarding entering and accessing parks and reserves and prohibits unauthorised access, or access to a reserve (or part of) when closed.

#### Submission

Submitter 23 submitted that there are many unformed entrances and existing accessways from adjoining private property or public roads.

*“Subsection (1) intends to limit Reserve access ways to specific gateways, entrances and exits provided (by unspecified parties). Many of Council’s Reserves do not have such entrances, but the Reserves Act provides presumptive rights of public access to all types of Reserves, except Nature Reserves, and except where the administering body has circumscribed those rights using powers under s.53 or s.55 of the Act.”*

*“Conversely, there are many existing Reserves for which there are several informal accessways from adjoining private property or adjoining public roads for which such a blanket restriction might not be justified.”*

#### Staff analysis

The bylaw states no person shall enter or leave any reserve except through gateways, entrances, or exits that are provided for that purpose. Staff believe this is sufficient to permit access to a reserve through formed entranceways, where provided for. Many parks and reserves have multiple access points to facilitate public use of parks and reserves. The submission refers to section 53 and section 55 of the Reserves Act. This bylaw is made under the Reserves Act 1977 and is consistent with permissible activity.

#### Staff recommendation

Staff recommend no changes are made because of this submission.

#### Clause 9 Storing and Parking of Motor Vehicles and Boats

Clause 9 restricts the storing and parking of motor vehicles and boats within a reserve unless in areas set aside for the purpose of storing or parking vehicles.

#### Submission

Submitter 5 raised concerns regarding storage and parking of vehicles. The submission states that some parks and reserves are used to park on and that this is required in some areas. Concerns were raised about enforcement of the bylaw noting that this has not been taking place.

Submitter 10 stated that vehicles should be allowed in parks and reserves overnight. *“S/C VEHICLES should be allowed in PARKS and RESERVES. BUT TIMES OVERNIGHT ONLY say between 5pm - 8am ONLY. OVERNIGHT IS OVERNIGHT. People, occupiers should be exploring the area and move on during the day”*

#### Staff analysis

Parking and access to parking on reserves is not prohibited in places where parking has been set aside. Many parks across the Far North District have parking spaces allocated to facilitate public access to parks, reserves, and amenities. If parking occurs in a park or reserve where parking spaces have not been allocated, enforcement under this bylaw can occur.

While it is unclear what the intention of submission 10 is, overnight camping is currently provided for in council's Camping in Public Places Policy. This policy ensures that in areas where camping and overnight parking is permitted, it is appropriately managed and suitable, to mitigate damage to council's parks and reserves. Decisions are made based on the safety of other users, the suitability of the relevant parks and reserve, and access to amenities and facilities. Allowing parking across parks and reserves as part of this bylaw could create situations where people camp and park in places where facilities and amenities are not suitable, and where the park or reserve may suffer damage due to parking or camping in inappropriate locations.

Enforcement has been difficult for council in the absence of a bylaw. This bylaw will enable council to enforce against breaches where a nuisance, risk to a park or reserve, or public health and safety risk has been identified.

#### Staff recommendation

Staff recommend no changes are made because of this submission.

#### Clause 10 Operation of Vehicles

Clause 10 outlines rules and regulations regarding the operation of vehicles on a reserve and prohibits vehicles on a reserve unless that park or reserve (or part of) is set aside for vehicle traffic.

#### Submission

Submitter 16, Fire and Emergency New Zealand (FENZ), submitted on clause 10(2) and 10(3). It was highlighted that Fire and Emergency has responsibilities under the Fire and Emergency New Zealand Act 2017 to provide firefighting activities. Their submission included:

*“In order for Fire and Emergency to achieve their principle objective which includes reducing the incidence of unwanted fire and the associated risk to life and property, protecting and preserving life, and preventing or limiting injury, damage to property, land, and the environment, they need to be able to respond in a timely manner to fires.*

*The proposed bylaw would impose restrictions with regard to the operation of vehicles in parks and reserves. Emergency vehicles may need to exceed speed limits through parks and reserves when responding to fires so as to reduce risk to life and property.”*

Submitter 23 also provided a submission on clause 10 and states that bicycles and tricycles on reserves are covered and suggests “that the 4th subsection be supplemented with the addition of “or cause any damage to vegetation or the surface of that Park or Reserve”.

#### Staff analysis

Staff agree that emergency services are exempt from restrictions pertaining to speed. The provision on clause 10(1) already provides an exclusion to the clause preventing the operating of motor vehicles. To ensure that emergency situations on parks and reserves are responded to in a timely manner, FENZ suggest extending this clause to 10(2) and 10(3).

We note that the proposed bylaw contained a minor typographical error here, where 10(2) was used twice for separate clauses.

Submitter 23 correctly posits that pedal-powered vehicles are included in the bylaw clause and suggests expanding this clause to explicitly refer to protection of vegetation. The scope of this bylaw is to protect the public from nuisance, and public health and safety risks. The bylaw is sufficient to address these problems. Further this is addressed under clause 11(5) that states “no person may undertake any behaviour or any activity in a park or reserve that causes damage to that park or reserve, or any council property located in that park or reserve” which provides opportunity to address damage caused to the park or reserve inclusive of vehicle behaviour.

#### Staff recommendation

Clause 10 be amended by:

1. Renumbering the subclauses correctly.
2. Adding the words “This restriction does not apply to emergency service vehicles” to subclauses (3) and (4).

Track changes of recommended amendments to clause 10 of the proposed bylaw are as follows:

#### 10 Operation of Vehicles

(1) No person shall drive any Vehicle in a Park or Reserve except on a part of a Park or Reserve that is set aside by Council for vehicle traffic. This restriction does not apply to Council staff, contractors or emergency service vehicles.

(2) A part of a Park or Reserve shall be deemed to be set aside by Council for vehicle traffic if a vehicle carriageway or track has been formed by Council or if signage at said Park or Reserve authorises vehicle traffic.

(32) No person shall operate or drive any Vehicle in any Park or Reserve in breach of any restrictions advertised on any signs or notices displayed in that Park or Reserve. This includes any speed limit restrictions as advertised by applicable signage. **This restriction does not apply to emergency service vehicles.**

(43) In the absence of speed limit signs, no Vehicle shall be driven at a speed greater than 15 kilometres an hour in any Park or Reserve. **This restriction does not apply to emergency service vehicles.**

(54) A person must not drive a Vehicle in a Park or Reserve in a dangerous manner

#### Clause 11 Behaviour in Parks and Reserves

Clause 11 outlines expectations for behaviour on parks and reserves.

#### Submission

Submitter 23 suggests the addition of “no person may litter or dump rubbish in any park or reserve”

#### Staff analysis

The Litter Act 1979 already provides the ability for council to enforce against littering in public places.

#### Staff recommendation

Staff recommend no changes are made based on this submission.



### Clause 12 Dogs

Clause 12 identifies requirements and restrictions for dogs on parks and reserves and prevents dogs being allowed unless on a leash or is within an area specified by council's Dog Management Policy.

### Submission

Four submissions (4, 10, 13, and 23) were received on Clause 12 of the proposed bylaw.

Submitter 4 would like to see greater access to parks for exercising and socialising of dogs, stating, *"there is very few appropriate places to take dogs"*. Submitter 13 would like to see greater treatment so that *"all dogs must be on a leash at all times..."*

Submitter 23 supports section 12 and suggests the addition of: *"(3) No person shall remove or deface any Council sign restricting the use or control of dogs"*.

Submitter 10 stated "DOGS on LEADS should be allowed." And "that Coopers Beach be split so that a FENCED SECTION for safe exercising with your dog with tunnels etc like in WHANGAREI"

### Staff analysis

All points raised by submitters are provided for in this bylaw. The bylaw permits dogs to access parks and reserves provided they are on a leash and comply with appropriate signage. Where dogs are prohibited, this will be clearly signposted.

Submitter 10 believes that some parks and reserves should include a fenced section for a dog park, and further states that dogs on leads should be allowed. Dogs on leads are allowed under this bylaw. In conjunction with the Dog Management Policy 2018, designated areas are set aside for off-leash dog activities, training, exercise, and socialisation.

Areas where dogs are allowed off-leash are provided for in council's Dog Management Policy and Dog Management Bylaw which is supported in this proposed bylaw. The default position of this bylaw is dogs are permitted on-leash unless otherwise signposted or included within the Dog Management Policy and Dog Management Bylaw. We note the bylaw contains a related information box which links through to the current Dog Management Bylaw.

To provide clarity to members of the public, staff recommend that reference should be made to parks and reserves where dogs are not permitted, as specified in council's Dog Management Policy, in an additional subclause.

Removing or defacing a council owned sign reflects behaviour covered by the Crimes Act 1961. Enforcement can occur by council through this bylaw and by council staff and police who can act as rangers as defined in the Reserves Act 1977.

### Staff recommendation

That clause 12 of the bylaw be amended by adding the following subclause: *"(3) No person shall bring any dog on to any park or reserve or allow any dog in their custody or under their control to remain on any park or reserve that is specified in the Council's Dog Management Policy as parks or reserves where dogs are not permitted."*

Track changes of recommended amendments to clause 12 of the proposed bylaw are as follows:

### 12 Dogs

- (1) No person shall bring any dog on to any Park or Reserve, or allow any dog in their custody or under their control to remain on any Park or Reserve, unless the dog is on a leash or is within an area specified by the Council's Dog Management Policy as an area where dogs are permitted off leash, or as a dog exercise area.
- (2) All persons with a dog under their control in any Park or Reserve must comply with any signage concerning the control of dogs erected at said Park or Reserve.

- (3) No person shall bring any dog on to any park or reserve or allow any dog in their custody or under their control to remain on any park or reserve that is specified in the Council's Dog Management Policy as parks or reserves where dogs are not permitted.

#### Clause 13 Animals

Clause 13 provides guidance on the possession and control of animals (excluding dogs) in a park or reserve.

#### Submission

Two submissions were provided relating to clause 13. Submitter 13 included this clause as part of the above submission in clause 12. Submitter 14 stated *"I would like to see horse riding included as well. We do have a large number of people up here wanting to have access and inclusion in accessing parks for hacking on a regular basis. It is not safe on the roads so there has to be another solution so we can have access to safe hacking areas."*

#### Staff analysis

The points raised here by submitter 13 are addressed in the discussion of clause 12. This clause relates to animals excluding dogs.

The points raised by submitter 14 relate to the riding of horses. It is proposed that reserves are not always appropriate for the purposes of riding an animal. Staff suggest that there are other places where animals may be ridden such as roads which may include beaches. Council accepts the point in the submission that not all roads are safe, however recognises that there are many situations where a beach is a road, or quieter rural roads may be available. Anyone that rides a horse where a beach is a road must comply with the road user rules. S11.14 of the Land Transport (Road User) Rule 2004 outlines requirements for the use of a road with animals. The proposed Parks and Reserves Bylaw does not impede the ability to ride a horse in other public spaces while ensuring Parks and Reserves are safe and available for the general public.

Work has begun on a potential animals bylaw. The points raised by submitter 13 will be included in the research phase of that work.

#### Staff recommendation

Staff recommend no changes are made based on the above submissions.

#### Clause 18 Camping

Clause 18 relates to camping in a park or reserve. It generally restricts camping in a park or reserve unless the park or reserve is listed in the Far North District Council Camping in Public Places Policy, and requires compliance with that policy where allowed.

#### Submission

Submitter 24, the New Zealand Motor Caravan Association (NZMCA) presented a comprehensive submission on Clause 18 of the bylaw. The NZMCA objects to Clause 18 in the proposed bylaw and seeks that it is withdrawn so that "a more extensive process of reviewing freedom camping opportunities be undertaken". The NZMCA's objection to Clause 18 is based on three grounds which are as follows:

- *"The prohibitions enacted in the clause amount to a virtual prohibition of freedom camping in of the majority of desirable camping areas across the District and as such run contrary to the purpose and intent of the Freedom Camping Act 2011 (FCA)."*
- *"Council has statutory responsibilities under the FCA which cannot be obviated by using its bylaw making powers under the Local Government Act 2002 (LGA 2002). These responsibilities are unlikely to be fulfilled if Clause 18 is approved and used in the management of freedom camping in the district."*
- *"Council's Camping in Public Places Policy is substantively part of the proposed camping bylaw yet is not subject to this review process or to the public scrutiny entailed with the special consultative procedure"*

*under the LGA 2002. Consequently, Council is not meeting its obligations around consultation under this Act.”*

#### Staff analysis

Council currently has a Camping in Public Places Policy 2016 which lists several sites where camping is permitted. This policy considers amenities, facilities, parking, and other relevant factors to identify suitable public places to camp across the Far North District. These considerations aim to minimise disruption from those that camp, ensure that areas where camping is undertaken is suitable in terms of health and safety and that the rights of other users of public spaces in the Far North are protected.

The primary purpose of this bylaw is to provide council with opportunities to undertake enforcement against behaviour that is considered a nuisance, or health and safety risk to the public, and prevent damage to parks and reserves. Clause 18 forms one small part of the overall purpose of the bylaw in ensuring that camping in parks and reserves only takes places in suitable locations, while not impacting on other users of said locations. Camping is not a primary focus of this bylaw and as such this bylaw is to be read in conjunction with the Camping in Public Places policy and relevant legislation.

As noted above Clause 18 is not attempting to regulate or prohibit freedom camping as the NZMCA submits, it is merely attempting to regulate behaviour and protect FNDC’s parks and reserves. The impact of this restriction is muted as the Reserves Act 1977 already prohibits camping in reserves without the permission of the administering body, which in the case of reserves managed by Council, is FNDC. This is noted in the NZMCA submission.

The Local Government Act 2002 (the “LGA”) and the Reserves Act 1977, which this bylaw is proposed to be made under, allow for the restrictions that are currently envisaged by clause 18 to be imposed. Specifically, section 145 of the LGA empowers Council to make a bylaw for the purposes of protecting the public from nuisance, maintaining public health and safety and minimising the potential for offensive behaviour in public places. Section 146 of the LGA empowers Council to make a bylaw for the purposes managing, regulating against, or protecting from damage, misuse, or loss, or preventing the use of land, structures or infrastructure associated with reserves, recreation grounds or other land under the control of the territorial authority. The restriction in Clause 18 falls within the purposes outlined in both section 145 and 146.

The NZMCA submission refers to the Freedom Camping Act 2011 (“FCA”) and council’s responsibilities under that Act. The FCA does not impose any specific responsibilities of council in respect of freedom camping and section 10 of the FCA states that council can restrict or prohibit freedom camping under any other enactment. The only restriction is that bylaws made by council under the FCA cannot have the effect of prohibiting freedom camping in all of the local authority areas in its district. This proposed bylaw is not made under the FCA and it has gone through the same special consultative process it would have if it was made under the FCA. Clause 18 only restricts camping in parks and reserves, not other public areas and it also specially allows for camping in areas listed in council’s Camping in Public Places Policy 2016.

The submission feels that the bylaw is effectively a blanket prohibition of camping across the Far North, this is not the case. This bylaw is not prohibiting camping in all parks and reserves. Consultation was undertaken on the Camping in Public Places policy that identifies suitable parks and reserves for freedom camping. Clause 18(1) of this bylaw points to the Camping in Public Places Policy to find where permitted camping can take place.

Upcoming work on council open spaces and placemaking will further address concerns raised by NZMCA relating to camping across the district. This bylaw is not the appropriate tool to manage expectations relating to camping nor does it seek to be.

#### Staff recommendation

Staff recommend no changes are made based on the above submission.

#### Part 4: Enforcement

Part 4 (Clauses 21 and 22) sets out enforcement options available to council under this bylaw, including prosecution or removal/seizure of a work or thing that is in breach of the bylaw.

#### Submission

Submitters 1 and 5 raised concerns about council's ability to enforce under this bylaw. Submitter one asked "Will Council have enough staff to enforce the regulations?" and submitter four "...Please add some form of commitment that action will be taken regarding bylaw breaches or people won't take any notice which is currently the state of bylaw enforcement. The bylaw says action will be taken but that's often not happening to date."

#### Staff analysis

The points raised above are valid points. Council staff agree that enforcement is necessary and is an expectation of council from the public. Council have been operating without a bylaw, or power to seize, infringe, or prosecute on many concerns raised by the public. This bylaw will fill that void and provide council with the opportunity to enforce where concerns are raised.

Council owns or controls more than 500 parks and reserves. A presence at each of these is an unrealistic expectation; however, when concerns are raised to council that indicate a nuisance or breach of public health and safety, council will have the ability to intervene and use the bylaw to remedy the situation. This bylaw covers possible actions by council including seizure, infringement, and prosecution.

#### Staff recommendation

Staff recommend no changes are made based on the above submissions.

#### Clause 24: Applications, Approvals in force as at commencement of this bylaw

Clause 24 talks about approvals that were already existing prior to this bylaw, are not affected by this bylaw and continue to be in effect.

#### Submission

Submitter 17 submitted on clause 24. "It would however seem to me that the Policy and Bylaw fails to adequately distinguish between pre-existing incursion informalities and potential future similar cases." The submitter further posits that this clause "fails to recognise that an agreement does not need to be written to be legally enforceable"

Submitter 23 submitted "We generally support all of these rules with the proviso that the term "Project Management Agreement" be added to the types of Approval listed in Sections 20(3) and 24."

#### Staff analysis

Submitter 17 incorrectly applies the clause. Where an approval, licence, lease, or other written approval has been provided for activities on parks and reserves, and is current when this bylaw comes into effect, approval will remain current under this bylaw. This bylaw provides opportunity for written approval for activities on parks and reserves to be granted going forward under a consistent process.

While verbal agreements do constitute a contractual agreement, council processes going forward require written approvals to be provided as standard. This is to ensure a clear record of decisions and greater accountability.

This bylaw supersedes some previous processes of granting approval and outlines what activity may be allowed subject to written approval. There is no legal basis for pre-existing incursion informalities as submitted.

Submission 23 would like the term Project Management Agreement included. There are many forms of written approval that can be provided to council. This bylaw lists the most frequently occurring and has provision for "other" approvals to be provided which would include project management agreements.

**Staff recommendation**

Staff recommend no changes are made based on the above submissions.

**5 Final legal review**

A final legal review was completed by in-house counsel.

**6 Conclusion**

Careful consideration was given to submissions and issues raised by individuals and organisations. The wording of the bylaw catered for many of the individual concerns. Some concerns were raised that were not covered by the bylaw but are addressed in other instruments such as the Dog Management Policy 2018.

One submission related to volunteer activity currently taking place on reserves and whether that would be affected; however, the bylaw provides for written approvals that will allow for exceptions to be granted and some activities by individuals to be permitted. These submissions do not require changes to the proposed bylaw.

Overall, submissions were overwhelmingly in support of the bylaw and its purpose. As a result, and after considering all submissions received, staff recommend the bylaw is made subject to the inclusion of amendments to Clauses 10 and 12, as detailed in this analysis.

**APPENDIX 1 – LIST OF SUBMISSIONS RECEIVED**

Number	Organisation
1-10	Individual submissions
11	Vision Kerikeri
12	Carbon Neutral Trust NZ
13-14	Individual submissions
15	New Zealand Motor Caravan Association
16	Fire and Emergency NZ
17-22	Individual submissions
23	Living Waters - Bay of Islands



## **Parks and Reserves Bylaw 2023**

Governing body of the Far North District Council

Resolution in Council **XX**

This bylaw is made pursuant to Section 106 of the Reserves Act 1977 and Section 145 of the Local Government Act 2002.

The bylaw will come into force on **XX Month 2023.**

The bylaw is due for review by **XX Month 2028.**

Last updated  
**XX January 2023**

Parks and Reserves Bylaw 2023

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Objective ID - A3817974

Last updated  
XX January 2023

Parks and Reserves Bylaw 2023

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## **Part 1: Preliminary Provisions**

### **1 Title**

This bylaw is the Parks and Reserves Bylaw 2023.

### **2 Commencement**

This bylaw comes into force on XX Month 2023.

### **3 Application**

This bylaw applies to all Parks and Reserves under the control, management or ownership of the Far North District Council.

### **4 Purpose**

The purpose of this bylaw is to regulate the use of Parks and Reserves under the control, management or ownership of the Far North District Council, to ensure the public can utilise these spaces free from nuisances and offensive behaviour, while also protecting these parks and reserves from damage.

### **5 Interpretation**

(1) In this bylaw, unless the context otherwise requires:

**Aircraft** has the same meaning as in section 2 of the Civil Aviation Act 1990.

**Animal** has the same meaning as in section 2 of the Animal Welfare Act 1999 but excludes dogs.

**Approval** means an Approval granted under this bylaw and includes all conditions to which the Approval is subject.

**Authorised Person** means any person authorised by the Council to carry out functions or exercise any powers under this bylaw.

**Commercial Activities** means any activities involving trade, commerce, or any activities relating to the supply or acquisition of goods or services.

**Council** means means the governing body of the Far North District Council, or any person delegated to act on its behalf.

**Drone** means any unmanned machine that can derive support in the atmosphere from the reactions of the air otherwise than by the reactions of the air against the surface of the earth.

**Enforcement Officer** means an officer appointed by the Council under section 177 of the Local Government Act 2002 or any person appointed or deemed to be a Ranger under the Reserves

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Parks and Reserves Bylaw 2023

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Act 1977.

**Park** has the same meaning as in section 138(2) of the Local Government Act 2002.

**Reserve** has the same as in section 2(1) of the Reserves Act 1977.

**Vehicle** has the same meaning as in section 2(1) of the Land Transport Act 1998.

- (2) Any undefined words, phrases or expressions used in this bylaw have the same meaning as in the Reserves Act 1977 unless the context plainly requires a different meaning.
- (3) The Interpretation Act 1999 applies to this bylaw.
- (4) Explanatory notes and related information boxes are for information purposes only, do not form part of this bylaw, and may be inserted, amended, or removed by the Far North District Council without any formality at any time.

## **Part 2: Substantive provisions**

### **6 Entry and Access to Parks and Reserves**

- (1) No person shall enter or leave any Reserve except through the gateways, entrances or exits that are provided for that purpose.
- (2) No person may enter or remain in any Park or Reserve or part of a Park or Reserve when that Park or Reserve, or part of that Park or Reserve is closed to the public, unless prior Approval has been provided by Council.
- (3) Where any Park or Reserve, or part of a Park or Reserve, is being used with the permission of Council for a function or event to which an admission fee is being charged, no person shall enter or attempt to enter the Park or Reserve or such part of the Park or Reserve without paying the admission fee being charged for that function or event.
- (4) Where any Park or Reserve, or part of a Park or Reserve, is being used with the permission of Council for a private function or event, no person shall enter or attempt to enter the Park or Reserve or such part of the Park or Reserve being used without the consent of the organiser of that function or event.

### **7 Obstructing Access to Parks and Reserves**

- (1) No person shall without the prior Approval of Council:
  - a. Obstruct the entrances or exits to any Park or Reserve.
  - b. Place or leave any object or thing in any Park or Reserve that could obstruct public access to any Park or Reserve.

### **8 Assemblies and Events**

- (1) No person shall hold, or conduct, or attempt to hold or conduct, any public meeting, fair, gathering, demonstration, or any similar event, or make any public address, in any Park or Reserve except with the prior Approval of Council, and in accordance with any conditions or restrictions which might be imposed under said Council Approval.

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- (2) A copy of the prior Council Approval must be available for viewing upon request by Council or an Enforcement Officer during the period that the Assembly or Event is being undertaken on said Park or Reserve.

### **9 Storing and Parking of Motor Vehicles and Boats**

- (1) No person shall store or park any Vehicle, trailer, boat or kayak in any Park or Reserve other than in areas set aside for such parking or storage, without prior Approval from Council.
- (2) Any person storing or parking any Vehicle, trailer, boat or kayak in any Park or Reserve shall obey all signs or notices concerning storage and parking displayed in that Park or Reserve.
- (3) No person shall carry out any repairs or maintenance work on any Vehicle, boat, trailer or kayak in a Park or Reserve unless:
- (a) They have prior Approval from Council; or
  - (b) The repairs or maintenance work is permitted by a resource consent issued by Council; or
  - (c) The Vehicle, boat or trailer has broken down in the immediate vicinity of a Park or Reserve and repairs are necessary to necessitate the removal of said Vehicle, boat or trailer from the Park or Reserve. The Vehicle, boat or trailer may only remain in the Park or Reserve for a reasonable period of time for the repairs to occur and must be immediately removed from the Park or Reserve if requested by Council.

### **10 Operation of Vehicles**

- (1) No person shall drive any Vehicle in a Park or Reserve except on a part of a Park or Reserve that is set aside by Council for vehicle traffic. This restriction does not apply to Council staff, contractors or emergency service vehicles.
- (2) A part of a Park or Reserve shall be deemed to be set aside by Council for vehicle traffic if a vehicle carriageway or track has been formed by Council or if signage at said Park or Reserve authorises vehicle traffic.
- (3) No person shall operate or drive any Vehicle in any Park or Reserve in breach of any restrictions advertised on any signs or notices displayed in that Park or Reserve. This includes any speed limit restrictions as advertised by applicable signage. This restriction does not apply to emergency service vehicles
- (4) In the absence of speed limit signs, no Vehicle shall be driven at a speed greater than 15 kilometres an hour in any Park or Reserve. This restriction does not apply to emergency service vehicles
- (5) A person must not drive a Vehicle in a Park or Reserve in a dangerous manner

### **11 Behaviour in Parks and Reserves**

- (1) No person may obstruct, disturb or in any way interfere with any other person in their use or enjoyment of a Park or Reserve.
- (2) No person may intimidate, endanger or cause a nuisance to any other person in their use or enjoyment of a Park or Reserve.
- (3) No person may let off any fireworks in any Park or Reserve without prior Approval from Council.
- (4) No person may light a fire in a Park or Reserve unless they have prior Approval from Council.
- (5) No person may undertake any behaviour or activity in a Park or Reserve that causes damage to that Park or Reserve or any Council property located in that Park or Reserve.

Objective ID - A3817974

4

Last updated  
XX January 2023

Parks and Reserves Bylaw 2023

## 12 Dogs

- (1) No person shall bring any dog on to any Park or Reserve, or allow any dog in their custody or under their control to remain on any Park or Reserve, unless the dog is on a leash or is within an area specified by the Council's Dog Management Policy as an area where dogs are permitted off leash, or as a dog exercise area.
- (2) All persons with a dog under their control in any Park or Reserve must comply with any signage concerning the control of dogs erected at said Park or Reserve.
- (3) No person shall bring any dog on to any park or reserve or allow any dog in their custody or under their control to remain on any park or reserve that is specified in the Council's Dog Management Policy as parks or reserves where dogs are not permitted.

### Related information

See Council Dog Management Bylaw

<https://www.fndc.govt.nz/Your-Council/Plans-Policies-Bylaws->

## 13 Animals

- (1) No person shall bring any Animal on to any Park or Reserve, or allow any Animal in their ownership, in their custody or under their control to remain on any park or reserve unless that species of Animal is authorised by Council to access said Park or Reserve or they have prior Council Approval to allow a designated Animal to access a designated Park or Reserve.
- (2) Council authorisation shall be recorded by signage erected on said Park or Reserve.
- (3) No person shall bring any Animal on to any Park or Reserve, or allow any Animal in their ownership, in their custody or under their control to remain on any Park or Reserve in breach of any restrictions advertised on any signs or notices displayed in that Park or Reserve.
- (4) A person in control of any Animal on any Park or Reserve must ensure that the Animal is kept under control so as to not create a danger or nuisance for any other person using the Park or Reserve.

## 14 Commercial Activity

No person shall undertake any Commercial Activities in any Park or Reserve without prior written Approval from Council and a copy of that written Approval must be available for viewing upon request by Council or an Enforcement Officer during the period that the Commercial Activity is being undertaken on said Park or Reserve.

## 15 Encroachments

No person may permit or allow any building, object or thing to encroach onto a Park or Reserve without prior Approval from Council.

## 16 Trees and Vegetation

- (1) No person may remove, damage, prune, poison or cut any tree, plant, vegetation or seed in a Park or Reserve without prior Approval from Council.
- (2) No person may remove, damage or disturb any soil, dirt, gravel, sand or other natural matter from any Park or Reserve without prior Approval from Council.
- (3) No person may plant or introduce any plant, tree, shrub, seed or plant matter of any kind to a Park or Reserve without prior Council Approval.

Objective ID - A3817974

5

Last updated  
XX January 2023

Parks and Reserves Bylaw 2023

### 17 Aircraft

- (1) No person shall take off, land or operate any Aircraft in any Park or Reserve without prior Approval from Council, except in cases of emergency.
- (2) No person shall operate a Drone in any Park or Reserve in breach of the New Zealand Civil Aviation Rules or any other rules or regulations issued by the New Zealand Civil Aviation Authority in respect of drones.

### 18 Camping

- (1) No person shall camp in any Park or Reserve unless the Park or Reserve is listed in the Far North District Council Camping in Public Places Policy.
- (2) All persons camping in any part of a Park or Reserve must comply with the conditions for camping at Council camping sites in the Far North District Council's Camping in Public Places Policy.

#### Related information

See Council's Camping in Public Places Policy

<https://www.fndc.govt.nz/files/assets/public/objectivedocuments/policy-and-planning-pol/policies/council-external-policies/camping-in-public-places-2016.pdf>

### 19 Requirement to leave a Park or Reserve

- (1) A person committing a breach of this bylaw shall, upon request by the Council, or an Enforcement Officer, immediately leave the Park or Reserve for such period as the Council or Enforcement Officer deems fit.
- (2) The requirement to depart a Park or Reserve under subclause (1) does not limit any potential liability for any breaches of this bylaw.

## Part 3: Approvals

### 20 Approvals

- (1) Where any Approval from Council is required by this bylaw, a person who seeks that Approval must:
  - (a) Apply in writing to Council for the approval which may include using the applicable application form for that Approval;
  - (b) Provide the information required or requested by Council; and
  - (c) If applicable pay the fee set for that Approval in the Far North District Council fees and Charges Policy.
- (2) Council may grant or refuse to grant the requested Approval.
- (3) The Approval from Council will be in written form and may include a lease, licence, order, letter or other written document.
- (4) The Approval may be granted on such terms and conditions as Council considers appropriate.
- (5) The Approval may be granted for a set term after which the Approval will expire.
- (6) Council may revoke the Approval if any of the terms and conditions of the Approval are not complied with.

Objective ID - A3817974

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Last updated  
**XX January 2023**

Parks and Reserves Bylaw 2023

- (7) Council may revoke any Approval that has been granted at any time if the circumstances under which the Approval was granted have changed since the Approval was granted.

#### **Part 4: Enforcement**

##### **21 Removal or alteration of a work or thing**

The Council may under section 163 of the Local Government Act 2002, remove or alter a work or thing that is or has been constructed in breach of this bylaw, and may recover the costs of the removal or alteration from the person who committed the breach.

###### **Related information**

The Far North District Council also has the power to seize and impound property that is not on private land and is materially involved in the commission of a breach of a bylaw.

##### **22 Offences**

Every person who fails to comply with the requirements of this bylaw or breaches this bylaw commits an offence under the Local Government Act 2002 and / or the Reserves Act 1977 and is liable to the penalties set out in those Acts.

#### **Part 5: Savings and transitional provisions**

##### **23 Bylaw does not limit any other enactment**

This bylaw does not limit or affect the application of or the requirements in or under any other enactment.

###### **Related information**

Breaches of this bylaw may also constitute offences under other legislation (among others) such as:

- (a) Land Transport Act 1962;
- (b) Litter Act 1979;
- (d) the Conservation Act 1987; and
- (e) Resource Management Act 1991.

##### **24 Applications, Approvals in force as at commencement of this bylaw**

Any lease, licence, order, letter or other written Approval provided by Council in respect of a park or reserve that was current as at the commencement of this bylaw shall constitute an Approval under this bylaw.

Objective ID - A3817974

7

**7.11 TEMPORARY ROAD CLOSURE - MANGONUI WATERFRONT FESTIVAL****File Number:** A4042471**Author:** Calvin Thomas, General Manager - Northland Transportation Alliance**Authoriser:** Andy Finch, General Manager - Infrastructure and Asset Management**TAKE PŪRONGO / PURPOSE OF THE REPORT**

The purpose of this report is to obtain Council approval for a temporary road closure for the Mangonui Waterfront Festival.

**WHAKARĀPOPOTO MATUA / EXECUTIVE SUMMARY**

- The Northland Transportation Alliance manage temporary road closures for events on behalf of Council.
- The task of approving temporary road closures, specifically for the safe operation of events, cannot be delegated by Council.
- Advertising of the event will take place approximately two weeks before the event in accordance with the requirements of the Local Government Act, 1974.

**TŪTOHUNGA / RECOMMENDATION**

**That Council approves the proposed temporary road closure to accommodate the safe operation of the Mangonui Waterfront Festival.**

**1) TĀHUHU KŌRERO / BACKGROUND**

The background to this paper has been prepared by the Northland Transportation Alliance and is included as Attachment 1.

**2) MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND OPTIONS**

A representative from the Northland Transportation Alliance will be at the meeting to discuss any questions that may arise as a result of this proposal.

**Take Tūtohunga / Reason for the recommendation**

To enable the Mangonui Waterfront Festival to proceed on Friday 10 March to Saturday 11 March 2023.

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

No budgetary implications.

**ĀPITIHINGA / ATTACHMENTS**

1. NTA Agenda item Temporary Road Closure for Mangonui Waterfront Festival - A4042459 [↓](#) 

**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.

<b>He Take Ōkawa / Compliance Requirement</b>	<b>Aromatawai Kaimahi / Staff Assessment</b>
State the level of significance (high or low) of the issue or proposal as determined by the <a href="#">Council's Significance and Engagement Policy</a>	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.	Not applicable
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.	Local relevance
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.	No impact for Māori have been identified in respect of the proposed temporary road closure.
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).	Not applicable
State the financial implications and where budgetary provisions have been made to support this decision.	Not applicable
Chief Financial Officer review.	The CFO has reviewed this report.



**Name of item: Temporary Road Closure – Mangonui Waterfront Festival**

**Author:** Reporting officer – Dale Roberts  
NTA / FNDC Road Corridor Manager - TMC

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## 1 Purpose

The purpose of this paper is to obtain Council approval for a temporary road closure.

## 2 Recommendations

That Council approves the proposed temporary road closure to accommodate the safe operation of the Mangonui Waterfront Festival.

## 3 Background

### **Mangonui Waterfront Festival: Friday 10/03/2023 – Saturday 11/03/2023**

A celebration and showcase for everything good about the Far North, from wine and food to music and art with stalls stretching from just north of the Old Oak Boutique Hotel to the wharf.

The road frontage is closed to traffic for the duration of the event. Crowds of around 5,000 are expected.

Road closed and times:

- Waterfront Drive, starting at approximately 550m south of Mabel Thorburn Place to approximately 50m north of Tasman Street.
- Road Closure to start on Friday 10/03/2023 at 19:00 and finish on Saturday 11/03/2023 at 19:30.

## 4 Discussion

The Public Notice for the proposed temporary road closures will be advertised in the Northern Advocate with exact timeframes yet to be determined. Previous experience indicates its optimal for events to be advertised approximately two weeks out.

## 5 Summary

Approval of the proposed road closure of Waterfront Drive will allow the safe operation of the Mangonui Waterfront Festival.





## 6 Report Approval

Approved by:

A handwritten signature in blue ink that reads "D. Roberts".

Dale Roberts  
Road Corridor Manager - TMC  
Monday, January 9, 2023

## 7 Appendix

- Mangonui Waterfront Festival Road Closure Diagram



**7.12 TEMPORARY ROAD CLOSURE – BDO TOUR OF NORTHLAND****File Number: A4042482****Author: Calvin Thomas, General Manager - Northland Transportation Alliance****Authoriser: Andy Finch, General Manager - Infrastructure and Asset Management****TAKE PŪRONGO / PURPOSE OF THE REPORT**

The purpose of this paper is to obtain Council approval for a temporary road closure for the BDO Tour of Northland.

**WHAKARĀPOPOTO MATUA / EXECUTIVE SUMMARY**

- The Northland Transportation Alliance manage temporary road closures for events on behalf of Council
- The task of approving temporary road closures, specifically for the safe operation of events, cannot be delegated by Council
- Advertising of the event will take place approximately two weeks before the event in accordance with the requirements of the Local Government Act, 1974

**TŪTOHUNGA / RECOMMENDATION**

**That Council approve the proposed temporary road closure to accommodate the safe operation of the BDO Tour of Northland.**

**1) TĀHUHU KŌRERO / BACKGROUND**

The background to this paper has been prepared by the Northland Transportation Alliance and is included as Attachment 1.

**2) MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND OPTIONS**

A representative from the Northland Transportation Alliance will be at the meeting to discuss any questions that may arise as a result of this proposal.

**Take Tūtohunga / Reason for the recommendation**

To enable the BDO Tour of Northland to proceed on Thursday 16 March to Sunday 19 March 2023.

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

No budgetary implications

**ĀPITIHINGA / ATTACHMENTS**

1. NTA Agenda item Temporary Road Closure for BDO Tour of Northland - A4042458 [↓](#) 

**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.

<b>He Take Ōkawa / Compliance Requirement</b>	<b>Aromatawai Kaimahi / Staff Assessment</b>
State the level of significance (high or low) of the issue or proposal as determined by the <a href="#">Council's Significance and Engagement Policy</a>	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.	Not applicable
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.	Local relevance
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.	No impact for Māori have been identified in respect of the proposed temporary road closure.
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).	Not applicable
State the financial implications and where budgetary provisions have been made to support this decision.	Not applicable
Chief Financial Officer review.	The CFO has reviewed this report.



**Name of item: Temporary Road Closure – BDO Tour of Northland**

Author: Reporting officer – Dale Roberts  
NTA / FNDC Road Corridor Manager - TMC

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## 1 Purpose

The purpose of this paper is to obtain Council approval for a temporary road closure.

## 2 Recommendations

That Council approves the proposed temporary road closure to accommodate the safe operation of the BDO Tour of Northland.

## 3 Background

### **BDO Tour of Northland: Thursday 16/03/2023 – Sunday 19/03/2023**

Cycle Race that takes place throughout Northland. The 2023 event will head to Kerikeri for the first time in the event's history.

Road closed and times:

- One way closure of the south bound lane on Kerikeri Road, starting at Wendywood Lane to the roundabout at Kerikeri Road/Twin Coast Discovery Highway.
  - Road Closure to start on Friday 17/03/2023 at 7:00 and finish on at 16:00 of the same day.
- Cobham Road, starting at the intersection with Hobson Ave to the intersection with Kerikeri Road.
  - Road Closure to start on Sunday 19/03/2023 at 6:00 and finish on at 15:00 of the same day.

## 4 Discussion

The Public Notice for the proposed temporary road closures will be advertised in the Northern Advocate with exact timeframes yet to be determined. Previous experience indicates its optimal for events to be advertised approximately two weeks out.

## 5 Summary

Approval of the proposed road closures of Cobham Ave & Kerikeri Road will allow the safe operation of the BDO Tour of Northland 2023.



## 6 Report Approval

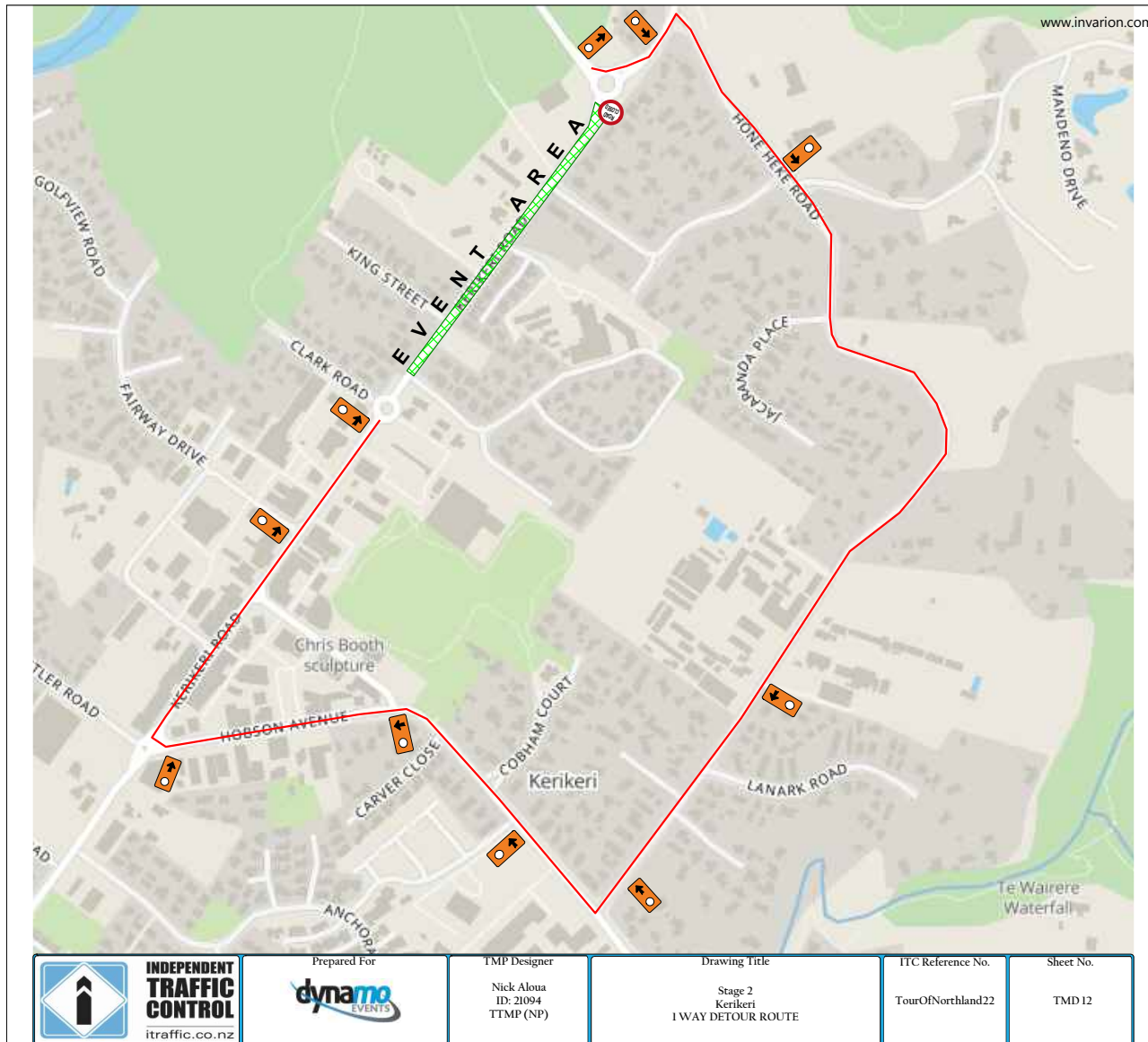
Approved by:

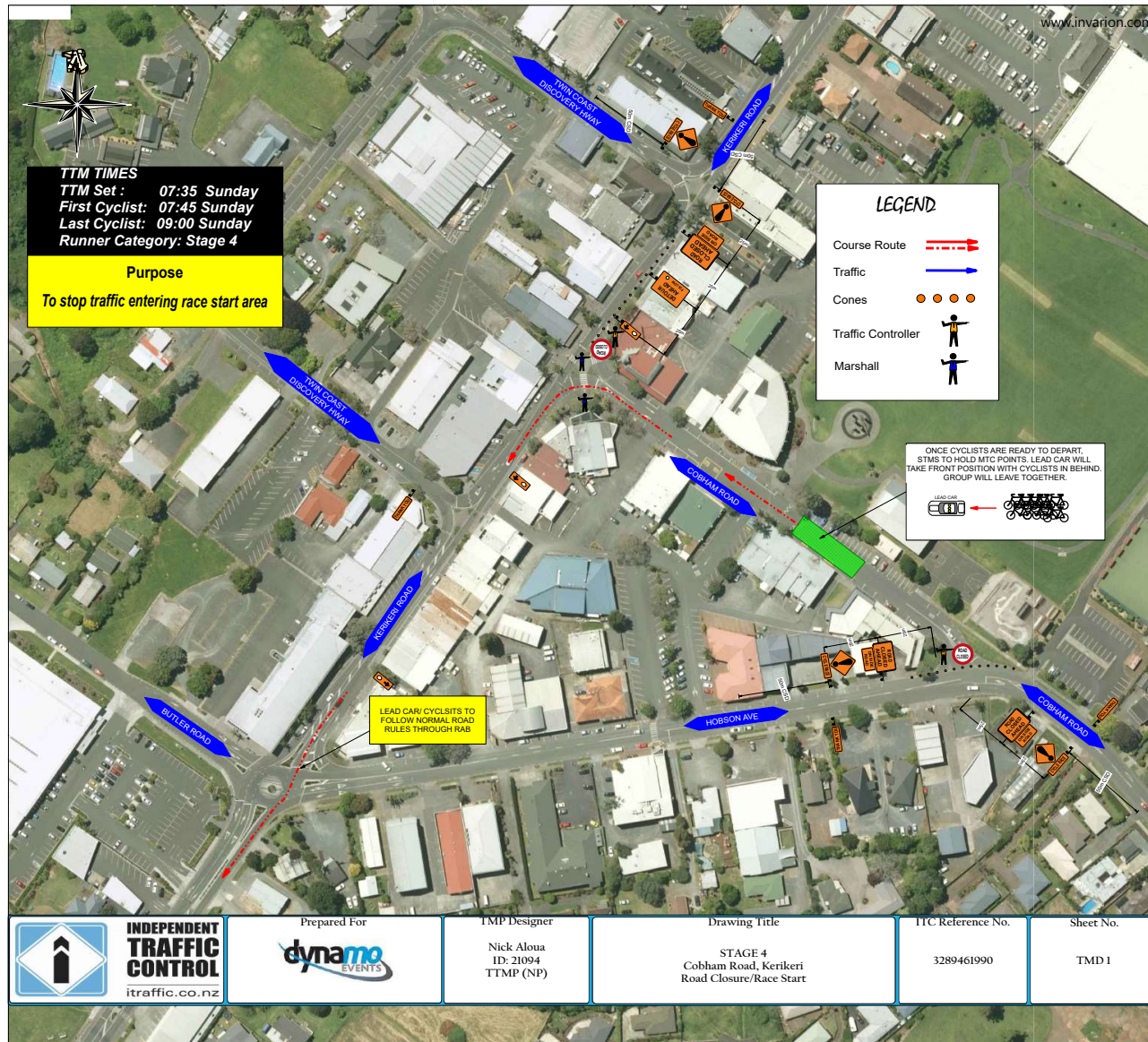
A handwritten signature in black ink that reads "D. Roberts".

Dale Roberts  
Road Corridor Manager - TMC  
Monday, January 9, 2023

## 7 Appendix

- BDO Cycle Tour Road Closure Diagrams
  - Kerikeri Road
  - Cobham Road







**7.13 UPDATE OF COUNCIL DELEGATIONS - RESOURCE MANAGEMENT ACT 1991****File Number:** A4045985**Author:** Janice Smith, General Manager - Corporate Services**Authoriser:** Blair King, Chief Executive Officer**TAKE PŪRONGO / PURPOSE OF THE REPORT**

To update the existing delegation of powers under the Resource Management Act 1991 to reflect changes to position titles.

**WHAKARĀPOPOTO MATUA / EXECUTIVE SUMMARY**

- In December 2016, Council resolved to delegate powers relating to the appointment of Commissioners, under the Resource Management Act 1991 (RMA), to positions within the then District Services team.
- In February 2019, Council resolved to delegate powers under the RMA to positions within the then District Services team.
- The powers that are delegated allow Council staff to carry out the day-to-day functions of the RMA in an efficient and effective way.
- The department has recently been re-aligned and position titles have been amended.
- To ensure that work can continue under the powers granted to Council by the RMA the attached instrument of delegation has been amended.

**TŪTOHUNGA / RECOMMENDATION**

**That Council approve the instruments of delegation as attached:**

- a. Resource Management Act 1991**
- b. Appointment of Commissioners**

**1) TĀHUHU KŌRERO / BACKGROUND**

In 2016 and 2019, Council approved instruments of delegation relating to powers granted to it by the RMA.

The powers that are delegated allow Council staff to carry out the day-to-day functions of the RMA in an efficient and effective way.

If the delegations did not exist, staff would have to seek Council approval for every action required to be taken under the legislation. This is neither practical nor efficient.

**2) MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND OPTIONS**

The department to which the delegations were made was the District Services department. The department has recently been re-aligned and position titles have been amended.

To ensure that work can continue under the powers granted to Council by the RMA the attached instruments of delegation have been amended to reflect the new position titles.

The powers delegated have not been amended in anyway and remain as previously approved.

**Take Tūtohunga / Reason for the recommendation**

To update the schedule of delegations to align with the new position titles.

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

There are no financial implications arising from this report.

#### **ĀPITIHINGA / ATTACHMENTS**

1. **Delegations - CNCL - RMA updatd Dec 22 - A4045989** [↓](#) 
2. **Delegations - CNCL - Commissioners updated Dec 22 - A4045992** [↓](#) 

**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.

<b>He Take Ōkawa / Compliance Requirement</b>	<b>Aromatawai Kaimahi / Staff Assessment</b>
State the level of significance (high or low) of the issue or proposal as determined by the <a href="#">Council's Significance and Engagement Policy</a>	Low
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	Resource Management Act 1991
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 is a District Wide issue as the RMA applies to the whole District
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.	The delegation of powers to officers does not affect the requirement for Iwi/Hapu involvement in the overall consent 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).	Not relevant to this report
State the financial implications and where budgetary provisions have been made to support this decision.	There are no financial implications from this report
Chief Financial Officer review.	CFO (Acting) has reviewed the report



Register of Delegations: Part 1 Delegations from council to staff

**Council delegation - Resource Management Act**  
 (Council resolution 28 February 2019 effective as from 01 March 2019)

**Resource Management Act 1991**

Act	Section	Delegation	Title
Resource Management Act 1991	10(2)	Power to extend existing use rights	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> </ul>
Resource Management Act 1991	22	To seek the name & address of a person[s] who is believed to be in breach of the Act	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> <li>• Team Leader Monitoring</li> <li>• Monitoring Officers</li> </ul>
Resource Management Act 1991	27	Supply information to the Minister for the Environment	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• GM Planning &amp; Policy</li> <li>• Manager District Planning</li> <li>• Senior Policy Planner</li> <li>• Policy Planner</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> </ul>
Resource Management Act 1991	34A	The power to appoint commissioners to hear and determine resource consent applications, notices of requirements given under section 168, 168A, 189 or 189A and objections lodged under sections 357, 357A or 357B of the Resource Management Act 1991	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> </ul>
	34A	The power to appoint commissioners to the Plan Changes Hearing Panel	<ul style="list-style-type: none"> <li>• GM Planning &amp; Policy</li> <li>• Manager District Planning</li> <li>• Senior Policy Planner</li> </ul>

Resource Management Act 1991	36(3A)	Provision of estimate of any additional charge	<ul style="list-style-type: none"> <li>GM Delivery &amp; Operations</li> <li>Manager Environmental Services</li> <li>Team Leader Resource Consents</li> <li>Principal Planner</li> </ul>
Resource Management Act 1991	36(5)	Remit the whole or any part of a charge of the kind referred to in section 36	<ul style="list-style-type: none"> <li>GM Delivery &amp; Operations</li> <li>Manager District Plan</li> <li>Manager Environmental Services</li> <li>Team Leader Resource Consents</li> <li>Principal Planner</li> </ul>
Resource Management Act 1991	37(1)	Extend or waive compliance with a time limit up to the maximum period specified in the Act	<ul style="list-style-type: none"> <li>GM Delivery &amp; Operations</li> <li>GM Planning &amp; Policy</li> <li>Manager District Planning</li> <li>Senior Policy Planner</li> <li>Manager Environmental Services</li> <li>Team Leader Resource Consents</li> <li>Principal Planner</li> <li>Senior Planner</li> <li>Intermediate Resource Planner</li> </ul>
Resource Management Act 1991	37(2)	Waive compliance with procedures and inaccuracies of information	<ul style="list-style-type: none"> <li>GM Delivery &amp; Operations</li> <li>GM Planning &amp; Policy</li> <li>Manager District Planning</li> <li>Senior Policy Planner</li> <li>Manager Environmental Services</li> <li>Senior Planner</li> <li>Team Leader Resource Consents</li> <li>Principal Planner</li> </ul>
Resource Management Act 1991	38(1) 38(2)	Authorisation and responsibilities of enforcement officers. Authorisation of contractors as enforcement officers (noise control)	<ul style="list-style-type: none"> <li>GM Delivery &amp; Operations</li> <li>Manager Environmental Services</li> <li>Team Leader Monitoring</li> </ul>
Resource Management Act 1991	41B	To direct applicant or submitter to provide briefs of evidence prior to hearing	<ul style="list-style-type: none"> <li>GM Delivery &amp; Operations</li> <li>Manager Environmental Services</li> <li>Principal Planner</li> <li>Team Leader Resource Consents</li> <li>GM Planning &amp; Policy</li> </ul>

			<ul style="list-style-type: none"> <li>• Manager District Planning</li> </ul>
Resource Management Act 1991	41C(2)	To request a submitter to provide further information before the hearing	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> <li>• Team Leader Resource Consents</li> <li>• GM Planning &amp; Policy</li> <li>• Manager District Planning</li> </ul>
Resource Management Act 1991	42	To make an order for the protection of sensitive information	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> <li>• GM Planning &amp; Policy</li> <li>• Manager District Planning</li> <li>• Team Leader Resource Consents</li> </ul>
Resource Management Act 1991	42A	To require preparation of reports on an application	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Principal Planner</li> <li>• Team Leader Resource Consents</li> </ul>
Resource Management Act 1991	44A	To amend a plan or proposed plan to remove duplication or conflict with a national environmental standard	<ul style="list-style-type: none"> <li>• GM Planning &amp; Policy</li> <li>• Manager District Planning</li> </ul>
Resource Management Act 1991	55	Recognition of National Policy Statements	<ul style="list-style-type: none"> <li>• GM Planning &amp; Policy</li> <li>• Manager: District Planning</li> </ul>
Resource Management Act 1991	87E	To make decisions on request by the applicant that the Environment Court determine an application for resource consent or a change or cancellation of a condition of a resource consent	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> <li>• Team Leader Resource Consents</li> </ul>
Resource Management Act 1991	87BA	Determine that a “building activity is a permitted activity	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> <li>• Senior Planner</li> <li>• Senior Policy Planner</li> </ul>
Resource Management Act 1991	87BB	Determination that an activity is a permitted activity.	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> </ul>

			<ul style="list-style-type: none"> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> <li>• Team Leader Resource Consents</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	88(3) and (3A)	Determine that an application is incomplete and return the application to the applicant, with written reasons for the determination	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> <li>• Senior Planner</li> <li>• Intermediate Planner</li> </ul>
Resource Management Act 1991	91(1)	Determine not to proceed with the notification or hearing on an application for a resource consent pending additional applications	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	91C	Determine whether to return or continue with an application suspended at applicant's request	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	92(1)	Require the applicant for the consent to provide further information relating to the application	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> <li>• Team Leader Resource Consents</li> <li>• Senior Planner</li> <li>• Intermediate Planner</li> <li>• Resource Planner</li> <li>• Consents Planner</li> </ul>
Resource Management Act 1991	92(2)	Commission reports relating to an application	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Senior Planner</li> <li>• Principal Planner</li> </ul>

Resource Management Act 1991	92A(2)	Power to set time limits for receipt of information	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> <li>• Team Leader Resource Consents</li> <li>• Senior Planner</li> <li>• Intermediate Planner</li> <li>• Resource Planner</li> <li>• Consents Planner</li> </ul>
Resource Management Act 1991	95	Time limits for determining public or limited notification.	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> <li>• Team Leader Resource Consents</li> </ul>
Resource Management Act 1991	95A	To determine if application is to be publicly notified	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> <li>• Team Leader Resource Consents</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	95B	To determine if an application is to be limited notified	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> <li>• Team Leader Resource Consents</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	95D	To determine if adverse effects are more than minor or are likely to be more than minor	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> <li>• Team Leader Resource Consents</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	95E	To determine if a person is an affected person	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> <li>• Team Leader Resource Consents</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	95F	To determine if a protected customary rights group is an affected protected customary rights group	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> <li>• Team Leader Resource Consents</li> <li>• Senior Planner</li> </ul>



Resource Management Act 1991	95G	To determine if a customary marine title group is an affected customary marine title group	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> <li>• Team Leader Resource Consents</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	99(1)	Determine if Council should have a pre-hearing meeting; attend or hold a meeting if requested	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	99(2)	Power to invite or require persons to attend pre-hearing meeting	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> </ul>
	99(4)	Power to determine attendance of Council member, delegate or officer at pre-hearing meeting	
Resource Management Act 1991	99(8)	Power to decline processing of application or consider a submission	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> </ul>
Resource Management Act 1991	99A	Referral to mediation	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> </ul>
Resource Management Act 1991	100	Determine if a hearing is required	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> </ul>
Resource Management Act 1991	101	Organise the hearing and notify parties	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Team Leader Administration – Environmental Services</li> <li>• Senior RMA Support</li> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> <li>• Senior Planner</li> <li>• Intermediate Planner</li> </ul>

Resource Management Act 1991	102	Determine (with the other authorities) that a joint hearing is not necessary	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> </ul>
Resource Management Act 1991	103	Determine if the applications are sufficiently unrelated so that it is unnecessary to hold a combined hearing	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	104(6)	To decline an application where insufficient information has been provided to determine it	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> </ul>
Resource Management Act 1991	104A 104B 104C 104D	Determine applications for resource consents that do not require a hearing	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	106	Power to refuse subdivision consent in certain circumstances	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> <li>• Team Leader Resource Consents</li> </ul>
Resource Management Act 1991	109	Extend bond period in accordance with Council's Bonds Policy Determine whether to enter upon the land to complete the works	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	124B	Power to determine applications by existing holders of resource consents	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> </ul>
Resource Management Act 1991	125	Determine an application for an extension	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> <li>• Senior Planner</li> </ul>

Resource Management Act 1991	126	Cancel a resource consent by written notice served on the consent holder. Revoke a notice to cancel a resource consent and state a period after which a new notice may be served	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	127	a) Determine whether the application must be publicly notified, limited notified or non-notified. b) Determine an application to change or cancel a condition of a resource consent if the application does not require a hearing	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	128 - 132	Give notice of intention to review conditions of a resource consent, and determine same	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	133A	Authority to correct minor errors in consent decisions	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> <li>• Team Leader Resource Consents</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	138	Accept surrender of a resource consent and accept or decline part surrender of a resource consent	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	139	Issue or decline to issue a certificate of compliance	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> <li>• Senior Planner</li> </ul>
	139(4)	Determine that further information is necessary to determine whether the particular proposal or activity complies with the plan and require an applicant for a certificate of compliance to provide further information relating to the request	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> <li>• Senior Planner</li> <li>• Intermediate Planner</li> <li>• Resource Planner</li> <li>• Consents Planner</li> </ul>

Resource Management Act 1991	139A	To issue and revoke existing use certificates	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> <li>• Team Leader Resource Consents</li> <li>• Senior Planner</li> </ul>
	139A(3)	To determine if further information is necessary to determine whether the certificate must be issued, and power to issue or decline to issue an existing use certificate	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> <li>• Team Leader Resource Consents</li> <li>• Senior Planner</li> <li>• Intermediate Planner</li> <li>• Resource Planner</li> <li>• Consents Planner</li> <li>• Planning Technician</li> </ul>
Resource Management Act 1991	142	Request Minister to make direction under s.142(2)	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> </ul>
Resource Management Act 1991	168A	To determine if a notice of requirement requires notification under sections 95 to 95G, and to decide whether to confirm the requirement, modify the requirement, impose conditions or withdraw the requirement if the notice of requirement application does not require a hearing.	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> <li>• Team Leader Resource Consents</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	169	To determine if a notice of requirement issued pursuant to section 168 requires notification under sections 95 to 95F	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> <li>• Team Leader Resource Consents</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	170	Discretion to include requirement in District Plan	<ul style="list-style-type: none"> <li>• GM Planning &amp; Policy</li> <li>• Manager District Planning</li> </ul>

Resource Management Act 1991	171	To recommend to the requiring authority that it confirm the requirement, impose conditions or withdraw the requirement if the notice of requirement application does not require a hearing	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> <li>• Team Leader Resource Consents</li> </ul>
Resource Management Act 1991	176A(1) 176A(2)	Consider outline plans and request changes before construction is commenced. Waive requirement for an outline plan	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	181	Alteration of designation	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> <li>• Team Leader Resource Consents</li> <li>• GM Planning &amp; Policy</li> <li>• Manager District Planning</li> </ul>
Resource Management Act 1991	182(5)	Authority to decline to remove part of a designation	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> </ul>
Resource Management Act 1991	184	Authority to extend lapse period for designation	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Principal Planner</li> <li>• Team Leader Resource Consents</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	184A	Authority to extend lapse period for a Council designation	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Principal Planner</li> <li>• Team Leader Resource Consents</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	189A	To determine whether a notice of requirement for a Heritage Order by Council should be notified	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Principal Planner</li> <li>• Team Leader Resource Consents</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	190	To determine whether a notice of requirement by a heritage protection authority requires notification	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Principal Planner</li> <li>• Team Leader Resource Consents</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	191	To recommend whether a requirement made under section 189 should be confirmed with or without modification or conditions or that it be withdraw	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Principal Planner</li> <li>• Team Leader Resource Consents</li> </ul>

Resource Management Act 1991	195A(3)	Undertake a minor alteration to a heritage order	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Principal planner</li> <li>• GM Planning &amp; Policy</li> <li>• Manager District Planning</li> <li>• Team Leader Resource Consents</li> </ul>
Resource Management Act 1991	198C	Determine request for referral to the Environment Court	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Principal Planner</li> <li>• Team Leader Resource Consents</li> </ul>
Resource Management Act 1991	220(3)	Consult the District Land Registrar in relation to any condition proposed under section 220(1)(b)	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> <li>• Senior Planner</li> <li>• Intermediate Planner</li> <li>• Resource Planner</li> <li>• Consents Planner</li> <li>• Planning Technician</li> </ul>
Resource Management Act 1991	221	Issue a consent notice	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	221(3)	The power to vary or cancel a condition specified in a consent notice	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	222	Issue completion certificates	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	223	Approve and certify or decline survey plans	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> <li>• Senior Planner</li> </ul>

Resource Management Act 1991	224	Provide certificate under section 224(c). Provide and authenticate certificate under sections 224(e) and (f)	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	226	Provide certification under section 226(e)	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	232	Creation of and matters to be included in esplanade strip	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations,</li> <li>• Principal Planner</li> <li>• Team Leader Resource Consents</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	234	Power to vary or cancel an esplanade strip	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	235	Power to agree with the registered proprietor of any land to create an esplanade strip	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> <li>• Team Leader Resource Consents</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	237	Require separate survey plan for esplanade reserve or strip	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Principal Planner</li> <li>• Team Leader, Resource Consents</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	237B	Power to agree with the registered proprietor of any land to acquire an easement over the land for the purpose of an access strip	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> <li>• Team Leader Resource Consents</li> </ul>
Resource Management Act 1991	237H	Objection to valuation of land to be acquired for esplanade purposes	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• General Manager Infrastructure &amp; Asset Management</li> </ul>

Resource Management Act 1991	239(2)	Power to issue certificates providing for vesting of reserves subject to specified interests	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> <li>• Team Leader Resource Consents</li> </ul>
Resource Management Act 1991	240(4) 241(3)	Cancel amalgamation conditions	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	243	Power to grant, surrender, transfer, vary or cancel easements	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	274	Representation at proceedings	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> <li>• GM Planning &amp; Policy</li> <li>• Manager District Planning</li> </ul>
Resource Management Act 1991	311	Apply for a declaration	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• GM Planning &amp; Policy</li> <li>• Manager District Planning</li> </ul>
Resource Management Act 1991	315	Seek compliance with enforcement order	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> <li>• Team Leader Building Compliance</li> </ul>
Resource Management Act 1991	316	Seek an enforcement order	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> <li>• Senior Planner</li> <li>• Team Leader Building Compliance</li> </ul>



Resource Management Act 1991	320	Seek interim enforcement order	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Team Leader Resource Consents</li> <li>• Principal Planner</li> <li>• Senior Planner</li> <li>• Team Leader Building Compliance</li> </ul>
Resource Management Act 1991	321	Apply for change or cancellation of enforcement order	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> <li>• Team Leader Resource Consents</li> <li>• Senior Planner</li> <li>• Team Leader Building Compliance</li> </ul>
Resource Management Act 1991	325A	Cancel an abatement notice, and determine an application to change or cancel an abatement notice	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Principal Planner</li> <li>• Team Leader Building Compliance</li> <li>• Manager Environmental Services</li> </ul>
Resource Management Act 1991	330	Emergency works and power to take preventive or remedial action	<ul style="list-style-type: none"> <li>• Chief Executive Officer</li> <li>• GM Delivery &amp; Operations</li> <li>• GM Corporate Services</li> <li>• Manager Building Services</li> <li>• Manager Environmental Services</li> <li>• Manager Facilities Operations</li> </ul>
Resource Management Act 1991	357 D	Power to uphold or dismiss objections made under sections 357 to 357B and remit the whole or any part of an additional charge made under section 36(3)	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> <li>• Team Leader Resource Consents</li> <li>• Senior Planner</li> </ul>
Resource Management Act 1991	Schedule 1 Clause 1(2)	Power to grant extension of time in terms of s.37	<ul style="list-style-type: none"> <li>• Principal Planner</li> <li>• GM Planning &amp; Policy</li> <li>• Manager District Planning</li> <li>• Senior Policy Planner</li> <li>• Policy Planner</li> </ul>

Resource Management Act 1991	Schedule 1 Clause 3(2)	Power to determine who is to be consulted	<ul style="list-style-type: none"> <li>Principal Planner</li> <li>GM Planning &amp; Policy</li> <li>Manager District Planning</li> <li>Senior Policy Planner</li> <li>Policy Planner</li> </ul>
Resource Management Act 1991	Schedule 1 Clauses 5(1A) and 5(1B)	Power to determine affected parties to be notified	<ul style="list-style-type: none"> <li>Principal Planner</li> <li>GM Planning &amp; Policy</li> <li>Manager District Planning</li> <li>Senior Policy Planner</li> <li>Policy Planner</li> </ul>
Resource Management Act 1991	Schedule 1 Clauses 8AA (1) & (3)	Authority to arrange meetings between parties and refer issues to mediation	<ul style="list-style-type: none"> <li>Principal Planner</li> <li>GM Planning &amp; Policy</li> <li>Manager District Planning</li> <li>Senior Policy Planner</li> </ul>
Resource Management Act 1991	Schedule 1 Clause 8B	Power to set hearing date and notice [including reports]	<ul style="list-style-type: none"> <li>Principal Planner</li> <li>GM Planning &amp; Policy</li> <li>Manager District Planning</li> <li>Senior Policy Planner</li> <li>Policy Planner</li> </ul>
Resource Management Act 1991	Schedule 1 Clause 8C	Determine that hearing not needed	<ul style="list-style-type: none"> <li>Principal Planner</li> <li>GM Planning &amp; Policy</li> <li>Manager District Planning</li> <li>Senior Policy Planner</li> <li>Policy Planner</li> </ul>
Resource Management Act 1991	Schedule 1 Clause 11(1) and 11(2)	Notification of decision to submitters, determination of and service of notice on affected parties	<ul style="list-style-type: none"> <li>Principal Planner</li> <li>GM Planning &amp; Policy</li> <li>Manager District Planning</li> <li>Senior Policy Planner</li> <li>Policy Planner</li> </ul>
Resource Management Act 1991	Schedule 1 Clause 13(3)	Amend the District Plan in respect of Designations	<ul style="list-style-type: none"> <li>GM Planning &amp; Policy</li> <li>Manager District Planning</li> <li>Senior Policy Planner</li> <li>Policy Planner</li> </ul>
Resource Management Act 1991	Schedule 1 Clause 14(1) and 14(3)(b)	Appeals to the Environment Court	<ul style="list-style-type: none"> <li>GM Planning &amp; Policy</li> </ul>

Resource Management Act 1991	Schedule 1 Clause 16(2)	Make minor amendments to correct any minor errors, provided the rights of members of the public are not affected, either prejudicially or beneficially	<ul style="list-style-type: none"> <li>• Principal Planner</li> <li>• GM Planning &amp; Policy</li> <li>• Manager District Planning</li> <li>• Senior Policy Planner</li> <li>• Policy Planner</li> </ul>
Resource Management Act 1991	Clause 20A	Amend operative plan to correct minor errors	<ul style="list-style-type: none"> <li>• GM Planning &amp; Policy</li> <li>• Manager District Planning</li> </ul>
Resource Management Act 1991	Schedule 1 Clause 23(1), (2) & (3)	Require further information about a proposed plan change and commission a report	<ul style="list-style-type: none"> <li>• GM Planning &amp; Policy</li> <li>• Manager District Planning</li> <li>• Senior Policy Planner</li> <li>• Policy Planner</li> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> <li>• Team Leader</li> </ul>
Resource Management Act 1991	Schedule 1 Clause 24	Modification of request for proposed plan change	<ul style="list-style-type: none"> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> <li>• GM Planning &amp; Policy</li> <li>• Manager District Planning</li> <li>• Senior Policy Planner</li> </ul>
Resource Management Act 1991	Schedule 1 Clauses 28(2) & (4)	Withdrawal of an application for a private plan change	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager Environmental Services</li> <li>• Principal Planner</li> <li>• GM Planning &amp; Policy</li> <li>• Manager District Planning</li> <li>• Senior Policy Planner</li> <li>• Policy Planner</li> </ul>
Resource Management Act 1991	Schedule 1 Clause 28 (6)	Exercise notification of decisions with regard to withdrawal of requests	<ul style="list-style-type: none"> <li>• GM Planning &amp; Policy</li> <li>• Manager District Planning</li> <li>• Senior Policy Planner</li> <li>• Policy Planner</li> </ul>



Register of Delegations: Part 1 Delegations from council

February 2023

Previously updated December 2016

**Council delegations to**

**1) Delivery & Operations staff and**

**2) Planning & Policy staff -**

**Appoint Independent Commissioners**  
*(select from approved list)*  
 Council resolution 11 November 2010

**Appoint Independent Commissioners to Plan Changes Hearing Panel**  
*(select from approved list)*  
 Council resolution 11 February 2011

Act	Delegation	Delegation to
Resource Management Act 1991	The power to appoint commissioners to hear and determine resource consent applications, notices of requirements given under section 168, 168A, 189 or 189A and objections lodged under sections 357, 357A or 357B of the Resource Management Act 1991	<ul style="list-style-type: none"> <li>• GM Delivery &amp; Operations</li> <li>• Manager – Environmental Services</li> <li>• Principal Planner</li> </ul>
Resource Management Act 1991	The power to appoint commissioners to the Plan Changes Hearing Panel	<ul style="list-style-type: none"> <li>• GM Planning &amp; Policy</li> <li>• Manager – District Planning</li> <li>• Senior Policy Planner</li> </ul>

**7.14 DRAFT TRIENNIAL AGREEMENT (2022-2025)****File Number: A4062340****Author: Aisha Huriwai, Team Leader Democracy Services****Authoriser: Janice Smith, General Manager - Corporate Services****TAKE PŪRONGO / PURPOSE OF THE REPORT**

To authorise the Mayor to sign the Triennial Agreement.

**WHAKARĀPOPOTO MATUA / EXECUTIVE SUMMARY**

- Local Authorities within a region must enter into a triennial agreement no later than 01 March after each local election.
- A Triennial Agreement is to agree protocols for communication and collaboration.
- An earlier version was emailed to Mayor and Councillors for feedback.
- This report outlines some of the feedback that was incorporated.

**TŪTOHUNGA / RECOMMENDATION**

**That Council authorise the Mayor to sign the draft Triennial Agreement (2022-2025) as attached for signing on behalf of Far North District Council at the 20 February 2023 Mayoral Forum.**

**1) TĀHUHU KŌRERO / BACKGROUND**

The Local Government Act 2002 requires all local authorities within a region to enter into a triennial agreement no later than 01 March after each triennial general election.

The LGA 2002 s 15 provides the guidelines for triennial agreements:

**“15 Triennial agreements**

- (1) Not later than 01 March after each triennial general election of members, all local authorities within each region must enter into an agreement containing protocols for communication and co-ordination among them during the period until the next triennial general election of members.
- (2) Each agreement must include a statement of the process for consultation on proposals for new regional council activities.
- (3) After the date specified in subsection (1), but before the next triennial general election of members, all local authorities within each region may meet and agree to amendments to the protocols.
- (4) An agreement remains in force until replaced by another agreement.”

Far North District Council, Kaipara District Council, Whangarei District Council and the Northland Regional Council through the Northland Mayoral Forum have drafted the attached Triennial Agreement for Council approval. This agreement meets the provisions set out in Part 2 s 15 of the LGA 2002. Therefore, it is recommended that Council endorse the attached triennial agreement by authorising the Mayor to sign as their representative, to meet Council’s obligations under the Local Government Act 2002.

The Triennial Agreement was reviewed by both the Chief Executives’ Forum and the Northland Mayoral Forum prior to the elections with a focus on areas for refinement or improvement. In summary the proposed refinements were as follows:

- Referencing the degree of change that will be faced by Local Government in the 2022-2025 triennium;

- Committing to a review of the Northland|Forward Together strategic vision and values document;
- Including the Joint Change Adaptation Committee and the Joint Regional Economic Development Committee (*established in the previous triennium*);
- Progressing work to investigate the formation of the Northland Transportation Alliance as a legal body; and
- Reference to Zone 1's commitment to collective decision making.

While some of the Northland Council's held a workshop, Far North District Council emailed a draft version for feedback. Staff collated feedback and the following amendments were approved in principle at the 28 November 2022 Mayoral Forum for inclusion:

- Committing to a review of the Relationship Agreement between the Northland councils and Te Kahu o Taonui;
- Providing further detail on Zone 1 representation on LGNZ National Council, the Young Elected Members Committee and Te Maruata;
- Including reference to local government representation on the Sport Northland Board; and
- Minor typographical amendments.

## 2) MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND OPTIONS

The agreement is formally signed at the Mayoral Forum prior to the March deadline.

Council effectively has 3 options.

1. Authorise the Mayor to sign the Triennial Agreement as attached
2. Request further changes
3. Decline to support the Triennial Agreement at this stage.

If further changes are considered necessary, it would require negotiation with the other Councils to ensure agreement. Given that members have already had opportunity for input, further changes would not only potentially put Council in breach of its statutory obligation but could be damaging to Northland's reputation as a whole if the Councils can't commit to working together.

### Take Tūtohunga / Reason for the recommendation

To meet Council's obligations under the Local Government Act 2002.

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

There are no financial implications or need for budgetary provision in approving the Triennial Agreement. Any projects that eventuate as a result of the agreement would need to be considered on a case-by-case basis.

## ĀPITIHINGA / ATTACHMENTS

1. Draft Triennial Agreement (2022-2025) - A4062346 [↓](#) 

**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.

<b>He Take Ōkawa / Compliance Requirement</b>	<b>Aromatawai Kaimahi / Staff Assessment</b>
State the level of significance (high or low) of the issue or proposal as determined by the <a href="#">Council's Significance and Engagement Policy</a>	This is considered to be 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 is a requirement under the Local Government Act as stated in the background section.
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.	There are no specific implications on Community Boards.
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.	The Triennial Agreement commits to a review of the Relationship Agreement with Te Kahu o Taonui, as the iwi leaders for the region.
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 does not specifically affect any identified persons.
State the financial implications and where budgetary provisions have been made to support this decision.	There are no financial implications.
Chief Financial Officer review.	The Chief Financial Officer has reviewed this report

**Document Management**

Date	Action	By
January 2022	Initial changes proposed	NRC Governance Specialist and peer reviewed by NRC Executive Leadership Team
14 February 2022	Reviewed by Chief Executives' Forum and further changes proposed	Chief Executives' Forum
30 May 2022	Reviewed by the Northland Mayoral Forum	Northland Mayoral Forum
29 August 2022	Reviewed again by the Northland Mayoral Forum	Northland Mayoral Forum
28 November 2022	Northland Mayoral Forum reviewed the agreement including changes proposed by FNDC	Northland Mayoral Forum

DRAFT





# TRIENNIAL AGREEMENT

Far North District Council, Kaipara District Council, Whangarei District Council, and Northland Regional Council

## 1. Purpose of the Triennial Agreement

The parties acknowledge that the 2022 – 2025 triennium will be a time of unprecedented change for local government and that this Triennial Agreement represents a continued commitment amongst the Northland councils to work collaboratively together for the good governance of Te Taitokerau to ensure that issues in common, occurring within or impacting on the region, are discussed openly and unnecessary duplication avoided. A Triennial Agreement is required by, and is made pursuant to, section 15 of the Local Government Act 2002.

## 2. Commitment to a Consensus Approach

The parties:

- Acknowledge the benefits to the communities of Northland of the four councils working together in a consistent manner and wherever possible, with a united voice.
- Respect that at times our different roles and responsibilities may cause the parties to have different positions.
- Agree to endeavor to reach a consensus position on matters of common interest.
- Agree that our remaining differences will not detract from our commitment to work together cooperatively and maintain constructive relationships.

## 3. Communication and Co-ordination

Parties agree to communicate and co-ordinate their activities and be responsible for<sup>1</sup>:

- Notification of major policy discussions which may have implications beyond the boundaries of the decision-making authority;
- Application of a “no surprises” policy whereby early notification is given between local authorities concerning significant policy or programmes before public announcements are made;
- Progressing issues agreed to by the Northland Mayoral Forum;
- Sharing resources wherever possible to gain improved efficiency, effectiveness and increased levels of customer service;
- Abiding by group decisions, subject to the relevant authority’s decision making processes;
- Working together in the best interests of the people of Northland. Emphasis is to be placed on building credible and enduring relationships with all Northland local authorities, tangata whenua, the neighbouring authority of Auckland and central government; and
- Coordinating and aligning local authorities collective voice both to inform our local community and, through communication with Wellington, at a national level on key regional issues.

<sup>1</sup> Pursuant to section 15(2)(a) of the Local Government Act 2002

#### **4. Framework for Regional Leadership**

The parties acknowledge the progress made towards greater local authority collaboration in Northland and the benefits this provides for the region. Parties agree to continue their commitment to the collaborative working relationship through the following joint local authority forums, committees and regional representation<sup>2</sup>.

##### **4.1 Regional Leadership**

###### **a) Northland|Forward Together Strategic Planning Workshops**

The Northland|Forward Together Strategic Planning Workshops are a collaborative forum of all elected members from the four councils. The purpose of these workshops is to provide an opportunity for elected members to meet, discuss and seek agreement on high level strategic governance priorities and direction for the region.

In 2015 the document called Northland|Forward Together (Tai Tokerau | Kōkiri Ngātahi) was developed. This document sets out a vision, goals and objectives for greater local authority collaboration and identifies priorities to investigate the potential for improved shared services, centers of excellence and joint procurement. This document sets the platform for the councils' ongoing collaborative relationship and further regional leadership (the document was ratified by all four councils). The Northland councils are committed to reviewing the Northland|Forward Together (Tai Tokerau | Kōkiri Ngātahi) strategic vision and values document during the 2022-2025 triennium.

The Northland|Forward Together Strategic Planning Workshops enable the Northland councils to monitor, review and update the vision, goals and objectives of Northland|Forward Together. The Northland Mayoral Forum, Chief Executives' Forum (and working parties that are established on a case-by-case basis) support the implementation of the Northland|Forward Together work programme.

###### **b) Northland Mayoral Forum**

The purpose of the Northland Mayoral Forum is to provide a forum for the Chair and Mayors of the four councils of Northland to provide regional leadership and seek local authority alignment on key strategic governance priorities for the region and its communities and address any governance issues of the day.

A core role of the Northland Mayoral Forum is to provide governance leadership, oversight and direction to drive the Northland|Forward Together work programme and priorities. Each party is responsible for reporting progress back to their respective governance bodies and seeking council approval where decisions are outside existing council decisions or management delegations.

For the avoidance of doubt, while the Mayoral Forum provides an opportunity for the Chair and Mayors to provide regional leadership and seek strategic alignment, the forum has no delegated authority to make decisions or commit council resources. Any agreements which fall outside previous council decisions or management delegations, are made on the understanding that these agreements need to be approved by respective council resolutions before any agreements can be confirmed.

###### **c) Northland Chief Executives' Forum**

The purpose of the Northland Chief Executives' Forum is to provide a vehicle through which the four councils of Northland can support the work of the Northland Mayoral Forum, progress implementation and monitoring of the Northland|Forward Together programme, work on

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<sup>2</sup> Pursuant to section 15(2)(c) of the Local Government Act 2002

operational projects of common interest and benefit, share knowledge and consider any shared services arrangements.

**d) Whanaungatanga Ki Taurangi**

The Relationship Agreement 'Whanaungatanga Ki Taurangi' entered into between the Northland councils and Te Kahu o Taonui (Iwi Chairs) outlines the commitment to work together and invest in an intergenerational relationship that is based on mutual respect, is enduring and provides continuity through a shared vision, purpose and goals for mutually beneficial outcomes.

The parties acknowledge that the Relationship Agreement does not require the parties to perform any particular action or bind them to a specific outcome, but rather to work together in mutual good faith and reasonableness. The Agreement also acknowledges that, in signing the Agreement, it does not undermine or minimise any existing or future relationships and agreements between local authorities and iwi / hapū but rather seeks to strengthen and support those relationships.

It is acknowledged that Whangarei District Council has not signed the Relationship Agreement and is therefore not a party to the Agreement.

The Northland councils are committed to reviewing and renewing the Whanaungatanga Ki Taurangi in the 2022-25 triennium and this to be led through the Iwi Local Government Agencies Chief Executives Forum (ILGACE).

**e) Iwi Local Government Agencies Chief Executives Forum**

The purpose of the Iwi Local Government Agencies Chief Executives Forum (ILGACE) is to provide a forum where local government Chief Executives and iwi Chief Executives can seek opportunities to work collaboratively to address issues and progress projects for the betterment of Te Taitokerau I Northland.

**4.2 Joint Committees**

**f) NRC Regional Transport Committee<sup>3</sup>**

The purpose of the Regional Transport Committee (RTC) is prescribed in the Land Transport Management Act 2003 and includes the preparation, for Northland Regional Council approval, of a Regional Land Transport Plan and Regional Public Transport Plan for Northland, to monitor and review progress towards the adoption and implementation of these plans and to provide the regional council with any advice and assistance, as requested, in relation to regional council's transport responsibilities.

Membership of this committee includes one representative nominated by each district council and two members from the regional council appointed as Chair and Deputy Chair (and their alternates). It also includes a representative from Waka Kotahi.

**g) Northland CDEM Group<sup>4</sup>**

The Northland Civil Defence Emergency Management Group (CDEM) is established as a joint standing committee of Northland councils and is responsible for the conduct of the CDEM functions of the Group, setting the strategic direction via the CDEM Group plan, approving annual work programmes, conducting joint management of civil defence events and monitoring and reporting on progress.

Membership of this committee includes one representative (and their alternate) nominated by each

<sup>3</sup> Established pursuant to Part 2, section 105(2) and (6) of the Land Transport Management Act 2003

<sup>4</sup> Pursuant to section 12 of the Civil Defence Emergency Management Act 2002 and Schedule 7, clause 30 of the Local Government Act 2002

of the local authorities. It also includes a representative from NZ Police, Fire and Emergency NZ and the National Emergency Management Advisory (observer status).

#### **h) Joint Climate Change Adaptation Committee**

The Joint Climate Change Adaptation Committee (JCCAC) was established in 2020 as a joint standing committee of the Northland councils and is responsible for providing direction and oversight of the development and implementation of climate change adaptation activities by local government in Te Taitokerau.

Membership of this committee includes one elected member (and their alternate) and one representative from iwi/hapu nominated by each council from within their jurisdiction.

#### **i) Joint Regional Economic Development Committee**

The Joint Regional Economic Development Committee was established in 2021 as a joint standing committee of the Northland Regional Council, the Far North District Council and the Kaipara District Council. Whangarei District Council may join the committee at some point in the future. This committee is fundamental to ensuring that Te Taitokerau's aspirations for economic development are achieved in a coordinated and collaborative manner.

Membership of this committee includes two elected members (and an appointed alternate) from the three councils.

### **4.3 Representation and Communication**

#### **j) LGNZ Zone 1 Representation**

The four Northland councils make up Zone 1 of Local Government New Zealand (LGNZ). Zone meetings provide an opportunity for councils to provide information and advice and highlight issues and concerns affecting Northland with the National Council of LGNZ. It also provides an opportunity to receive sector information and advise the National Council in dealing with national issues. LGNZ provides for representation from Zone 1 on National Council itself as well as on the Young Elected Members Committee. Representation can also be achieved if elected members stand for sector representation on the Te Maruata Rōpū Whakahaere for Māori in council. Where appropriate, in making appointments to LGNZ, parties will consider the need to provide for rotational representation.

Whilst the majority of LGNZ Zones operate on a one vote per council and a majority decision making model, Zone 1 is committed to decision making by consensus of all parties (which is in accordance with LGNZ guidance that each Zone has discretion to determine their own rules around methodology for decision making).

#### **k) UNISA**

The Upper North Island Strategic Alliance (UNISA) comprises Auckland Council, Bay of Plenty Regional Council, Northland Regional Council, Waikato Regional Council, Hamilton City Council, Tauranga City Council and Whangarei District Council. These seven parties have committed to a long-term collaboration for responding to and managing a range of inter- regional and inter-metropolitan issues.

UNISA has agreed to regularly update all the territorial authorities from the Upper North Island following each Governance Group meeting, with each of the regional councils taking responsibility for communicating with the territorial authorities in their region. The Northland Regional Council

will provide regular updates and reports through the Mayoral Forum and CEO Forum with each territorial authority responsible for updating their own governance bodies.

#### **I) Sport Northland Board of Trustees**

Sport Northland's core purpose is 'Enriching lives through play, active recreation and sport'. The Sport Northland Board of Trustees comprises of three elected trustees, one trustee appointed by each of the district and regional councils, one trustee appointed by Te Kahu o Taonui and two trustees appointed by the Board Appointments Panel.

#### **5. Northland Transportation Alliance**

The Northland Transportation Alliance (NTA) is presently set up as a collaborative alliance, with alliance staff employed by the four Northland councils and seconded to the NTA, facilitated through a non-legally binding Memorandum of Understanding and Service Delivery Agreements.

Parties agree to continue their commitment to the NTA and progress work to investigate the formation of the NTA as a legal body, formally contracted to councils to undertake Transportation Asset Management and Service Delivery Activities, including briefing each council on process.<sup>5</sup>

#### **6. Regional Policy Statement<sup>6</sup> and Regional/ District Plans (RMA)**

This part of the Agreement applies to the regional council when reviewing or changing the Regional Policy Statement or regional plans and also applies to district councils when reviewing or changing district plans, under the Resource Management Act (RMA)<sup>7</sup>.

When reviewing or changing their plans, all councils will operate on the principle of 'no surprises' – whereby early and meaningful consultation across all stages of plan development will occur. The party promoting the plan shall initiate and manage the agreement actions, and four stages of interaction and consultation, as outlined in Appendix 1. Early notice will be given over any disagreements between councils concerning policy or programmes, and prior to any critical public announcements being made.

The parties agree that respective staff who represent the region I district on any national working groups will report directly or indirectly to the Chief Executive Forum on the activities and decisions of those groups.

#### **7. New Regional Council Activities<sup>8</sup>**

Under section 15(2)(b) of the Local Government Act, a Triennial Agreement must include a statement of the process for consultation on proposals for new regional council activities. The Northland Regional Council will follow the process outlined in section 16 of the Local Government Act 2002.

#### **8. Meeting Times and Servicing the Triennial Agreement**

- The Northland|Forward Together Strategic Planning Workshops will occur three times a year, with the location and hosting to be rotated between the parties (hosting council sets the agenda and chairs the forum).

<sup>5</sup> The Northland Mayoral Forum resolved this direction at its meeting on 29 November 2021

<sup>6</sup> Under section 3A of the First Schedule of the Resource Management Act, a Triennial Agreement must include agreement on the consultation process to review or change a policy statement.

<sup>7</sup> Where this Agreement refers to "Plan", read also plan or policy statement change and variation.

<sup>8</sup> This section is in accordance with Section 15(2)(b) of the Local Government Act.

- The Northland Mayoral Forum and CEO Forum will meet quarterly, with the location and hosting to rotate between the parties.<sup>9</sup>
- The Chair for the Mayoral Forum and CEO Forum will be selected at their respective inaugural meetings and remain in place for the triennium unless otherwise agreed. When appointing a Chair consideration will be given to the need to rotate the chair role between parties.
- The Northland Regional Council will provide secretarial services and media support to the Northland Mayoral Forum and Chief Executives’ Forum.
- In the event of a disagreement over the terms of this Triennial Agreement, the parties agree to refer the issue of disagreement to mediation for non-binding resolution. If no agreement on a mediator is forthcoming a mediator will be appointed by the President of the Auckland District Law Society.

**9. Costs**

All councils will carry their own costs for attending the meeting and any work carried out by membership councils in house. Councils will also carry their own costs for hosting meetings (including, but not limited to, venue hire, catering and commissioning guest presenters) unless agreed prior between parties.  
Any costs over and above these will be decided on a case by case basis.

**AUTHORITY**

This agreement is signed on \_\_\_\_\_, by the following on behalf of their respective authorities.

Mayor



Mayor



Mayor



Chair



<sup>9</sup> It is important to note that the host council may decide to run the meeting virtually.

## Appendix 1: RMA Regional Policy Statement and Regional/District Plans

The Agreement, and this appendix for RMA RPS and plans, aims to:

- ensure good practice and early consultation between councils during plan preparation, changes and review;
- avoid possible misunderstandings of respective roles and statutory obligations;
- clearly define when comments and/or submissions by either party are appropriate; and
- establish an agreed process to be followed, including expectations and timeframes.

There are four stages of interaction and consultation:

- pre-plan
- draft plan (a matter of best practice rather than legally required)
- notified plan
- appeal to Environment Court.

### 1. Pre Plan

In this stage, all parties will take full advantage of the opportunity to fully understand each other's position, provide initial assessments of issues or matters likely to be of concern and explore techniques and methods to achieve the desired outcomes.

This phase will focus on significant points of difference. Effort will be spent on resolving these differences. Minor points of difference will not get in the way of the parties dealing with the significant ones.

Once the reasons for the plan are understood and the areas of difference are established then the parties will decide if further progress can be made to resolve these differences and a process and timeframe to move forward will be established and these matters will be recorded.

### 2. Draft Plan

When a plan reaches a draft stage and before it has been approved for notification by council for formal statutory consultation, it shall be forwarded to councils in the region for their comment (i.e. this phase occurs before public notification of a proposed Plan). This stage may be formal or informal. (It can occur alongside consultation with the wider community.)

A presentation to affected councils on the draft plan will, where possible, occur. Council comments on a draft plan will usually be:

- discussed with or reported to the council, and
- represent the organisational view.

To avoid confusion, and for transparency, comment should include a summary of any positions reached in pre-consultation. Comments should relate to policy implications (and assuming the above process has been followed) they should highlight the points of difference already identified. Comments should clearly distinguish between significant and more general matters.

Comments by the regional council or district councils on other councils' plans should be clearly referenced to the council's LTP and/or any relevant policy or operational document (including existing or emerging growth strategies and models). All comments made should explain the impacts on the council in terms of cost, practicality, necessity and reasonableness in sufficient detail to be credible and stand scrutiny, i.e. in such a way that the feedback can be used in a section 32 RMA

analysis. In making comments councils should also highlight how the plan can meet the relevant council's statutory functions and responsibilities while addressing or taking on board the submitting council's comment.

Matters not resolved at this stage are likely to be the subject of formal submissions. Unless the draft plan changes significantly, no new issues would be expected to arise once the plan is notified.

Senior managers of the councils involved will review the position reached and satisfy themselves that the procedural requirements have been followed and all reasonable steps have been taken to resolve matters still in dispute. If a senior manager, in consultation with their Chief Executive Officer, is not satisfied then the matter may be escalated to the council's respective governance level.

### **3. Notification**

Submissions in opposition from a party should not be a surprise and should relate only to significant matters already commented on, unless the plan has been materially changed between draft and notification.

A second tier manager will carefully review any submission prior to its approval to ensure:

- it is well founded in terms of policy or other relevant criteria
- it is a significant matter on its own or gives rise to significant implications for the council in carrying out its responsibilities and/or implementing its policy
- it specifies a means of relief that is appropriate.

All district council submissions (except further submissions) on a change to the RPS submissions to the new regional plan will be approved by the relevant council.

All regional council submissions (except further submissions) on proposed (new) district plans will be approved by the regional council (time permitting).

Given that significant matters are involved to justify a submission, relevant staff are expected to appear at the hearing.

### **4. Environment Court**

By this stage every effort will have been made to resolve significant differences efficiently and cost effectively.

Mediation will be used where parties genuinely wish to find common ground. At times a Court decision will be preferred or will be necessary, for example where a point of law or a difference of professional opinion is at issue.



**7.15 DISTRICT LICENSING COMMITTEE APPOINTMENTS****File Number: A4053313****Author: Rochelle Deane, Manager - Environmental Services****Authoriser: Jacine Warmington, Manager - Community and Customer Services****TAKE PŪRONGO / PURPOSE OF THE REPORT**

To appoint a second District Licensing Committee (DLC) for the district; and

Appoint Murray Clearwater as Chair of a second District Licensing Committee; and

Appoint new Deputy Chairs to the two Committees

**WHAKARĀPOPOTO MATUA / EXECUTIVE SUMMARY**

- Each territorial authority (TA) must appoint one or more licensing committees as, in its opinion, are required to deal with licensing matters for the district.
- Post-election on the 15 December 2022 Council resolved to appoint Councillor Ann Court as DLC Chairperson and Councillor Felicity Foy as Deputy Chair.
- Councillor Felicity Foy has evaluated the time required for this role in relation to the roles she already carries and no longer wishes to carry out the role of Deputy Chair nor be on the committee.
- With the resignation of Councillor Felicity Foy as Deputy Chair of the current DLC, a new Deputy Chair may be appointed to the Committee.
- A Deputy Chairperson must be a member of the Territorial Authority.
- A chairperson of a DLC can either be an Elected Member or Commissioner.
- To ensure the necessary alcohol licensing knowledge, skills and experience is maintained in any absence of the current Chair of the DLC, it is recommended that Murray Clearwater currently on the DLC Committee, is appointed Chairperson of a second DLC as a Commissioner.
- A second Deputy Chair may be appointed to the second DLC.
- To complete a hearing started within her tenure of Chair of the DLC, Kōwhai – Deputy Mayor Kelly Stratford is required to be appointed to the DLC committee as a member.

**TŪTOHUNGA / RECOMMENDATION****That Council:**

- a) appoints a second DLC Committee for the district.**
- b) appoint Murray Clearwater as Chair of a second District Licensing Committee as a Commissioner.**
- c) may appoint two new Elected Members as Deputy Chairs of the two District Licensing Committees.**
- d) remove Councillor Foy as a member of the DLC Committee**
- e) Appoint Kōwhai – Deputy Mayor Kelly Stratford as a member of the DLC committee.**

**1) TĀHUHU KŌRERO / BACKGROUND**

Under the Sale and Supply of Alcohol Act 2012 (the Act), each territorial authority must have at least one District Licensing Committee (DLC) to consider and deal with alcohol licensing matters in its district.

On 15 December 2022 Council resolved to appoint the following DLC post-election:

- Chairperson - Ann Court (Councillor)
- Deputy Chairperson – Felicity Foy (Councillor)

- Murray Clearwater - Member
- Martin Macpherson – Member
- Stewart Wright – Member
- Kirsty Parsonson – Member
- John Thorne – Member
- Lisa McNab – Member.

Councillor Felicity Foy has evaluated the time required for this role in relation to the roles she already carries and no longer wishes to carry out the role of Deputy Chair nor be on the committee.

With the resignation of Councillor Felicity Foy as Deputy Chair, a new Deputy Chair may be appointed to the Committee.

To ensure the necessary alcohol licensing knowledge, skills and experience is maintained in any absence of the Chair, it has been recommended that Murray Clearwater currently on the DLC Committee, is appointed Chair as a Commissioner of a second DLC.

A Deputy Chair may also be appointed to this second Committee.

Kōwhai – Deputy Mayor Kelly Stratford held the position of Chairperson of the DLC until her resignation in December 2022. For an ongoing DLC matter, Kowhai – Deputy Mayor Kelly Stratford is required to sit on a reconvening hearing which will require appointment to the DLC committee as a member.

## **2) MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND OPTIONS**

The DLC decide applications for:

- New and renewal applications for on-, off- and club licences
- Special licences
- New and renewal applications for manager's certificates
- Opposed acting or temporary appointments of managers
- Variation of licence conditions
- Temporary authorities and temporary licences
- Orders to vary, revoke, suspend or cancel a special licence.

### Composition of the DLC

A DLC must be made up of (Quorum of three):

- A Chairperson who is an elected member of the territorial authority, or a commissioner appointed by the Chief Executive of the territorial authority
- Two committee members

The Chairperson must be either an elected member or commissioner. A commissioner is not defined but the Council may only appoint a person as a commissioner if that person is of good standing in the community and has the necessary knowledge, skill, and experience relating to matters that are likely to come before the committee. It is not to be confused with the role of commissioners under the Resource Management Act 1991 (RMA), but that is not to say that the appropriate expertise cannot reside with an existing RMA commissioner.

It is also essential that all DLC Members are familiar with basic te reo (language), pronunciation, and tikanga (customs) and more specifically, that Chairs should have basic understanding of te reo and tikanga so that they are able to run and manage hearings effectively and appropriately (as required).

The legislation relevant to this discussion from the Sale and Supply of Alcohol Act 2012 is listed below:

**186 Territorial authorities to appoint district licensing committees**

- 1) Each territorial authority must appoint 1 or more licensing committees as, in its opinion, are required to deal with licensing matters for its district.

**189 Composition of licensing committees**

1. Each licensing committee consists of 3 members appointed by the territorial authority for that territorial authority's district.
2. A territorial authority must appoint 1 member as the chairperson and that person must be a member of that territorial authority or a commissioner appointed to the licensing committee.
3. A territorial authority may appoint a member of that territorial authority to be deputy chairperson, and act in place of the chairperson if the chairperson is unable to act because of illness or absence from New Zealand, or for other sufficient reason.
4. While acting in place of the chairperson, the deputy chairperson is a member of the committee and has all the powers and duties of the chairperson.
5. No act done by the deputy chairperson serving as acting chairperson in the chairperson's absence, and no acts done by the committee while the deputy chairperson is so serving, can in any proceedings be questioned on the ground that the occasion for his or her so serving had not arisen or had ceased.
6. The other 2 members of each licensing committee must be appointed from the territorial authority's list maintained under section 192.
7. For the purposes of subsection (2), a member of a territorial authority means an elected member of a territorial authority and, in relation to the Auckland Council, includes a member of the governing body (as defined in [section 4](#) of the Local Government (Auckland Council) Act 2009) or a member of a local board established under [section 10](#) of that Act.

**193 Appointment of commissioners**

1. The chief executive of a territorial authority may, on the recommendation of the territorial authority, appoint a commissioner or commissioners to any of the territorial authority's licensing committees and any person so appointed has all the functions, powers, and duties of the chairperson of the licensing committee.
2. The chief executive may only appoint a person as a commissioner if that person is of good standing in the community and has the necessary knowledge, skill, and experience relating to matters that are likely to come before the committee.
3. A person must not be appointed as a commissioner if—
  - a. the territorial authority believes that person has, directly or by virtue of his or her relationship with another person, such an involvement or appearance of involvement with the alcohol industry that he or she could not perform his or her duties without actual bias or the appearance of bias; or
  - b) (b)the person is a constable, a Medical Officer of Health, an inspector, or an employee of the territorial authority.
4. A commissioner appointed under this section holds office for a term, stated when the commissioner is appointed, of up to 5 years and may be reappointed for 1 or more further periods of up to 5 years.

Committee Member Murray Clearwater holds the necessary character, standing and qualifications to be appointed as the Chair of a DLC as a Commissioner. None of the s193(3) exclusions apply.

**Refer Attachment A – Murray Clearwater Profile.**

**Option 1: Status Quo with one DLC for the District**

Advantages	Disadvantages
Councillors are neutral, local, know the district and are experienced in high level decision-making	Any newly appointed Deputy Chair will not immediately have the level of technical alcohol licensing knowledge as a specialist to carry out the role of Deputy Chair if required. Would have reliance on others for technical assistance.  No contingency for workload increases

**Option 2: The adoption of Murray Clearwater as a Commissioner of a second DLC**

Advantages	Disadvantages
Alcohol licensing knowledge, skills and experience is maintained in any absence of either Chair.  Any increase in workload can be managed effectively with two DLC Chair's, providing better service for the community.  Can provide objectivity and de-politicise the process, emphasising the independence and separation of the DLC from Elected Members  Deputy Chairs of the two DLC will continue to learn and gain experience.	No disadvantages unless such a DLC had no local members

**Take Tūtohunga / Reason for the recommendation**

This report recommends option 2, to ensure the necessary alcohol licensing knowledge, skills and experience is maintained in any absence of a Chair.

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

DLC member fees have been determined under the Cabinet approved Fees Framework and approved by the Minister of Justice and will be offset by fees and charges which have also been set by the Ministry.

Remuneration of DLC Members

As determined by the Minister of Justice in accordance with the Cabinet fees framework, DLC members will receive the following remuneration:

- Chairperson: \$624 per day (\$78 per hour for part days)
- Other members: \$408 per day (\$51 per hour for part days).

DLC members will also be reimbursed for reasonable expenses.

**ĀPITIHINGA / ATTACHMENTS**

1. Attachment A Murray Clearwater Profile 2023 - A4055778 [↓](#) 

**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,
  - Seek to identify all reasonably practicable options for the achievement of the objective of a decision; and
  - Assess the options in terms of their advantages and disadvantages; and
  - 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.
  - This section is subject to Section 79 - Compliance with procedures in relation to decisions.

<b>He Take Ōkawa / Compliance Requirement</b>	<b>Aromatawai Kaimahi / Staff Assessment</b>
State the level of significance (high or low) of the issue or proposal as determined by the <a href="#">Council's Significance and Engagement Policy</a>	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 District Licensing Committee is a legislative requirement requiring that Council appoint and establish a committee.
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.	District Wide / Legislative Requirement.
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.	Legislative Requirement.
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).	N/A.
State the financial implications and where budgetary provisions have been made to support this decision.	There is budgetary provision in the 2021-2031 Long Term Plan and the current Annual Plan.
Chief Financial Officer review.	The Chief Financial Officer has reviewed this report.

# A PRACTICAL GUIDE TO THE SALE AND SUPPLY OF ALCOHOL ACT 2012 (SASAA)

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## THE PRESENTER

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### Murray Clearwater

Chairperson/Commissioner/Member  
for Tauranga, Western Bay of Plenty,  
Thames-Coromandel, South  
Waikato, Whangarei, Kaipara,  
Whanganui, Hamilton, Far North and  
Taupo District Licensing Committees

## SWORN POLICE OFFICER

15 years in the Police  
5 years as Licensing Sergeant  
2 years Prosecutor in the District Court

## LOCAL GOVERNMENT

13 years as a Licensing Inspector  
8 years delegated Secretary of the DLA  
9 years President of the New Zealand Institute of Liquor Licensing Inspectors (NZILLI)  
6 years member of the Local Government Alcohol Reference Group (LGARG)  
Advisor to the RWC Authority  
3 years member of the Regulatory Agencies Steering Group with MOJ  
Consultation activities with the Law Commission, HPA, MOJ, Local Government on the development of SASAA.  
Facilitated 25 workshops nationally on the implementation of the Act for territorial authorities.

## COMMISSIONER

Since December 2013 I have written more than 20,000 decisions and chaired a number of high profile contested DLC hearings.  
Several precedent decisions relating to Single Alcohol Areas in Supermarkets have been issued and upheld by ARLA at appeal.

*Murray Clearwater*

Chairperson/Commissioner

District Licensing Committees

Taupo, Tauranga, Western Bay of Plenty, South Waikato, Thames-Coromandel, Whangarei, Kaipara

Whanganui, Far North and Hamilton [dlcommissioner7@gmail.com](mailto:dlcommissioner7@gmail.com), Cell 021 027 88648

## 8 INFORMATION REPORTS

### 8.1 COUNCIL ACTION SHEET UPDATE FEBRUARY 2023

**File Number:** A4045006

**Author:** Joshna Panday, Democracy Advisor

**Authoriser:** Aisha Huriwai, Team Leader Democracy Services

#### TAKE PŪRONGO / PURPOSE OF THE REPORT

To provide Council with an overview of outstanding Council and the previous term Committee decisions from 1 January 2020.

#### WHAKARĀPOPOTO MATUA / EXECUTIVE SUMMARY

- Action sheets are a mechanism to communicate progress against decisions/resolutions. • Action sheets are also in place for all formal elected member meetings

#### TŪTOHUNGA / RECOMMENDATION

**That Council receive the report Action Sheet Update February 2023.**

#### 1) TĀHUHU KŌRERO / BACKGROUND

Any resolution or decision from a meeting is compiled on an action sheet, to capture actions triggered by Board decisions. Staff provide updates on progress against tasks that are not yet completed.

The action sheet report also includes outstanding actions from previous triennium committees.

#### 2) MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND OPTIONS

The outstanding tasks are often multi-facet projects that take longer to fully complete. Where a decision differs to the recommendation of staff there may be unintended consequences or challenges that take longer for staff to work through

#### Take Tūtohunga / Reason for the recommendation

To provide Council with an overview of outstanding Council 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. DRAFT Council Action Sheet - February 2023 - A4046926 [↓](#) 



<b>OUTSTANDING ACTIONS REPORT</b>		<b>Printed: Wednesday, 11 January 2023 2:00:10 pm</b>
<b>Division:</b>	Assurance, Risk and Finance Committee, Council, Infrastructure Committee, Regulatory Compliance Committee and Strategy and Policy Committee	<b>Date From:</b> 1/01/2020
<b>Committee:</b>		<b>Date To:</b> 11/01/2023
<b>Officer:</b>		

Meeting	Title	Resolution	Notes
Council 8/04/2021	Hihi Wastewater Treatment Plant Capital Works Business Case  <u>Author: Mary Moore</u>	<b>RESOLUTION 2021/24</b> Moved: Cr Felicity Foy Seconded: Cr Dave Collard <b>That Council:</b> a) <b>acknowledge the current risk being carried at Hihi Wastewater Treatment Plant.</b> b) <b>direct staff to consult with Iwi and the Hihi community on most sustainable and affordable future focused solution (with consultation to begin by May).</b> c) <b>direct staff to evaluate short term mitigation while the long-term solution is being developed.</b>  <b>CARRIED</b>	<b>22 Nov 2022 11:47am Moore, Mary</b> b) Final design is expected to be received in December 2022 and this will be presented to the wider group in early 2023. Landscaping options for the Marchant Rd Reserve has been scheduled for discussion at the 13 December 2022 Te Hiku Community Board workshop. <b>22 Nov 2022 12:01pm Moore, Mary</b> c) The detailed design phase has enabled the placement of orders for longer lead time items (screen & tank). Initial earthworks and tree removal has been rescheduled until February 2023 to leave existing tree screening in place over the holiday period. this delay will not otherwise delay the project date and will allow for continuity of work in the New Year.
Infrastructure Committee 5/05/2021	Economic and Practicability Assessment for Disposal of Treated Wastewater to Land from Kaikohe and Kaitāia Wastewater Treatment Plants.	The amendment became the substantive motion. <b>RESOLUTION 2021/13</b> <b>That the Infrastructure Committee:</b> a) <b>agree the option of disposing treated wastewater to land from the Kāitāia and Kaikohe Wastewater Treatment plants is further investigated, specifically:</b> i) <b>engagement with affected landowners and mana whenua to determine the selection of a preferred site to be taken forward for preliminary design.</b> ii) <b>complete a preliminary design that includes site specific technical, design, and cost investigation of land disposal in which mana whenua are to be included.</b>	group. Landowner engagement has not commenced, this will occur once the working group has progressed together to this stage of the project. The replacement resource consent to authorise discharges from the WWTP to water has been lodged with NRC and placed on hold at the request of FNDC, while mana whenua engagement occurs via the working group. , In accordance with s124 of the RMA, FNDC is authorised to continue to discharge treated wastewater from both community WWTP to water while the resource consent applications are processed by NRC.

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<b>Committee:</b>		<b>Date To:</b> 11/01/2023
<b>Officer:</b>		

Meeting	Title	Resolution	Notes
	<a href="#">Author Jaye Michalick</a>	<p>b) request that the preliminary designs are to be completed prior to December 2023, to enable the Long-Term Plan engagement process and request staff report back to the Infrastructure Committee to present the findings of the preliminary design reports.</p> <p>c) request staff seek replacement resource consents for discharge of treated wastewater to water from the Kāitaia and Kaikohe Wastewater Treatment Plants and that during the term of the consent, staff progress investigation of disposal to land options for both the Kāitaia and Kaikohe Wastewater schemes.</p> <p>d) request a treated wastewater disposal to land workshop be scheduled for late 2021 with the Infrastructure Committee, which will cover methodologies and processes associated with establishing a disposal to land scheme.</p> <p>That the Infrastructure Committee recommend to Council that expenditure of up to \$330,000 to cover both the Kāitaia and the Kaikohe sites, is allocated in the Long-Term Plan deliberations, to complete a preliminary design for each Wastewater Treatment Plant, and sufficient staffing resources are assigned to enable ongoing engagement with mana whenua and other stakeholders.</p> <p style="text-align: right;"><b>CARRIED</b></p>	<p><b>04 Nov 2022 10:02am George, Tania</b></p> <p>Kaitaia: Initial landowner engagement resulted in a small number of landowners willing to further explore the option of having their land irrigated by treated wastewater, or of selling their land to FNDC for that purpose.</p> <p>Iwi engagement with Ahipara Takiwā is currently underway to determine whether any of the sites of interest (where landowners have indicated interest in this project) are acceptable to iwi. Should iwi engagement result in any of these sites being considered suitable, physical site investigations at a preferred site will be commenced.</p> <p>The resource consent application to authorise continued discharge of treated wastewater to water is currently on hold while staff continue to agree conditions of consent with iwi.</p> <p>Kaikohe: The Working Group (comprising FNDC staff and representatives of Ngā hapū o Kaikohekohe) have agreed a short list of 15 sites potentially suitable to receive treated wastewater, initial contact with landowners will be made by either council staff or ngā hapū reps during November.</p> <p>The Working Group has also identified a short list of suitable WWTP upgrade options required to achieve environmental compliance and to meet future growth.</p>

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<b>Committee:</b>		<b>Date To:</b> 11/01/2023
<b>Officer:</b>		

Meeting	Title	Resolution	Notes
			The resource consent application to authorise continued discharge of treated wastewater to water is currently on hold while the Working Group carries out the discharge to land and WWTP upgrade options assessments.
Council 1/07/2021	Proposal to Construct an Erosion Protection Structure on Council Owned Reserve, Omapere.  <a href="#">Author George Swanepoel</a>	<b>RESOLUTION 2021/51</b> Moved: Cr John Vujcich Seconded: Cr Dave Collard <b>That Council:</b> <b>a) approves the construction of, and associated occupation with, an erosion protection structure on Far North District Council owned local purpose reserved legally described as Lot 5 DP196729; and</b> <b>b) approval is provided subject to a memorandum of encumbrance being recorded on the titles of Lot 1 DP196729 and Lot 1 DP310507 and that the encumbrance records the agreement that the owners of those properties:</b> <b>i) bear full responsibility for the maintenance, repair, removal of the seawall (if required) during its lifetime, and end of its lifetime.</b> <b>ii) incur cost of the agreement construction and registration against title.</b> <b>iii) notify FNDC of any variation or modification of the erosion protection structure</b> <b>To avoid doubt, approval is given both within Council’s capacity as the administering body of the reserve and an affected person within the meaning of Section 95 of the Resource Management Act 1991.</b>  <b>CARRIED</b>	<b>20 Jun 2022 3:13pm Baker, Marlema</b> Update provided by George Swanepoel and Inna Shibalova, Still waiting for a response from the property owner's lawyer. 7 July 2021 email sent to M. Clutterbuck and T. Petrie requesting they forward contact details to the solicitor drafting the Memorandum of Encumbrance for Councils review and approval. 7 July 2021 email from John Kenyon Special Counsel at Martelli McKeeg Lawyers acknowledging receipt of that email. 30 Jul 2021 provided Council’s Report leading to Council's resolution and precedents to legal team for M Clutterbuck and T Petrine and awaiting draft memorandum of Encumbrance for review and approval of this Council. 20 June 2022I followed up with email <b>07 Nov 2022 2:35pm Baker, Marlema - Reallocation</b> Action reassigned to Swanepoel, George by Baker, Marlema on behalf of Beverly Mitchell.

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<b>Division:</b>	Assurance, Risk and Finance Committee, Council, Infrastructure Committee, Regulatory Compliance Committee and Strategy and Policy Committee	<b>Date From:</b> 1/01/2020
<b>Committee:</b>		<b>Date To:</b> 11/01/2023
<b>Officer:</b>		

Meeting	Title	Resolution	Notes
		<p><u>In Favour:</u> Mayor John Carter, Deputy Mayor Ann Court, Crs David Clendon, Dave Collard, Felicity Foy, Mate Radich, Rachel Smith, Moko Tepania and John Vujcich</p> <p><u>Abstained:</u> Cr Kelly Stratford</p> <p>Note: need to include climate change and erosion as part of the Reserves and Parks Policy review.</p> <p>At 2:30 pm, Cr Kelly Stratford left the meeting. At 2:32 pm, Cr Kelly Stratford returned to the meeting.</p>	
Infrastructure Committee 9/02/2022	Total Mobility Scheme  <a href="#">Author Keith Kent</a>	<p><b>RESOLUTION 2022/3</b></p> <p>Moved: Cr Kelly Stratford</p> <p>Seconded: Cr Rachel Smith</p> <p><b>That the Infrastructure Committee approves the assignment of Total Mobility Scheme local share operational funding of \$31,000 to the Northland Regional Council.</b></p> <p style="text-align: right;"><b>CARRIED</b></p> <p>NOTES: Chair Foy requests that a timeline, cost options and next steps for the rest of the district be included; as well as criteria for how towns are chosen.</p>	<p><b>11 Jul 2022 4:30pm George, Tania</b></p> <p>Intermediate feedback received from NRC and directed to Calvin at NTA. Assume inserted into IAMS monthly report.</p> <ul style="list-style-type: none"> <li>• The Far North Total Mobility Scheme went live Friday 1st July 2022,</li> <li>• The service will be starting out in the Kerikeri area.,</li> <li>• The approved Transport Operator – Driving Miss Daisy (DMD), based in Kerikeri, has had the equipment installed to take the Total Mobility electronic swipe cards that are linked to the system “Ridewise”.</li> <li>• All Health and Safety requirements have been met/signed off by a consultant employed by the Northland Regional Council.</li> <li>• All of the DMD drivers have been trained in the Waka Kotahi NZ Transport Agency unit standards 01748 and 15165 to allow them to carry Total Mobility clients.</li> </ul>

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<b>Committee:</b>		<b>Date To:</b> 11/01/2023
<b>Officer:</b>		

Meeting	Title	Resolution	Notes
			<ul style="list-style-type: none"> <li>• Northland Transportation Alliance staff have undertaken 88 eligibility assessments and have entered all 88 into the database.</li> <li>• Of the 88 clients signed up, 53 received their Total Mobility cards on the day with the remaining 35 expected to receive theirs during the week of 4- 8 July 2022 July. The signing up of Total Mobility clients to this scheme will be an ongoing process.</li> <li>• We will increase the maximum fare from \$15 to \$25 ( or \$30) possibly November/ December, this will encourage more people to sign up to the scheme due to the cost of the current fares to get around Kerikeri ( so a better discount) this will also depend on budget restraints, and will be closely monitored.</li> </ul>
Council 7/04/2022	Lindvart Park Pavilion, Kaikohe Project  <a href="#">Author Louise Wilson</a>	<p><b>RESOLUTION 2022/19</b>                      Moved: Cr John Vujcich                      Seconded: Cr Ann Court  <b>That Council:</b></p> <p>a) Re-affirm the capital commitment of \$3,226,493 to the Lindvart Park Kaikohe – Sportsville project.</p> <p>b) Approve an increase in operational grant support to Sportsville of \$35,000 from year one of the 2024/2034 Long-Term Plan.</p> <p style="text-align: right;"><b>CARRIED</b></p> <p><i>Note: that the CEO was asked to provide advice to the next meeting on how to ensure a consistent approach to the way that FNDC supports community facilities across the District, by way of operational grant</i></p>	<p><b>16 May 2022 1:25pm Baker, Marlema</b>                      Update from Andy Finch (GM-IAMs),</p> <ul style="list-style-type: none"> <li>• Detailed design superstructure complete,</li> <li>• Pricing received and currently being reviewed for superstructure and fitout,</li> <li>• Additional Geotech investigation complete – longer piles required under the building (4m to circa 6.5m), settlement risk greater than previous report mitigation being worked through,</li> <li>• Substructure detailed design continuing ,</li> <li>• Pricing for substructure received (provisional) subject to detailed design completion,</li> <li>• Civil tendering complete and report to board issued on outcome – awaiting board decision on</li> </ul>

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<b>Committee:</b>		<b>Date To:</b> 11/01/2023
<b>Officer:</b>		

Meeting	Title	Resolution	Notes
			<p>preferred contractor, recommended contractor is \$30k below budget.,</p> <ul style="list-style-type: none"> <li>• Civil contract to be signed imminently following approval to proceed,</li> <li>• Civil works to begin May 2022,</li> <li>• BC for main building to be lodged in June 2022</li> </ul>
Infrastructure Committee 4/05/2022	Boat Ramp Study Delivery Plan  <a href="#">Author David Clamp</a>	<p><b>RESOLUTION 2022/16</b>                      Moved: Deputy Mayor Ann Court                      Seconded: Cr Kelly Stratford                      Moved: Deputy Mayor Ann Court                      Seconded: Cr Rachel Smith  <b>That the Infrastructure Committee:</b>                      a) receives the report "Boat Ramp Study Delivery Plan" dated January 2022 (Revised March 2022).  <span style="float: right;"><b>CARRIED</b></span></p> <p><b>RESOLUTION 2022/17</b>                      Moved: Deputy Mayor Ann Court                      Seconded: Cr Kelly Stratford  <b>That the Infrastructure Committee:</b>                      b) approves \$ 25,000 of operational expenditure for 2023/2024 for an engineering feasibility study at Russell car park and for supporting the scoping and costing of Floating Jetties                      c) approves \$ 34,650 capital expenditure for 2023/2024 for FNDC local share for a future TIF funding application for boat ramp safety guides                      d) recommends that Council consider the matter of \$5m annually, to be approved for strategic property purchases related to maritime infrastructure to be included in the capital programme commencing 2023/2024, and that an options</p>	<p><b>04 Nov 2022 8:43am Heath, Tanya</b>                      Item a) no action required, Item d) see updates from Janice Smith / Andy Finch, Item b) Blair Houlihan to confirm funding and progress feasibility study., Item c) no action required until after TIF R7 dates are set</p>

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<b>Committee:</b>		<b>Date To:</b> 11/01/2023
<b>Officer:</b>		

Meeting	Title	Resolution	Notes
		<p>paper on funding be prepared and an economic impact statement.</p> <p style="text-align: right;"><b>CARRIED</b></p>	
Council 9/05/2022	<p>1A Seaview Road, Paihia - approval to grant easement on Local Purpose Esplanade Reserve under the Reserves Act 1977</p> <p><a href="#">Author Carla Ditchfield</a></p>	<p><b>RESOLUTION 2022/22</b>                      Moved: Mayor John Carter                      Seconded: Cr Kelly Stratford  <b>That Council approve the granting of an easement pursuant to section 48(1)(f) of the Reserves Act 1977 on Local Purpose Esplanade Reserve Lot 3 DP 124280 for the purpose of accepting works proposed and applied for pursuant to application EBC-2022-1188/0 affecting 1A Seaview Road, Paihia.</b></p> <p style="text-align: right;"><b>CARRIED</b></p>	<p><b>20 Jun 2022 3:06pm Swanepoel, George and Shibalova, Inna</b> as follows:                      Easement has been granted Easement matter referred to Landowners lawyer to draft documents and undertaking to meet council's costs awaiting reply,                      3 May 2022 planning issued RC 2220504-RMALUC decision (attached).,                      9 May 2022 Council Resolution to grant easement - Carried and email sent to Thomson Wilson Law requesting they prepare an Easement Instrument.                      9 May 2022 Thomson Wilson Law responded.                      11 May 2022 Thomson Wilson Law advised of Council's costs for raising a record of title for the Reservice.                      17 June 2022 followed up.</p>
Strategy and Policy Committee 14/06/2022	<p>Parks and Reserves Policy Development</p> <p><a href="#">Author Ross Baker</a></p>	<p><b>RESOLUTION 2022/38</b>                      Moved: Cr Kelly Stratford                      Seconded: Cr Moko Tepania  <b>That the report 'Parks and Reserves Policy Development' from the '8 February 2022' meeting be uplifted from the table.</b></p> <p><b>The Strategy and Policy Committee recommends to Council:</b>                      a) that research into a reduction in the use of herbicides on Council owned land be</p>	<p><b>19 Aug 2022 11:48am Baker, Marlema</b>                      Part a) is in progress.                      Part b) is complete</p>

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<b>Committee:</b>		<b>Date To:</b> 11/01/2023
<b>Officer:</b>		

Meeting	Title	Resolution	Notes
		<p>completed in line with the 2023-24 Annual Plan process and that either the Parks and Reserves Policy be amended in the future to capture the reduction in the use of herbicides or include such reference in the proposed Vegetation Policy.</p> <p>b) adopt the Parks and Reserves Policy.</p> <p style="text-align: right;"><b>CARRIED</b></p>	
Strategy and Policy Committee 14/06/2022	Nothing But Net Programme Update  <a href="#">Author Tom Frost</a>	<p><b>RESOLUTION 2022/41</b>                      Moved: Cr Felicity Foy                      Seconded: Cr Kelly Stratford  <b>That the Strategy and Policy Committee receive the report “Nothing But Net Programme Update”;</b>                      a) and that a paper be provided by the “Nothing But Net” team to the Infrastructure Committee on the options and costs for technology for data input in regard to rubbish bins, public toilet usage/frequency of use and cleaning, and the frequency of mowing of each reserve, and that recommendations be provided for the use of such technology as part of the New Reserve and Public Amenities Services contract that is coming up for review.</p> <p style="text-align: right;"><b>CARRIED</b></p>	<b>19 Jul 2022 10:19am Whiu, Rhonda-May</b> Report will be provided to the 7 September 2022 Infrastructure Committee meeting
Strategy and Policy Committee 26/07/2022	Amendments to Community Initiated Infrastructure - Roading Contribution Policy	<p>The procedural motion became the substantive motion  <b>RESOLUTION 2022/47</b>                      Moved: Cr Kelly Stratford                      Seconded: Chair Rachel Smith  <b>That this Policy <u>lay on the table</u>, and that a workshop be held with all relevant staff, to ensure that a holistic Policy for the process of both unsealed and sealed roading upgrade, and road vesting to the Maintenance Schedule, to be imbedded in the Policy.</b></p>	<b>19 Aug 2022 11:50am Baker, Marlema</b> In progress



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Meeting	Title	Resolution	Notes
	<a href="#">Author Kirsten Griffiths</a>	<b>CARRIED LEFT TO LIE</b>	
Council 11/08/2022	Roading Maintenance and Operations Contract Cost Escalation Impacts  <a href="#">Author Emma Healy</a>	<b>RESOLUTION 2022/64</b> Moved:: Cr Rachel Smith Seconded: Cr Moko Tepania <b>That Council receive the report Rooding Maintenance and Operations Contract Cost Escalation Impacts and supports the Mayor and CEO to write to appropriate Ministers of the Crown, requesting for them to inform FNDC, with urgency, how they have considered, and will address, the recommendations of the April 2022 Funding and Financing of Infrastructure in New Zealand report, written by Kevin Ramsay Consulting Limited.</b>  <b>CARRIED</b>	<b>15 Sep 2022 2:40pm George, Tania</b> Rooding Alliance will need to investigate the contents of the referenced "April 2022 Funding and Financing of Infrastructure in New Zealand report, written by Kevin Ramsay Consulting Limited" and from that determine what is appropriate content for any required letter. We are waiting on an assessment of when this may be able to be achieved. <b>04 Nov 2022 9:30am George, Tania - Reallocation</b> Action reassigned to Healy, Emma by George, Tania - CE office can take this as action is for Mayor & CE to write a letter.
Council 11/08/2022	Russell Landfill Options Report  <a href="#">Author Louise Wilson</a>	<b>RESOLUTION 2022/61</b> Moved: Deputy Mayor Ann Court Seconded: Cr Kelly Stratford <b>That Council:</b> <b>a) approve in principle, the permanent closure of Russell Landfill (Option One).</b> <b>b) approve staff commence the resource consent application Northland Regional Council to close the Russell Landfill</b> <b>c) request staff bring back to Council the terms of the resource consent and investment required to close the landfill</b> <b>d) approve staff commence the community consultation process and report to Council the outcome of that consultation</b>	<b>04 Nov 2022 8:09am George, Tania</b> Staff are seeking a short-term consent to allow the discharges from the landfill to continue until the closure concept (timing, management, monitoring etc) is understood. Once that information is available work can begin on resource consents required for the closure and consultation can start., Staff have received a draft proposal from PDP to develop the closure plan with a cost of around \$200K ( includes \$50K subcontractor fees for bore drilling etc),

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Meeting	Title	Resolution	Notes
		<p>e) delegate to the Chief Executive, or his nominee, the negotiation, agreement and signing of contract variations with Northland Waste Ltd to provide on-going transport and disposal of waste from the Russell facility whilst Council progress the resource consent and consultation process.</p> <p style="text-align: right;"><b>CARRIED</b></p>	Once budget is available, this work will likely span the order of 8-12 months given the need for new monitoring positions and seasonal baseline monitoring., This project has been put forward on the "better off fund list" and we are awaiting a decision as to whether this will be approved.
Regulatory Compliance Committee 5/09/2022	Parking Enforcement  <a href="#">Author Rochelle Deane</a>	<p><b>RESOLUTION 2022/16</b> Moved: Member Belinda Ward Seconded: Cr Rachel Smith <b>That the Regulatory Compliance Committee;</b></p> <p>a) recommend that Council continue the trial period of enforcing stationary vehicle Warrants of Fitness and Registration offences across the district for a further 12 months to 30 June 2023</p> <p>b) and that partnership opportunities be pursued to address road safety and resourcing issues.</p> <p><u>Abstained:</u> Cr David Clendon</p> <p style="text-align: right;"><b>CARRIED</b></p> <p><i>Note: That partnership opportunities with Waka Kotahi be explored for enforcement.</i></p>	
Strategy and Policy Committee 6/09/2022	Kerikeri Bay of Islands Speed Limit Review Statement of Proposal  <a href="#">Author Kirsten Griffiths</a>	<p><b>RESOLUTION 2022/59</b> Moved: Cr Kelly Stratford Seconded: Cr John Vujcich <b>That the Strategy and Policy Committee:</b></p> <p>a) approve the attached "Statement of Proposal – Interim Speed Management Plan for Kerikeri Bay of Islands Catchment Area" for consultation.</p>	<b>02 Dec 2022 3:20pm Andersen, Gayle</b> On behalf of Briar Macken - consultation underway

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<b>Officer:</b>		

Meeting	Title	Resolution	Notes
		<p>b) confirms that the submission period for the speed limit review will open on 28<sup>th</sup> October and close on 5<sup>th</sup> December, with oral submissions to be scheduled in February 2023.</p> <p>c) undertakes consultation on the proposed changes to speed limits set out in the attached Statement of Proposal in accordance with the Principles of Consultation set out in Section 82 of the Local Government Act 2002.</p> <p>d) delegates 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 style="text-align: right;"><b>CARRIED</b></p>	
Council 22/09/2022	Notice of Motion - Rangitane Maritime Development  <a href="#">Author Andy Finch</a>	<p><b>RESOLUTION 2022/64</b>                      Moved: Deputy Mayor Ann Court                      Seconded: Cr Rachel Smith  <b>That Council:</b></p> <p>a) Support the Maritime Facilities Development at Rangitane proceed through to the conclusion of the Resource Consent process.</p> <p>b) Remains committed to the funding Agreement with MBIE and supports an approach be made to MBIE to continue its funding support for the period required to conclude the consenting process</p> <p style="text-align: right;"><b>EQUAL</b></p> <p>Mayor John Carter used a casting vote to carry the vote.</p> <p style="text-align: right;"><b>CARRIED</b></p>	<p><b>04 Nov 2022 8:18am George, Tania</b>                      Updates to come through from Far North Waters. As of 11 October, they are organising meetings with MBIE and following the decision from MfE regarding NES-F consultation. Expecting decision from MfE in the next month or two.</p>
Council 22/09/2022	Matauri Bay Wastewater Scheme	<p><b>RESOLUTION 2022/71</b>                      Moved: Mayor John Carter                      Seconded: Cr Kelly Stratford</p>	<p><b>28 Oct 2022 1:00pm Whiu, Rhonda-May - Reallocation</b></p>

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Meeting	Title	Resolution	Notes
	<a href="#">Author Angie Thomas</a>	<p><b>That Council</b></p> <p>a) <b>Permits Cavalli Properties Ltd to commission the Innoflow wastewater treatment assets at Matauri Bay with Cavalli Properties agreeing to fund all operationalization and operating costs until 1 July 2024.</b></p> <p>b) <b>Agrees that on the basis of Cavalli Properties experience of operating the Innoflow system, Council will consult with the relevant entities to transfer the operating of the system from Cavalli Properties Ltd from 1 July 2024.</b></p> <p style="text-align: right;"><b>CARRIED</b></p>	Action reassigned to Thomas, Angie by Whiu, Rhonda-May - reassigned as requested by Andy
Council 22/09/2022	Request for Encumbrance over Esplanade Reserve, Puketona Road  <a href="#">Author Graham Norton</a>	<p><b>RESOLUTION 2022/72</b> Moved: Mayor John Carter Seconded: Deputy Mayor Ann Court <b>That Council approve the granting of an encumbrance pursuant to the Reserves Act 1977 on Local Purpose Esplanade Reserve Lot 3 DP 142939 for the purpose of enabling the privately funded construction of an erosion control device that satisfies both FNDC and NRC requirements.</b></p> <p style="text-align: right;"><b>CARRIED</b></p>	<b>21 Nov 2022 11:41am George, Tania</b> Encumbrance granted subject to Hapu consultation being undertaken. GN currently working with Ted Wihongi to engage with Hapu. Two meetings have been undertaken (31/10/22 & 11/11/22) but no outcome has yet been achieved.
Council 22/09/2022	Request for Hall Delegations  <a href="#">Author Sheryl Gavin</a>	<p><b>RESOLUTION 2022/73</b> Moved: Deputy Mayor Ann Court Seconded: Cr John Vujcich <b>That Council:</b></p> <p>a) <b>request the Chief Executive Officer to review the Halls and Facilities Strategy 2015 and the Community Halls Policy 2016 within the next 12 months in collaboration with all Community Boards.</b></p>	<b>11 Jan 2023 12:11pm Baker, Marlema - Reallocation</b> Action reassigned to Finch, Andy by Baker, Marlema - Re-allocating this item from Sheryl Gavin to you/your team.

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Meeting	Title	Resolution	Notes
		<p>b) Council delegations to Community Boards in relation to community halls be considered by Council when these documents have been adopted.</p> <p style="text-align: right;"><b>CARRIED</b></p>	
Council 22/09/2022	Reset of the Far North Waters Alliance  <a href="#">Author Janice Smith</a>	<p><b>RESOLUTION 2022/69</b>                      Moved: Deputy Mayor Ann Court                      Seconded: Cr Felicity Foy  <b>That Council approve the re-establishment of Far North Waters as a true Alliance between Ventia and FNDC with immediate effect.</b>  <b>CARRIED</b></p>	<p><b>31 Oct 2022 3:23pm Smith, Janice</b>                      Work is under way to establish an alliance structure and consultation with staff commences 2 November 2022. A revised Total Operating Cost (TOC) is being developed to incorporate capital work under \$2m.</p>
Council 22/09/2022	District Wide Water & Wastewater charges – consultation  <a href="#">Author Janice Smith</a>	<p><b>RESOLUTION 2022/70</b>                      Moved: Mayor John Carter                      Seconded: Cr Rachel Smith  <b>That Council:</b>                      a) Approves in principle the draft Statement of Proposal for District Wide rating of Water and Wastewater targeted rating.                      b) Approves that consultation commences as soon as practically possible after the election to enable staff to complete the consultation process, carry out deliberations.  <b>CARRIED</b></p>	<p><b>31 Oct 2022 3:25pm Smith, Janice</b>                      Modelling of water and wastewater rate impacts up to 2024/25 is underway and will be included in the consultation documentation in place of the suggested re-statement of the 2022/23 rates only. Consultation is planned to commence mid November 2022</p>
Council 10/11/2022	Pipeline Easement over Local Purpose (road) Reserve  <a href="#">Author: Kay Meekings</a>	<p><b>RESOLUTION 2022/82</b>                      Moved: Cr Mate Radich                      Seconded: Cr Ann Court                      a) That Far North District Council in its role as the administering body of the Local Purpose (road) Reserve, Lot 8 DP 84384, Title NA40D/677, and pursuant to its powers under section 48(1)(f) Reserves Act 1977 consents to the granting of a pipeline easement (shown as D on LT 560603) over the local</p>	<p><b>29 Nov 2022 12:01pm Meekings, Kay</b>                      MacKenzie-Elvin Law to provide draft easement document for consideration by Legal Services</p>

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Meeting	Title	Resolution	Notes				
		<p>purpose reserve subject to meeting Reserves Act requirements and subject to there being no cost to Council.</p> <p>b) And that Council, in its role as the Minister of Conservation’s delegate, and pursuant to the Minister’s powers under section 48 of the Reserves Act 1977, consents to the granting of the proposed pipeline easement.</p> <p style="text-align: right;"><b>CARRIED</b></p>					
Council 15/12/2022	Setting of Remuneration for Councillors for the 2022-2025 Triennium  <a href="#">Author: Caroline Wilson</a>	<p><b>RESOLUTION 2022/96</b></p> <p>Moved: Kahika - Mayor Moko Tepania                      Seconded: Kōwhai - Deputy Mayor Kelly Stratford</p> <p><b>That the Council submit the following levels of remuneration to the Remuneration Authority for approval:</b></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 80%;">Deputy Mayor (1)</td> <td style="text-align: right;">\$125,022</td> </tr> <tr> <td>Councillor base salary (9)</td> <td style="text-align: right;">\$ 85,015</td> </tr> </table> <p style="text-align: right;"><b>CARRIED</b></p>	Deputy Mayor (1)	\$125,022	Councillor base salary (9)	\$ 85,015	
Deputy Mayor (1)	\$125,022						
Councillor base salary (9)	\$ 85,015						
Council 20/12/2022	Turner Centre Stormwater Catchment  <a href="#">Author: Andy Finch</a>	<p><b>RESOLUTION 2022/94</b></p> <p>Moved: Cr Tāmami Rākena                      Seconded: Kōwhai - Deputy Mayor Kelly Stratford</p> <p><b>That Council:</b></p> <p>a) notes the storm water flooding risk within the Turner Centre sub-catchment</p> <p>b) approves a budget of \$200,000 to progress a design to mitigate this risk through a future physical works contract</p> <p>c) approves the direct appointment of Trine Kel to undertake the design work.</p> <p style="text-align: right;"><b>CARRIED</b></p>					

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Council 20/12/2022	Road Maintenance of the upper section of Road - Peninsula Parade, Hihi  <u>Author: Andy Finch</u>	<b>RESOLUTION 2022/95</b> Moved: Cr Ann Court Seconded: Kōwhai - Deputy Mayor Kelly Stratford <b>That Council:</b> a) <b>Notes the Northland Transportation Alliance Report dated 8th November 2022 – Road Maintenance of the upper section of Road – Peninsula Parade, Hihi</b> b) <b>Approves Option 2: Confirm the inclusion of Peninsula Parade RP517-810m in the schedule of FNDC-maintained roads at the cost to Council to bring it up to standard</b> c) <b>Approves unbudgeted capital expenditure of \$40,000 to bring Peninsula Parade RP517-810m to an appropriate maintenance standard</b> d) <b>Notes the risk of setting a precedent for the request for upgrading other unformed legal roads across the District.</b>  <b>CARRIED</b>	

**9 TE WĀHANGA TŪMATAITI / PUBLIC EXCLUDE**

**RESOLUTION TO EXCLUDE THE PUBLIC**

**RECOMMENDATION**

THAT THE PUBLIC BE EXCLUDED FROM THE FOLLOWING PARTS OF THE PROCEEDINGS OF THIS MEETING.

THE GENERAL SUBJECT MATTER OF EACH MATTER TO BE CONSIDERED WHILE THE PUBLIC IS EXCLUDED, THE REASON FOR PASSING THIS RESOLUTION IN RELATION TO EACH MATTER, AND THE SPECIFIC GROUNDS UNDER SECTION 48 OF THE LOCAL GOVERNMENT OFFICIAL INFORMATION AND MEETINGS ACT 1987 FOR THE PASSING OF THIS RESOLUTION ARE AS FOLLOWS:

<b>GENERAL SUBJECT OF EACH MATTER TO BE CONSIDERED</b>	<b>REASON FOR PASSING THIS RESOLUTION IN RELATION TO EACH MATTER</b>	<b>GROUND(S) UNDER SECTION 48 FOR THE PASSING OF THIS RESOLUTION</b>
<p><b>9.1 - CONFIRMATION OF PREVIOUS MINUTES - PUBLIC EXCLUDED</b></p>	<p>S7(2)(A) - THE WITHHOLDING OF THE INFORMATION IS NECESSARY TO PROTECT THE PRIVACY OF NATURAL PERSONS, INCLUDING THAT OF DECEASED NATURAL PERSONS</p> <p>S7(2)(B)(II) - THE WITHHOLDING OF THE INFORMATION IS NECESSARY TO PROTECT INFORMATION WHERE THE MAKING AVAILABLE OF THE INFORMATION WOULD BE LIKELY UNREASONABLY TO PREJUDICE THE COMMERCIAL POSITION OF THE PERSON WHO SUPPLIED OR WHO IS THE SUBJECT OF THE INFORMATION</p> <p>S7(2)(F)(I) - FREE AND FRANK EXPRESSION OF OPINIONS BY OR BETWEEN OR TO MEMBERS OR OFFICERS OR EMPLOYEES OF ANY LOCAL AUTHORITY</p> <p>S7(2)(H) - THE WITHHOLDING OF THE INFORMATION IS NECESSARY TO ENABLE COUNCIL TO CARRY OUT, WITHOUT PREJUDICE OR DISADVANTAGE, COMMERCIAL ACTIVITIES</p>	<p>S48(1)(A)(I) - THE PUBLIC CONDUCT OF THE RELEVANT PART OF THE PROCEEDINGS OF THE MEETING WOULD BE LIKELY TO RESULT IN THE DISCLOSURE OF INFORMATION FOR WHICH GOOD REASON FOR WITHHOLDING WOULD EXIST UNDER SECTION 6 OR SECTION 7</p>
<p><b>9.2 - CREDIT RATING ASSESSMENT</b></p>	<p>S7(2)(G) - THE WITHHOLDING OF THE INFORMATION IS NECESSARY TO MAINTAIN LEGAL PROFESSIONAL PRIVILEGE</p>	<p>S48(1)(A)(I) - THE PUBLIC CONDUCT OF THE RELEVANT PART OF THE PROCEEDINGS OF THE MEETING WOULD BE LIKELY TO RESULT IN THE DISCLOSURE OF INFORMATION FOR WHICH GOOD REASON FOR WITHHOLDING WOULD EXIST</p>



		<p>UNDER SECTION 6 OR SECTION 7</p>
<p><b>9.3 - RENEWAL OF REVOLVING CASH FACILITY</b></p>	<p>S7(2)(B)(II) - THE WITHHOLDING OF THE INFORMATION IS NECESSARY TO PROTECT INFORMATION WHERE THE MAKING AVAILABLE OF THE INFORMATION WOULD BE LIKELY UNREASONABLY TO PREJUDICE THE COMMERCIAL POSITION OF THE PERSON WHO SUPPLIED OR WHO IS THE SUBJECT OF THE INFORMATION</p>	<p>S48(1)(A)(I) - THE PUBLIC CONDUCT OF THE RELEVANT PART OF THE PROCEEDINGS OF THE MEETING WOULD BE LIKELY TO RESULT IN THE DISCLOSURE OF INFORMATION FOR WHICH GOOD REASON FOR WITHHOLDING WOULD EXIST UNDER SECTION 6 OR SECTION 7</p>

**10 KARAKIA WHAKAMUTUNGA / CLOSING PRAYER**

**11 TE KAPINGA HUI / MEETING CLOSE**