



**Far North  
District Council**



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

# **AGENDA**


## **Strategy and Policy Committee Meeting**

**Tuesday, 4 May 2021**

**Time:** 9.30 am  
**Location:** Council Chamber  
Memorial Avenue  
Kaikohe

**Membership:**

Cr Rachel Smith - Chairperson  
Cr David Clendon  
Mayor John Carter  
Deputy Mayor Ann Court  
Cr Dave Collard  
Cr Felicity Foy  
Cr Kelly Stratford  
Cr Moko Tepania  
Cr John Vujcich  
Bay of Islands-Whangaroa Community Board Belinda Ward

 <b>Far North District Council</b> <i>Te Kaunihera o Tai Tokerau ki te Raki</i>	<b>Authorising Body</b>	Mayor/Council
	<b>Status</b>	Standing Committee
<b>COUNCIL COMMITTEE</b>	<b>Title</b>	Strategy and Policy Committee Terms of Reference
	<b>Approval Date</b>	19 December 2019
	<b>Responsible Officer</b>	Chief Executive

### Purpose

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

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

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

The Committee will review the effectiveness of the following aspects:

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

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

### Power to Delegate

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

### Membership

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

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

Mayor Carter  
Rachel Smith – Chairperson  
David Clendon – Deputy Chairperson  
Moko Tepania  
Ann Court  
Felicity Foy  
Dave Collard  
John Vujcich  
Belinda Ward – Bay of Islands-Whangaroa Community Board

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

### **Quorum**

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

### **Frequency of Meetings**

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

### **Committees Responsibilities**

The Committees responsibilities are described below:

#### **Strategy and Policy Development**

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

#### **Service levels (non regulatory)**

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

#### **Policies and Bylaws**

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

#### **Consultation and Engagement**

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

#### **Strategic Relationships**

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

**Submissions and Remits**

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

**Fees**

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

**District Plan**

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

**Rules and Procedures**

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

**Annual reporting**

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

**STRATEGY AND POLICY COMMITTEE - MEMBERS REGISTER OF INTERESTS**

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

Name	Responsibility (i.e. Chairperson etc)	Declaration of Interests	Nature of Potential Interest	Member's Proposed Management Plan
			and contracts such as street lighting.	
	Ann Court Trust	Private	Private	N/A
	Waipapa Rotary	Honorary member	Potential community funding submitter	Declare interest and abstain from voting.
	Properties on Onekura Road, Waipapa	Owner Shareholder	Any proposed FNDC Capital works or policy change which may have a direct impact (positive/adverse)	Declare interest and abstain from voting.
	Property on Daroux Dr, Waipapa	Financial interest	Any proposed FNDC Capital works or policy change which may have a direct impact (positive/adverse)	Declare interest and abstain from voting.
	Flowers and gifts	Ratepayer 'Thankyou'	Bias/ Pre-determination?	Declare to Governance
	Coffee and food	Ratepayers sometimes 'shout' food and beverage	Bias or pre-determination	Case by case
	Staff	N/A	Suggestion of not being impartial or pre-determined!	Be professional, due diligence, weigh the evidence. Be thorough, thoughtful, considered impartial and balanced. Be fair.
	Warren Pattinson	My husband is a builder and may do work for Council staff		Case by case
<b>Ann Court - Partner</b>	Warren Pattinson Limited	Director	Building Company. FNDC is a regulator	Remain at arm's length
	Air NZ	Shareholder	None	None
	Warren Pattinson Limited	Builder	FNDC is the consent authority, regulator and enforcer.	Apply arm's length rules
	Property on Onekura Road, Waipapa	Owner	Any proposed FNDC capital work in the vicinity or rural plan change. Maybe a link to policy development.	Would not submit. Rest on a case by case basis.

Name	Responsibility (i.e. Chairperson etc)	Declaration of Interests	Nature of Potential Interest	Member's Proposed Management Plan
Felicity Foy	Flick Trustee Ltd	I am the director of this company that is the company trustee of Flick Family Trust that owns properties Seaview Road – Cable Bay, and Allen Bell Drive - Kaitaia.		
	Elbury Holdings Limited	This company is directed by my parents Fiona and Kevin King.	This company owns several dairy and beef farms, and also dwellings on these farms. The Farms and dwellings are located in the Far North at Kaimaumau, Bird Road/Sandhills Rd, Wireless Road/ Puckey Road/Bell Road, the Awanui Straight and Allen Bell Drive.	
	Foy Farms Partnership	Owner and partner in Foy Farms - a farm on Church Road, Kaingaroa		
	Foy Farms Rentals	Owner and rental manager of Foy Farms Rentals for dwellings on Church Road, Kaingaroa and dwellings on Allen Bell Drive, Kaitaia, and property on North Road, Kaitaia, one title contains a cell phone tower.		
	King Family Trust	This trust owns several titles/properties at Cable Bay, Seaview Rd/State Highway 10 and Ahipara - Panorama Lane.	These trusts own properties in the Far North.	
	112 Commerce Street Holdings Ltd	Owner of commercial property in Commerce Street Kaitaia.		
	Foy Property Management Ltd	Owner of company that manages properties owned by Foy Farms Rentals and Flick Family Trust.		
	Previous employment at FNDC 2007-16	I consider the staff members at FNDC to be my friends		
	Shareholder of Coastline Plumbing NZ Limited			
	Director of Coastline			

Name	Responsibility (i.e. Chairperson etc)	Declaration of Interests	Nature of Potential Interest	Member's Proposed Management Plan
<b>Felicity Foy - Partner</b>	Plumbing NZ Limited			
	Friends with some FNDC employees			
<b>Kelly Stratford</b>	KS Bookkeeping and Administration	Business Owner, provides book keeping, administration and development of environmental management plans	None perceived	Step aside from decisions that arise, that may have conflicts
	Waikare Marae Trustees	Trustee	Maybe perceived conflicts	Case by case basis
	Bay of Islands College	Parent Elected Trustee	None perceived	If there was a conflict, I will step aside from decision making
	Karetu School	Parent Elected Trustee	None perceived	If there was a conflict, I will step aside from decision making
	Māori title land – Moerewa and Waikare	Beneficiary and husband is a shareholder	None perceived	If there was a conflict, I will step aside from decision making
	Sister is employed by Far North District Council			Will not discuss work/governance matters that are confidential
	Gifts - food and beverages	Residents and ratepayers may 'shout' food and beverage	Perceived bias or predetermination	Case by case basis
	Taumarere Counselling Services	Advisory Board Member	May be perceived conflicts	Should conflict arise, step aside from voting
	Sport Northland	Board Member	May be perceived conflicts	Should conflict arise, step aside from voting
<b>Kelly Stratford - Partner</b>	Chef and Barista	Opua Store	None perceived	
	Māori title land – Moerewa	Shareholder	None perceived	If there was a conflict of interest I would step aside from decision making
<b>Moko Tepania</b>	Teacher	Te Kura Kaupapa Māori o Kaikohe.	Potential Council funding that will benefit my place of employment.	Declare a perceived conflict
	Chairperson	Te Reo o Te Tai Tokerau Trust.	Potential Council funding for events that this trust runs.	Declare a perceived conflict



Name	Responsibility Chairperson etc) (i.e.	Declaration of Interests	Nature of Potential Interest	Member's Proposed Management Plan
	Tribal Member	Te Rūnanga o Te Rarawa	As a descendent of Te Rarawa I could have a perceived conflict of interest in Te Rarawa Council relations.	Declare a perceived conflict
	Tribal Member	Te Rūnanga o Whaingaroa	As a descendent of Te Rūnanga o Whaingaroa I could have a perceived conflict of interest in Te Rūnanga o Whaingaroa Council relations.	Declare a perceived conflict
	Tribal Member	Kahukuraariki Trust Board	As a descendent of Kahukuraariki Trust Board I could have a perceived conflict of interest in Kahukuraariki Trust Board Council relations.	Declare a perceived conflict
	Tribal Member	Te Rūnanga ā-Iwi o Ngāpuhi	As a descendent of Te Rūnanga ā-Iwi o Ngāpuhi I could have a perceived conflict of interest in Te Rūnanga ā-Iwi o Ngāpuhi Council relations.	Declare a perceived conflict
<b>John Vujcich</b>	Board Member	Pioneer Village	Matters relating to funding and assets	Declare interest and abstain
	Director	Waitukupata Forest Ltd	Potential for council activity to directly affect its assets	Declare interest and abstain
	Director	Rural Service Solutions Ltd	Matters where council regulatory function impact of company services	Declare interest and abstain
	Director	Kaikohe (Rau Marama) Community Trust	Potential funder	Declare interest and abstain
	Partner	MJ & EMJ Vujcich	Matters where council regulatory function impacts on partnership owned assets	Declare interest and abstain
	Member	Kaikohe Rotary Club	Potential funder, or impact on Rotary projects	Declare interest and abstain

<b>Name</b>	<b>Responsibility (i.e. Chairperson etc)</b>	<b>Declaration of Interests</b>	<b>Nature of Potential Interest</b>	<b>Member's Proposed Management Plan</b>
	Member	New Zealand Institute of Directors	Potential provider of training to Council	Declare a Conflict of Interest
	Member	Institute of IT Professionals	Unlikely, but possible provider of services to Council	Declare a Conflict of Interest
	Member	Kaikohe Business Association	Possible funding provider	Declare a Conflict of Interest
<b>Belinda Ward</b>	Ward Jarvis Family Trust	Trustee		
	Kenneth Jarvis Family Trust	Trustee		
	Residence in Watea			
<b>Belinda Ward (Partner)</b>	Ward Jarvis Family Trust	Trustee and beneficiary		
	Kenneth Jarvis Family Trust	Trustee and beneficiary		
	Residence in Watea	Trustee		

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**Far North District Council**  
**Strategy and Policy Committee Meeting**  
**will be held in the Council Chamber, Memorial Avenue, Kaikohe on:**  
**Tuesday 4 May 2021 at 9.30 am**

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**Te Paeroa Mahi / Order of Business**

<b>1</b>	<b>Karakia Timatanga – Opening Prayer.....</b>	<b>13</b>
<b>2</b>	<b>Nga Whakapāha Me Ngā Pānga Mema / Apologies and Declarations of Interest.....</b>	<b>13</b>
<b>3</b>	<b>Te Tono Kōrero / Deputation.....</b>	<b>13</b>
<b>4</b>	<b>Confirmation of Previous Minutes.....</b>	<b>14</b>
	4.1 Confirmation of Previous Minutes.....	14
<b>5</b>	<b>Reports.....</b>	<b>20</b>
	5.1 Proposal for a Treated Water Supply Bylaw .....	20
	5.2 New Parking and Road Use Bylaws .....	42
	5.3 Control of On-site Wastewater Disposal Systems Bylaw .....	48
	5.4 Review of Psychoactive Substances Local Approved Products Policy 2014 .....	64
<b>6</b>	<b>Karakia Whakamutunga – Closing Prayer.....</b>	<b>77</b>
<b>7</b>	<b>Te Kapinga Hui / Meeting Close.....</b>	<b>77</b>



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

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

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

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

**3 TE TONO KŌRERO / DEPUTATION**

No requests for deputations were received at the time of the Agenda going to print.

## **4 CONFIRMATION OF PREVIOUS MINUTES**

### **4.1 CONFIRMATION OF PREVIOUS MINUTES**

**File Number:** A3052687

**Author:** Kim Hammond, Meetings Administrator

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

#### **PURPOSE OF THE REPORT**

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

#### **RECOMMENDATION**

**That the Strategy and Policy Committee agrees that the minutes of the meeting held 23 March 2021 be confirmed as a true and correct record.**

#### **1) BACKGROUND**

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

#### **2) DISCUSSION AND OPTIONS**

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

#### **Reason for the recommendation**

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

#### **3) FINANCIAL IMPLICATIONS AND BUDGETARY PROVISION**

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

#### **ATTACHMENTS**

- 1. 2021-03-23 Strategy and Policy Committee Unconfirmed Minutes - A3122865** [↓](#) 

**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 on Māori in confirming minutes from a previous meeting. Any implications on Māori arising from matters included in meeting minutes should be considered as part of the relevant report.
Identify persons likely to be affected by or have an interest in the matter, and how you have given consideration to their views or preferences.	This report is asking for the minutes to be confirmed as true and correct record, any interests that affect other people should be considered as part of the individual reports.
State the financial implications and where budgetary provisions have been made to support this decision.	There are no financial implications or the need for budgetary provision arising from this report.
Chief Financial Officer review.	The Chief Financial Officer has not reviewed this report.

**MINUTES OF FAR NORTH DISTRICT COUNCIL  
STRATEGY AND POLICY COMMITTEE MEETING  
HELD AT THE COUNCIL CHAMBER, MEMORIAL AVENUE, KAIKOHE  
ON TUESDAY, 23 MARCH 2021 AT 9.30 AM**

**PRESENT:** Cr Rachel Smith, Cr David Clendon, Cr Dave Collard, Cr Kelly Stratford, Cr Moko Tepania, Cr John Vujcich, Bay of Islands-Whangaroa Community Board Belinda Ward

**IN ATTENDANCE:** Te Hiku Community Board Adele Gardner (via Microsoft TEAM's)

**STAFF PRESENT:** Shaun Clarke (Chief Executive Officer), Andy Finch (General Manager Infrastructure and Asset Management), Dean Myburgh (General Manager District Services), William J Taylor, MBE (General Manager Strategic Planning and Policy - Acting), Jaime Dyhrberg (General Manager Corporate Services - Acting)

**1 KARAKIA TIMATANGA – OPENING PRAYER**

Chairperson Smith opened the meeting with a karakia.

**2 APOLOGIES AND DECLARATIONS OF INTEREST**

**RESOLUTION 2021/6**

Moved: Cr John Vujcich  
Seconded: Cr David Clendon

**That apologies from Mayor John Carter and Deputy Mayor Ann Court be received and accepted.**

**CARRIED**

**3 DEPUTATION**

Nil

**4 CONFIRMATION OF PREVIOUS MINUTES**

**4.1 CONFIRMATION OF PREVIOUS MINUTES**

Agenda item 4.1 document number A3109949, pages 14 - 18 refers.

**RESOLUTION 2021/7**

Moved: Cr Rachel Smith  
Seconded: Cr John Vujcich

**That the Strategy and Policy Committee agrees that the minutes of the meeting held 9 February 2021 be confirmed as a true and correct record.**

**CARRIED**



## 5 REPORTS

### 5.1 SOLID WASTE BYLAW REVIEW

Agenda item 5.1 document number A3111502, pages 19 - 25 refers.

#### **RESOLUTION 2021/8**

Moved: Cr Kelly Stratford

Seconded: Bay of Islands-Whangaroa Community Board Belinda Ward

**That the Strategy and Policy Committee recommends that the Council:**

- a) agree, under section 155(1) of the Local Government Act 2002, the Solid Waste Bylaw 2016 is the most appropriate way of addressing solid waste problems in the Far North District
- b) agree, under section 155(2) of the Local Government Act 2002, the Solid Waste bylaw 2016:
  - i) is the most appropriate form of bylaw
  - ii) does not give rise to any implications under the New Zealand Bill of Rights Act 1990
- c) agree the provisions of the Solid Waste Bylaw be reassessed in conjunction with the Waste Management and Minimisation Plan review, which is due by 2023, or after central government legislation comes into effect.

**CARRIED**

### 5.2 UPDATE OF POLICY - APPOINTMENT OF DIRECTORS TO COUNCIL ORGANISATIONS

Agenda item 5.2 document number A3111889, pages 71 - 73 refers.

#### **MOTION**

Moved: Cr John Vujcich

Seconded: Cr David Clendon

That the Strategy and Policy Committee recommend Council agree to the updated Policy 2117 – Appointment and Remuneration of Directors for Council Organisations be approved.

#### **AMENDMENT**

Moved: Cr Rachel Smith

Seconded: Cr Kelly Stratford

That the Strategy and Policy Committee request staff work with Cr's Clendon, Collard, Vujcich and Chairperson Smith on updating the Appointment and Remuneration of Directors for Council Organisations (#2117) before escalating the report to Council for adoption.

**CARRIED**

The amendment became the substantive motion.

Moved: Cr John Vujcich

Seconded: Cr David Clendon

#### **RESOLUTION 2021/9**

**That the Strategy and Policy Committee request staff work with Cr's Clendon, Collard, Vujcich and Chairperson Smith on updating the Appointment and Remuneration of**

**Directors for Council Organisations (#2117) before escalating the report to Council for adoption.**

**CARRIED**

## **6 PUBLIC EXCLUDED**

### **RESOLUTION TO EXCLUDE THE PUBLIC**

#### **RESOLUTION 2021/10**

Moved: Cr Rachel Smith

Seconded: Cr Kelly Stratford

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>
<b>6.1 - Kaikohe Civic Hub Working Party Terms of Reference</b>	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)(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

**CARRIED**

## **7 CONFIRMATION OF INFORMATION AND DECISIONS TO BE RELESAED IN PUBLIC**

#### **RESOLUTION 2021/11**

Moved: Cr Moko Tepania

Seconded: Cr Kelly Stratford

**That the Strategy and Policy confirms that the information and decisions contained in the part of the meeting held with th epublic excluded be restated in public as follows:**

#### **Item 6.1 Kaikohe Civic Hub working Party Terms of Reference**

***That the Strategy and Policy Committee:***

- a) agree the formation of a Kaikohe Civic Hub Working Party***

<b>b) agree the membership of the Kaikohe Civic Hub Working Party</b> <b>c) agree the Terms of Reference for the Kaikohe Civic Hub Working Party</b>	<b>CARRIED</b>
<b>Attachments tabled at meeting</b> 1 Public Excluded Released Report - Kaikohe Civic Hub Party Terms of Reference	

**8 KARAKIA WHAKAMUTUNGA – CLOSING PRAYER**

**9 MEETING CLOSE**

The meeting closed at 11.05 am.

The minutes of this meeting will be confirmed at the Strategy and Policy Committee meeting to be held on 4 May 2021.

.....  
**CHAIRPERSON**

## 5 REPORTS

### 5.1 PROPOSAL FOR A TREATED WATER SUPPLY BYLAW

**File Number:** A3144932

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

**Authoriser:** William J Taylor MBE, General Manager - Strategic Planning and Policy (Acting)

#### TAKE PŪRONGO / PURPOSE OF THE REPORT

To seek approval to consult on a draft Treated Water Supply Bylaw and agreement on the process for hearing submissions.

#### WHAKARĀPOOTO MATUA / EXECUTIVE SUMMARY

- On 25 February 2021, the governing body of the Council determined that a bylaw was the most appropriate method for addressing problems with the supply of treated water.
- The Local Government Act 2002 requires the Council to consult before making a new bylaw.
- The proposal document in attachment 1 contains the information required to be made publicly available for consultation.
- To ensure the new bylaw is made before the current bylaw revokes, the period for making submissions will need to close on 31 May 2021 and any hearing of submissions will need to take place on 8 June 2021.
- The Strategy and Policy Committee has the necessary delegations to conduct the hearing of submissions though it could choose to appoint a subcommittee to conduct the hearing.

#### TŪTOHUNGA / RECOMMENDATION

**That the Strategy and Policy Committee:**

- a) agrees, under section 156(1)(b) of the Local Government Act 2002, to consult on a draft Treated Water Supply Bylaw in a manner that gives effect to the requirements of section 82 of the Local Government Act 2002;
- b) approves the Treated Water Supply Bylaw Proposal, including the draft bylaw, in attachment 1 be made publicly available for the purpose of the consultation;
- c) agrees the period for making written submissions on the proposal will end on 31 May 2021;
- d) agrees that if any person wishes to make an oral presentation of their submission, that presentation will take place on Tuesday 8 June 2021, and:
  - i) the hearing will be conducted by the whole Committee; or
  - ii) the hearing will be conducted by a subcommittee and appoint members to that subcommittee;
- e) authorises the chief executive to make minor changes to the Treated Water Supply Bylaw Proposal to correct grammatical or spelling errors, or formatting.

#### 1) TĀHUHU KŌRERO / BACKGROUND

The Far North District Council supplies treated water to 10,133 properties in the district – around one-third of all properties in the Far North. This water supply is currently regulated in the Water Supply Bylaw 2009. That bylaw was due for review by 16 October 2019, but was not reviewed.

Under section 160A of the Local Government Act 2002, that bylaw will be revoked on 16 October 2021.

On 25 February 2021 the governing body of the Far North District Council determined a bylaw is the most appropriate method to address problems with the supply of treated water. Council staff have drafted a new Treated Water Supply Bylaw that is substantially of the same effect as the current bylaw. The draft new bylaw uses more modern formatting and language and does not include provisions that unnecessarily duplicate legislation. Section 156 of the Local Government Act 2002 requires the Council to consult before making a bylaw.

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

### **Legal requirements for consultation**

Making a new Treated Water Supply Bylaw is not a significant decision under the Council's Significance and Engagement Policy. Therefore, section 156 of the Local Government Act 2002 requires the Council to consult in a manner that meets the requirements of section 82 of the Local Government Act 2002. This includes:

- Giving submitters information in a manner and format that is appropriate
- Encouraging people to give their views and have a reasonable opportunity to present those views in either a written or verbal manner
- Being clear about the purpose of the consultation and the scope of the decisions to be taken

Section 82A of the Local Government Act 2002 requires, for consultation purposes, the Council to make publicly available:

- the proposal and the reasons for the proposal
- an analysis of all the reasonably practicable options identified (including the option of making a bylaw)
- a draft of the proposed bylaw.

Attachment 1 is a proposal document that meets the requirements of section 82A.

### **Consultation period**

The consultation period will need to end by 11 June 2021 to leave sufficient time for Council staff to analyse submissions, make any changes to the draft bylaw, and submit a final bylaw to be made at the Council meeting on 23 September 2021. This timeline is necessary to ensure the new bylaw is made before the existing Water Supply Bylaw is revoked on 16 October 2021. Council staff therefore recommend the period for people to make written submissions should end on 31 May 2021 and any oral presentations of the submissions should take place on 8 June 2021. Tuesday 8 June 2021 is currently reserved in the formal meeting calendar for possible workshops.

### **Hearing submissions**

Council staff expect there will be a reasonably high level of interest in the draft bylaw because of recent droughts and current projects to improve the District's water supply system. It is therefore very likely some people will want to make an oral presentation of their views on the bylaw directly to elected members. The Strategy and Policy Committee has the necessary delegations to conduct hearings of submissions. Alternatively, a subcommittee of the Strategy and Policy Committee could be appointed, under clause 30(2) of Schedule 7 of the Local Government Act 2002, to hear the submissions. Council staff recommend the whole Committee conducts the hearing.

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

The Council is required to consult before making a new bylaw. The proposal document in Attachment 1 meets the provisions of section 82A of the Local Government Act 2002 that prescribe the information the Council is required to make publicly available for consultation. The consultation process will meet the requirements of section 82 of the Local Government Act 2002 by:

- providing an opportunity for people to give their views on the proposal, the period to end on 31 May 2021
- the Strategy and Policy Committee conducting hearings of oral presentations of submissions on 8 June 2021.

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

The cost of the consultation process will be met within existing budgets.

### **ĀPITI HANGA / ATTACHMENTS**

1. Treated Water Supply Bylaw Proposal for Consultation - A3143529 [↓](#) 

**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 proposal is not high significance under the Significance and Engagement Policy. The proposed new bylaw will essentially maintain the status quo for water supply regulation.
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 prescribes the requirements for the Council to consult before it makes a bylaw. The relevant provisions are described and discussed in the report.
State whether this issue or proposal has a District wide relevance and, if not, the ways in which the appropriate Community Board's views have been sought.	As there is reticulated water supply in all of the wards of the District the proposal has District-wide relevance, but is not within the delegations of Community Boards to consider.
State the possible implications for Māori and how Māori have been provided with an opportunity to contribute to decision making if this decision is significant and relates to land and/or any body of water.	Water supply is of importance to Māori, considering water's status as taonga. Tāngata whenua have been informed of the new bylaw and invited to provide their input. Further discussions will occur during the consultation period to ensure the final proposed bylaw reflects the views of Māori.
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 following affected or interested people will be directly notified of the consultation on the new bylaw: <ul style="list-style-type: none"> <li>• All those supplied with treated water from Far North District Council's water schemes</li> <li>• Commercial suppliers of bulk water</li> <li>• Plumbers and drainlayers</li> <li>• Property developers and building companies</li> <li>• Community groups concerned about the supply of water to their communities</li> <li>• The District Health Board</li> </ul>
State the financial implications and where budgetary provisions have been made to support this decision.	The cost of consulting on the proposed bylaw will be met from existing operational budgets.

Chief Financial Officer review.	The Chief Financial Officer has reviewed this report
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## Treated Water Supply Bylaw Proposal

### Context

The Far North District Council (“the Council”) provides treated water to properties that are connected to one of its eight water supply schemes. The schemes are in: Kerikeri/Waipapa, Paihia/Opua/Waitangi, Kawakawa/Moerewa, Kaikohe/Ngawha, Ōkaihau, Kaitiāia, Rawene/Omanaia and Opononi/Ōmāpere. Treated water is water that meets the standards for drinking water. Those standards are set by central government and administered by the Ministry of Health.

The Council’s supply of treated water is currently regulated by a Water Supply Bylaw that was made on 16 October 2009. That bylaw was due for review by 16 October 2019, but was not reviewed by that date. Section 160A of the Local Government Act 2002 states that a bylaw not reviewed by the date required is automatically revoked two years later. This means the Water Supply Bylaw will be revoked on 16 October 2021. The Council therefore needs to develop a way to address the following problems that could arise when the current bylaw is revoked:

- inability to preventatively apply water restrictions, for example due to an emerging drought
- potential issues charging customers for water use if water supply is interrupted, shut off, quality is poor or if water use is restricted, for example, due to a drought
- not being able to determine the level of water supplied to a property in order to manage the amount supplied
- potential contamination of the water supply by members of the public making water unsafe to drink or use if rules do not exist to avoid contamination
- damage to council’s assets by the public (particularly damage to water mains by work done near or over these mains)
- misuse of the water supply, for example by people wasting water.

On 25 February 2021, the governing body of the Council determined that a bylaw is the most appropriate method for addressing those problems. Before making a bylaw, the governing body is required to consult and determine whether the proposed bylaw:

- is the most appropriate form of bylaw
- gives rise to any implications under the New Zealand Bill of Rights Act 1990.

### The proposal

Far North District Council proposes to make a bylaw to regulate the supply of treated water from its eight water supply schemes. The bylaw will apply to all users of water supplied by these schemes including property owners and occupiers, operators of bulk water supply businesses, and users sourcing treated water from standpipes on hydrants. The bylaw will not apply to privately-owned water schemes because they are regulated by national legislation.

This will be a new bylaw because the existing Water Supply Bylaw will be revoked on 16 October 2021.

The new bylaw will:

- define the point of supply of treated water to customers
- set out the terms of supply for different types of water supply
- describe planned and unplanned interruptions to the supply that may be made by the Council
- describe the terms of use of water meters
- provide powers for the Council to restrict or prohibit water supply
- describe how work on the water supply system can occur
- set out how to apply to connect to the treated water supply and other types of approval (e.g. exemption from restriction), including peoples' right to object to Council's decisions
- state how the water supply system must be protected from contamination and damage
- set out when the Council may access a property to inspect, test or maintain the water supply system.

## Reasons for the proposal

The governing body of the Far North District Council has determined that a bylaw is the most appropriate method for addressing problems with its supply of treated water. Because the existing bylaw will be revoked on 16 October 2021, a new bylaw needs to be made, and be in force, by that date.

## Analysis of the reasonably practicable options

The governing body of the Far North District Council considered three options for addressing problems with its supply of treated water as follows:

- Do nothing, allow the current bylaw to revoke, and have no regulation of treated water supply
- Use a supply contract, between the Council and users of the treated water, to set terms and conditions for the supply of treated water
- Make a bylaw to regulate the treated water supply

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

	Option		
	Do nothing	Supply contract	A bylaw
<b>Advantages</b>	<p>Public education is appropriate for the majority who want to do the right thing</p> <p>Existing national legislation covers many areas relating to water supply</p>	<p>Legally binding</p> <p>Will clearly spell out the terms and conditions of treated water supply</p> <p>In some cases, could be simpler to apply than a bylaw as it involves a one-on-one contract with the customer</p>	<p>Legally binding</p> <p>Would back up public education and existing national legislation</p> <p>Can include provisions beyond what could be in a supply contract</p> <p>Will include enforcement provisions</p> <p>It effectively maintains the status quo with no need to "sign up" existing customers (as would be required for a supply contract)</p>
<b>Disadvantages</b>	<p>No powers of enforcement</p> <p>There are gaps in the national legislation</p>	<p>Logistical issues to "sign up" existing customers</p> <p>Limited to terms and conditions of supply</p>	<p>Inability to have individual contracts, i.e. is one-size-fits-all</p>

	where local rules are needed	applying to individual customers  Likely to be time consuming to introduce	
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## New Zealand Bill of Rights Act 1990 implications

Part 2 of the New Zealand Bill of Rights Act 1990 sets out civil and political rights that may only be subject to reasonable limits that can be demonstrably justified in a free and democratic society. The proposed new bylaw may give rise to implications for the right to be secure against unreasonable search or seizure, whether of the person, property, or correspondence or otherwise (section 21 of the New Zealand Bill of Rights Act 1990). This is because the bylaw gives the Council powers to enter private land to inspect parts of the water supply system. However, the bylaw provisions are fully within the scope of powers the Council already has under sections 171 to 174 of the Local Government Act 2002 and section 332 of the Resource Management Act 1991. Therefore, the bylaw provisions will be reasonable limits on the rights in the New Zealand Bill of Rights Act 1990.

## How to give your views on the proposal

The Council encourages any person or organisation affected by, or having an interest in, the proposed Treated Water Supply Bylaw to present their views on the proposal to the Council by making a submission.

You can make a submission by using the form in this proposal or in any other manner and format that is appropriate to your preferences and needs. Submissions can be made by using any of the following methods:

- online at the Council's website: <https://www.fndc.govt.nz/waterbylaw2021>
- 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 Strategy and Policy Committee

Please include your full name and email address or postal address in your submission if you want:

- the Council to acknowledge receipt of your submission
- to make an oral presentation – you will be contacted about when and where this will take place.

Privacy statement – Please be aware, when providing personal information, the submission is part of the public consultation process for the Treated Water Supply Bylaw. As such, all submissions, any summaries of submissions, and attached documents, are copied and made available to the Council's governing body as well as the public. Your submission and name will not be treated as confidential unless you specifically request it to be made confidential in your submission.

The last date by which you can make a submission is 31 May 2021. If you want to make an oral presentation, you must inform the Council before this date. Oral presentations will take place during the period from 8 to 11 June 2021.

## Submission form

1. Please provide your details below

Name:

Organisation: (if on behalf)

Postal Address: (optional)

Email: (optional)

Would you like to subscribe to .... e-mail updates on the proposal? Yes/No

2. Which ward do you live in? (Please tick)

Bay of Islands Hokianga Te Hiku Don't know

3. Please give your views on the proposal by referring to each part of the draft bylaw, if you don't have a view on a particular part you can leave it blank, or, in electronic forms, delete it.

(a) Do you support the provisions in Part 1 (purpose and interpretation)?

Yes/No/Unsure

Would you like to expand on your answer?

(b) Do you support the provisions in Part 2 (descriptions of the treated water supply system and its parts)?

Yes/No/Unsure

Would you like to expand on your answer?

(c) Do you support the provisions in Part 3 (terms and conditions for the supply of treated water)?

Yes/No/Unsure

Would you like to expand on your answer?

(d) Do you support the provisions in Part 4 (process for getting approvals under the bylaw)?

Yes/No/Unsure

Would you like to expand on your answer?

(e) Do you support the provisions in Part 5 (protection of the water supply system from damage or misuse, including powers for the council to do inspections)?

Yes/No/Unsure

Would you like to expand on your answer?

(f) Do you support the provisions in Part 6 (charges for water supply)?

Yes/No/Unsure

Would you like to expand on your answer?

(g) Do you support the provisions in Part 7 (offences and penalties)?

Yes/No/Unsure

Would you like to expand on your answer?

(h) Do you support the provisions in Part 8 (savings and transitional provisions)?

Yes/No/Unsure

Would you like to expand on your answer?

(i) Do you support the provisions in the Schedule (diagrams illustrating parts of the water supply system)?

Yes/No/Unsure

Would you like to expand on your answer?

## Draft Bylaw

The draft of bylaw is as follows:

### Treated Water Supply Bylaw

#### Contents

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1 Title

2 Commencement

3 Application

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5 Interpretation

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9 Types of treated water supply

10 Supply of treated water for extinguishing fires

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12 Interruptions to the supply made by council

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##### Part 3: Terms and conditions of supply

14 Demand management

15 Emergency water restrictions

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17 Work on the treated water supply system

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##### Part 4: Approvals

19 Applications for other purposes

20 Making an application

21 Assessment of applications

22 Deciding on an application

23 Conditions placed on approvals

24 Objections

25 Renewing an approval

26 Amending an approval

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##### Part 5: Protection of the treated water supply system

30 No connection to other water supplies or fittings

31 Fittings to be in good repair

32 Prevention of contamination

33 Access by council staff to the point of supply and private land

##### Part 6: Charges

34 Charges

##### Part 7: Offences and penalties

35 Offences

**Part 8: Savings and transitional provisions**

36 Water supply bylaw revoked

37 Applications, approvals etc under previous bylaw

**Schedule**

38 Diagrams illustrating parts of the water supply system

**1 Title**

This bylaw is the Treated Water Supply Bylaw.

**2 Commencement**

This bylaw comes into force two working days after the date it is made.

**Related information**

This bylaw is due for review by [date to come].

**3 Application**

This bylaw applies to the district of the Far North District Council.

**Part 1: Preliminary provisions**

**4 Purpose**

The purpose of the bylaw is to:

- (a) fairly and efficiently manage treated water supply in the district;
- (b) ensure public health and safety;
- (c) protect council's assets, namely the treated water supply system;
- (d) protect the public from nuisance;
- (e) protect the treated water supply system from misuse.

**5 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

**backflow** means the unplanned reversal of flow of water or mixtures of water and contaminants into the treated water supply system

**backflow prevention device** means a testable device that prevents backflow and, for the purpose of this bylaw, a backflow prevention device refers to those devices installed at the property boundary

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

**customer** means a person who uses, or has obtained the right to use or direct the manner of use of, treated water supplied by the council

**direct connection** includes any arrangement of pipes, hoses, or fittings temporary or otherwise which renders possible backflow into the council's water supply system

**drinking water** has the same meaning as in section 69G of the Health Act 1956

**Related information**

As at 01 December 2020, the definition is:

Drinking water

(a) means—

- (i) water that is potable; or
- (ii) in the case of water available for supply, water that is—
  - (A) held out by its supplier as being suitable for drinking and other forms of domestic and food preparation use, whether in New Zealand or overseas; or
  - (B) supplied to people known by its supplier to have no reasonably available and affordable source of water suitable for drinking and other forms of domestic and food preparation use other than the supplier and to be likely to use some of it for drinking and other forms of domestic and food preparation use; but
- (b) while standards applying to bottled water are in force under the Food Act 2014, does not include—
  - (i) any bottled water that is covered by those standards; or
  - (ii) any bottled water that is exported; and
- (c) to avoid doubt, does not include any water used by animals or for irrigation purposes that does not enter a dwelling house or other building in which water is drunk by people or in which other domestic and food preparation use occur.

**extraordinary supply** has the meaning set out in clause 9(5) of this bylaw

**engineering standards** means the council's Engineering Standards and Guidelines 2004 (revised March 2009)

**Related information**

The council's Engineering Standards and Guidelines can be located for free on the Far North District Council website and/or viewed in hardcopy at all of our office locations in the Far North area (see link below):

Online

[www.fndc.govt.nz/Our-Services/Water-Services-in-the-Far-North/Engineering-standards](http://www.fndc.govt.nz/Our-Services/Water-Services-in-the-Far-North/Engineering-standards) Part

6, Water Supply

Office locations

<https://www.fndc.govt.nz/Contact/Council-Service-Centres>

**fire hydrant** has the same meaning as in section 2 of the New Zealand Fire Service Firefighting Water Supplies Code of Practice 2008

**Related information**

As at [insert date] the definition is:

"...means an assembly usually contained in a pit or box below ground level and comprising a valve and outlet connection from a water main, to permit a controlled supply of water for firefighting. A pillar upstand connected to a water main and fitted with a valve and instantaneous coupling(s) adaptor will also constitute a fire hydrant. This does not include ball-type fire hydrants"

**fire protection system** has the same meaning as in section 2 of the New Zealand Fire Service Firefighting Water Supplies Code of Practice 2008

**Related information**

As at [insert date] the definition is:

"...means detection, alarm, and suppression system systems installed and maintained for ongoing compliance with approved Standards"

**occupier** has the same meaning as in section 2(1) of the Local Government Act 1974

**Related information**

As at 22 October 2019, the definition is:

"...in relation to any property, means the inhabitant occupier of that property"

**on demand supply** has the meaning set out in clause 9 of this bylaw

**owner** has the same meaning as in section 2(1) of the Local Government Act 1974

**Related information**

As at 22 October 2019, the definition is:

"... in relation to any property, means the person entitled to receive the rack rent thereof, or who would be so entitled if the property were let to a tenant at a rack rent."

**ordinary supply** has the meaning set out in clause 9(3) of this bylaw

**point of supply** has the meaning set out in clause 7 of this bylaw

**potable** in relation to drinking water, has the same meaning as in section 69G of the Health Act 1956

**Related information**

As at as at 01 December 2020, the definition is:

“means water that does not contain or exhibit any determinants to any extent that exceeds the maximum acceptable values (other than aesthetic guideline values) specified in the drinking-water standards”

**public notice** has the same meaning as in section 5 of the Local Government Act 2002

**Related information**

As at as at 01 February 2021, the definition is:

Public notice, in relation to a notice given by a local authority,—

(a) means a notice published in—

(i) 1 or more daily newspapers circulating in the region or district of the local authority;  
or

(ii) 1 or more other newspapers that have at least an equivalent circulation in that region or district to the daily newspapers circulating in that region or district; and

(b) includes any other public notice that the local authority thinks desirable in the circumstances

**public water line** means any service pipe or water main associated with the treated water supply system

**restrictor** means a flow control device fitted to the service pipe to limit the flow rate of water to a customer's premises

**service pipe** means the section of water pipe between a water main and the point of supply

**standpipe** means a rigidly supported vertical length of pipe connected to a water main, emerging from the ground with a tap or valve, serving as an outdoor water supply point

**stop tap** includes stopcock, stop valve, and any other device for stopping the flow of water in a line of pipes

**storage tank** means any tank other than a flushing cistern having a free water surface under atmospheric pressure from which water supplied by the council is delivered for use

**supply pipe** means the section of pipe between the point of supply and the customer's premises through which water is conveyed to the premises

**treated water supply system** has the meaning set out in clause 6 of this bylaw

**zone of influence** means that section of the ground along the alignment of a buried **public water line** extending both horizontally and vertically where:

(a) settlement or disturbance of the ground surrounding the **public water line** may cause damage to buildings on the surface above; and

(b) loads from buildings on the surface could be transmitted to the **public water line**; and

(c) as detailed in the council's **engineering standards**.

**Related information**

Part 3 of the Schedule to this bylaw has an illustration that shows the extent of the zone of influence.

- (2) Related information is for information purposes, does not form part of this bylaw, and may be inserted, amended or removed without any formality.
- (3) The Interpretation Act 1999 applies to this bylaw.

## Part 2: The treated water supply system

### 6 Treated water supply system

- (1) The **treated water supply system** includes all components of the treated water distribution network from treatment plants to the **point of supply** to the customer, including but not limited to water mains, pump



stations and pumps, valves, **hydrants**, **service pipes**, water meters and **backflow prevention devices**.

- (2) The **treated water supply system** is illustrated in Part 1 of the Schedule to this bylaw.

## 7 Point of supply

- (1) The **point of supply** to an individual **customer** is the point on the **service pipe** which marks the boundary of responsibility between the **customer** and **council**.
- (2) As described in the **engineering standards** the **point of supply** to the **customer** should normally be located on the road reserve boundary. This applies to all properties including properties on rear sections accessed by a right of way.
- (3) The typical layout of the fittings at the **point of supply** is illustrated in Part 2 of the Schedule to this bylaw.
- (4) Where there is a **backflow prevention device** then the **point of supply** is the point which is directly downstream of the backflow prevention device.
- (5) Where there is no **backflow prevention device** then the **point of supply** is the point which is directly downstream of the water meter.

## 8 Point of supply for different types of ownership

- (1) The nature of the **point of supply** for different forms of property ownership is:
- (a) For a single owner – only one **point of supply**;
  - (b) For company share, body corporate – only one **point of supply**;
  - (c) For leasehold/tenancy in common and unit title, body corporate – each owner has an individual supply;
  - (d) For commercial properties in multiple occupation or ownership – to be agreed on a case-by-case basis;
  - (e) For commercial and industrial properties with both fire and service connections – to be agreed on a case-by-case basis.
- (2) For supply that was approved before the date of commencement of this bylaw, the **point of supply** is the arrangement existing at that time, or as determined by agreement with the **council** for any individual case.

## 9 Types of treated water supply

- (1) **On demand supply** to a property is a supply of treated water that is available on demand directly from the **point of supply**. There are two types of **on demand supply**: **ordinary** and **extraordinary supply**.
- (2) A person who requires on demand supply must apply to the **council** for approval for a connection.
- (3) **Ordinary supply** includes treated water used for the following purposes:
- (a) drinking water; or
  - (b) use of a hose to wash a car, boat etc. at a residential property; or
  - (c) use of a hose to water a residential garden by hand; or
  - (d) watering of a residential garden by a portable sprinkler, subject to the provisions of clauses 14 and 15 which relate to restrictions and prohibitions on the use of treated water
- (4) No person may use any water supplied as **ordinary supply** for any other purposes.
- (5) **Extraordinary supply** is all purposes, other than **ordinary supply**, for which treated water from the **point of supply** is used and the supply may be subject to specific conditions and limitations.

### Related information

Examples of **extraordinary supply** include treated water used for the following purposes:

- filling a residential spa or swimming pool
- water for a fixed residential garden irrigation system
- irrigation water used for agriculture, horticulture or viticulture
- commercial and industrial purposes other than for drinking water
- **fire protection systems** within buildings

- (6) No person may use any water supplied as an **extraordinary supply** for purposes other than the purpose

stated in the approval.

- (7) The council is under no obligation to provide or continue to provide any **extraordinary supply** of water.

## 10 Supply of treated water for extinguishing fires

- (1) Only Fire and Emergency New Zealand personnel may gain access to, and draw water from, any **fire hydrant**.

### Related information

Use of fire hydrants by untrained personnel can result in damage to the water supply system.

- (2) Where the council provides unmetered connections for **fire hydrants** and **fire protection systems**, the connections must not be used for any other purpose and must be independent of any service connection to a property.

## 11 Other types of water supply

- (1) Other than water used for **ordinary** or **extraordinary supply**, and water used for firefighting purposes, the **council** may supply two other types of treated water:
- (a) bulk supply of water from tanker filling points;
  - (b) water supply from metered **standpipes** on **hydrants**.
- (2) A person who wants water supplied under subclause (1) must apply to the **council** for approval of that supply.

## 12 Interruptions to the supply made by council

- (1) The council may interrupt the **ordinary** or **extraordinary** supply of treated water for the following purposes:
- (a) planned maintenance or other work ("**planned interruptions**"); or
  - (b) to carry out emergency inspections or repair work on the **treated water supply system**, to ensure the health or safety of any person, or to avoid or minimise damage to the system or property ("**unplanned interruptions**").
- (2) For **planned interruptions** the **council** will take all reasonable steps to provide 24 hours' written notice of the interruption and plan the work to minimise disruption and inconvenience to the **customer**.
- (3) For **unplanned interruptions**, the **council** may interrupt the water supply without first notifying the **customer**.
- (4) If a **customer** has a need for an uninterrupted level of supply (in terms of flow, pressure, or quality), it is the responsibility of that **customer** to provide any storage, back-up facilities, or equipment necessary to provide that level of supply.

## 13 Meters

- (1) All **ordinary supply** and **extraordinary supply** of water to any property must have a water meter except where approved otherwise by the **council**.
- (2) The **customer** must keep the meter clear and readily readable at all times.
- (3) Any **customer** who disputes the accuracy of a meter or restrictor may apply to the **council** for it to be tested, provided that it is not within six months of the last test.
- (4) If a meter, after being tested, is found to be reading incorrectly, the **council may** make an adjustment to **the customer's account** in accordance **with the test results** after due allowance for permissible tolerances.

## Part 3: Terms and conditions of supply

### 14 Demand management

- (1) The **customer** must comply with any restrictions advised by the **council** to manage the demand for treated water.
- (2) Such restrictions will be advised by **public notice**.

**Related information**

For example, restrictions may be applied if the raw water supply is low due to low rainfall, or if a major leak requiring maintenance work is detected in the water mains.

**15 Emergency water restrictions**

- (1) During an emergency the **council** may restrict or prohibit the use of treated water for any specified purpose, for any specified period, and for any its **customers**.
- (2) Restrictions or prohibitions made under subclause (1) will be advised by **public notice** unless otherwise permitted by emergency legislation.

**Related information**

For example, emergency restrictions may be applied in drought conditions, or, if water supply is contaminated, or preventative action is required to mitigate an adverse effect on the water supply, or a civil emergency is declared.

**16 No compensation for water restrictions**

In the case of any restriction or prohibition described in clauses 14 and 15 no **customer** shall be entitled to any payment or compensation.

**17 Work on the treated water supply system**

- (1) A person must not carry out any work on the **treated water supply system** except in accordance with an **approval** granted to them.
- (2) The following work may only be done by the **council** or its agent:
  - (a) Connections, alterations to connections, or repairs to connections to the **treated water supply system**;
  - (b) Disconnections from **the treated water supply system**;
  - (c) Installation of a water meter or **restrictor**.
- (3) A person must not construct a building over a public water line, whether on public or private land, except in accordance with an **approval** granted to them.
- (4) A person must not construct a building within the **zone of influence** except in accordance with an **approval** granted to them.
- (5) A building developer may apply for an **approval** to divert a public water line if:
  - (a) the diversion will be done in accordance with the **engineering standards**; and
  - (b) the developer will pay all the costs of the work.
- (6) A person must not:
  - (a) cause the crushing load imposed on a **public water line** to exceed that which would arise from the soil overburden plus an HN-HO-72 wheel or axle load (as defined by New Zealand Transport Agency Bridge Manual 3rd edition 2013);
  - (b) place any additional material over or near a **public water line**;
  - (c) change the elevation of the land above a **public water line**;except in accordance with an **approval** granted to them.
- (7) A person must not excavate or carry out piling or similar work closer than:
  - (a) 5 metres from the centre line of any water main; or
  - (b) 2 metres from the centre line of any **service pipe**except in accordance with an **approval** granted to them.

**Part 4: Approvals****18 Applications for supply**

A written application to the **council** must be made for:

- (a) connections to, or disconnections from, an **ordinary** or **extraordinary supply** (see clause 9);
- (b) a change of use of an **ordinary** or **extraordinary supply**;

- (c) other types of supply (see clause 11).

## 19 Applications for other purposes

Other than an application under clause 18, an application must be made to the **council** for an approval for any of the following purposes:

- (a) to request any changes to the fittings or placement of fittings for an **ordinary** or **extraordinary supply**;

### Related information

For example, this could include installing a new water meter, changing the position of a water meter, removing a water meter, or relocating the **point of supply** or the **service pipe**

- (b) to work over or near the **treated water supply system** (see clause 17(3) to (7));  
(c) to request that a water meter is checked or to request a special meter reading;  
(d) to ask for a temporary exemption from a water restriction or prohibition (see clauses 14 and 15).

## 20 Making an application

- (1) An application for an approval required by this bylaw must be made to the **council** by the person who needs the approval ("**the applicant**") and:
- (a) be in the form required by the **council**; and
  - (b) be accompanied by the applicable fee set in the **council's** Fees and Charges Policy; and
  - (c) include all information required by the **council**.
- (2) An application is not treated as being made until all the provisions in this clause have been complied with.

## 21 Assessment of applications

- (1) The **council** must assess all applications for approvals in accordance with the following criteria, as applicable to the application:
- (a) the purpose for which the water will be used;
  - (b) how much water is required;
  - (c) any documented record of the applicant's non-compliance with this bylaw or any previous water supply bylaw, or approvals granted under such bylaws;
  - (d) whether approving the application could detrimentally affect the council's ability to supply treated water at the volume and/or pressure required for firefighting;
  - (e) whether the approval may negatively affect the safe and efficient operation of the **treated water supply system**, or the health and safety of any person, or the environment.
- (2) When assessing applications to take bulk water from tanker filling points (see clause 11(1)a) the council must also assess:
- (a) the suitability of the water tanker for transporting bulk water; and
  - (b) the location the water will be transported to.
- (3) When assessing applications to take water from metered **standpipes** on **hydrants** (see clause 11(1)b) the council must also assess whether there are any suitable alternative options to source the water.
- (4) When assessing applications for a temporary exemption from water restrictions or prohibitions (see clause 19(d)) the council must also assess whether the restrictions have, or are they likely to have, a significant negative impact on the applicant's business or personal situation.
- (5) When assessing applications for approval to do work over or near the **treated water supply system** (see clause 17(3) to (7)) the **council** must also assess whether the work can be carried out safely without damaging **council's** assets if appropriate conditions are put in place.

## 22 Deciding on an application

- (1) The **council** may grant an application for an approval if it is satisfied the application meets the assessment criteria described in clause 21.
- (2) The **council** may decline an application for an approval if it does not meet the assessment criteria in clause 21.
- (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 that a refund

(or partial refund) is reasonable in the circumstances.

## 23 Conditions placed on approvals

The **council** may include conditions on any **approval** for any one or more of the following matters:

- (a) the purpose for which the supply of treated water is approved;
- (b) the duration of the approval;
- (c) the quantity of water that may be supplied;
- (d) any other matter the **council** considers is reasonable to ensure efficient and safe operation of the **treated water supply system**.

## 24 Objections

- (1) An applicant may object to the **council**:
  - (a) about a decision to decline an **approval** by lodging an objection in writing within 20 working days after the date of the decision;
  - (b) about a condition of an **approval** by lodging an objection in writing within 20 working days after the date of the decision.
- (2) The council will make a decision on an objection within 20 working dates 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.
- (3) Nothing in this clause 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.

## 25 Renewing an approval

If an approval has a condition specifying a duration for the approval, the person granted the **approval** may apply to the **council** to renew the **approval**, before the end of its duration, by informing the council, in writing, the approval is still necessary and:

- (a) demonstrating any conditions are being met; or
- (b) seeking amendment of the conditions and giving reason why.

## 26 Amending an approval

- (1) A person granted an approval may –
  - (a) at any time within the duration of the approval; or
  - (b) at any time if the approval does not have a duration specified in its conditions – apply to the council to amend the approval or its conditions.
- (2) An application for amendment must be made in the same manner as an application for an approval, with any necessary modifications.

## 27 Transferring of approval

Approvals are not transferable.

### Related information

For example, a customer granted approval for an **ordinary supply** cannot supply their neighbour with water from this supply.

## 28 Suspending or cancelling an approval

- (1) The **council** may suspend or cancel an **approval** if:
  - (a) any conditions are not being met; or
  - (b) the **approval** is affecting the efficient and safe operation of the water supply system.
- (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 were the reasons for the suspension or cancellation.

- (4) 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 dates 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 sub-clauses (4) or (5) affects the right of the person to apply for judicial review of a decision to suspend or cancel an **approval**.
- (7) Any fees paid for the approval are not refundable if the council suspends or cancels the **approval**.

## 29 Other obligations not affected

An **approval** does not affect or limit the obligations of any person to comply with any legislation that applies to the matters covered by the **approval**.

## Part 5: Protection of the treated water supply system

### 30 No connection to other water supplies or fittings

- (1) No person other than **council** or its agents may connect to the **treated water supply system** without an approval from the **council**.
- (2) No person other than council or its agents may make or maintain a **direct connection** between the **treated water supply system** and any drainage system, sanitary fitting, or any apparatus used for the reception or conveyance of any liquid, gas, or drawn water.

### 31 Fittings to be in good repair

- (1) A person must not allow any pipe, tap, or other fitting connected with the water supply on their premises to be out of repair or in any way defective so that water is wasted, misused or contaminated.
- (2) Where, in the opinion of the **council**, any pipe, appliance or fitting connected to the water system at any premises:
  - (a) has deteriorated; or
  - (b) is of inferior quality or workmanship; or
  - (c) is causing or is likely to cause waste of water; or
  - (d) is insufficient for the proper supply of waterthe **council** may require, by notice in writing, the **customer** to carry out any work the council considers is necessary to remedy the pipe, appliance or fitting.
- (3) The **customer** must comply with a notice given under subclause (2) within 5 working days.
- (4) Subject to the provisions of the Local Government Act 2002, the customer shall allow the council and its agents to enter the property with or without equipment, access any area of the property for the purposes of determining compliance with these requirements.

#### Related information

Under section 171(1) of the Local Government Act 2002 the council cannot enter a dwelling house to determine compliance.

- (5) If the occupier fails to carry out the work required by the **council**, the **council** or its agent may make the repair at the occupier's expense.

### 32 Prevention of contamination

- (1) Every **customer** must prevent **backflow** either by providing an adequate air gap or by using a **backflow prevention device**.

#### Related information

Under clause G12.3.2 of the Building Code (Schedule 1 of the Building Regulations 1992)

all buildings are required to have equipment installed to prevent contamination of the water supply system. This equipment is usually in the form of a backflow prevention device. Technical details regarding **backflow prevention devices** are included in the **engineering standards**.

- (2) No person may return, or allow to return, any water drawn from the **council's** water supply system to any main or pipe or any other part of the **treated water supply system**.

### 33 Access to inspect and maintain

- (1) In order to read meters, the **council** may enter private land within 24 hours of providing notice to the **owner** or **occupier**. The **council** will read meters between the hours of 8am and 6pm.
- (2) In order to inspect, test, or maintain **the treated water supply system**, the **council** may enter private land 24 hours after providing notice to the **owner** or **occupier**. The **council** will inspect, test or maintain the system between the hours of 8am to 6pm.
- (3) Under emergency conditions the **council** may enter private land without notice to the **owner** or **occupier** to maintain or repair the treated water supply system. This may occur at any hour.

## Part 6: Charges

### 34 Charges

Charges involving the **treated water supply system** are listed in the **council's** Fees and Charges.

#### Related information

These charges can be found on the **council's** website at <https://www.fndc.govt.nz/files/assets/public/objectivedocuments/policy-and-planning-pol/ltf-and-annual-plans/fees-and-charges/fees-and-charges.pdf>

## Part 7: Offences and penalties

### 35 Offences

Any person who breaches this bylaw commits an offence under section 239 of the Local Government Act 2002.

#### Related information

A person who is convicted of an offence of breaching this bylaw is liable to a fine of up to \$20,000 under section 242 (4) of the Local Government Act 2002.

Examples of breaches of this bylaw include:

- use of ordinary supply for extraordinary purposes,
- use of extraordinary supply for purposes other than specified by **council**
- not meeting the conditions of an approval
- not complying with a restriction or prohibition on the use of treated water without a temporary exemption granted by the **council**
- work on the **treated water supply system** without an approval
- connecting to or disconnecting from the **treated water supply system** without approval
- failure to remedy deficient pipes

## Part 8: Savings and transitional provisions

### 36 Water supply bylaw revoked

The Water Supply Bylaw made by the council on 16 October 2009 and all amendments made to that bylaw are revoked.

### 37 Applications, approvals etc under previous bylaw

- (1) Every licence, permit, dispensation, permission or other form of approval granted under the Water Supply Bylaw revoked in clause 36 that was in force immediately before the commencement of this bylaw, continues in force as if it is an approval of that kind issued under this bylaw; but:
  - (a) it expires on the date specified in that approval; or
  - (b) if no expiry date is specified, it expires on the date 12 months after the commencement of this bylaw.
- (2) Any application for a licence, permit, dispensation, permission or other form of approval made under the Water Supply Bylaw revoked in clause 36, filed before the day on which this bylaw commenced, must be dealt with by the council as if it was made under this bylaw.
- (3) Any meter which was installed by the **customer** before the commencement of this bylaw must continue to be maintained by the customer until it is, in the opinion of **council**, no longer fit for use, when it will be replaced by a **council** meter.

## Schedule

### 38 Diagrams illustrating parts of the water supply system

The Schedule is included solely to assist in understanding the meaning of some provisions of this bylaw, it has no legal effect and if there is an inconsistency between the content of the Schedule and the provisions of this bylaw, the provisions of this bylaw prevail.

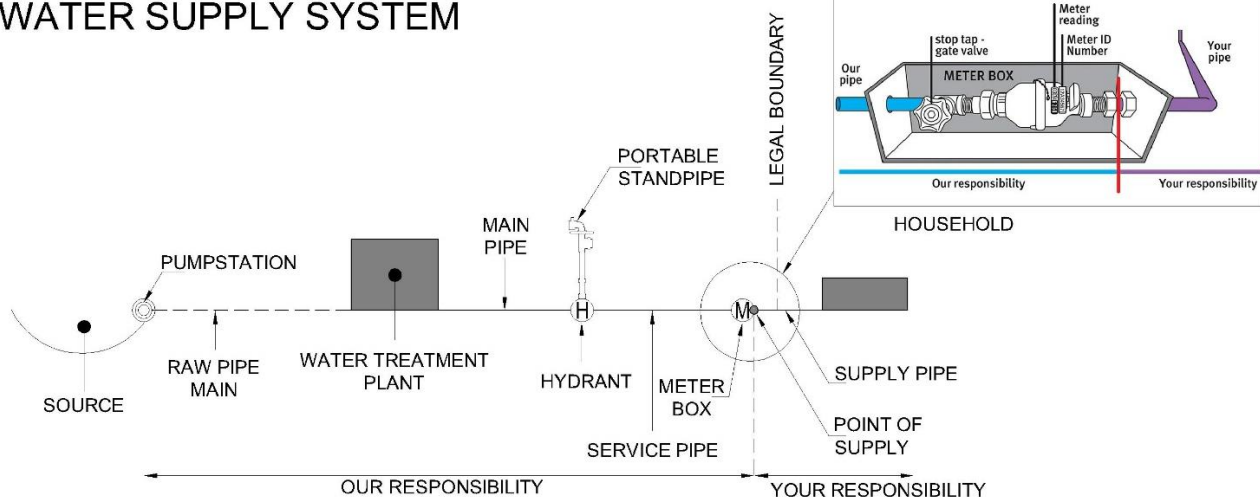
## Schedule

Clauses 6, 7 and 17

### Part 1: Treated water supply system

Illustration of the components of the **treated water supply system**.

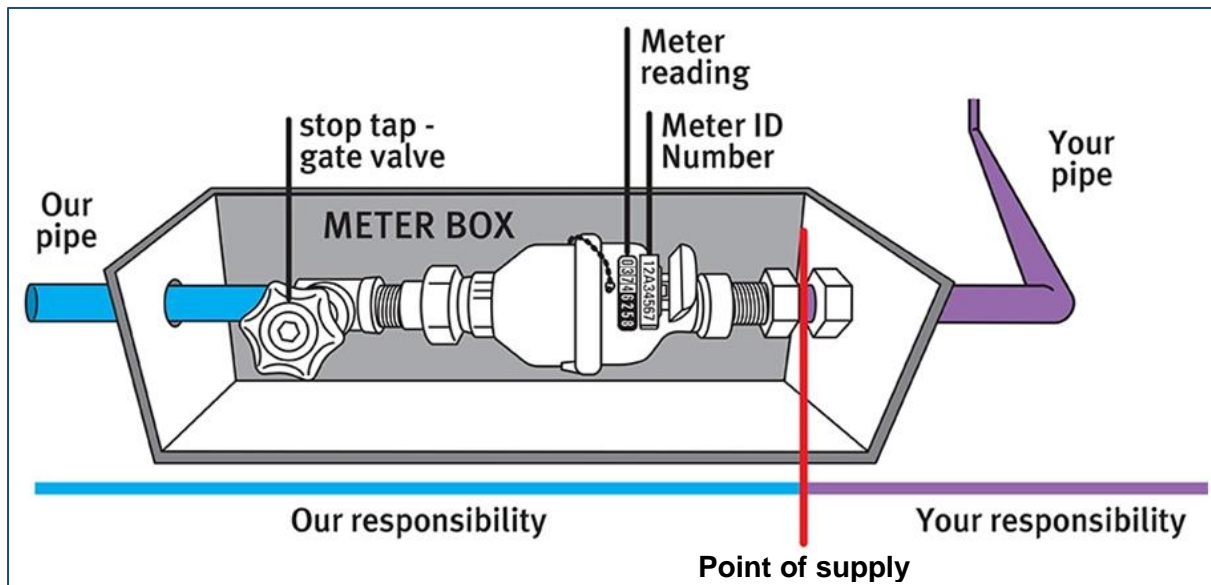
**FIGURE 2: SCHEMATIC LAYOUT OF THE WATER SUPPLY SYSTEM**





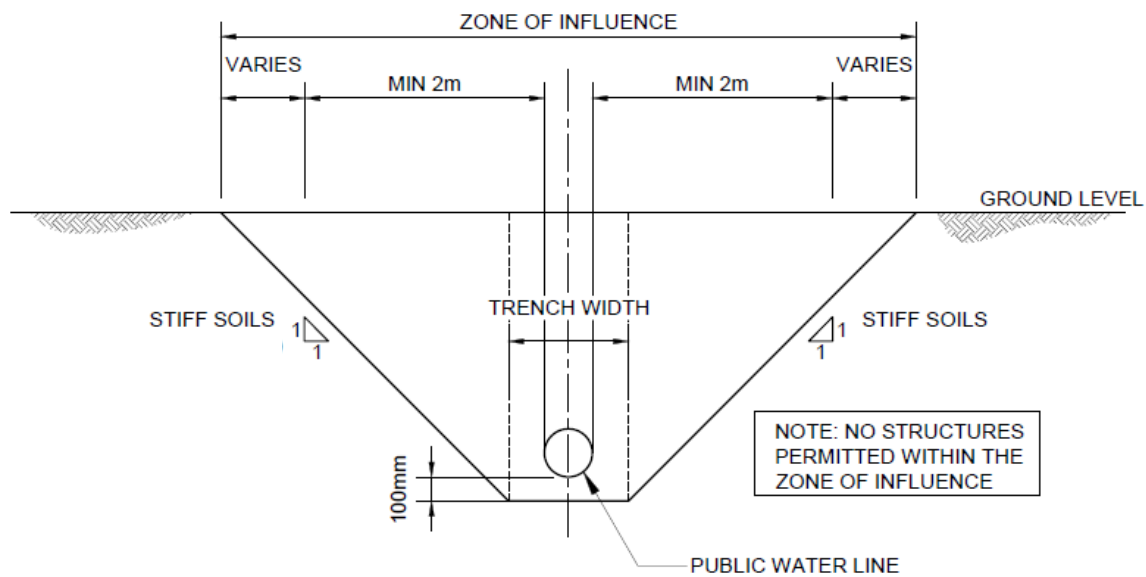
## Part 2: Point of supply layout

Illustration of typical layout of the fittings at the **point of supply**.



## Part 3: Zone of influence

Illustration of the zone of influence around a **public water line**.



## 5.2 NEW PARKING AND ROAD USE BYLAWS

**File Number:** A3137326

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### TAKE PŪRONGO / PURPOSE OF THE REPORT

The purpose of this report is for the Strategy and Policy Committee to recommend Council make two new bylaws to regulate parking and road use in the Far North District.

### WHAKARĀPOOTO MATUA / EXECUTIVE SUMMARY

- The Parking and Traffic Control Bylaw was due for review by 17 June 2020, but it was not reviewed, and therefore will be automatically revoked on 17 June 2022 under section 160A of the Local Government Act 2002.
- A new bylaw is required to continue to regulate parking and road use in the Far North District.
- There are two options for the form of the new bylaw:
  - a single bylaw made under the Local Government Act 2002 and Land Transport Act 1998,
  - or two separate bylaws (one for parking and one for road use) made under the Land Transport Act 1998.
- The advantages and disadvantages of the two options are similar, with the option of two separate bylaws having slightly more advantages in providing clarity and easier enforcement.

### TŪTOHUNGA / RECOMMENDATION

**That the Strategy and Policy Committee makes the following recommendation to Council:**

**That Council determine, under section 155(1) of the Local Government Act 2002, that two new bylaws regulating parking and road use, made under the Land Transport Act 1998, are the most appropriate way of addressing the problems in the Far North District:**

- competition for space in the central business districts.**
- congestion in the central business districts.**

### 1) TĀHUHU KŌRERO / BACKGROUND

#### Context

The governing body of the Far North District Council made a Parking and Traffic Control Bylaw on 17 June 2010. The bylaw was made under the Local Government Act 2002 and Transport Act 1962 (despite the fact the Transport Act 1962 had been replaced by the Land Transport Act 1998). Under the Local Government Act 2002, the bylaw was due for review by 17 June 2020. It was not reviewed, and therefore will be automatically revoked on 17 June 2022 under section 160A of the Local Government Act 2002.

In 2019 the Far North District Council, with expert assistance from Commute Transportation Consultants, did extensive research and analysis on transport problems in the Far North. A set of strategic responses to the problems was created following a robust and thorough public consultation process. The responses are included in an Integrated Transport Strategy for the Far North District that was endorsed by the governing body on 10 December 2020. The strategic responses were also included in a Programme Business Case to obtain funding from Waka Kotahi (the New Zealand

Transport Agency) for the Council to develop policies, plans and works to address the problems. Waka Kotahi has yet to make a decision on the Programme Business Case.

### **Problem definition**

The population of the Far North District has grown significantly in the past 10 years from 59,000 in 2010 to 71,000 in 2020. Most of the increase has occurred since 2014 with at least 2% increase in population per year and most new residents are in the three largest towns: Kaitiāia, Kaikohe and Kerikeri<sup>1</sup>. The impacts of this growth are recognised in the Integrated Transport Strategy when it states: “Changing demographics and land uses increases pressure to provide better and safer transport networks and more travel choices”. Increasing urbanisation of parts of the Far North District has resulted in more private motor vehicles travelling into, or through, the urban areas. This has then created:

- competition for the use of space in central business districts between private motor vehicles and other transport modes, or commercial or recreational activities
- congestion on the limited number of routes into and through central business districts at “peak” times.

The Council’s records have limited information about the evidence used to inform the decision to make the Parking and Traffic Control Bylaw in 2010. The reports generally assert that because legislation gives the Council the power to make a bylaw, it should make a bylaw. Fortunately, the Integrated Transport Strategy provides a sound evidence base to support the existence of the above problems (competition for space and congestion) and the need to address them by regulating parking and road use. The Programme Business Case includes, for example, funding towards travel demand management planning activities and physical improvement works to the roading network.

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

### **Methods to address problems**

The only form of regulation a council can make is a bylaw. Before a bylaw is made, the governing body of the Council is required, under section 155(1) of the Local Government Act 2002, to determine “whether a bylaw is the most appropriate way of addressing the perceived problem”. This means the Council must consider all possible methods for addressing the problem and only make a bylaw if it will be more effective than the other methods.

The full range of methods for addressing the problems will only be known when detailed development of the strategic responses in the Integrated Transport Strategy is completed. However, while some of that development has started, it will not be completed before the end of 2021 and a decision on whether to make a bylaw regulating parking and road use needs to be made now. That is because any new bylaw would need to be made before June 2022, before the existing bylaw is automatically revoked, and the process of drafting and consulting on a new bylaw will take around 12 months. In the absence of the policy detail that will come from the implementation of the Integrated Transport Strategy, it is difficult to do the analysis required for the determination under section 155(1) of the Local Government Act 2002. Further, without the benefit of higher-level policy to guide decision-making, there is a risk a new bylaw will either under- or over-regulate and lead to outcomes that cause unnecessary cost to the Council and community. For example: if new parking spaces are made in a place that are then not regularly used<sup>2</sup>, the cost of new signs or road markings will be wasted and drivers will waste time looking for parking spaces in areas that are not convenient for them.

Therefore, until such time as the Integrated Transport Strategy is implemented, the best way to address the problems is to consider whether the provisions in the existing bylaw should continue to apply. The Council should determine whether the provisions in the existing bylaw are the “most appropriate” regulation (of parking and road use) to address the problems of competition for space and congestion in the District’s central business districts.

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<sup>1</sup> .id Estimated residential population figures 1996 – 2020

<sup>2</sup> This could potentially happen because policies on travel demand management are not available to inform where the best location is for the creation of new parking spaces.

## Assessment of existing bylaw provisions

To determine the appropriateness of the provisions of the existing bylaw, they have been assessed for:

- Legality – are they consistent with applicable empowering legislation?
- Clarity – can road users easily understand their obligations?
- Enforceability – are the methods available sufficient to deal with breaches?
- Necessity – is there evidence of a problem that is being addressed?

The assessment is summarised in the following table:

Criterion	Assessment
Legality	Some provisions are inconsistent with the applicable empowering provisions in legislation.
Clarity	<ul style="list-style-type: none"> <li>• The Schedules to the bylaw are not all accurately referred to in the main body of the bylaw.</li> <li>• Some provisions overlap with two other bylaws, Control of the Use of Public Places and Mobile Shops and Hawkers, in regulating activities both on roads and “public places” adjacent to roads*.</li> </ul>
Enforceability	Informal surveys by the Council’s Parking Warden show some parking restrictions are different “in real life” to what is written in the Schedules, making enforcement difficult.
Necessity	Some provisions, while addressing a known problem, are unnecessary because the problem is dealt with directly in transport legislation.

\*In addressing the problems, consideration will need to be made of which provisions, if any, in the Control of the Use of Public Places and Mobile Shops and Hawkers bylaws should be included in a new bylaw.

## Options

Under section 77 of the Local Government Act 2002, the Council is required to:

- seek to identify all reasonably practicable options
- assess the options in terms of their advantages and disadvantages
- take into account the relationship of māori and their culture and traditions with their ancestral land, water, sites, wāhi tapu, valued flora and fauna, and other taonga.

“Doing nothing” is not a reasonably practicable option. The current bylaw will be automatically revoked on 17 June 2022 and all the existing parking and road use regulation will cease to have effect from that date. A new bylaw is required.

There are **two** reasonably practicable options for the form and content of a new bylaw that are assessed below, using the same criteria as in the table above. Under either of the options, the appropriateness of the existing bylaw provisions will be addressed as follows:

- Provisions that duplicate legislation will not be included.
- Existing restrictions and controls will be continued without amendment, except to correct errors (e.g. incorrect description of location of parking spaces) or update wording to be consistent with legislation.
- The term “traffic control” will be replaced with the term “road use” to make it clear the bylaw regulates all uses of the road, not just traffic or moving vehicles.
- Restrictions and controls in the Control of the Use of Public Places Bylaw and Mobile Shops and Hawkers Bylaw that apply to roads will be included, if they are still necessary<sup>3</sup>.
- Drafting of the bylaw will be improved to meet best practice drafting standards (as advocated by the Parliamentary Counsel Office).
- An implementation plan will set out tasks required to, among other things, check signs or road markings and guide enforcement.

<sup>3</sup> On 21 May 2020 the governing body of the Council agreed a bylaw was appropriate to address problems with trading in public places (a broader description of mobile shops and hawkers). A bylaw has not yet been developed.

**Option 1: Make a new bylaw under Land Transport Act 1998 and Local Government Act 2002**

This option is effectively maintaining the status quo. The existing bylaw was made under both Acts.

Due to lack of information in the Council records, it is presumed both Acts were used to enable the bylaw to regulate matters that do not apply to roads or traffic, i.e. activities in “public places”. For example, clause 2006.5 requires any person carrying out “building operations” on “any public place” to get permission for the operations from the Council. As noted in the table assessing the existing bylaw above, this resulted in the bylaw overlapping with the Control of the Use of Public Places Bylaw and the Mobile Shops and Hawkers Bylaw. Both those bylaws have been automatically revoked under section 160A of the Local Government Act 2002 due to not being reviewed by the date required. So, even though the overlap no longer exists, a new bylaw will need to be clearer about the places it applies to in order to avoid any potential future overlaps with other bylaws or policies.

While it is good practice to avoid making multiple regulations when one will do, in this instance there would be four separate topics covered in one bylaw: parking, road use, mobile shops, and other uses of “public places” near roads. This may restrict the flexibility to respond to future changes – changing one part of a bylaw inevitably leaves room for people to advocate changes to other parts and potentially lengthen the amendment process unnecessarily. The length of the bylaw may also make it difficult for users to browse and easily find provisions that are relevant to them.

This option is not preferred because it will not meet the criterion of clarity. Clarity will be harder to achieve if the bylaw is made under the empowering provisions of both the Land Transport Act 1998 and the Local Government Act 2002 due to the broad scope of the latter Act, and having four different topics in a single bylaw may make it difficult for people to use.

**Option 2: Make two new bylaws – one dealing with parking and one dealing with road use – under the Land Transport Act 1998 (preferred option)**

Section 22AB of the Land Transport Act 1998 gives the Council extensive powers to make bylaws regulating all aspects of road use. The powers also extend to “public places” that may not, by legal definition, be part of a road, but are adjacent to the road and therefore should be regulated together. Even though section 22AB(5)(c) of the Land Transport Act 1998 says it does not limit the power to make bylaws under any other Act, the powers in the Local Government Act 2002 should only be used if there is a very clear public safety or health or nuisance problem that is not addressed in transport legislation. The transport legislation is extensive (the Land Transport Act 1998, plus numerous regulations and rules) in regulating roads, traffic and the behaviour of road users. It is therefore highly unlikely the transport legislation has missed or overlooked any particular problem or matter that should be regulated.

Under this option, to meet the clarity criterion, regulation of parking would be separated from the other road use regulation. The sheer volume of parking spaces, time limits and possible future provisions (e.g. parking fees) means a parking bylaw will be a long document and likely to require regular amendments to respond to the demands of the transport network. Also, responsibility for the enforcement of parking restrictions and other road uses is split between the Council and the Police. The Council is only responsible for enforcement of parking and a small number of “stationary vehicle offences” (defined in the Land Transport (Offences and Penalties) Regulations 1999). All other road use matters are dealt with by the Police. It is therefore better for parking to be regulated in a stand-alone bylaw for ease of enforcement. A second bylaw would deal with all the other aspects of road use, including the use of “public places” adjacent to roads.

**Assessment of advantages and disadvantages of options (costs and benefits)**

The costs and benefits of both options are roughly the same. The resources required to develop and implement a single bylaw vs two bylaws are the same, if the two bylaws are done at the same time, i.e. there is no duplication of costs for public consultation. Similarly, if two bylaws are done at the same time the cost to the community is the same as it would be for a single bylaw, i.e. cost of involvement in consultation and cost of any changes to behaviour required by the new bylaws. Both options will meet the strategic responses in the Integrated Transport Strategy of improving safety,

managing for growth, and making best use of our existing network, and therefore be of benefit to the health and safety of the communities in the Far North District.

A minor additional advantage of option two is that bylaws made under the Land Transport Act 1998 are not subject to the mandatory reviews that apply to bylaws made under the Local Government Act 2002. This means the risk of the Council finding itself in the same situation as it is now (bylaw about to revoke due to not being reviewed) will be avoided.

### **Impacts on tāngata whenua and te ao Māori**

There will be impacts on tāngata whenua from the regulation of road use. Where structures or mobile shops are allowed on roads, the location of those things will need to be compatible with the protection of sites that are significant to māori. The significance could be for traditional, spiritual, religious, ritual, or mythological reasons.

A new bylaw will therefore need to be developed in partnership with tāngata whenua to ensure the decisions about the content of the bylaw take into account the relationship of māori with the places the bylaw applies to, as required by section 77(1)(c) Local Government Act 2002.

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

A new bylaw is required to maintain the status quo of the parking restrictions and controls on road use that currently apply in the Far North District. There is no other regulatory method for maintaining the restrictions and controls, and the Integrated Transport Strategy provides a good evidence base for the need for regulation. The decision is whether to make one new bylaw or two separate bylaws, and under which legislation. Either option will contribute to the strategic responses in the Integrated Transport Strategy. The advantages of two separate bylaws are slightly higher because:

- clarity about the scope of the regulation will make the bylaws easier for people to understand
- separate bylaws reflect the split of enforcement responsibilities between the Council and the Police
- there will be more flexibility to respond to changes in the transport network by amending the bylaws.

Making the new bylaws under the Land Transport Act 1998 will also be better for clarity and has the added advantage of not being subject to mandatory reviews and the risk of being automatically revoked. Therefore option two is the preferred option and it is recommended the governing body of the Council determine, under section 155(1) of the Local Government Act 2002, "bylaws made under the Land Transport Act 1998 are the most appropriate way of addressing the problems of competition for space and congestion in the central business districts of the Far North District".

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

The costs of developing, consulting on, and implementing the new bylaws will be met within existing budgets.

### **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>	The proposal is of low significance because it is effectively maintaining the status quo.
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	The decision will support the implementation of the Council's Integrated Transport Strategy. The decision complies with the Council's obligations under the Local Government Act 2002 and will make appropriate use of the Council's powers under the Land Transport Act 1998.
State whether this issue or proposal has a District wide relevance and, if not, the ways in which the appropriate Community Board's views have been sought.	The proposal affects the whole District and therefore will be of interest to Community Boards, though, because the proposal is to effectively make no change to the existing regulation, decisions from the Community Boards are not required at this stage.
State the possible implications for Māori and how Māori have been provided with an opportunity to contribute to decision making if this decision is significant and relates to land and/or any body of water.	There are implications for māori that are described in the body of the 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).	Identification of affected and interested people will be completed in the next stage of the work as part of the development of the new bylaws.
State the financial implications and where budgetary provisions have been made to support this decision.	Costs of the decision can be met within existing budgets.
Chief Financial Officer review.	The Chief Financial Officer has reviewed this report.

### 5.3 CONTROL OF ON-SITE WASTEWATER DISPOSAL SYSTEMS BYLAW

**File Number:** A3122244

**Author:** Briar Macken, Planner

**Authoriser:** William J Taylor MBE, General Manager - Strategic Planning and Policy (Acting)

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

The purpose of this report is for the Strategy and Policy Committee to recommend to Council to agree to make a Control of On-site Wastewater Disposal Systems Bylaw.

#### TE WHAKARĀPOPOTO MATUA / EXECUTIVE SUMMARY

- The Control of On-site Wastewater Disposal Systems Bylaw 2010 (the Bylaw) will automatically revoke on 26 May 2022.
- Poor maintenance is the main cause of on-site wastewater disposal system failure.
- Failed on-site wastewater disposal systems lead to effluent discharge and contamination.
- The Bylaw has been effective in regulating the maintenance of on-site wastewater disposal systems in the Far North District.
- A bylaw is the most appropriate way of addressing problems relating to maintenance of on-site wastewater disposal systems.
- A new form of bylaw is required to ensure the bylaw aligns with current legislation and Council policies.

#### NGĀ TŪTOHUNGA / RECOMMENDATION

**That the Strategy and Policy Committee makes the following recommendation to Council:**

**That Council agree, under section 155(1) of the Local Government Act 2002, a bylaw is the most appropriate way of addressing problems related to the maintenance of on-site wastewater disposal systems in the Far North District.**

#### 1) TE TĀHUHU KŌRERO / BACKGROUND

The Control of On-site Wastewater Disposal Systems Bylaw 2010 (the Bylaw) will auto-revoke on 26 May 2022 as the bylaw was not reviewed in time. The Bylaw was made using the Council's discretionary functions under section 146a of the Local Government Act 2002.

The Council is required under section 155(1) of the Local Government Act 2002 to make determinations as to whether a bylaw is the most appropriate way of addressing the perceived problem with respect to maintenance of on-site wastewater disposal systems.

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

Council can specifically make a bylaw regulating the maintenance of on-site wastewater disposal systems under section 146a of the Local Government Act.

The design and installation of on-site wastewater disposal systems is regulated under the:

- Building Act 2004
- Resource Management Act 1991
- Plumbers Gasfitters and Drainlayers Act 2006.

Environmental harm from on-site wastewater disposal systems is regulated by Northland Regional Council. Clause 6.1 of the *Regional Plan for Northland* requires an on-site system to be maintained effectively and discharge to not contaminate water sources nor cause offensive or objectional odour.



In the case of a complete failure of an on-site wastewater disposal system, enforcement can occur under the Health Act 1956.

**Problem to be addressed**

There are currently 15,602 on-site wastewater disposal systems in the Far North District, of which 12,213 (78%) are septic tanks.

All on-site systems require regular attention to function effectively. Unfortunately, research shows that many people don't understand or recognise the importance of managing and maintaining their on-site system.

Nationally, community failure rates range from 15 to 50%. Failure is generally defined as inadequately treated wastewater entering groundwater or surface water. The main cause of on-site wastewater disposal system failure is lack of ongoing servicing and regular maintenance.

Wastewater discharging from failing systems contains pathogens (e.g., E.coli, and campylobacter) and nutrients (e.g., nitrates, phosphorus and sodium) that can be harmful to humans and the environment. Effluent discharge and contamination can lead to:

- public health harm (disease and / or illness) from:
  - having direct contact with wastewater,
  - drinking contaminated water,
  - swimming and paddling in contaminated streams, lakes, estuaries, and beaches,
  - eating contaminated shellfish, either from private or commercial shellfish gathering.
- an increase in flies and mosquitoes.
- economic harm caused by having to close shellfish farms (even if no disease occurs).
- nuisance weed growth and/or algal blooms caused by elevated nutrient levels.
- deterioration of freshwater ecosystems due to reduced water quality.
- permanent soil degradation caused by high levels of sodium and other salts from washing powders being disposed of through disposal fields.

During 2002-2003, the Council conducted on-site effluent surveys and identified that 90% of effluent discharge found in stormwater samples was due to the lack of maintenance of on-site wastewater disposal systems. To manage potential harms to the environment and public health the Council introduced a Bylaw in 2006.

Research has not identified any other problems relating to on-site wastewater disposal systems not currently controlled or addressed by either the Bylaw or existing legislation.

**Research findings**

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

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

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

The Bylaw has enabled the development of accurate on-site wastewater disposal system records and maintenance systems. All newly installed on-site wastewater disposal systems are captured through the consenting process. Existing systems are added to the register by notification either from the property owner, or independent tank cleaning contractors. Council sends reminder notices to property owners when their on-site wastewater disposal systems are due for assessment.

Assessment is conducted by independent contractors at the property owner's expense. Contractors inform Council of the status of a disposal system once cleaning has occurred. On-site wastewater disposal system contractors are approved by Council through an application process which includes health and safety assessments and allows for Council to provide quality control processes.

These records provide an opportunity to look at options to support the maintenance of on-site wastewater disposal systems outside of a bylaw.

A bylaw is the most appropriate way to address problems relating to on-going maintenance of on-site wastewater systems in the Far North District for the following reasons:

- maintenance of on-site wastewater disposals systems is not covered under existing legislation.
- the current Bylaw has been effective in preventing on-site wastewater system failures and therefore,
  - preventing effluent discharge and contamination.
  - protecting public health.
  - preventing or abating health nuisances.
- nationally, providing information only has resulted in a 15-50% failure rate.
- without a bylaw, enforcement can only occur in the case of complete failure of an on-site wastewater disposal system.

#### **Option One: Make a bylaw (recommended)**

A new form of bylaw is needed to ensure the bylaw is streamlined with current legislation and Council policies.

##### *Advantages and disadvantages of the status quo*

- Advantages
  - Maintenance of on-site wastewater disposal systems continue to be regulated
  - preventing effluent discharge and contamination
  - protecting public health
  - preventing or abating health nuisances
  - Register and contractor systems are already in place
- Disadvantages
  - None

#### **Option Two: Council provides information, education, and advice**

The Bylaw auto-revokes and a new bylaw is not made.

Council maintains the on-site wastewater disposal system records and reminder notice system. Independent contractors continue to be audited for quality control. Assessment processes, including notifying Council of work undertaken, are maintained through Council's preferred contractor application process. Information continues to be provided on the Council website. Council reinstates a low-cost inspection service which would require at least one full time equivalent plus resources.

Enforcement can occur only in the case of complete failure of an on-site wastewater system:

- a notice to rectify can be issued under section 124 of the Building Act
- a person can be liable for a fine of \$500 upon conviction under the Health Act 1956

##### *Advantages and disadvantages of providing information, education, and advice only*

- Advantages
  - Register and contractor systems are already in place, removing the main set-up cost of an education only system.

- Disadvantages
- Risk that property owners will be less inclined to clean and maintain on-site wastewater disposal systems without regulation leading to increased risk of effluent discharge and contamination.
  - Council can only enforce repair of an on-site wastewater disposal system once complete failure has occurred.

### **Option Three: Council services all on-site wastewater disposal systems in the District**

The Bylaw auto-revokes and a new bylaw is not made.

Council provides regular inspections and cleaning of on-site wastewater disposal systems in the District. Cost for the service would be recuperated via a targeted rate.

Property owners would still be responsible for repairs required to their on-site wastewater disposal systems. However, the Council may be responsible for any damaged caused during the cleaning process.

Enforcement can occur only in the case of complete failure of an on-site wastewater system:

- a notice to rectify can be issued under section 124 of the Building Act
- a person can be liable for a fine of \$500 upon conviction under the Health Act 1956

#### *Advantages and disadvantages of allowing the Bylaw to auto-revoke*

Advantages

- Register and contractor systems are already in place, removing some of the set-up costs.

- All on-site wastewater systems would be maintained regularly

Disadvantages

- Requires the implementation of a targeted rate

- May require septage screens to be installed at more wastewater treatment plants, increasing infrastructure costs.

- Risk that Council may be liable for repairs to on-site wastewater disposal systems if damaged during the cleaning process.

- As a result of the upcoming Three Waters reforms, the operation and maintenance of wastewater will most likely be regionalised.

- Council can only enforce repair of an on-site wastewater disposal system once complete failure has occurred.

### **Option Four: Do nothing: Allow the Bylaw to auto-revoke**

Allowing the Bylaw to auto-revoke and not implementing another viable option to support the maintenance of on-site wastewater disposal systems is not a reasonably practicable option.

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

A bylaw is the most appropriate way of addressing problems with maintenance of on-site wastewater disposal systems.

### **Next steps**

If Council agrees with a recommendation, a new form of bylaw will be drafted and is planned to be presented to the Strategy and Policy Committee at the 07 September 2021 meeting. As there is currently a bylaw in place, a new bylaw will be consistent with existing policies, therefore consultation will be conducted under section 82 of the Local Government Act 2002. The new bylaw will need to be in place before May 2022 when the current bylaw auto-revokes.

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

The cost of consulting on the recommended option will be met from existing operation budgets

#### **NGĀ ĀPITIHINGA / ATTACHMENTS**

1. **Research Report - On-site Wastewater - A3130552** [↓](#) 

**Te 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>Te 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>	As retaining the status quo is consistent with existing policies, the level of significance as determined by the <i>Significance and Engagement Policy</i> is low.
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	The decision recommended in this report applies to the Local Government Act 2002 sections 146, 155 and 160.
State whether this issue or proposal has a District wide relevance and, if not, the ways in which the appropriate Community Board's views have been sought.	As the recommendation is to maintain status quo, the Community Boards views have not been sought.
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.	Seeking the views and input of iwi in the development of bylaws is integral. Maori will be given an opportunity to contribute during the development of the draft bylaw and during the consultation stages of the bylaw development process.
Identify persons likely to be affected by or have an interest in the matter, and how you have given consideration to their views or preferences (for example – youth, the aged and those with disabilities).	Affected and interested parties will be given an opportunity to share their views and preferences during the consultation phase including: <ul style="list-style-type: none"> <li>• On-site wastewater service providers</li> <li>• Community groups concerned about on-site wastewater disposal systems in their community</li> <li>• Ngā Tai Ora – Public Health Northland</li> <li>• Ministry for the Environment</li> <li>• Northland Regional Council</li> </ul>
State the financial implications and where budgetary provisions have been made to support this decision.	The cost of consulting on retaining the current bylaw will be met from existing operation budgets.

Chief Financial Officer review.	The Chief Financial Officer has reviewed this report
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## 1 Purpose

To describe and discuss the research for the Control of On-site Wastewater Disposal Systems Bylaw.

## 2 Context and Situation

The Council's Control of On-site Wastewater Disposal Systems Bylaw 2010 (the Bylaw) was due for review by 26 May 2020 but has not been reviewed. It will be automatically revoked on 26 May 2022. Under section 155 of the Local Government Act 2002, the Council is now required to consider whether a bylaw is the "most appropriate way of addressing the perceived problem".

## 3 Objectives

### 3.1 Purpose of research

To determine whether a bylaw is the most appropriate way to address problems regarding on-site wastewater disposal systems in the Far North District as per section 155 of the Local Government Act 2002.

### 3.2 Review objectives

- To define on-site wastewater related problems in the Far North District that are within Council's function to control.
- To identify if a bylaw is the most appropriate way to address the regulation of on-site wastewater disposal systems in the Far North District.

## 4 Problem definition

Most on-site wastewater disposal systems in New Zealand are septic tanks. In the Far North District, 78% of on-site wastewater disposal systems are septic tanks. All on-site systems require regular attention to function effectively. Unfortunately, research shows that many people don't understand or recognise the importance of managing and maintaining their on-site system, and some are not even aware their wastewater is treated by an on-site system<sup>4</sup>.

Failure is generally defined as inadequately treated wastewater entering groundwater or surface water. Nationally, community failure rates range from 15 to 50%. Some causes of on-site wastewater disposal system failure are due to inappropriate design and installation; however, such risks are mitigated by the Building Act 2004 requirements. The main cause of on-site wastewater disposal system failure is lack of ongoing servicing and regular maintenance<sup>1</sup>. Appropriate management and regular maintenance can help identify problems early and reduce the need for costly repairs, with the added benefit of improving the lifespan of on-site systems.

Wastewater discharging from failing systems contains pathogens (e.g., E.coli, and campylobacter) and nutrients (e.g., nitrates, phosphorus and sodium) that can be harmful to humans and the environment. Effluent discharge and contamination can lead to:

- public health harm (disease and / or illness) from:
  - having direct contact with wastewater
  - drinking contaminated water
  - swimming and paddling in contaminated streams, lakes, estuaries, and beaches
  - eating contaminated shellfish, either from private or commercial shellfish gathering
- an increase in flies and mosquitoes
- economic harm caused by having to close shellfish farms (even if no disease occurs)
- nuisance weed growth and/or algal blooms caused by elevated nutrient levels
- deterioration of freshwater ecosystems due to reduced water quality

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<sup>4</sup> [MFE NES On-site wastewater discussion](#)

- permanent soil degradation caused by high levels of sodium and other salts from washing powders being disposed of through disposal fields.

Conservative estimates indicate that nationally more than 100 streams and over 100 coastal sites are affected by effluent discharge.

During 2002-2003, the Council conducted on-site effluent surveys and identified that 90% of effluent discharge, i.e. E. coli and faecal coliform found in stormwater samples, was due to the lack of maintenance of on-site wastewater disposal systems (septic tanks). To manage potential harms to the environment and public health the Council introduced a Bylaw in 2006.

#### 4.1 Council's role relating to on-site wastewater

##### 4.1.1 Local Government Act 2002

Council can specifically make a bylaw regulating on-site wastewater disposal systems under section 146a of the Act.

Under section 10, the purpose of local government is to "... promote the social, economic, environmental, and cultural wellbeing of communities, in the present and for the future". Failing and poorly maintained on-site wastewater disposal systems can have a negative effect on a community's wellbeing through direct impacts, such as affecting the physical health of people and causing environmental harm.

Under section 125, the Council is responsible for the provision of water and sanitary services in their districts and are required to assess the provision of these services. However, this requirement to assess sanitary services is for services available to communities and does not include assessments in relation to individual properties.

##### 4.1.2 Building Act 2004

The Council is required, by way of a building consent process, to ensure that the design and installation of an on-site wastewater system will operate in such a way that no threat is posed to safety or public health. The development of an on-site wastewater system must comply with clause G13 of the Building Code.

The effects of the discharge from on-site wastewater systems on the wider environment are not considered through the building consent process.

There is no mechanism under the Building Act to include a requirement in a building consent for ongoing monitoring or maintenance of on-site systems.

However, the complete failure of an on-site wastewater system would be deemed an unsanitary building under section 123. In that case, section 124 empowers the Council to require a property owner to take actions to remedy a situation where a failing on-site wastewater system is deemed an unsanitary building.

Under section 18 there is no mechanism for the Council to require compliance that is more restrictive than the Building Code.

##### 4.1.3 Health Act 1956

Under section 23, the Council has a duty to improve, promote and protect public health. Section 23 empowers the Council to require a property owner to take actions to remedy a situation where a failing on-site wastewater system is creating a nuisance or risk to public health.

Relating to on-site wastewater disposal, the Council can make a bylaw under section 64 for the following reasons:

- (a) improving, promoting, or protecting public health, and preventing or abating nuisances
- (g) regulating drainage and the collection and disposal of sewage, and prescribing conditions to be observed in the construction of approved drains
- (v) for the protection from pollution of food intended for human consumption and of any water supply.



Under section 65 the Council cannot make a bylaw that is more restrictive than the Building Act 2004 and the Building Code.

Nuisances are defined in section 29. Nuisances specific to on-site wastewater disposal systems are as follows:

- a) where any pool, ditch, gutter, watercourse, sanitary convenience, cesspool, drain, or vent pipe is in such a state or is so situated as to be offensive or likely to be injurious to health
- b) where any accumulation or deposit is in such a state or is so situated as to be offensive or likely to be injurious to health.

Under section 39 and 136, a person can be liable for a fine of \$500 upon conviction of an offense against the Act.

#### 4.1.4 Resource Management Act 1991

Requires consideration of the wider effects on the environment, including effects on public health. Discharges from on-site wastewater disposal systems are regulated by Northland Regional Council under section 15 of the Resource Management Act via the *Regional Water and Soil Plan for Northland*.

This plan is soon to be replaced by the *Regional Plan for Northland* in which on-site wastewater discharges will be regulated under clause 6.1. The Regional Plan requires an on-site system to be maintained effectively and discharge to not contaminate water sources nor cause offensive or objectional odour.

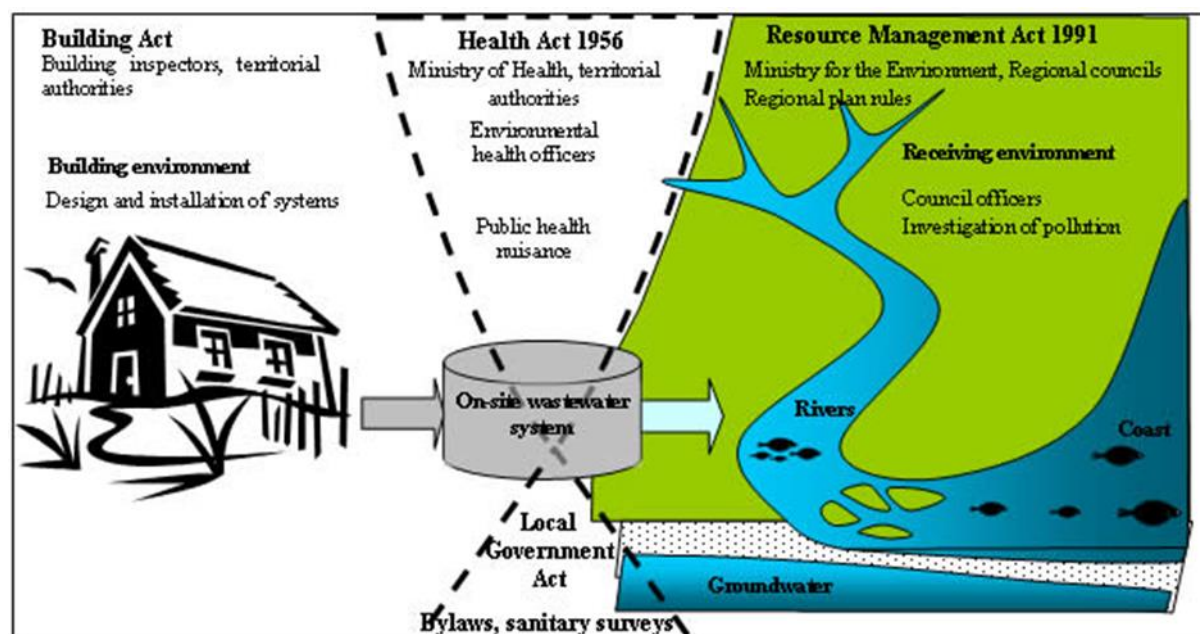


Figure 1: Showing an overview of roles relating to on-site wastewater disposal systems. Source: Ministry for the Environment<sup>1</sup>

## 4.2 Scope

### In scope

Problems relating to the ongoing maintenance of all types of on-site wastewater disposal systems in the Far North District which are a function of Council to control or address.

On-Site Wastewater Disposal System is defined as any system for the reception and disposal of wastewater, including any septic tank, mechanical system, alternative system cesspit, drainage or soakage pit or bore; and the field tiles, scoria, or stone contained therein; and, distribution bore, discharge field or soakage field that is a part of, or is connected to, any such system.

### Out of scope

- The design and installation of on-site wastewater disposal systems as installation is regulated under the:
  - Building Act 2004
  - Resource Management Act 1991
  - Plumbers Gasfitters and Drainlayers Act 2006.

- Environmental harm as the effects of on-site wastewater disposal systems on the environment is regulated by Northland Regional Council.
- The assessment of sanitary services provided to communities as this is covered by section 125 of the Local Government Act 2002.

#### 4.3 Purpose of current bylaw

The Onsite Wastewater Disposal Bylaw came into force in July 2006 after on-site effluent surveys at Okiato Point showed that 90% of effluent discharge was contaminated due to the lack of maintenance of these systems. The bylaw's primary objective is to protect the health and wellbeing of the community and to protect the environment from pollution arising from failed or deficient on-site wastewater systems.

The purpose of the bylaw was to ensure that all On-Site Wastewater Disposal Systems in operation or proposing to be installed, repaired or extended on properties in the District are installed, repaired, extended, operated and maintained in a safe and sanitary way with no or minimal adverse effects on the surrounding natural environment and in a manner that is culturally sensitive.

#### 4.4 Other problems relating to on-site wastewater disposal systems not currently controlled or addressed by the Bylaw

Research has not identified any other problems relating to on-site wastewater disposal systems not currently controlled or addressed by either the Bylaw or existing legislation.

### 5 Review of current Bylaw

As part of determining if a bylaw is the most appropriate way to address problems relating to the maintenance of on-site wastewater the current bylaw requires review for effectiveness.

The current Bylaw includes the following sections:

- Requirements (building)
- Inspections
- Maintenance requirements
- Offences and penalties.

#### 5.1 On-site Wastewater Systems in the Far North District

The Bylaw has enabled an accurate register of on-site wastewater systems in the Far North District. As shown in *Figure 1*, the number of registered on-site wastewater systems significantly increased after the Bylaw was implemented in 2006. The register also identifies the type of on-site wastewater system installed (as shown in *Table 1*).

Figure 2: Graph showing number of registered or installed on-site wastewater systems per year in the Far North District

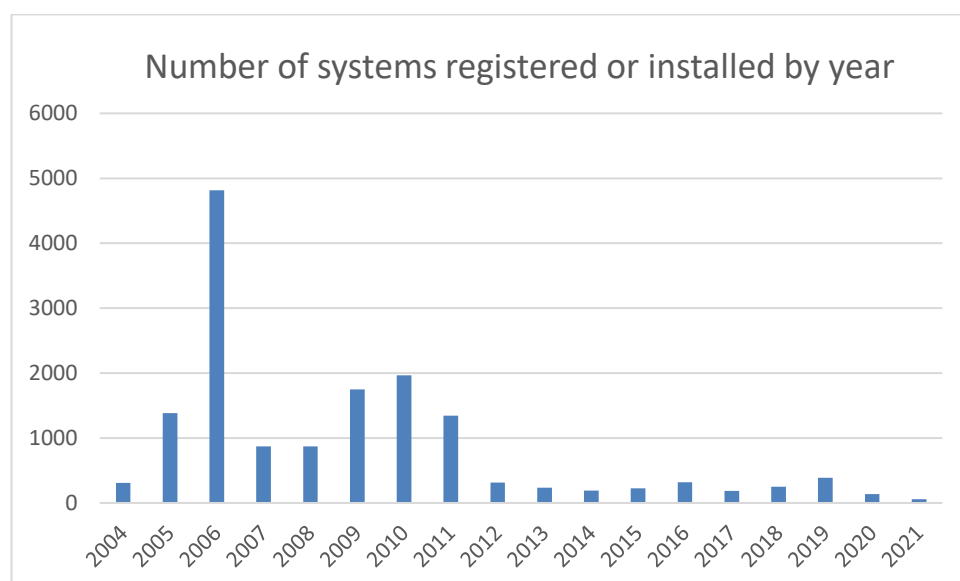


Table 1: Table showing type and number of on-site wastewater system installed in the Far North District

Type of on-site wastewater system installed	Number
Aerated Wastewater Treatment System Domestic	2793
Aerated Water Treatment System Commercial	3
E-Bin	6
Effluent Disposal System	166
Miscellaneous	149
Self-Composting System	264
Self-Serviced Aerated Wastewater Treatment System	8
Septic Tank	12213
<b>Grand Total</b>	<b>15602</b>

## 5.2 Requirements

The design and installation of on-site wastewater disposal systems is already regulated under the Building Act 2004 and Resource Management Act 1991. Some components of this section of the Bylaw repeat what is already covered in other legislation and are therefore unnecessary.

Clause 2803.2 states that “No On-Site Wastewater Disposal System shall be permitted to serve more than a single dwelling unit” meaning that decentralised wastewater systems are not permitted in the Far North District. Decentralised wastewater systems support urban growth, are easier to maintain, and are easier to retrospectively connect to a community wastewater system.

The current review of the Far North District Plan is investigating encouraging the use of decentralised wastewater systems. A new Bylaw would need to ensure decentralised wastewater systems are permitted.

## 5.3 Inspections

The Bylaw requires landowners in the Far North District to undertake any maintenance or repair work requested by the Council, at the owner’s expense. Inspections are conducted during audits, as a result of a complaint, or when identified as needed by on-site wastewater system maintenance contractors.

## 5.4 Maintenance requirements

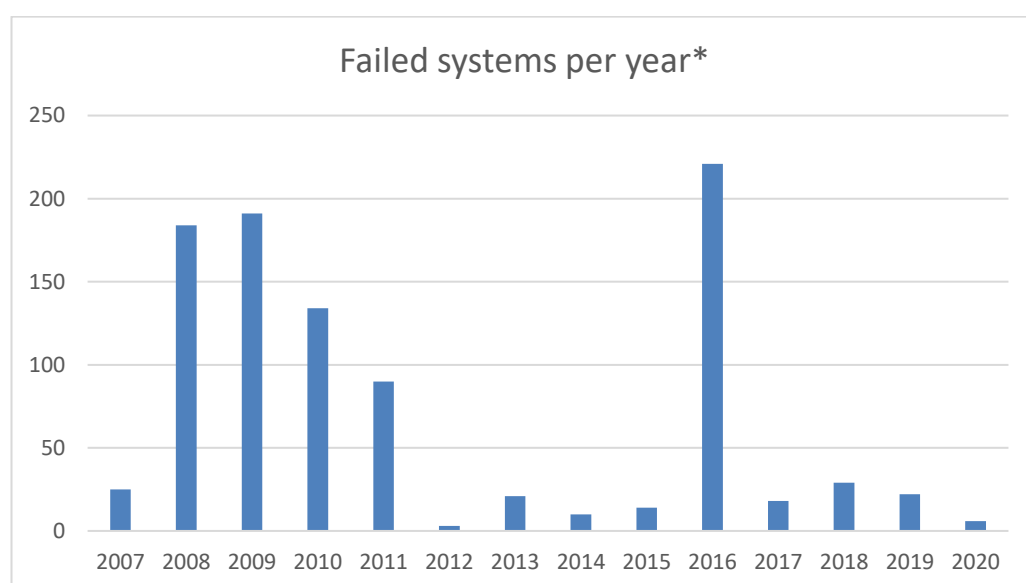
The Bylaw requires all on-site wastewater disposal systems to be assessed and if necessary, maintained every five years. The original Bylaw, made in 2006, required owners to assess their on-site wastewater disposal systems every three years. The 2010 review extended this to five years after community consultation. Further investigation is required to assess if five years is an appropriate maintenance schedule.

Septic tank cleaning and maintenance contractors are required to complete a site assessment check sheet and provide this information to Council. Secondary treated systems require the maintenance contractor to provide Council with evidence of routine maintenance. On-site wastewater disposal system contractors are approved by Council through an application process which includes health and safety assessments and allows for Council to provide quality control processes.

The owner of the on-site wastewater disposal system is responsible for the cost of assessment, cleaning and any repairs or maintenance.

Table 2 shows the number of failed on-site wastewater systems since 2007. As to be expected, there was a higher number of failed systems until 2011 as the Bylaw was being put into effect. The low numbers of failed systems from 2012 indicate that regular maintenance regulations are preventing systems failure and therefore preventing effluent discharge and contamination. Of note is the number of requests to rectify, of which there were none in 2019 and 2020 (Table 2).

Figure 3: Graph showing total number of on-site wastewater disposal system failures by year



\*Failed systems relates to the total number of failures as per Table 2.

Table 2: Table showing total number of on-site wastewater disposal system failures by failure type per year in the Far North District

Failures	Year 2007 - 2020													
	07	08	09	10	11	12	13	14	15	16	17	18	19	20
EHO - Notice to Fix					1									
Failed soakage / Effluent Field				4	4				2	4				
Lack of Maintenance										1				
Failure Suspected											1	15		5
Failure Confirmed				4	4	2		4	1	2	1			
Maintenance Required				5	3			2	4	9	12	12	22	1
Request to rectify	25	184	191	121	78	1	21	4	7	205	4	2		
<b>TOTAL</b>	<b>25</b>	<b>184</b>	<b>191</b>	<b>134</b>	<b>90</b>	<b>3</b>	<b>21</b>	<b>10</b>	<b>14</b>	<b>221</b>	<b>18</b>	<b>29</b>	<b>22</b>	<b>6</b>

In 2016, audits were conducted on all properties near Kerikeri. This was to gather area specific research to support a proposal for a new community wastewater system. The audit identified several systems that required repairs, hence the high number of requests to rectify in 2016. The community wastewater system has since been installed.

## 6 Other possible methods (beside a bylaw) to address the maintenance of on-site wastewater disposal systems

### 6.1 Council services all on-site wastewater disposal systems in the Far North District

Council could service all on-site wastewater disposal systems. The service would include regular inspections and cleaning of on-site wastewater disposal systems. Cost for the service would depend on the type of on-site wastewater disposal system installed on the property and need to be recovered via a targeted rate.

The most common (78%) type of on-site wastewater disposal system in the Far North District is a septic tank. Current on-site wastewater cleaning contractors charge between \$500 and \$700 for each septic tank clean. Therefore, a targeted rate of between \$100 and \$150 per annum would be required for every property with a septic tank installed.

Currently, septage is placed through a screen at certain wastewater treatment plants. Not all plants have a septage screen. Therefore, screens may need to be installed to ensure septage is being processed within a localised area.

Council has systems in place for servicing on-site wastewater disposal systems as Council currently services on-site wastewater systems on council owned properties and specific communities for example Kohukohu.

There is a risk that the system could become damaged during the cleaning process and Council may be held responsible for repairs to damage. In some case it may be difficult to identify if the damage was pre-existing or caused by the cleaning process.

Even with Council servicing all on-site wastewater disposal systems, property owners would still be responsible for any repairs required to their on-site wastewater systems. Without a bylaw, this would need to be enforced under the Health Act 1956. Enforcement under the Health Act 1956 can only occur in the case of a complete failure of an on-site wastewater disposal system.

However, central government is currently in the process of undertaking significant reforms to Three Waters management. As a result of the reforms, it is highly likely that the operations and maintenance of wastewater will be regionalised. Therefore, it would be imprudent to make significant changes to the management of on-site wastewater disposal systems before the reforms have been finalised.

### 6.2 Council provides information, education, and advice

Council could support the on-going maintenance of on-site wastewater systems through a system of providing information, education, and advice.

The Bylaw has enabled the development of accurate on-site wastewater disposal system records and maintenance systems. As all new on-site wastewater disposal systems require Council consent, the records regarding the number and type of on-site wastewater disposal systems would remain accurate without a bylaw.

Council has a system in place to send reminder notices to property owners when their on-site wastewater disposal systems are due for assessment. Assessment is conducted by independent contractors. Contractors are audited for quality control, and education is provided to contractors to ensure adequate servicing of on-site wastewater disposal systems. Contractors inform Council of the status of a disposal system once cleaning has occurred. Without a bylaw, these systems could remain in place and form the basis of an information, education and advise programme.

Information on maintenance of on-site wastewater disposal systems is provided on the Far North District Council, Northland Regional Council and Ministry for the Environment websites.

When the Bylaw was first introduced, Council provided property owners the option of having their septic tank inspected free of charge. This service no longer exists. However, to be able to provide advice to property owners, Council could reinstate the inspection service. The inspection service could be offered either free of charge or as a low-cost fee. The service would require at least one full time equivalent to implement.

Property owners are incentivised to regularly maintain on-site wastewater disposal systems as:

- poorly maintained on-site wastewater systems require expensive repairs and reduce the lifespan of a system
- the property owner is at the greatest risk of exposure to effluent discharge and contamination.

However, without the added incentive of regulation, property owners may delay the expense of routine maintenance for a year or two resulting in on-site wastewater disposal system failure.

The Far North District Council surveys conducted in 2002-2003 and national evidence indicate that relying on information only results in a 15-50% failure rate of on-site wastewater disposal systems. It is difficult to assess the potential effectiveness of maintaining the reminder notice system outside of a bylaw as research has not identified another territorial authority which uses a reminder system outside of a bylaw.

Enforcement would occur under the Health Act 1956 only in the case of a complete failure of an on-site wastewater disposal system.

## 7 Discussion

### 7.1 Is a bylaw the most appropriate way to address problems relating to on-going maintenance of on-site wastewater systems in the Far North District?

A bylaw is the most appropriate way to address problems relating to on-going maintenance of on-site wastewater systems in the Far North District for the following reasons:

- maintenance of on-site wastewater disposals systems is not covered under existing legislation
- the current Bylaw has been effective in preventing on-site wastewater system failures and therefore
  - preventing effluent discharge and contamination
  - protecting public health
  - preventing or abating health nuisances
- nationally, providing information only has resulted in a 15-50% failure rate
- without a bylaw, enforcement can only occur in the case of complete failure of an on-site wastewater disposal system

### 7.2 Is the current Bylaw the most appropriate form of bylaw?

Whilst the current Bylaw has been effective in regulating on-site wastewater disposal systems, some of the provisions of the Bylaw should be amended. Therefore, the new Bylaw should not keep the same provisions as the current Bylaw.

Amendments include:

- removing provisions which are covered under existing legislation e.g., Building Act 2004, Resource Management Act 1991
- streamlining provisions to ensure there is no duplication within the Bylaw
- removing provisions which only permit one dwelling to be served by a wastewater system, allowing for the provision of decentralised wastewater systems.

Further legal review will be required to ensure the most appropriate form of bylaw is presented to the Council before community consultation begins.

## 8 Conclusion

Bylaw controls remain a necessary regulatory mechanism for:

- ensuring the maintenance of on-site wastewater disposal systems, therefore
  - preventing effluent discharge and contamination
  - protecting public health
  - preventing or abating health nuisances.

A new, appropriate form of bylaw should be made to control on-site wastewater disposal systems.

## **5.4 REVIEW OF PSYCHOACTIVE SUBSTANCES LOCAL APPROVED PRODUCTS POLICY 2014**

**File Number:** A3155136

**Author:** Briar Macken, Planner

**Authoriser:** William J Taylor MBE, General Manager - Strategic Planning and Policy (Acting)

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

The purpose of this report is for the Strategy and Policy Committee to recommend to Council, that the Psychoactive Substances Local Approved Products Policy 2014 has been reviewed and should continue without amendment.

### **WHAKARĀPOOTO MATUA / EXECUTIVE SUMMARY**

- The Psychoactive Substances Local Approved Products Policy (the Policy) was due for review in October 2019.
- The Policy continues to be in effect even though it is due for review.
- There are currently no approved psychoactive products, although a product can be approved at any time.
- The Policy aims to minimise the harm to the community caused by psychoactive substances by defining the permitted location of retail premises.
- The Policy adheres to best practice evidence.
- The Policy should continue without amendment.

Note: An approved product is defined as; a psychoactive product approved by the Authority under section 37 of the Psychoactive Substances Act 2013.

### **TŪTOHUNGA / RECOMMENDATION**

**That the Strategy and Policy Committee makes the following recommendation to Council:**

**That Council:**

- a) agree that the Psychoactive Substances Local Approved Policy has been reviewed.**
- b) Agree that the Psychoactive Substance Local Approved Policy should continue without amendment.**

### **1) TĀHUHU KŌRERO / BACKGROUND**

The Psychoactive Substances Local Approved Products Policy (the Policy) was made in October 2014 utilising the Council's discretionary functions under section 66 of the Psychoactive Substances Act 2013.

The Policy is to be considered by the Psychoactive Substances Regulatory Authority when determining applications for licenses.

Under section 69 of the Psychoactive Substance Act 2013, the Policy must be reviewed every five years. The Policy is therefore overdue for review (October 2019). However as per section 69 of the Psychoactive Substance Act 2013 the Policy does not cease to have effect because it is due for review.

The Psychoactive Substances Act 2013 does not prescribe the process for the review. The only requirement is to undertake the special consultative procedure if amending or replacing the policy.



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

### Council's role relating to psychoactive substances

The Council has little authority over the sale of psychoactive substances as outlined below.

- Psychoactive products approved by the Ministry of Health are a legal product.
- The regulation of retail premises selling psychoactive substances (including the location) is enforced by the NZ Police and the Ministry of Health.
- Licences are issued by the Psychoactive Substances Regulatory Authority.
- The Council has no role in issuing licenses or in enforcement.
- The Council cannot ban the sale of legally approved products.

Under sections 66 – 69 of the Psychoactive Substance Act 2013, a policy may address the following matters:

- the location of premises from which approved products may be sold by reference to broad areas within the district.
- the location from which approved products may be sold by reference to proximity to other premises from which approved products are sold within the district.
- the location of premises from which approved products may be sold by reference to proximity to premises or facilities of a particular kind or kinds within the district (for example, kindergartens, early childhood centres, schools, places of worship, or other community facilities).

The policy was developed in response to concerns raised regarding the sale of psychoactive substances, from residents, community stakeholders and with advice from Police and Public Health.

### Review findings

It is not possible to review the effectiveness of the Policy as it has not had an opportunity to be put into effect due to no currently approved products.

No licence applications for retailing, manufacturing, or wholesaling products have been received by the Psychoactive Substances Regulatory Authority. Evidence from animal testing was prohibited in 2014. Therefore, the Regulatory Authority cannot approve or licence any product until an alternative to animal testing is available.

However, alternatives are being developed including in vitro methods, using human cells and tissues, and advanced computer modelling techniques. Therefore, applications for approved products can still occur at any time.

The policy adheres to best practise evidence and meets current legislative requirements. The sensitive site definitions are in accordance with best practice and will likely be interpreted by the Authority as intended.

Unfortunately, the policy refers to a job description (General Manager Environmental Management) that has been restructured (to General Manager District Services). The process to ensure delegations are in place has commenced.

Any amendments to the policy, including minor amendments, will need to undergo a special consultation procedure under section 83 of the Local Government Act 2002. Consultation will incur indicative costs upwards of \$30,000.

### Option One: Status quo: The Policy stays in force with no changes (recommended option)

Policy follows best practice and meets current legislative requirements. Delegations are in place to ensure continued monitoring of policy implementation.

A product can be approved at any point in time.

*Advantage and disadvantages of keeping the provisions of the policy*

- Advantages
- A Policy is already in place if a product is approved requiring:
    - approved products to be restricted to commercial zones
    - approved products not to be sold near sensitive sites, preventing the normalisation of psychoactive substances to children
  - More cost effective in that there will be less consultation costs than if the Policy was revoked and a product was approved requiring a new policy in the future.

- Disadvantages
- Policy continues to have provisions that are unnecessary because there are no approved products

**Option Two: Revoke the Policy**

As there are currently no approved products the policy could be revoked, and a new policy developed if/when a product is approved. Developing a new policy takes 12 to 18 months.

*Advantages and disadvantages of revoking the Policy*

- Advantages
- Removing provisions that are unnecessary because there are no approved products

- Disadvantages
- Extra consultation and resource costs in developing a new policy when a product is approved
  - Risk of approved products being able to be sold at any location if a new policy is not developed in time
  - Reputational risk as it may appear the Council is not being proactive in preventing community harm

**Take Tūtohunga / Reason for the recommendation**

The policy adheres to best practise evidence. Therefore, the Policy is still the most appropriate way to address problems relating to the sale of approved psychoactive substances in the Far North District.

**Next steps**

If the Council agrees with the recommendation, that the Policy stays in force without amendment, no further actions are required.

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

No further actions are required. The cost of monitoring the implementation of the policy will be met from existing operating budgets.

**ĀPITI HANGA / ATTACHMENTS**

1. **Psychoactive Local Approved Products Policy 2014 - A2107451** [↓](#) 
2. **Research Report - Psychoactive Substances - A3113125** [↓](#) 

**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>	As retaining the status quo will have little effect on ratepayers or level of service, the level of significance as determined by the <i>Significance and Engagement Policy</i> is low. Under the psychoactive Substances Act 2013, consultation is not required if the Policy continues without amendment.
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	The Psychoactive Substances Act 2013 sections 66-69 apply to the decision recommended in this report.
State whether this issue or proposal has a District wide relevance and, if not, the ways in which the appropriate Community Board's views have been sought.	As the recommendation is to maintain status quo, the Community Boards views have not been sought.
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.	This decision is not significant and does not relate to land and/or any body of water.
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 development of the Policy including: <ul style="list-style-type: none"> <li>• community groups concerned with psychoactive substances.</li> <li>• Ngā Tai Ora – Public Health Northland.</li> <li>• Ministry of Health.</li> <li>• New Zealand Police.</li> </ul>
State the financial implications and where budgetary provisions have been made to support this decision.	The cost of monitoring the implementation of the policy will be met from existing operating budgets.

Chief Financial Officer review.	The Chief Financial Officer has reviewed this report.
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# Psychoactive Substances (Local Approved Products) Policy (#3123)

Adopted: 30 October 2014

## Background

A Local Approved Products Policy (LAPP) is a set of policy criteria and decisions made by Council in consultation with its community which may restrict the location of premises selling psychoactive products in its geographical area. This policy addresses community concerns regarding the location of premises selling psychoactive products, while meeting the statutory requirements of the Psychoactive Substances Act 2013 (the 'Act').

A LAPP provides the Psychoactive Substances Regulatory Authority ('Authority') with a policy framework when making decisions on licence applications to sell psychoactive products in the Far North.

## Legislative Context

The LAAP policy framework enables the Authority to better meet the purpose of the Act, which states that "The purpose of this Act is to regulate the availability of psychoactive substances in New Zealand to protect the health of, and minimise harm to, individuals who use psychoactive substances".

## Objectives

The purpose of this policy is to set a clear framework to be applied to all applications that the 'Psychoactive Substances Regulatory Authority' considers when granting licenses for premises that sell approved products in The Far North District.

The objectives of this policy are to:

- Minimise the harm to the community caused by psychoactive substances by defining the permitted location of retail premises.
- Ensure that Council and the community have influence over the location of retail premises in the District.

The policy applies to any application for licence as defined in the Act to sell approved products from a retail premise from the date that this policy comes into force

This policy does not apply to retail premises where internet sales only are made or to premises where the sale of approved products is by wholesale only.

The requirements of the Resource Management Act 1991, Hazardous Substances and New Organisms Act must be met in respect of any premises holding a licence.

## Policies

1. This policy does not limit the number of retail premises or restrict the issue of licences, provided the policy criteria outlined below are met:
  - a. The location of retail premises from which approved products may be sold is restricted by this policy to locations within a commercial zone as designated in the District Plan.

- b. All retail premises from which approved products may be sold are not permitted within 100 metres of a sensitive site existing at the time the licence application is made (see Appendix 2); separation distances are measured from the legal boundary of each sensitive site.
  - c. Retail premises from which approved products may be sold are not permitted within 500 metres of other retail premises from which approved products may be sold; separation distances are measured from the legal boundary of the premise.
2. The General Manager Environmental Management will monitor the implementation of this policy. The policy will be reviewed every five years as required by the Psychoactive Substances Act 2013, or at the request of Council, or in response to changed legislative and statutory requirements, or in response to any issues that may arise.

## Appendix – Definition of Terms

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**APPROVED LOCATION** means an area where premises from which approved products may be sold are permitted to be located.

**APPROVED PRODUCT** means a psychoactive product approved by the Authority under Section 37 of the Act.

**AUTHORITY** means the Psychoactive Substances Regulatory Authority established by Section 10 of the Act.

**CENTRAL BUSINESS DISTRICT (CBD)** means the area of any town designated as CBD in the Proposed The Far North District Plan (or the resulting Operative District Plan).

**CHILDCARE FACILITIES** means premises (public and private) where children are cared for or given basic tuition and includes a crèche, day or after-school care, pre-school, kindergarten, kohanga reo or play centre. This term excludes a school.

**EDUCATIONAL INSTITUTION** means premises used to provide regular post-school education or vocational training; includes private tertiary establishments.

**LICENCE** means a licence, as defined by the Act.

**MEDICAL CENTRES** means premises providing services for essential physical and mental health and welfare, performed by duly qualified practitioners or by persons in their employ, for example, primary health providers (general practitioners).

**PSYCHOACTIVE PRODUCT** means a finished product packaged and ready for retail sale that is a psychoactive substance or that contains one or more psychoactive substance.

**PSYCHOACTIVE SUBSTANCE** means a substance, mixture, preparation, article, device, or thing that is capable of inducing a psychoactive effect (by any means) in an individual who uses the psychoactive substance

**REGULATIONS** means regulations made under the Act.

**RETAIL PREMISES** means premises for which a licence to sell by retail has been granted.

**RETAILER** means a person engaged in any business that includes the sale of approved products by retails.

**SCHOOL** means premises used to provide regular instruction or training of children including primary, intermediate and secondary schools, and their ancillary administrative, cultural, recreational or communal facilities.

**SELL** includes sold and sale. Includes every method of disposition for valuable consideration, for example:

- (a) offering or attempting to sell or giving in possession for sale, or exposing, sending, or delivering for sale, or causing or allowing to be sold, offered, or exposed for sale
- (b) retailing
- (c) wholesaling.

**SENSITIVE SITE** includes:

- (a) any library, museum, community hall or recreational facility
- (b) any place of worship, school, childcare facilities, or other educational institution
- (c) any premises occupied by a social welfare agency such as Work and Income or similar agency

- (d) pharmacies and medical centres
- (e) public parks, any District Court, Council owned public toilets and any bus stop where school children are picked up or dropped off
- (f) any property located in a residential zone as designated in the Far North District Plan
- (g) any marae.

**THE ACT** means the Psychoactive Substances Act 2013



## 1 Purpose

To describe and discuss the review of the Psychoactive Substances Local Approved Products Policy (2014).

## 2 Context and Situation

Under section 69 of the Psychoactive Substance Act 2013, the Council's Psychoactive Substances Local Approved Products Policy 2014 (the Policy) must be reviewed every 5 years. The Policy is therefore overdue for review (October 2019). However as per section 69 of the Psychoactive Substance Act 2013 "*A local approved products policy does not cease to have effect because it is due for review or is being reviewed*". The Council needs to decide whether the Policy is the most appropriate way to address problems relating to the sale of approved psychoactive substances in the Far North District.

### 2.1 Council's role relating to psychoactive substances

Psychoactive products approved by the Ministry of Health are a legal product. The regulation of retail premises selling psychoactive substances (including the location) is enforced by the NZ Police and the Ministry of Health. Licences are issued by the Psychoactive Substances Regulatory Authority (the 'Authority'). The Council has no role in issuing licenses or in enforcement. The Council cannot ban the sale of legally approved products.

Under sections 66 – 69 of the Psychoactive Substance Act 2013, the Council may have a policy relating to the sale of approved products in the Far North District. The policy may address the following matters:

- the location of premises from which approved products may be sold by reference to broad areas within the district
- the location from which approved products may be sold by reference to proximity to other premises from which approved products are sold within the district
- the location of premises from which approved products may be sold by reference to proximity to premises or facilities of a particular kind or kinds within the district (for example, kindergartens, early childhood centres, schools, places of worship, or other community facilities).

Under section 10 of the Local Government Act 2002, the purpose of local government is to "... promote the social, economic, environmental, and cultural wellbeing of communities, in the present and for the future". Psychoactive substances can cause harm to the wellbeing of communities through direct health effects on the user, but also indirectly by impacting the wellbeing of their families and the economy (increase in unemployment, increase in poverty). One way to prevent the future use of psychoactive substances is to denormalise drug use by preventing children and young people from being exposed to people using psychoactive substances.

## 3 Objectives

### 3.1 Purpose of review

To determine whether a policy is still the most appropriate way to address problems relating to the sale of approved psychoactive substances in the Far North District.

### 3.2 Review objectives

- To define psychoactive substance related problems in the Far North District that are within Council's function to control.
- To identify if a policy is still the most appropriate way to address the regulation of psychoactive substances in the Far North District.
- To identify if the Policy meets current legislative requirements.

## 4 Problem Definition

## 4.1 Scope

### In scope

Problems relating to the location from which approved products may be sold within Far North District.

Note: An approved product is defined as; a psychoactive product approved by the Authority under section 37 of the Psychoactive substance Act 2013.

### Out of scope

The importation, manufacture, sale, supply, or possession of a psychoactive substance including which substances are approved products as this is regulated by the Psychoactive Substances Act 2013.

## 4.2 Purpose of current Policy

The Psychoactive Substances Act was introduced in 2013 and allows for the sale of legally approved psychoactive substances in New Zealand. The policy was developed in response to concerns raised, regarding the sale of psychoactive substances, from residents, community stakeholders and with advice from Police and Public Health.

The Policy sets a clear framework to be applied to all applications that the 'Psychoactive Substances Regulatory Authority' considers when granting licenses for premises that sell approved products in the Far North District.

The objectives of the Policy are to:

- Minimise the harm to the community caused by psychoactive substances by defining the permitted location of retail premises.
- Ensure that Council and the community have influence over the location of retail premises in the District.

Following a consultation process, the Policy was deemed to be the most appropriate way to address problems relating to the sale of approved psychoactive substances in the far North District.

The policy regulates the following:

- The location of retail premises from which approved products may be sold is restricted to locations within a commercial zone as designated in the District Plan
- Retail premises from which approved products may be sold are not permitted within 500 metres of another retail premises from which approved products may be sold
- All retail premises from which approved products may be sold are not permitted within 100 metres of a sensitive site existing at the time the licence application is made.

Note: The extensive list of sensitive sites can be found within the Policy.

## 4.3 Other problems relating to psychoactive substances not currently controlled or addressed by the Policy

The Policy addresses all the matters in which are a function of the Council to control under the Psychoactive Substances Act 2013.

Currently, there are no approved products available for sale, therefore there are no additional problems relating to psychoactive substances.

## 5 Review of Policy

Currently, there are no approved products. No licence applications for retailing, manufacturing, or wholesaling products have been received by the Psychoactive Substances Regulatory Authority. Licences have been issued for research and import (for research purposes).

One of the main barriers to enabling an approved product is a 2014 amendment to the Act which prohibited considering evidence from testing on animals to approve a product. Therefore, the Psychoactive Substances Regulatory Authority cannot approve or licence any product until an appropriate alternative to animal testing is

available. Alternatives being developed internationally include in vitro methods, using human cells and tissues, and advanced computer modelling techniques.

Applications for approved products can occur at any time.

It is not possible to review the effectiveness of the Policy as it has not had an opportunity to be put into effect.

However, the Policy adheres to best practice evidence in that the Policy

- Restricts access to our most vulnerable communities
  - easier access leads to increased use and harm
  - increased visualisation leads to increased uptake and normalisation
- Prevents clustering of retail premises. Clustering can lead to
  - an increase in other harm related activities in that area
  - a change of character of that particular area
  - increased harm due to price competition
  - people exhibiting antisocial behaviours congregating
- Restricts access to commercial zones which prevent harm by
  - having increased visibility with higher foot and vehicle traffic
  - having increased CCTV cameras
  - higher police and security presence
  - restricts availability in residential neighbourhoods.

Section 69 of Psychoactive Substances Act 2013 enables a policy to restrict retail premises at a broader scale and tied to a district plan zone such as a commercial zone. The operative district plan does not categorise commercial zones such as urban centres, local centres or convenience and service areas found within residential areas. Consequently, a retail premise could locate within a residential area, and be contrary to the intent of the policy.

Most commercial zones within residential areas are occupied by dairies, petrol stations and small supermarkets. While there is ability for retail premises to establish within residential areas, restrictions on place of sale of psychoactive substances under section 52 of Psychoactive Substances Act 2013 prohibit psychoactive substances from being sold at a dairy, supermarket, liquor store or petrol station. To restrict retail premises to urban or local centres, the District Plan would need to differentiate commercial zones.

The Policy meets current legislative requirements and there are no foreseeable amendments to legislation.

The Policy states that “the General Manager Environmental Management will monitor the implementation of this policy” (clause 2). This job description has since been restructured into the General Manager District Services. However, under the Local Government Act 2002, schedule 7, clause 32 (3), the Chief Executive can delegate the functions of the General Manager Environmental Management in regard to this policy to the General Manager District Services. Therefore, in order to continue with the provisions of the policy, delegations will need to be in place.

It is not best practice to include job titles in a policy. If during future reviews, further amendments are required, the component referring to the General Manager Environmental Management should be removed.

## 6 Discussion and Conclusion

The Policy has been developed and adopted in order to reduce community harm from the sale of psychoactive substances in the Far North District.

As there have been no approved products to date it is not possible to review the effectiveness of the policy.

However, it is possible for a product to be approved at any time.

The policy adheres to best practise evidence.

Therefore, the Policy is still the most appropriate way to address problems relating to the sale of approved psychoactive substances in the Far North District.

**6 KARAKIA WHAKAMUTUNGA – CLOSING PRAYER**

**7 TE KAPINGA HUI / MEETING CLOSE**