



**Far North
District Council**



Te Kaunihera o Tai Tokerau ki te Raki

AGENDA


Strategy and Policy Committee Meeting

Tuesday, 20 July 2021

Time: 9.30 am
Location: Council Chamber
Memorial Avenue
Kaikohe

Membership:

Chairper Rachel Smith
Deputy Chairperson David Clendon
Mayor John Carter
Deputy Mayor Ann Court
Cr Dave Collard
Cr Felicity Foy
Cr Kelly Stratford
Cr Moko Tepania
Cr John Vujcich
Member Belinda Ward

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

Purpose

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

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

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

The Committee will review the effectiveness of the following aspects:

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

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

Power to Delegate

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

Membership

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

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

Mayor Carter
Rachel Smith – Chairperson
David Clendon – Deputy Chairperson
Moko Tepania
Ann Court
Felicity Foy
Dave Collard
John Vujcich
Belinda Ward – Bay of Islands-Whangaroa Community Board
Non-appointed councillors may attend meetings with speaking rights, but not voting rights.

Quorum

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

Frequency of Meetings

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

Committees Responsibilities

The Committees responsibilities are described below:

Strategy and Policy Development

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

Service levels (non regulatory)

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

Policies and Bylaws

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

Consultation and Engagement

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

Strategic Relationships

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

Submissions and Remits

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

Fees

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

District Plan

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

Rules and Procedures

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

Annual reporting

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

STRATEGY AND POLICY COMMITTEE - MEMBERS REGISTER OF INTERESTS

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

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

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

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

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

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

Far North District Council
Strategy and Policy Committee Meeting
will be held in the Council Chamber, Memorial Avenue, Kaikohe on:
Tuesday 20 July 2021 at 9.30 am

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

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

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

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

3 TE TONO KŌRERO / DEPUTATION

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: A3274778

Author: Kim Hammond, Meetings Administrator

Authoriser: Aisha Huriwai, Team Leader Democracy Services

TAKE PŪRONGO / 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.

TŪTOHUNGA / RECOMMENDATION

That the Strategy and Policy Committee:

- a) agrees that the minutes of the meeting held 15 June 2021 be confirmed as a true and correct record.
- b) Agrees that the minutes of the Extraordinary held 01 July 2021 be confirmed as a true and correct record.

1) TĀHUHU KŌRERO / 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) MATAPAKI ME NGĀ KŌWHIRINGA / 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.

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

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

ĀPITI HANGA / ATTACHMENTS

1. 2021-06-15 Strategy and Policy Committee Unconfirmed Minutes - A3242319 [↓](#) 
2. 2021-07-01 Strategy and Policy Committee Extraordinary Unconfirmed Minutes - A3269448 [↓](#) 

Hōtaka Take Ōkawa / Compliance Schedule:

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

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

He Take Ōkawa / Compliance Requirement	Aromatawai Kaimahi / Staff Assessment
State the level of significance (high or low) of the issue or proposal as determined by the Council's Significance and Engagement Policy	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. State the possible implications and how this report aligns with Te Tiriti o Waitangi / The Treaty of Waitangi.	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 (for example – youth, the aged and those with disabilities).	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, 15 JUNE 2021 AT 9.30 AM**

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

IN ATTENDANCE:

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

1 KARAKIA TIMATANGA – OPENING PRAYER

Cr Moko Tepania opened the meeting with a karakia and prayer.

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

APOLOGY

RESOLUTION 2021/18

Moved: Chair Rachel Smith

Seconded: Deputy Mayor Ann Court

That the apology for absence received from His Worship the Mayor be accepted and a leave of absence granted and the apology from Cr Stratford for lateness be accepted.

CARRIED

3 NGĀ TONO KŌRERO / DEPUTATION

Nil

4 CONFIRMATION OF PREVIOUS MINUTES

4.1 CONFIRMATION OF PREVIOUS MINUTES

Agenda item 4.1 document number A3052693, pages 16 - 21 refers.

RESOLUTION 2021/19

Moved: Cr John Vujcich

Seconded: Cr Felicity Foy

That the Strategy and Policy Committee agrees that the minutes of the meeting held 4 May 2021 be confirmed as a true and correct record.

CARRIED

5 REPORTS

5.1 RESIDENT OPINION SURVEY

Agenda item 5.1 document number A3215681, pages 22 - 27 refers.

RESOLUTION 2021/20

Moved: Chair Rachel Smith

Seconded: Cr Moko Tepania

That the Strategy and Policy Committee agrees to the changes of the frequency for the Resident Opinion Survey from annually to quarterly in 2021/2022.

CARRIED

5.2 KŌKIRI AI TE WAKA HOURUA STRATEGY (SPORT NORTHLAND)

Agenda item 5.2 document number A3201318, pages 28 - 70 refers.

MOTION

Moved: Cr Kelly Stratford

Seconded: Cr John Vujcich

That the Strategy and Policy Committee recommend that Council supports in principle the Kōkiri Ai Te Waka Hourua Regional Sports, Active Recreation and Play Strategy to allow time to plan how this strategy will be resourced and implemented.

At 10:01 am, Deputy Mayor Ann Court left the meeting.

AMENDMENT

Moved: Cr Kelly Stratford

Seconded: Cr John Vujcich

That the Strategy and Policy Committee:

- b) request an update report on the progress of the resource and implementation and adoption of the of the Kokiri Ai Te Waka Hourua Strategy be brought to the first Strategy and Policy Committee meeting in 2022.

CARRIED

The amendment became the substantive motion.

RESOLUTION 2021/21

Moved: Cr Kelly Stratford

Seconded: Cr John Vujcich

That the Strategy and Policy Committee:

- a) **recommend that Council supports in principle the Kōkiri Ai Te Waka Hourua Regional Sports, Active Recreation and Play Strategy to allow time to plan how this strategy will be resourced and implemented.**
- b) **request an update report on the progress of the resource and implementation and adoption of the of the Kokiri Ai Te Waka Hourua Strategy be brought to the first Strategy and Policy Committee meeting in 2022.**

CARRIED

5.3 SPEED LIMIT BYLAW REVIEW STATEMENT OF PROPOSAL

Agenda item 5.3 document number A3186147, pages 71 - 106 refers.

RESOLUTION 2021/22

Moved: Cr Kelly Stratford

Seconded: Cr Felicity Foy

That the Strategy and Policy Committee:

- a) adopt the attached “Statement of Proposal – Proposed Amendments to the Speed Limits Bylaw 2019” for consultation.
- b) agrees to undertake consultation on the proposed changes to speed limits set out in the attached Statement of Proposal in accordance with the Special Consultative Procedures set out in Section 83 of the Local Government Act 2002.
- c) confirms that the submission period will last for a period of six weeks from 29th June 2021 to 10th August 2021.
- d) authorises the Chief Executive to make any necessary minor drafting or presentation amendments to the attached Statement of Proposal and to approve the final design and layout of the documents prior to final printing and publication.

At 10:40 am, Chair Rachel Smith left the meeting and Cr Clendon took the Chair. At 10:43 am, Chair Rachel Smith returned to the meeting and took the Chair.

At 11:00 am, Cr Kelly Stratford left the meeting. At 11:03 am, Cr Kelly Stratford returned to the meeting.

At 11:15 am, Deputy Mayor Ann Court returned to the meeting.

CARRIED

Abstained: Cr Ann Court

The meeting was adjourned from 11.22 am to 11.32 am.

6 INFORMATION REPORTS

6.1 NAVIGATING OUR COURSE - ENGAGEMENT DEBRIEF

Agenda item 6.1 document number A3187154, pages 107 - 113 refers.

RESOLUTION 2021/23

Moved: Cr John Vujcich

Seconded: Cr David Clendon

That the Strategy and Policy Committee receive the report Navigating Our Course - Engagement Debrief.

CARRIED

6.2 UPDATE ON DRAFT DISTRICT PLAN ENGAGEMENT

Agenda item 6.2 document number A3213473, pages 114 - 116 refers.

RESOLUTION 2021/24

Moved: Cr Kelly Stratford

Seconded: Cr John Vujcich

That the Strategy and Policy Committee receive the report Update on Draft District Plan Engagement.

CARRIED

7 KARAKIA WHAKAMUTUNGA – CLOSING PRAYER

Cr Stratford closed the meeting with a karakia.

8 TE KAPINGA HUI / MEETING CLOSE

The meeting closed at 12.31 pm.

The minutes of this meeting will be confirmed at the Strategy and Policy Committee meeting to be held on 20 July 2021.

.....
CHAIRPERSON

**MINUTES OF FAR NORTH DISTRICT COUNCIL
EXTRAORDINARY STRATEGY AND POLICY COMMITTEE MEETING
HELD AT THE COUNCIL CHAMBER, MEMORIAL AVENUE, KAIKOHE
ON THURSDAY, 1 JULY 2021 AT 12.45 PM**

PRESENT: Chair Rachel Smith, Cr David Clendon, Cr Dave Collard, Cr Felicity Foy, Cr Kelly Stratford, Cr Moko Tepania, Deputy Mayor Court,

IN ATTENDANCE: Cr Mate Radich

STAFF PRESENT: Shaun Clarke (Chief Executive Officer), Janice Smith (General Manager Corporate Services), Dean Myburgh (General Manager District Services), Andy Finch (General Manager Infrastructure and Asset Management), Roger Ackers (General Manager Strategic Planning and Policy - Acting)

1 KARAKIA TIMATANGA – OPENING PRAYER

Cr Tepania opened the meeting with a karakia/prayer.

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

Nil

3 NGĀ TONO KŌRERO / DEPUTATION

Nil

4 REPORTS

4.1 SPEED LIMIT BYLAW REVIEW - CONSULTATION AND TIMELINE UPDATE

Agenda item 11.1 document number A3254038, pages 16 - 20 refers.

COMMITTEE RESOLUTION 2021/25

Moved: Cr David Clendon

Seconded: Cr Moko Tepania

That the Strategy and Policy Committee:

- a) **revokes the following resolution of the Strategy and Policy Committee made on 15 June 2021, Item 5.3 - Speed Limit Bylaw Review Statement of Proposal.**

RESOLUTION 2021/1

Moved: Cr Kelly Stratford

Seconded: Cr Felicity Foy

That the Strategy and Policy Committee:

- c) *confirms that the submission period will last for a period of six weeks from 29th June 2021 to 10th August 2021.*

CARRIED

- b) **agree that the submission period will last for a period of six weeks from 12 July 2021 to 24 August 2021.**

CARRIED

5 KARAKIA WHAKAMUTUNGA – CLOSING PRAYER

Cr Smith closed the meeting with a karakia

6 TE KAPINGA HUI / MEETING CLOSE

The meeting closed at 12.48 pm.

The minutes of this meeting will be confirmed at the Strategy and Policy Committee meeting held on 20 July 2021.

.....
CHAIRPERSON

5 REPORTS

5.1 SOLID WASTE BYLAW CONSULTATION

File Number: A3190598

Author: Briar Macken, Planner

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

TAKE PŪRONGO / PURPOSE OF THE REPORT

To seek approval to consult on the continuation without amendment of the Solid Waste Bylaw

WHAKARĀPOOTO MATUA / EXECUTIVE SUMMARY

- On 08 April 2021, the governing body of the Council determined that the Solid Waste Bylaw should continue without amendment.
- The Local Government Act 2002 requires the Council to consult after conducting a bylaw review.
- The proposal document contains the information required to be made publicly available for consultation.
- The consultation period is for five weeks from 26 July 2021 to the 27 August 2021.
- Oral submissions will be heard on 07 September 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 160(3)(b)(ii) of the Local Government Act 2002, to consult on the continuation without amendment of the Solid Waste Bylaw in a manner that gives effect to the requirements of section 82 of the Local Government Act 2002;
- b) approves the Solid Waste Bylaw Proposal, including the bylaw, in attachment one and two, be made publicly available for the purpose of the consultation;
- c) agrees the period for making written submissions on the proposal will begin on 26 July 2021 end on 27 August 2021;
- d) agrees that if any person wishes to make an oral presentation of their submission, that presentation will take place on Tuesday 7 September 2021 and the hearing will be conducted by the whole Committee;
- e) authorises the Chief Executive Officer to make minor changes to the Solid Waste Bylaw Proposal to correct grammatical or spelling errors, or formatting.

1) TĀHUHU KŌRERO / BACKGROUND

On 08 April 2021, under section 155 of the Local Government Act 2002, the governing body of the council determined that the Solid Waste Bylaw 2016:

- is the most appropriate way of addressing solid waste problems in the Far North District
- is the most appropriate form of bylaw
- does not give rise to any implications under the New Zealand Bill of Rights Act 1990

Section 160 of the Local Government Act 2002 requires consultation following a bylaw review.

2) MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND OPTIONS

Legal requirements for consultation

Continuing without amendment the Solid Waste Bylaw is not a significant decision under the Council's Significance and Engagement Policy. Therefore, section 160 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 160(4) of the Local Government Act 2002 requires, for consultation purposes, the Council to make publicly available:

- a copy of the bylaw to be continued
- the reasons for the proposal
- a report of any relevant determinations by the local authority under Local Government Act 2002, section 155.

Attachment 1 and 2 are the proposal document that meets the requirements of section 160 and a copy of the bylaw to be continued.

Consultation period

Section 82 of the Local Government Act 2002 does not stipulate a minimum length of time for consultation, however a consultation period of at least four weeks is considered best practice. Therefore, consultation will open on 26 July 2021 and close on 27 August 2021, which is a period of five weeks.

Hearing submissions

Council staff expect there will be a reasonably high level of interest in the bylaw because the community is passionate about solid waste related issues such as fly tipping, recycling and kerbside collections. Although solutions to these issues sit outside the scope of a bylaw.

It is 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 after deciding a bylaw should continue without amendment. 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 27 August 2021
- the Strategy and Policy Committee conducting hearings of oral presentations of submissions on 7 September 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.

ĀPITIHINGA / ATTACHMENTS

1. **Proposal - Solid Waste Bylaw - A3170453**  
2. **Solid Waste Bylaw 2016 - A2674692**  

Hōtaka Take Ōkawa / Compliance Schedule:

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

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

He Take Ōkawa / Compliance Requirement	Aromatawai Kaimahi / Staff Assessment
State the level of significance (high or low) of the issue or proposal as determined by the Council's Significance and Engagement Policy	As retaining the status quo will have little effect on ratepayers or level of service, the level of significance for the Proposal 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 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.	The Proposal has district-wide relevance and the bylaw is to maintain status quo, therefore the Community Board's 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. Tāngata whenua will be informed of the Proposal and invited to provide their input.
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"> • Waste collection service providers • Community groups concerned about solid waste in their community • Ngā Tai Ora – Public Health Northland • Northland Regional Council
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

1 Context and Situation

The Solid Waste Bylaw (the Bylaw) was made on 05 May 2016 under the:

- Local Government Act 2002, section 146
- Waste Minimisation Act 2008, section 56
- Health Act 1956, section 64
- Litter Act 1979, section 12.

Under section 158 of the Local Government Act 2002, the Bylaw was due for review by 05 May 2021.

The review found that the Bylaw was mostly effective at addressing the problems relating to solid waste, which are a function of the Council to control or address.

The review identified that central government is in the process of consulting on and implementing several waste related proposals which may impact bylaw development. Therefore, the review recommended to wait until after the central government proposals are finalised before making any amendments to the Bylaw.

Following the review, on 08 April 2021, under section 155 of the Local Government Act 2002, the governing body of the council determined that the Solid Waste Bylaw 2016:

- is the most appropriate way of addressing solid waste problems in the Far North District
- is the most appropriate form of bylaw
- does not give rise to any implications under the New Zealand Bill of Rights Act 1990

2 Proposal

The Far North District Council proposes to consult on the continuation of the Solid Waste Bylaw under the Local Government Act 2002.

3 How to give your views on the proposal

The Council encourages any person or organisation affected by, or having an interest in, the proposed continuation of the Solid Waste Bylaw to present their views on the proposal to the Council by making a submission.

You can make a submission in any 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/Whats-new/Have-your-say>
- email your submission to submissions@fndc.govt.nz
- drop-off your submission at any Council service centre or library,
 - details of their locations and opening times are listed at www.fndc.govt.nz/contact
 - or you can get that information by phoning the Council on 0800 920 029
- post your submission to: Strategy Development Team, Far North District Council, Private Bag 752, Kaikohe 0440
- make an oral presentation of your submission at a meeting of the Strategy and Policy Committee.
 - If you wish to make an oral presentation, you must inform the Council before the 27 August 2021.
 - Oral presentations will take place at the Strategy and Policy Committee meeting on 07 September 2021.

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.

The last date by which you can make a submission is 27 August 2021.

Privacy statement

Please be aware, when providing personal information, the submission is part of the public consultation process for the Solid Waste 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.

4 Bylaw for continuation

The Solid Waste Bylaw can be accessed:

- online at the Council's website
 - <https://www.fndc.govt.nz/Your-Council/Plans-Policies-Bylaws-Projects/Bylaws>
 - <https://www.fndc.govt.nz/Whats-new/Have-your-say>
- Or you can ask for a printed copy from any Council service centre or library.

Solid Waste Bylaw 2016



**Far North
District Council**

Te Kaunihera o Tai Tokerau Ki Te Raki



Solid Waste Bylaw 2016

for the collection, transport and disposal of solid waste

Pursuant to the Local Government Act 2002, section 56 of the Waste Minimisation Act 2008, section 64 of the Health Act 1956, section 12 of the Litter Act 1979 and any other enactments.

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1 TITLE

This bylaw is the Solid Waste Bylaw 2016.

2 COMMENCEMENT

This bylaw comes into force on 1 July 2016.

3 APPLICATION

This bylaw applies to the Far North District.

PART 1**PRELIMINARY PROVISIONS****4 PURPOSE**

- (1) The purpose of this bylaw is to contribute to:
- (a) the regulation of the collection, transportation and disposal of waste;
 - (b) the protection of the health and safety of waste collectors, waste operators and the public;
 - (c) the management of litter and nuisance.

5 INTERPRETATION

- (1) In this bylaw, unless the context otherwise requires,—

Act means the Waste Minimisation Act 2008.

Approved container means any container approved by the council for the collection of any type of domestic type waste from a public place, with approval criteria based on the prevention of nuisance and the protection of the health and safety of waste collectors and the public.

Authorised Officer means any person appointed or authorised by the Council to act on its behalf and with its authority, including a member of the Police.

Clean fill material means waste that:

- (a) does not undergo any physical, chemical or biological transformation that, when deposited or with the effluxion of time, is likely to have adverse effects on the environment or human health; and
- (b) is not diverted material; and
- (c) includes virgin materials such as clay, soil, rock, and other inert materials such as concrete or brick that are free of:
 - (i) combustible, putrescible, degradable or leachable components;
 - (ii) hazardous waste;
 - (iii) products or materials derived from hazardous waste treatment, hazardous waste stabilisation or hazardous waste disposal practices;
 - (iv) materials that may present a risk to human health or the environment; and
 - (v) liquid waste; and
- (d) has less than two per cent by volume by load of tree or vegetable matter.

Clean fill site means the land used for the disposal of clean fill material.

Commercial waste means waste that results from a commercial enterprise and includes waste generated by the carrying on of any business, manufacture, process, trade, market, or other undertaking.

Construction and demolition waste means waste generated from any building construction or demolition works; and includes any concrete, plasterboard, wood, steel, brick, cardboard, metals, plastic or glass.

Council means the Far North District Council or any person delegated or authorised to act on its behalf.

Council collection points mean places or containers in locations such as high density areas, marine areas or rural areas where approved containers may be left for collection or waste may be deposited if collection from a public place is unfeasible or impractical.

Cover material means material specified by Council under clause 20 as suitable for use as cover material at a landfill site, managed fill site, clean fill site or mono-fill site, as the case may be.

Deposit means to cast, place, throw or drop any waste or diverted material.

Disposal has the meaning given by the Waste Minimisation Act 2008.

Diverted material has the meaning given by the Waste Minimisation Act 2008.

Domestic type waste means waste consisting of refuse, recyclable material or organic matter (food waste and/or greenwaste) originating from any household or from the cafeteria, lunchroom or canteen of any commercial enterprise.

Event means any organised temporary activity of significant scale that is likely to create litter in a public place including an organised gathering, open-air market, parade, protest, festival, film shoot, concert or celebration.

Food waste means domestic waste that is derived from any item of food and is organic in origin and includes fruit and vegetable scraps, meat, fish and bone discards, and any other similar food waste.

Green waste means waste that is organic in origin and that results from domestic gardening activities or arboricultural business activities and includes lawn clippings and plant material.

Hazardous waste means waste that:

- (a) contains hazardous substances at sufficient concentrations to exceed the minimum degrees of hazard specified by Hazardous Substances (Minimum Degrees of Hazard) Regulations 2001 under the Hazardous Substances and New Organism Act 1996; or
- (b) meets the definition for infectious substances included in the Land Transport Rule: Dangerous Goods 1999 and NZ Standard 5433:1999 Transport of Dangerous Goods on Land; or
- (c) meets the definition for radioactive material included in the Radiation Protection Act 1965 and Regulations 1982; or it does not include domestic waste, commercial-domestic waste, inorganic material, construction and demolition waste or commercial waste.

Home composting means the activity of creating decaying organic matter from domestic green waste and/or food waste into compost.

Landfill site means land used for the disposal of waste by burying it, or placing it upon land or other waste.

Licence means a licence, consent, permit or approval to do something under this bylaw and includes any conditions to which the licence is subject.

Litter means any refuse, rubbish, animal remains, glass, metal, garbage, debris, dirt, filth, rubble, ballast, stones, earth or waste matter or any other thing of a like nature.

Litter receptacle means a receptacle provided for the collection of refuse, recyclable material or organic matter.

Managed fill site means land used for the disposal of soil with low levels of contamination.

Manager means a person who controls or manages any premises, activity, or event, regardless of whether that person has a proprietary interest in those premises or that activity or event.

Mono-fill site means land used for the disposal or storage of waste of a category specified by the council and that originates from a specified source or location.

Multi-unit development means a development consisting of 10 or more residential or residential and commercial units on any premises. It includes a unit title development and any development with controlled or restricted access.

Natural hardfill material means materials specified by Council as suitable for use as natural hardfill material at a clean fill site.

Nuisance has the meaning given by the Health Act 1956.

Occupier in relation to any property or premises, means the inhabitant occupier of that property or premises.

Organic matter means food waste and/or green waste that is specified by Council under clause 19 as organic matter.

Other hardfill material means materials other than natural hardfill material specified by Council under clause 19 as suitable for use as hardfill material at a clean fill site.

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

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

Premises means any separately occupied land, building, or part of the same.

Prohibited waste means waste containing –

- (a) any material capable of causing injury to any person or animal unless the material is sufficiently contained to prevent injury;
- (b) any material capable of causing damage to the approved container or likely to shatter in the course of collection material unless the material is sufficiently contained to prevent damage to the approved container or to prevent injury;
- (c) any material that may endanger any person, animal or vehicle which may come in to contact with it prior to, during or following collection, transportation or disposal;
- (d) any liquid or any viscous fluid;
- (e) any radioactive wastes, but excluding domestic smoke detectors;
- (f) any used oil and lead-acid batteries;
- (g) any hazardous waste;
- (h) medical waste (as defined in New Zealand Standard 4304:2002 Management of Healthcare Waste);
- (i) any material prohibited by Council under clause 19.

Public place means

- (a) a place that is-
 - (i) under the control of Council and/or
 - (ii) that is open to or being used by the public, whether or not there is a charge for admission and
- (b) includes:
 - (i) a road, whether or not the road is under the control of Council, and
 - (ii) any part of the public place.

Recyclable material means waste specified by Council under clause 19 as suitable for recycling. It does not include diverted material.

Recycling means the reprocessing of waste to produce new materials.

Refuse means waste which:

- (a) subject to (b), is not organic matter, recyclable material, prohibited waste, construction and demolition waste, or inorganic material; and
- (b) may include organic matter and/or recyclable material that does not exceed the maximum allowable limits specified by Council under clause 19 of this bylaw.

Resource recovery facility means any facility that receives, collects, sorts, stores or processes waste to ensure waste minimisation and includes a commercial composting operation, a recovery operation, a materials recovery facility, a transfer station and a recycling depot.

Waste has the meaning given by the Act. It does not include diverted material.

Waste collector means any person who collects or transports waste and includes commercial and non-commercial collectors and transporters of waste.

Waste operator means a person who owns or manages a landfill site, cleanfill site, managed fill site, monofill site or a resource recovery facility.

Waste management and minimisation plan means the waste management and minimisation plan adopted by Council under section 43 of the Act.

- (1) Unless the context requires another meaning, a term or expression that is defined in the Act and used, but not defined, in this bylaw has the meaning given by the Act.
- (2) Explanatory notes and attachments are for information purposes only and do not form part of this bylaw.
- (3) The Interpretation Act 1999 applies to this bylaw.

PART 2

GENERAL

6 CONTROLS SPECIFIED UNDER THE BYLAW

- (1) Any control specified by Council under clauses 14, 19 and 21:
 - (a) must, after consultation pursuant to the Local Government Act 2002, be made by a Council resolution that is publicly notified; and
 - (b) may:
 - (i) prohibit, restrict or control any matter or thing generally, for any specific category of case, or in a particular case;
 - (ii) apply to all waste or to any specified category of waste;
 - (iii) apply to all of the Far North District or to a specified part of the District;
 - (iv) apply at all times or at any specified time or period of time.

7 COMPLIANCE WITH BYLAW

- (1) No person may deposit, collect, transport, sort, store, process or dispose of waste other than in accordance with this bylaw.
- (2) To avoid doubt, compliance with this bylaw does not remove the need to comply with all other applicable Acts, regulations, bylaws, and rules of law.

PART 3**COLLECTION, TRANSPORTATION AND DISPOSAL OF WASTE****SUBPART 1 – SEPARATION OF WASTE FOR COLLECTION AND USE OF APPROVED CONTAINERS****8 USE OF APPROVED CONTAINERS FOR DOMESTIC TYPE WASTE COLLECTION FROM A PUBLIC PLACE**

- (1) The Council may approve the type, size and construction of containers for the collection of domestic type waste from a public place.
- (2) The owner, occupier and/or the manager of a premises must ensure that the domestic type waste from the premises is separated and deposited for collection in the correct approved containers for refuse and recyclable material.
- (3) No person may deposit in the approved containers material that is not approved for them.

9 DEPOSIT OR REMOVAL OF DOMESTIC TYPE WASTE

- (1) No person may put waste into an approved container provided to any other person without that other person's consent.
- (2) No person may remove waste from, or interfere with any waste deposited in, an approved container, except the Council, a licensed waste collector or the person who deposited the waste.
- (3) Except with the prior written approval of the Council, no person may remove a container provided by the Council from the premises to which it has been allocated.
- (4) The owner, occupier and/or manager of any premises is responsible for any waste generated on the premises until it has been collected.

10 RESPONSIBILITIES OF OWNERS, OCCUPIERS AND MANAGERS

- (1) The owner, occupier and/or manager of any premises must ensure that:
 - (a) waste is stored in a suitable container that is fit for purpose;
 - (b) reasonable steps are taken to prevent the waste from escaping from any waste container;
 - (c) there are minimal adverse effects of waste on surrounding occupiers;
 - (d) any waste container is regularly emptied when it is full;
 - (e) the contents of any waste container, excluding containers for green waste, are protected from rain or ingress or egress of flies and animals.
- (2) In addition, the owner, occupier and/or manager of any premises who is in control of an approved container must ensure that:
 - (a) the container is kept in a safe location, is hygienic, in good repair, and without any modifications or alterations to its appearance;
 - (b) waste is deposited in the container in a manner that allows the whole of the contents to fall out easily and cleanly when the container is emptied;
 - (c) every owner, occupier and/or manager of a building needs to ensure that sufficient space for the storage of waste receptacles is provided;
 - (d) unless the container is placed at a Council collection point, the container is placed for collection in an upright position off the roadway at the collection point for the premises from which the waste originated and as close to the kerbside as possible;
 - (e) reasonable steps are taken to prevent the container disrupting or obstructing pedestrian and vehicular traffic and to preserve access to the premises;

- (f) the container is placed for the collection of waste and retrieved in accordance with any applicable control and/or instruction specified by the Council.

11 DEPOSIT OF WASTE AT COUNCIL COLLECTION POINTS

- (1) The Council may specify:
 - (a) any place or receptacle in a public place or on a barge in a marine area, as a Council collection point for the collection of domestic type waste;
 - (b) controls relating to the deposit of waste at the Council collection point including the use of specified containers.
- (2) No person may deposit waste at a Council collection point other than in accordance with any applicable control.

SUBPART 2 – COLLECTION AND TRANSPORTATION OF WASTE

12 LICENSING OF THE COLLECTION AND TRANSPORTATION OF WASTE

- (1) Any person who collects or transports waste from and to land in the Far North District must obtain a licence to do so from the Council if the total amount of waste collected by that person in a 12 month period exceeds 20 tonnes.

13 DEPOSIT AT AND COLLECTION OF WASTE FROM A PUBLIC PLACE

- (1) Waste that can be placed in a public place for collection includes:
 - (a) domestic type waste; and
 - (b) green waste.
- (2) Prohibited waste, diverted material, construction and demolition waste or commercial waste may not be placed in a public place for collection unless authorised by Council under this bylaw.
- (3) Any waste collector who collects or transports domestic type waste from a public place may:
 - (a) not collect or dispose of at a landfill site any domestic type waste which has not been separated into refuse and recyclable material unless the amount of recyclable material mixed with the refuse does not exceed the maximum allowable limits specified by the Council under clause 19.
 - (b) not dispose to a landfill site, managed fill site, monofill site or cleanfill site recyclable material that is capable of being reused or recycled.

14 USE OF A PUBLIC PLACE FOR COLLECTION OF WASTE

- (1) The Council may specify controls for the following matters in relation to the collection or transportation of waste from a public place:
 - (a) the area to which the control applies;
 - (b) the type, size and construction of approved containers that may be used for the storage and collection of refuse and recyclable materials;
 - (c) the categories of recyclable material and refuse that may be deposited at or collected from a public place;
 - (d) the conditions applicable to any collection service from a public place, including the placement and retrieval of approved containers for collection, collection times and restrictions on the number and weight of approved containers;
 - (e) requirements to ensure the correct separation of refuse and recyclable materials into approved containers;
 - (f) the locations, access times and conditions of use of Council waste collection points;

- (g) any other operational matter required for the safe and efficient operation of a collection service from a public place.
- (2) Any person providing or using a waste collection service in or from a public place must comply with all controls made by the Council relating to that collection.

SUBPART 3 – DISPOSAL OF WASTE ON LAND

15 DISPOSAL OF WASTE ON LAND

- (1) Waste must be disposed of on land in accordance with this bylaw.
- (2) This clause does not apply to the disposal:
 - (a) of less than 30 cubic metres on the land, or such greater amount as the Council may approve, of clean fill material measured over any continuous 12 month period;
 - (b) of waste for home composting;
 - (c) of dead companion animals and nuisance pests;
 - (d) of dead farm animals in rural areas.

SUBPART 4 – LICENSING PROCESS AND CONDITIONS

16 APPLICATION FOR LICENCE

- (1) Applications for licences must be made in the prescribed form, describe the activities in respect of which the licence is sought and be accompanied by payment of the application and processing fees and such further supporting information as the Council may require to enable processing of the application.
- (2) The holder of an existing licence may apply to the Council for a renewal of that licence.
- (3) Licences may be granted or refused at the discretion of the Council, upon such terms and conditions as the Council thinks fit.
- (4) A licence is personal to the holder and is not transferable.

17 CONSIDERATION OF APPLICATION FOR LICENCE

- (1) When considering an application for a licence and the conditions to be imposed under it, the Council may take into account matters relating to the suitability of the applicant to hold a licence including but not limited to the following:
 - (a) the extent to which the licensed activities will promote public health and safety and achievement of the Council's Waste Management and Minimisation Plan and waste reduction initiatives;
 - (b) the applicant's experience, reputation and track record in the waste industry, including any known past operational issues which may affect, or may in the future affect, the applicant's performance;
 - (c) the type of waste to be collected or transported;
 - (d) the manner of treatment (if any) and disposal of the waste type, and the identity of the resource recovery facility, landfill site, managed fill site, mono fill site or cleanfill site at which it is proposed that treatment or disposal will occur;
 - (e) the terms and conditions under which such disposal of waste is permitted and the existence of or need for any statutory approvals, authorisations or consents required to be held or complied with in respect of such disposal;
 - (f) the frequency and location of the waste collection, transportation or disposal services;

- (g) the specifications of the vehicles, equipment and approved containers to be used for the collection, transportation or disposal of waste.

18 CONDITIONS OF LICENCES

- (1) The terms and conditions upon which a licence may be granted include, but are not limited to the following:
 - (a) term – a licence may be granted for a term of up to five years;
 - (b) licence fee – the licensee must pay an annual licence fee in an amount determined by the Council from time to time and be publicly notified;
 - (c) bond – the Council may from time to time and on a case by case basis require a licence holder to post a bank guaranteed bond;
 - (d) compliance with standards – the licence holder must comply with the Council's standards and policies for waste collection, transportation or disposal services including, in respect of collection services:
 - (i) the collection of any litter within five metres of an approved container awaiting collection and any litter spillage from the licence holder's vehicle during the collection, transportation or disposal process;
 - (ii) provision of waste collection services within reasonable times specified by Council;
 - (e) provision of information – the licence holder must provide waste data to the Council during the term of the licence in the form and at the times determined by the Council from time to time including the following data:
 - (i) waste log books for each vehicle operated in accordance with the licence recording the quantity, composition and destination of each waste type and the point in time when such data was recorded during the waste collection, transportation or disposal process;
 - (ii) weighbridge receipts;
 - (iii) gate records of waste tonnage.
- (2) The Council will take all reasonable measures to keep commercially sensitive information confidential including by the aggregation of such information for recording purposes.

SUBPART 5 – ADDITIONAL CONTROLS RELATING TO THE COLLECTION, TRANSPORTATION AND DISPOSAL OF DOMESTIC TYPE WASTE

19 CONTROLS FOR THE COLLECTION, TRANSPORTATION AND DISPOSAL OF DOMESTIC TYPE WASTE

- (1) The Council may specify controls for the following matters in relation to the collection, transportation or disposal of waste:
 - (a) domestic type waste that may be treated for all purposes (including deposit, collection, transportation and disposal) as recyclable material or refuse;
 - (b) maximum allowable limits of recyclable material or organic matter that may be disposed of at a land fill site, managed fill site, mono fill site or clean fill site;
 - (c) categories and types of waste that may be received, collected, stored, sorted, processed or disposed of at any landfill site, managed fill site, clean fill site, mono-fill site and material that may be used as cover material at any such site;
 - (d) materials that are suitable for use as natural or other hardfill material at a clean fill site;
 - (e) types of waste originating from a specified single source or location that may be disposed of at a monofill site;
 - (f) types of waste that are prohibited.

SUBPART 6 – MULTI-UNIT DEVELOPMENTS**20 COLLECTION FROM MULTI-UNIT DEVELOPMENTS**

- (1) The developer, owner and/or manager of a multi-unit development must make provision for the management of all waste generated within the property.
- (2) The owner and/or manager of a multi-unit development must obtain approval from the Council for a waste management and minimisation plan for the development unless they comply with clause 20(5).
- (3) A waste management and minimisation plan must include but is not limited to:
 - (a) identification of an adequate area on the premises including carpark or hardstanding for the storage of containers that is readily accessible to the occupiers of units and to a licensed waste operator to enable separate collection and transportation of refuse, recyclable material and/or organic matter;
 - (b) the methods to be used to minimise noise and odour and to keep the area hygienic, free from vermin or other infestations and protected from theft and vandalism;
 - (c) identification of the means and route of access and egress to the waste storage area;
 - (d) an estimate of the volumes of refuse, recyclable material and organic matter that will be generated;
 - (e) the steps which will be taken to further the objective of waste minimisation.
- (4) Any person who owns, occupies or manages a multi-unit development must comply with an approved waste management and minimisation plan.
- (5) The Council may provide a written exemption on application to any person who owns and/or manages a multi-unit development from full compliance with the requirements of this clause if:
 - (a) in the opinion of the Council, the costs of full compliance would be disproportionate to any resulting waste management and minimisation benefits; or
 - (b) the manager or owner demonstrates to the satisfaction of the Council that refuse, recyclable material and organic waste are separately and regularly collected; or
 - (c) the manager or owner arranges for co-collection services from an adjacent property, to the satisfaction of the Council.

21 MULTI-UNIT DEVELOPMENTS CONTROLS

- (1) The Council may specify controls for the following matters in relation to the collection or transportation of waste from multi-unit developments:
 - (a) the categories of recyclable material, organic matter and refuse that may be deposited at or collected from a multi-unit development;
 - (b) the times, locations and conditions applicable to any collection service from a multi-unit development, including the placement and retrieval of containers for collection, collection times and restrictions on the number and weight of approved containers;
 - (c) requirements to ensure the correct separation of refuse, organic matter and recyclable materials into containers;
 - (d) any other operational matter required for the safe and efficient operation of a collection service from a multi-unit development.
- (2) Any person who manages a multi-unit development or owns or occupies a unit in a multi-unit development must comply with any controls for the deposit, collection, transportation and management of waste in the multi-unit development made by the Council.

SUBPART 7 – EVENTS**22 WASTE MANAGEMENT AND MINIMISATION PLANS FOR EVENTS**

- (1) Any organiser of an event must obtain prior approval from the Council of a Waste Management and Minimisation Plan for the event.
- (2) The Council may require a Waste Management and Minimisation Plan to set out:
 - (a) an estimate of the types and amounts of waste to be generated by the event;
 - (b) how waste generated by the event is to be minimised;
 - (c) the steps that will be taken to maximise the collection and use of recyclables and re-usable material;
 - (d) the equipment to be provided for the storage, collection and transportation of waste and diverted material;
 - (e) the person responsible for the collection and disposal of waste and the methods to be used;
 - (f) a waste analysis following the conclusion of the event.
- (3) The organiser of an event must comply with the approved Waste Management and Minimisation Plan.

SUBPART 8 – NUISANCE AND LITTER**23 NUISANCE**

- (1) No person may-
 - (a) allow any accumulation of waste or diverted material on any premises they own, occupy or manage to escape, to become offensive, to be a nuisance or be likely to be injurious to health;
 - (b) use an approved container in a manner that creates a nuisance, is offensive or is likely to be injurious to health;
 - (c) dispose of any waste on any premises except at –
 - (i) a landfill site, clean fill site, managed fill site, mono-fill site, or
 - (ii) on any premises they own, occupy or manage, for the purposes of home composting.

24 LITTER

- (1) No person may-
 - (a) deposit any waste arising from that person's household or that person's domestic or business activities in any litter receptacle provided by the Council in any public place;
 - (b) remove any waste from any litter receptacle provided by the Council in any public place, where this results in any waste being deposited outside the receptacle unless authorised by the Council to do so;
 - (c) deposit or attempt to deposit any litter in any receptacle provided by the Council in any public place if:
 - (i) the receptacle is full; or
 - (ii) the litter is likely to escape.
 - (d) fix or attach any flag, banner, bunting, balloon, sign, poster, leaflet or similar thing to any litter receptacle provided by the council in any public place; or
 - (e) damage any litter receptacle provided by the Council in any public place.

- (2) The owner, occupier and/or manager of any premises on which any flag, banner, bunting, balloon, sign, poster, leaflet or similar device is displayed that is likely to become litter, must take all steps to the satisfaction of the Council to prevent it becoming litter and to clean up any litter caused by the display.

PART 4

ENFORCEMENT POWERS

25 NON-COMPLIANCE WITH CONDITIONS OF A LICENCE

- (1) Where a licence holder does not comply with the terms and conditions of the licence, the Council may take one or more of the following steps:
 - (a) Issue a written warning to the licence holder, which may be considered as evidence of a prior breach of a licence condition during any subsequent review of the licence;
 - (b) Review the licence, which may result in:
 - (i) amendment of the licence; or
 - (ii) suspension of the licence; or
 - (iii) withdrawal of the licence.
 - (c) Have recourse to any performance bond or security where the Council has incurred any cost as a result of the breach of the licence condition, including where the Council has itself performed or arranged for the performance of any licensed activity on the default of the licence holder;
 - (d) Review the amount and nature of the performance bond or security, which may result in:
 - (i) an increase of the amount of the performance bond or security;
 - (ii) a change to the nature of the security that has been provided;
 - (e) Enforce any offence that may have been committed under the Litter Act 1979;
 - (f) Enforce any breach of this bylaw, as provided for in the Health Act 1956, the Local Government Act 2002 and the Waste Minimisation Act 2008.

26 NON-COMPLIANCE WITH CONDITIONS FOR COLLECTION OF WASTE FROM A PUBLIC PLACE

- (1) Where a person does not comply with clauses 8, 9, 10, 13 or 14 the waste collector may:
 - (a) Reject (i.e. not collect) the contents of any approved container left out by that person for collection from a public place if the contents or placement of the container is noncompliant;
 - (b) Remove the contents of any approved container left out for collection from a public place, where the contents or placement of the container is noncompliant, subject to payment of the costs of removal, administrative costs and an additional penalty equivalent to the amount due for the collection of the largest available size of approved container of refuse from that premises;
 - (c) Withdraw or suspend the collection service provided by the waste collector to that person.
- (2) Where a person does not comply with clauses 8, 9, 10, 13 or 14 the Council may:
 - (a) Enforce any offence that may have been committed under the Litter Act 1979;
 - (b) Enforce any breach of this bylaw as provided for in the Health Act 1956.

27 NON-COMPLIANCE WITH CONTROLS FOR COUNCIL COLLECTION POINTS

12

- (1) Where a person does not comply with a control made by the Council under clause 11 the Council may-
 - (a) Issue a trespass notice to that person to prevent them from using the collection point;
 - (b) Suspend that person's use of any service provided by the Council at any or every waste collection service;
 - (c) Enforce any offence that may have been committed under the Litter Act 1979;
 - (d) Enforce any breach of this bylaw, as provided for in the Health Act 1956, the Local Government Act 2002 and the Waste Minimisation Act 2008.

PART 5

OFFENCES AND PENALTIES

28 BYLAW BREACHES

- (1) A person who fails to comply with Part 2 or Part 3 of this bylaw commits a breach of this bylaw and is liable to a penalty under the Waste Minimisation Act 2008, the Local Government Act 2002 and/or the Health Act 1956.

As at 1 July 2016, the penalty for breach of a bylaw made under the Waste Minimisation Act 2008 is a fine not exceeding \$20,000.
- (2) A person who commits a breach of this bylaw that is an offence under the Litter Act 1979 is liable to a penalty under that Act.

PART 6: EXCEPTIONS, REVOCATION AND SAVING PROVISIONS

29 EXCEPTIONS

- (1) A person is not in breach of this bylaw if that person proves that the act or omission was in compliance with the directions of an authorised officer.
- (2) A product stewardship scheme accredited under the Act may be exempted from the requirements of this bylaw.

30 REVOCATION

- (1) The following bylaws are revoked:
 - (a) Collection and Transportation of Waste and Diverted Material: 1 December 2009.
 - (b) Disposal of Solid Waste: 1 July 2010

31 SAVINGS AND TRANSITIONAL PROVISIONS

- (1) Any resolution or other decision made under the bylaws referred to in clause 30 remains in force in the area to which it applied until revoked or replaced by an equivalent resolution or decision made by the Council under this bylaw.
- (2) Any licence, consent, permit, dispensation, permission or other form of approval made under the bylaws referred to in clause 30 continues in force but:
 - (a) expires on the date specified in that approval; or
 - (b) if no expiry date is specified, expires on 1 December 2016; and
 - (c) can be renewed only by application made and determined under this bylaw.
- (3) Any application for a consent, permit, dispensation, permission or other form of approval made under a bylaw referred to in clause 30 that was filed before the day on which this

bylaw commences must be dealt with by the Council as if it had been made under this bylaw.

5.2 POU HERENGA TAI TWIN COAST CYCLE TRAIL BYLAW REVIEW

File Number: A3242948

Author: Briar Macken, Planner

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

TAKE PŪRONGO / PURPOSE OF THE REPORT

The purpose of this report is for the Strategy and Policy Committee to recommend to Council to agree the Pou Herenga Tai - Twin Coast Cycle Trail Bylaw should continue with amendment.

WHAKARĀPOPOTO MATUA / EXECUTIVE SUMMARY

- The Pou Herenga Tai – Twin Coast Cycle Trail Bylaw (Bylaw) is due for review by 08 September 2021.
- The Bylaw aims to protect public health and safety, minimise nuisance, and minimise damage to the Cycle Trail.
- A bylaw is still the most appropriate way to address the regulation of the Cycle Trail
- The Bylaw is no longer an appropriate form because it is not certain (clear), and it is not consistent with relevant laws and legislation.
- The Bylaw should continue with amendment.

TŪTOHUNGA / RECOMMENDATION

That the Strategy and Policy Committee recommend that Council:

- agree, under section 155(1) of the Local Government Act 2002, that a Bylaw is the most appropriate way of addressing problems related to the Pou Herenga Tai - Twin Coast Cycle Trail.**
- agree, under section 155(2) of the Local Government Act 2002, that the current Pou Herenga Tai - Twin Coast Cycle Trail Bylaw is not the most appropriate form because:**
 - it is not consistent with relevant laws and legislation**
 - it is not certain.**
- agree, the Pou Herenga Tai - Twin Coast Cycle Trail Bylaw be continued with amendment to:**
 - ensure consistency with relevant laws and legislation**
 - improve certainty**
- note, that under section 155(2) of the Local Government Act 2002, a full analysis of any implications regarding the Pou Herenga Tai - Twin Coast Cycle Trail Bylaw under the New Zealand Bill of Rights Act 1990 cannot be completed until the amendments to the bylaw have been written.**

1) TĀHUHU KŌRERO / BACKGROUND

The Pou Herenga Tai – Twin Coast Cycle Trail Bylaw (Bylaw) was made on 08 September 2016. Under section 158 of the Local Government Act 2002, the Bylaw is due for review by 08 September 2021. The Council is required under section 160 of the Local Government Act 2002 to consider whether the Bylaw:

- is still the most appropriate way of addressing the perceived problems with respect to the cycle Trail
- is still the most appropriate form of bylaw
- gives rise to any implications under the New Zealand Bill of Rights Act 1990.

2) MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND OPTIONS

Problems to be addressed

The Determination Report (15 June 2016)¹ stated that “A bylaw is the most appropriate way of managing the Trail because there is no single regulatory instrument for the management of the use of the Trail which is on private land, Crown land, road reserve, and land vested under the control of the Council”.

The following problems were identified:

- Protecting public health and safety including:
 - restricting access to cyclists and pedestrians
 - prohibiting motorised vehicles
 - control of dogs
 - control of horses.
- Protecting the public and adjoining landowners from nuisance
- Minimising damage including:
 - restricting horses.

A review of RFS data and internal consultation with Council and Pou Herenga Tai – Twin Coast Cycle Trail Trust staff has not identified any additional problems relating to the Cycle Trail.

Review findings

The review identified that a bylaw is still the most appropriate way to address the following problems relating to the Cycle Trail:

- Protecting public health and safety including:
 - restricting access to cyclists and pedestrians
 - control of dogs.
- Protecting from nuisance including:
 - control of stock
 - control of camping.
- Minimising damage including:
 - restricting construction or earthworks.

Therefore, the Bylaw is still the most appropriate way of addressing those problems with respect to the Cycle Trail.

However, the review identified that the form of the Bylaw is no longer appropriate.

A bylaw is not the most appropriate way to address problems relating to:

- the control of litter
- protecting the environment on or near the Cycle Trail.

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

- the definition of the Cycle Trail
- the areas of the Cycle Trail which are already covered by existing legislation.

The Bylaw is not consistent with relevant laws and legislation including but not limited to:

- Dog Management Bylaw

¹ [Pou Herenga Tai - Twin Coast Cycle Trail Bylaw Determination Report June 2016](#)

- Solid Waste Bylaw
- Land Transport Rules
- Freedom Camping Act 2011
- Local Government Act 2002
- removing reference to revoked bylaws.

This report considers what other options for the form of the bylaw may be more appropriate.

Option One: The Bylaw continues with amendment (recommended option).

The Bylaw stays in force and amendments are made to ensure the Bylaw:

- is consistent with relevant laws and legislation
- has improved clarity and certainty.

Consultation is required on the proposed amendments.

Advantages and disadvantages of amending the Bylaw

- | | |
|------------|--|
| Advantages | <ul style="list-style-type: none">• Bylaw will align with relevant laws and legislation• Bylaw will allow for easier enforcement of provisions• Bylaw will have improved clarity and certainty |
|------------|--|

- | | |
|---------------|---|
| Disadvantages | <ul style="list-style-type: none">• Implementation costs (likely to be minor) |
|---------------|---|

Option Two: Status Quo: The Bylaw continues without amendment

The Bylaw stays in force with no changes.

Consultation is required on continuing the bylaw without amendment.

Advantages and disadvantages of the status quo

- | | |
|------------|--|
| Advantages | <ul style="list-style-type: none">• No change management process required• No implementation costs required |
|------------|--|

- | | |
|---------------|--|
| Disadvantages | <ul style="list-style-type: none">• Bylaw is not consistent with relevant laws and legislation• Bylaw does not easily enable Council staff to enforce certain provisions• Potential for reputation risk as Bylaw is not effective nor certain. |
|---------------|--|

Option Three: Do nothing: Allow the Bylaw to auto revoke

Allowing the Bylaw to auto-revoke and not implementing another viable option to protect public health and safety along the Cycle Trail is not a reasonably practicable option.

Take Tūtohunga / Reason for the recommendation

A bylaw is still the most appropriate way of addressing the problems with the Cycle Trail.

A new form of bylaw is needed to ensure the Bylaw:

- is consistent with relevant laws and legislation
- is certain (clear).

Next Steps

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

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

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

ĀPITI HANGA / ATTACHMENTS

1. Review Research Report - Pou Herenga Tai - Cycle Trail - A3221774 [↓](#) 
2. Pou Herenga Tai - Twin Coast Cycle Trail Bylaw 2016 - A2674350 [↓](#) 
3. Pou Herenga Tai - Twin Coast Cycle Trail Bylaw 2016 - Schedule 1 - A1777664 [↓](#) 

Hōtaka Take Ōkawa / Compliance Schedule:

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

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

He Take Ōkawa / Compliance Requirement	Aromatawai Kaimahi / Staff Assessment
State the level of significance (high or low) of the issue or proposal as determined by the Council's Significance and Engagement Policy	In line with the Significance and Engagement Policy the recommendation to continue the bylaw with amendment will have little effect on financial thresholds, ratepayers, specific demographics or levels of service. The recommendation is consistent with existing plans and policies and we already consulted on the original bylaw. Therefore, the level of significance is low.
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	The Local Government Act 2002, sections 145, 146, 155 and 160 applies to the decision recommended in this report.
State whether this issue or proposal has a District wide relevance and, if not, the ways in which the appropriate Community Board's views have been sought.	As the recommendation is to continue a bylaw, 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. State the possible implications and how this report aligns with Te Tiriti o Waitangi / The Treaty of Waitangi.	Seeking the views and input of iwi in the development of bylaws is integral. Māori will be given an opportunity to contribute during the early engagement and consultation stage of the bylaw development process.
Identify persons likely to be affected by or have an interest in the matter, and how you have given consideration to their views or preferences (for example – youth, the aged and those with disabilities).	Affected and interested parties will be given an opportunity to share their views and preferences during the consultation phase including: <ul style="list-style-type: none"> • Community groups concerned about the Cycle Trail in their community • Pou Herenga Tai – Twin Coast Cycle Trail Trust • Northern Transport Alliance • Neighbouring property owners

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.

1 Purpose

To describe and discuss the review of the Pou Herenga Tai – Twin Coast Cycle Trail Bylaw (2016).

2 Context

The New Zealand Cycle Trail project (Nga Haerenga) is a New Zealand Government initiative, co-funded with local councils to build and operate a network of cycle trails or 'Great Rides' throughout the country. Pou Herenga Tai – Twin Coast Cycle Trail (Cycle Trail) is an 87 km cycle trail starting at Opuia on the east coast and traversing across to the Hokianga Harbour on the west coast.

The Council's Pou Herenga Tai – Twin Coast Cycle Trail Bylaw (Bylaw) was made on 08 September 2016. Under section 158 of the Local Government Act 2002, the Bylaw is due for review by 08 September 2021. The Council is required under section 160 of the Local Government Act 2002 to consider whether the Bylaw:

- is still the most appropriate way of addressing the perceived problem with respect to the cycle Trail
- is still the most appropriate form of bylaw
- gives rise to any implications under the New Zealand Bill of Rights Act 1990.

3 Problem definition

3.1 Original problem statement

The original determination report to Council (15 June 2016)² stated that "A bylaw is the most appropriate way of managing the Trail because there is no single regulatory instrument for the management of the use of the Trail which is on private land, Crown land, road reserve, and land vested under the control of the Council".

However, in the same determination report the following problems were also mentioned:

- Protecting public health and safety including:
 - restricting access to cyclists and pedestrians
 - prohibiting motorised vehicles
 - control of dogs
 - control of horses
- Protecting the public and adjoining landowners from nuisance
- Minimising damage including:
 - restricting horses.

These problems are reflected in the Bylaw *clause 4* which states the purpose of the Bylaw is to:

- protect, promote and maintain the safety of people using the Trail or working and living in proximity to the Trail
- protect from nuisance those using the Trail or working and living in proximity to the Trail
- minimise damage to the Trail
- protect and maintain the natural and wildlife values and habitats in the vicinity of the Trail.

3.2 Other problems relating to the Cycle Trail not currently controlled or addressed by the Bylaw

A review of RFS data and internal consultation with Council and Pou Herenga Tai – Twin Coast Cycle Trail Trust staff has not identified any additional problems relating to the Cycle Trail.

3.3 Scope

In scope

Problems relating to the Pou Herenga Tai – Twin Coast Cycle Trail which are a function of Council to control or address.

² [Pou Herenga Tai - Twin Coast Cycle Trail Bylaw Determination Report June 2016](#)

Out of scope

- All other recreation grounds, reserves, shared paths or roads in the Far North District as these are (or are planned to be) regulated by other policy instruments.
- Parts of the Cycle Trail which cross a road, as roads are regulated by the Land Transport Act 1998.

4 Council's role relating to the Cycle Trail

Nga Hereanga was initially a central government initiative to create one consistent and continuous cycle path the length of New Zealand. However, central government consultation identified that utilising, upgrading and extending existing paths was more financially viable. Therefore, central government provided funding to local authorities to develop suitable cycle trails in their districts.

Under section 10 of the Local Government Act 2002, the purpose of local government is to "... promote the social, economic, environmental, and cultural wellbeing of communities, in the present and for the future". The use of the Cycle Trail can have a positive effect on a community's wellbeing through direct impacts, such as affecting the physical health of people by encouraging active movement and affecting economic wellbeing by encouraging tourism.

The Council is responsible for the ongoing maintenance of the Cycle Trail as an asset. The Council has a service level agreement with the Pou Herenga Tai Twin Coast Cycle Trail Trust who undertake operational management of the Cycle Trail.

4.1 Local Government Act 2002

Council can make a bylaw under section 145 of the Act for the following purposes:

- protecting the public from nuisance
- protecting, promoting, and maintaining public health and safety
- minimising the potential for offensive behaviour in public places.

Under section 146 (b) (vi) Council can also make a bylaw for the purpose of:

"managing, regulating against, or protecting from, damage, misuse, or loss, or for preventing the use of, the land, structures, or infrastructure associated with reserves, recreation grounds, or other land under the control of the territorial authority".

Whilst the Cycle Trail crosses land that is not owned by Council, easement agreements have been put in place which state that property owners need to adhere to any policy instrument relating to the Cycle Trail. It is therefore reasonable to categorise the Cycle Trail as infrastructure associated with land under the control of Council.

4.2 Land Transport Act 1998

The Cycle Trail crosses and utilises land that is road and therefore Council can make a bylaw under section 22AB for multiple reasons including but not limited to:

- restricting the use of motor vehicles on unformed legal roads for the purposes of protecting the environment, the road and adjoining land, and the safety of road users
- prescribing the use of roads and cycle tracks, and the construction of anything on, over, or under a road or cycle track
- prohibiting or restricting parking on specified roads or parts of a road.

5 Review of Bylaw

5.1 Protecting public health and safety

Restricting access to cyclists and pedestrians

The aim of the Cycle Trail is to provide a safe space for cyclists and pedestrians. Due to the Cycle Trail being quite narrow in places and made from loose material, motorised vehicles were perceived to be a risk to the safety of cyclists and pedestrians. Therefore, the Bylaw prohibits motorised vehicles from entering the Cycle Trail.

RFS data shows that there have been a few incidences where people in motorised vehicles have been using the Cycle Trail, resulting in a 'near miss' with a cyclist. The RFS data supports the perceived problem that motor vehicles on the Cycle Trail may be unsafe for pedestrians and cyclists.

However, more research is required to identify why vehicles have been using the Cycle Trail. For example, does signage need to be improved or are people wilfully ignoring the Bylaw and why?

Given that the Cycle Trail crosses different types of land ownership, and that motorised vehicles may cause harm to cyclists and pedestrians, a bylaw remains an appropriate regulatory tool for restricting access to motorised vehicles on the trail.

Control of dogs

To protect the safety of both cyclists and dogs, the Bylaw stipulates that dogs are allowed on the Cycle Trail only when on a leash. RFS data and internal consultation identified incidences of dogs attacking users of the Cycle Trail. All dog attacks were from dogs not on a leash. The data supports the perceived problem that uncontrolled dogs can cause harm to the public.

Since implementing the Bylaw, the Council made the Dog Management Bylaw and Dog Management Policy in 2018. The Cycle Trail Bylaw is not consistent with the dog management policy instruments which do not allow dogs on the trail where the Cycle Trail passes through private land.

Duplicating regulation across multiple policy instruments does not follow best practice guidelines. Therefore, the clauses in the Bylaw relating to dogs should be revoked, and dog regulation should remain in the Dog Management Bylaw.

Control of horses

Cyclists may scare horses, especially where the Cycle Trail is quite narrow, leading to potential harm to all users of the Cycle Trail. Horse hooves may cause damage to the Cycle Trail as the surface of the Cycle Trail is not suitable for horse use. Therefore, the Bylaw restricts access to the Cycle Trail for horses. As an outcome of consultation, the Bylaw allows horse trekking events to be held four times per year with the consent of Council.

There is still hesitancy to give consent for horse events due to managing the health and safety of other users of the Cycle Trail, managing potential nuisance such as ensuring the opening and closing of gates, managing horse excrement on the Cycle Trail, and managing any potential damage to the Cycle Trail caused by horse hooves.

Further research is required to ensure that the Bylaw is in the appropriate form to manage the potential impact of horses to the Cycle Trail and its users.

5.2 Protecting from nuisances

Control of stock

Stock wandering on the path can be a safety issue for cyclists but also a nuisance for users of the path and neighbouring landowners. Controlling stock is a responsibility of landowners to maintain their property and fences, but also for users of the Cycle Trail to keep gates closed. The Bylaw includes multiple provisions to prevent wandering stock.

RFS data and internal consultation supports the perceived problem of wandering stock. However, more research is required to identify the causes of wandering stock for example, are communication tools regarding the closing of gates sufficient to enable public compliance.

The issue of wandering stock can be enforced under the Impounding Act 1955. However, Council does not have the resources (e.g., cattle truck, sufficient access to the Cycle Trail) to be able to enforce under the Impounding Act 1955.

The Bylaw regulates the use of the Cycle Trail and requires property owners to gain consent from Council, before using the Cycle Trail as a stock race. There have been incidences of neighbouring property owners using the Cycle Trail as a path for moving stock, leading to damaged plants etc. More research is required to ensure that appropriate mechanisms are put in place to enable ongoing communication with property owners regarding the provisions in the Bylaw.

More research is required to identify the most appropriate way to manage and regulate the issue of stock of the Cycle Trail.

Control of Camping

To prevent nuisance to both users of the Cycle Trail and neighbouring residents, camping is prohibited along the Cycle Trail.

The Reserves Act 1977 prohibits camping in any reserve, therefore any components of the Cycle Trail which are on land designated as reserve can be regulated by the Reserves Act 1977.

The Freedom Camping Act 2011 defines freedom camping as camping within 200m of a motor vehicle accessible area, or the mean low-water springs line of any sea or harbour, or on or within 200m of a formed road. Much of the Cycle Trail is on or within 200m of a motor vehicle accessible area or a formed road. Council can restrict or prohibit freedom camping on council-controlled land under the Freedom Camping Act 2011.

Therefore, a bylaw (made under the Freedom Camping Act 2011) is an appropriate regulatory tool to prohibit camping along the Cycle Trail.

5.3 Minimising damage to the Trail

The Bylaw prohibits damage to the Trail. The Bylaw minimises unintentional damage from neighbouring property owners by requiring consent for activities such as establishing a new driveway or path that crosses the Cycle Trail.

The Cycle Trail is considered infrastructure associated with land under the control of Council. Council has the power to recover for damage by wilful or negligent behaviour under section 175 of the Local Government Act 2002. However, bylaws can act as a deterrent and therefore just having a bylaw in place can prevent damage and be used as another tool to protect Council's asset.

Therefore, a bylaw remains an appropriate regulatory tool for preventing and enforcing incidences of damage.

5.4 Protecting the environment

Council does not have the power to make a bylaw protecting the environment under the Local Government Act 2002. Therefore, a bylaw is not the most appropriate regulatory tool for protecting the environment.

The Bylaw should be amended to remove the purpose of the Bylaw (4.1 (d)) which states "Protect and maintain the natural and wildlife values and habitats in the vicinity of the Trail".

5.5 Is the bylaw certain?

In determining if a bylaw is the appropriate form of bylaw, the bylaw needs to be certain e.g., it uses clear wording so people will understand what they are required to do.

Some of the language used in the bylaw is outdated and inconsistent with modern legislative drafting styles. There are several provisions in the bylaw that are unclear, for example, the meaning of the Cycle Trail as outlined in the Bylaw. The Bylaw refers to the map provided in Schedule 1 which does not give any definitive land markings. The maps should be updated to provide a clearer definition as to the area in which the Bylaw applies. The Bylaw states that the Cycle Trail is subject to existing laws where the path is within a Roadway. This component of the Bylaw is unclear. Roadway is not a definition commonly used in other legislation, although is defined in the Land Transport Rules. The Cycle Trail crosses land that is defined as road and therefore subject to regulation under the Land Transport Management Act 2003 and the Land Transport Act 1998. It could therefore be that these are the existing laws the Bylaw was referring to.

So that the public can easily interpret the Bylaw, the Bylaw needs to be amended to ensure ease of understanding and clarity, particularly where the Bylaw risks contradicting existing legislation.

5.6 Alignment with other relevant laws and legislation

The Bylaw refers to Council's *Control of the Use of Public Places Bylaw* which has been revoked. The Bylaw will need to be amended to ensure that the Bylaw aligns with Council's current policy instruments.

The Bylaw allows for the use of *wheeled recreation devices* and *mobility devices* on the Cycle Trail. Definitions for these devices and motorised vehicles are copies from Land Transport Rules that are in the process of being amended. To ensure consistency across policy instruments and to avoid any confusion, the Bylaw definitions should align with Land Transport Rule definitions by cross-referring to them, not copying them. This will ensure that when the Rules are amended the content of the bylaw will continue to be correct. (To illustrate, Waka Kotahi are currently consulting on new definitions for some types of vehicles (e.g., e-skateboards, powered unicycles, hoverboards and a range of mobility devices— see the *Accessible Streets* rules package³.)

To protect public health and safety and to minimise nuisance, consent from Council is required for any event held on the Cycle Trail. The components regarding events need to align with Council's other Bylaws. For example, the Solid Waste Bylaw requires events to have a Waste Management and Minimisation Plan.

The Bylaw prohibits littering on the Cycle Trail. Litter and littering in general are regulated by the Litter Act 1979. Litter Control Officers have the power to issue an infringement notice under the Litter Act 1979, whereas a bylaw made under the Local Government Act 2002 requires prosecution to enforce. Therefore, Council staff enforce littering under the Litter Act 1979. Duplicating regulation across multiple policy instruments does not follow best practice guidelines. Therefore, a bylaw is not the most appropriate regulatory tool for preventing and enforcing incidences of littering and clauses referring to littering should be revoked.

The Land Transport Act 1998 gives Council the power to make a bylaw for several reasons which may apply to the Cycle Trail. The Land Transport Act 1998 includes powers to issue infringement notices for certain offences which may allow for easier enforcement of the Bylaw. More research is required to identify if the Bylaw should also be made under the Land Transport Act 1998.

6 Discussion

6.1 Is a bylaw still the most appropriate way to address the regulation of the Cycle Trail in the Far North District?

The review has identified that a bylaw is still the most appropriate way to address the following problems relating to the Cycle Trail:

- Protecting public health and safety including:
 - restricting access to cyclists and pedestrians
 - control of dogs
- Protecting from nuisance including:
 - control of stock
 - control of camping.
- Minimising damage including:
 - restricting construction or earthworks.

A bylaw is not the most appropriate way to address problems relating to

- the control of litter
- protecting the environment on or near the Cycle Trail.

³ [Accessible Streets Rule Package - Waka Kotahi](#)

6.2 Is the bylaw the most appropriate form of bylaw?

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

- deals with the identified problems
- meets the objectives it is intended to achieve
- is certain, e.g. it uses clear wording so people will understand what they are required to do
- is enforceable and able to be implemented and administered effectively and efficiently
- considers the relationship of Māori to land, water, sites, wāhi tapu, valued flora and fauna and other taonga
- complies with all relevant laws and legislation.

The costs and benefits of a bylaw also need to be considered and the form of a bylaw will be appropriate if the benefits outweigh the costs.

The Bylaw has provisions which deal with the identified problems. However more research is required to identify:

- why motorised vehicles are accessing the Cycle Trail
- whether the Bylaw appropriately manages the potential impact of horses to the trail and its users
- the causes of wandering stock

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

- the definition of the Cycle Trail
- the areas of the Cycle Trail which are already covered by existing legislation or bylaws.

The Bylaw is not consistent with relevant laws and legislation including but not limited to:

- Dog Management Bylaw
- Solid Waste Bylaw
- Land Transport Rules
- Freedom Camping Act 2011
- Local Government Act 2002
- removing reference to revoked bylaws.

Therefore, the Bylaw is not the most appropriate form of bylaw and should be amended.

6.3 Does the Bylaw give rise to any implications under the New Zealand Bill of Rights Act 1990?

As the Bylaw is not the most appropriate form of bylaw a full assessment under the New Zealand Bill of Rights Act 1990 is not currently possible.

However, the only rights or freedoms under the Bill of Rights Act potentially engaged by the Bylaw are likely to be the rights to freedom of movement in relation to the restriction of access to the Cycle Trail for motorised vehicles and dogs. Limitations on these rights must be no more than is reasonably necessary to achieve the purpose of the Bylaw. The Bylaw limits these rights only to the extent that they create a danger to health and safety or a nuisance to others or the public generally.

Therefore, the Bylaw does not raise any implications under and is not inconsistent with the Bill of Rights because any limitations of rights are justified.

7 Conclusion

A bylaw is the most appropriate way to regulate the use of the Cycle Trail to protect public health and safety, and minimise nuisance and damage. The Bylaw needs to be amended to ensure that the Bylaw is easily understood and aligns with relevant laws and legislation.



FAR NORTH DISTRICT COUNCIL

POU HERENGA TAI - TWIN COAST CYCLE TRAIL BYLAW 2016

Pursuant to Section 145 of the Local Government Act 2002 and every other enabling power and authority.

To come into force:	01 October 2016
For the purpose of:	The purpose of this Bylaw is to regulate the use of the <i>Pou Herenga Tai - Twin Coast Cycle Trail</i> , to protect, promote and maintain the health and safety of cycle trail users, to protect from nuisance those using the Trail and to minimise damage to the Trail.
To be reviewed by:	01 October 2021

I N D E X**Clause**

01	Title
02	Meaning of Trail
03	Commencement and Application
04	Purpose
05	Interpretation
06	Use of the Trail
07	Access To and Over the Trail
08	Offences
Schedule	Maps 1, 1A, 1B, 1C

TITLE

- 1.1 The Bylaw shall be known as the Far North District Council *Pou Herenga Tai - Twin Coast Cycle Trail*.

2. MEANING OF TRAIL

- 2.1 For the purposes of this Bylaw, the Trail means the path formed by or on behalf of the Far North District Council along the route delineated on the maps in Schedule 1 of this Bylaw, whether on private land, Crown land, Road, or land vested in or under the control of the Council, that is intended for the use of cyclists but which may also be used by Pedestrians, riders of Mobility Devices, riders of Wheeled Recreational Vehicles and includes:

- (a) All the land within 2.5 metres on either side of the centre-line of the formed path or such appropriate lesser distance where the path is less than 5 metres wide; and
- (b) Every bridge, culvert and ford within the Trail;

But subject to existing laws where the path is within a Roadway.

3. COMMENCEMENT and APPLICATION

- 3.1 This Bylaw shall come into force on 01 October 2016 and applies to all parts of the Trail.

4. PURPOSE

- 4.1 The purpose of this Bylaw is to:

- (a) Protect, promote and maintain the safety of people using the Trail or working and living in proximity to the Trail; and
- (b) Protect from nuisance those using the Trail or working and living in proximity to the Trail; and
- (c) Minimise damage to the Trail; and
- (d) Protect and maintain the natural and wildlife values and habitats in the vicinity of the Trail.

5. INTERPRETATION

- 5.1 In this Bylaw, unless inconsistent with the context:

“Authorised officer” means an officer appointed by Council to consider and make decisions on applications made under this Bylaw.

“Council” means the Far North District Council and any warranted officer delegated to carry out the duties of administration and enforcement of the General Bylaws of the Council.

“Cycle”

- (a) means a Vehicle that has at least one wheel and that is designed primarily to be propelled by the muscular energy of the rider; and

- (b) includes a power-assisted cycle; and
- (c) includes a unicycle.

“Cyclist” is a person who rides a Cycle.

“Driveway” includes, but is not limited to, a place used as a vehicle entrance to or exit from land fronting a Road.

“Mobility Device” means a Vehicle that:

- (a) Is designed and constructed (not merely adapted) for use by persons who require mobility assistance due to a physical or neurological impairment; and
- (b) Is powered solely by a motor that has a maximum power output not exceeding 1,500 W.

“Moped” has the same meaning as in Section 2(1) of the Land Transport Act 1998

“Motorcycle” has the same meaning as in Section 2(1) of the Land Transport Act 1998

“Motor Vehicle” has the same meaning as in Section 2(1) of the Land Transport Act 1998, but does not include a Mobility Device or a Wheeled Recreational Device.

“Offence” means an offence against this Bylaw and includes any failure to comply with any part of this bylaw.

“Pedestrian” means a person on foot and includes a person in a wheelchair not propelled by mechanical power and a person in or on a contrivance equipped with wheels or revolving runners that is not a Vehicle.

“Road” has the same meaning as in section 315(1) of the Local Government Act 1974.

“Roadway” means that portion of the Road used for the time being for vehicular traffic in general.

“Stock” includes any horse, cattle, sheep, goat, pigs, deer, alpaca or llama or other hoofed animals.

“Trail” means the Pou Herenga Tai - Twin Coast Cycle Trail and has the same meaning given in clause 2.1 of this Bylaw.

“User” means a person that uses the Trail and includes a Pedestrian, a Cyclist, the rider of a Mobility Device or the rider of a Wheeled Recreational Device.

“Vehicle” has the same meaning as in section 2(1) of the Land Transport Act 1988.

“Wheeled recreational device”

- (a) means a Vehicle that is a wheeled conveyance (other than a Cycle that has a wheel diameter exceeding 355 mm) and that is propelled by human power or gravity; and
- (b) includes a conveyance to which are attached one or more auxiliary propulsion motors that have a combined maximum power output not exceeding 300 W.

5.2 In this Bylaw words in the singular include the plural and words in the plural include the singular.

6. USE OF THE TRAIL

6.1 The Trail may be used at the same time by Cyclists, Pedestrians, riders of Mobility Devices and riders of Wheeled Recreational Devices.

6.2 Subject to clause 6.3, no person shall drive a Motor Vehicle, motorcycle or moped on or along the Trail except:

- (a) to cross the Trail at an angle to the edge of the formed path on the Trail when on, entering, or exiting a Driveway; or
- (b) to carry out construction, maintenance, repair or replacement work on or in the vicinity of the Trail, which has been authorised by the Council; or
- (c) if that person is authorised by the Council to drive a Motor Vehicle on the Trail.

6.3 No person shall stop, stand or park a Motor Vehicle within 500mm of the edge of the formed path on the Trail without the prior written approval of the Council.

6.4 No person shall use the Trail for an organised event, including a race or time trial, without the prior written consent of the Council. This consent is required for any event, and an application shall be accompanied by health and safety plans, traffic management plans, details of marshals and any other appropriate information if requested by Council to support the application.

6.5 A User must at all times keep to the left side of the formed path on the Trail so that oncoming or following Users can pass on their right.

6.6 No User shall obstruct the entrances or exits to the Trail or unduly impede the passage of a User along the Trail.

6.7 At any time when there is not sufficient daylight to render clearly visible a cyclist or vehicle at a distance of 100 metres, a cyclist must use a steady or flashing forward-facing white or yellow light and a steady or flashing rear-facing red light which are sufficiently brilliant to be visible in normal atmospheric conditions for a distance of at least 100 metres.

6.8 All Cyclists and riders of Mobility Devices must when within any unlit Tunnels on the Trail use the lights described in clause 6.7 at any time of the day or night.

6.9 No person shall ride, lead or take any horse or horse and cart on the Trail unless:

- (a) it is for the purpose of crossing the Trail at right angles to the edge of the formed path on the Trail; or
- (b) it is an organised and advertised horse trek; such horse treks to occur no more than four (4) times in each calendar year with the consent of Council;
- (c) with the consent of Council.

6.10 Where the Trail is used as a Stock race, Stock shall have right of way.

- 6.11 Subject to clause 6.11 Stock are only permitted on the Trail under the following conditions:
- (a) to cross the Trail at right angles to the edge of the formed path or farm lane on the Trail for the purposes of entering or exiting private property via a Driveway; or
 - (b) if the Trail is within Road, in accordance with the Council's *Control of the Use of Public Places Bylaw* or any Bylaw made in substitution thereof; or
 - (c) with the prior written agreement of Council; or
 - (d) as set out in the access or agreement of licence, lease or easement between landowners and Council as duly notified.
- 6.12 No owner of a dog, or person in possession of a dog, shall allow that dog to enter onto or remain on any part of the Trail, unless that dog is on leash and under control at all times.
- 6.13 No User shall wilfully leave open any gate or make a gap in a fence for the purpose of permitting or causing any Stock to stray or wander on to the Trail or otherwise wilfully cause any Stock to stray or wander onto the Trail.
- 6.14 No User shall leave any litter or rubbish on the Trail.
- 6.15 No User shall be permitted to leave the Trail and enter private land adjoining the Trail, other than the owner(s) of such private land or any person(s) having the agreement of the landowner(s) to do so.
- 6.16 No User shall place or leave on the Trail any object, materials or thing that may obstruct or in any way interfere with the passage of Users along the trail, unless authorised by the Council and then only in accordance with such conditions imposed under that approval.
- 6.17 No User shall do or cause or permit to be done any act whatsoever by which any damage is caused to the Trail. Such damage includes:
- (a) interfering with, harming or killing any wildlife natural features, plants, trees or shrubs or removing any soils, sand or naturally occurring materials on or near the Trail; or
 - (b) interfering with any ornament, statue, building, structure, fence, gate or facilities on the Trail; or
 - (c) polluting, defacing, disfiguring, or applying graffiti, posters or advertising signs or sign of any description on or to any part of the Trail.
- 6.18 No User shall wilfully or negligently cause or allow any oil, or any liquid likely to create a danger to Users, to escape onto any part of the Trail including any part having a sealed or paved surface.
- 6.19 No User shall:
- (a) light any fire on the Trail; or
 - (b) erect a tent, gazebo or similar device on the Trail; or
 - (c) camp overnight on or beside the Trail.

7. ACCESS TO AND OVER THE TRAIL

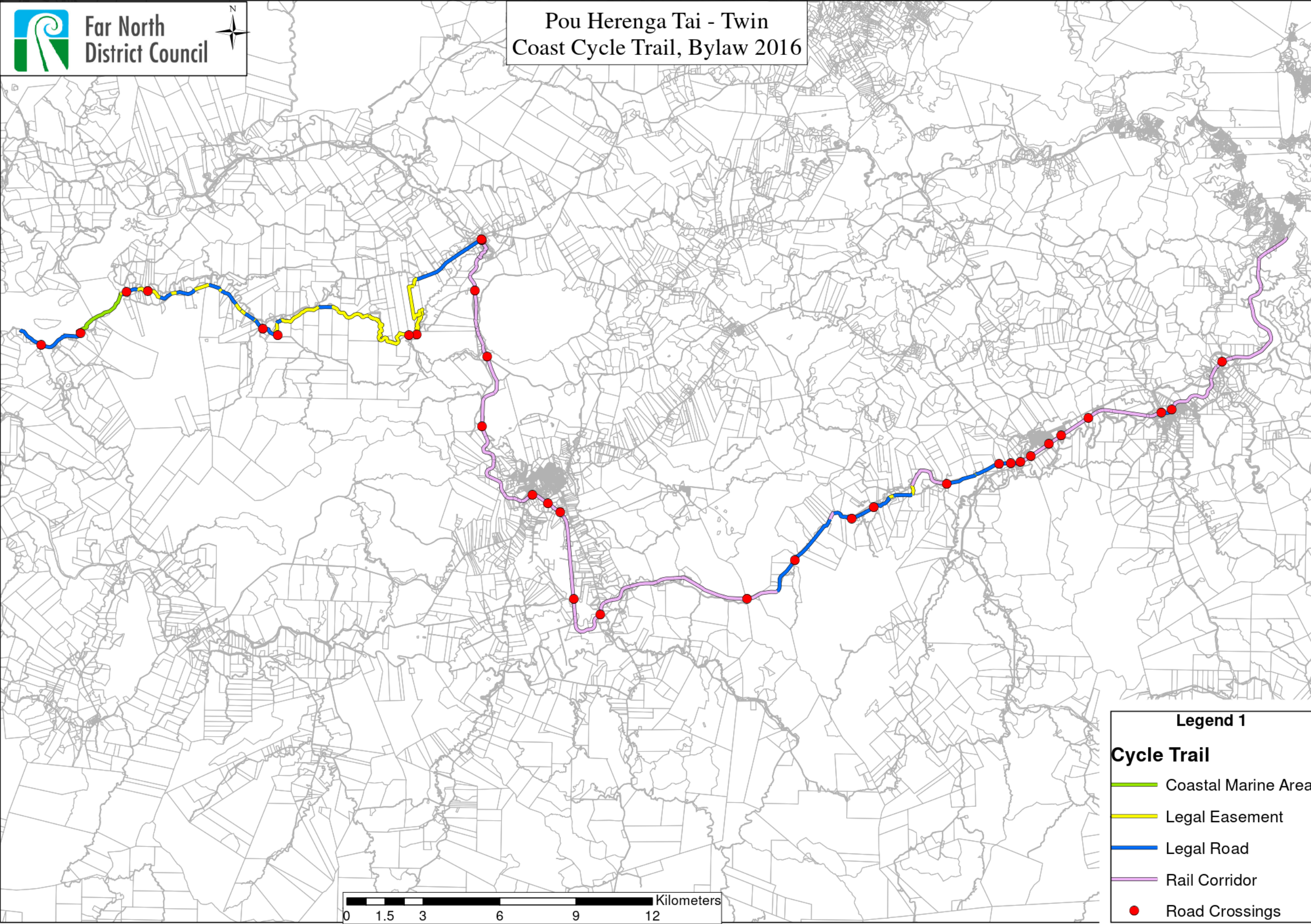
- 7.1 Except with the consent of the Council no person shall establish a new Driveway or path that:
- (a) Crosses the Trail, or provides access to and from the Trail; and
 - (b) Is used or available for use by Cyclists, Pedestrians, riders of Mobility Devices, riders of Wheeled Recreational Devices or drivers of Motor Vehicles.
- 7.2 In granting consent under clause 7.1 of this Bylaw, the Council may impose such conditions as it thinks fit for the protection and safety of Users.

8. CONSENTS

- 8.1 This clause relates to the provisions set out in clauses 6 and 7 which provide for consent to be obtained for particular use of the Trail.
- 8.2 Every person requesting consent shall complete an application form and submit it to an authorised officer of the Council for consideration.
- 8.3 Council will decide whether any further supporting information or any landowner's consent is required and inform the applicant accordingly.
- 8.4 Subject to clause 8.5, if landowner's consent is required Council will take steps to advise such landowner of the nature of the application and endeavour to procure a decision from such landowner.
- 8.5 Council may in its discretion decline the application without reference to any landowner but where it has decided that landowner's consent is required and such consent is declined, it must decline the application.

9. OFFENCES

- 9.1 Every person who breaches this Bylaw commits an offence under section 239 of the *Local Government Act 2002* and is liable on summary conviction to a fine not exceeding \$20,000.00 under section 242(2) of the *Local Government Act 2002*.
- 9.2 The Council may apply to the District Court under section 162 of the *Local Government Act 2002* for an injunction restraining a person from committing a breach of this Bylaw.



5.3 SIGNIFICANT NATURAL AREAS PROJECT OPTIONS

File Number: A3260126

Author: Emily Robinson, Policy Planner

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

TAKE PŪRONGO / PURPOSE OF THE REPORT

To seek a decision on the next steps for the Significant Natural Areas mapping project.

WHAKARĀPOOTO MATUA / EXECUTIVE SUMMARY

- In March 2021 a Draft Proposed District Plan was released for a period of non-statutory consultation. The draft included provisions and planning maps to gather community feedback before notification of the Proposed District Plan at the end of 2021.
- The Draft Proposed District Plan included Significant Natural Area (SNA) maps, and rules relating to these areas. The draft SNA maps identified 42% of the District being potentially significant and therefore a mailout to 9000 affected landowners occurred in May 2021.
- This signaled the start of a targeted feedback period to refine the mapping and gather feedback on SNAs.
- A large volume of public feedback was received, much of which was criticism of both the process and the imposition for landowners. A decision now needs to be made by the Strategy and Policy Committee on the direction of the SNA project, as well as the implications this may have on the District Plan review.
- Having heard the voice of the community the Mayor supported by Councillors has been proactively working with Minister James Shaw, Minister Kelvin Davis, tangata whenua and other key stakeholders to provide a positive outcome as Council progresses in its development of the proposed District Plan. A further update in relation to these discussions will be provided to the September Strategy and Policy Committee.

TŪTOHUNGA / RECOMMENDATION

That the Strategy and Policy Committee approve:

That the Significant Natural Areas project continues, with the refinement of Significant Natural Area maps occurring in the second half of 2021 before notification of the Proposed District Plan in December 2021. Rules relating to Significant Natural Areas will be included in the Proposed District Plan.

Or;

That the development of the proposed District Plan continues with the removal of Significant Natural Areas mapping and replaces this with a suitable policy framework that gives effect to the existing suite of higher order planning instruments,

Or;

That the development of the proposed District Plan continues with the removal of Significant Natural Areas mapping and replaces this with a suitable policy framework that gives effect to the National Policy Statement Indigenous Biodiversity and notifying the Proposed District Plan within six months of its gazettal, which is expected in December 2021. In the event that the National Policy Statement Indigenous Biodiversity is not gazetted, the Proposed District Plan is notified in 2022 and gives effect to the relevant suite

of higher order planning instruments, but excludes the mapping of Significant Natural Areas as a plan method.

1) TĀHUHU KŌRERO / BACKGROUND

In March 2021 a Draft District Plan was released in order to gather feedback from the community on the proposed provisions and related planning maps for the District Plan review. Through this draft engagement process, SNA maps and rules relating to the management of indigenous biodiversity was also released. This method was consistent with the policy direction shared with the community during engagement in 2018 and 2019 on the draft policy framework for the new district plan.

The SNA mapping project, undertaken in conjunction with Kaipara and Whangarei District Councils, responded to directions in higher order planning documents to arrive at more specific methods for significant indigenous species and habitats. The draft mapping identified 42% of the Far North District as being potentially affected. This resulted in approximately 9000 affected landowners. A mailout was undertaken to notify each of the landowners at the start of May to create further awareness. This signalled the start of a targeted engagement period, with the purpose of refining the accuracy of the SNA maps and gathering feedback on the proposal to inform the policy direction and methods for inclusion in the Proposed District Plan. A large volume of public feedback was received, much of which was criticism of both the process and the imposition on landowners.

The SNA project attained a national political profile due to the public interest and concern it has raised with respect to the potential cultural and economic impacts from the management methods in the draft plan. Mayor Carter, alongside other elected members have represented the issue at a national level with Mayor Carter meeting with Associate Environment Minister James Shaw in Wellington to highlight the concerns that the community has raised regarding SNAs, and the unique situation the Far North is in with such a high coverage of indigenous biodiversity.

Plan Making Process

In accordance with section 79 of the Resource Management Act 1991 (RMA), a local authority must commence a review of a District Plan within 10 years. Council began the review of the Far North District Plan in 2016 and consulted district wide with 'let's put a pin on it' to understand from communities what their issues were and what is working and not working.

The draft policy framework was later released in 2018, including objectives, policies and indicative rules. This was also subject to a district wide consultation exercise similar to that undertaken in 2016. The draft policy framework included a chapter on indigenous biodiversity identifying the context and methods for identifying significant natural areas, as well as draft rules for clearance within and outside of SNAs. Targeted engagement on SNA methods with affected landowners was planned for 2020, however the public health risks associated with COVID-19 rendered this approach inappropriate. An alternative approach relied on the completion of a draft district plan, including maps, with allowance for targeted engagement on key topics, including SNAs.

The Draft District Plan was released in 2021, which built on the draft policy framework in terms of providing rules and mapping across the district. Consultation was undertaken in conjunction with the Long-Term Plan, FN2100 and the Representation Review. Feedback on the Draft District Plan was open from March until May. The notification of the Proposed District Plan is working towards the end of 2021.

Statutory Obligations for the protection of indigenous vegetation

The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna is a requirement under Section 6 of the RMA, as a matter of national importance. The New Zealand Coastal Policy Statement 2010 (NZCPS) requires the protection of indigenous biological diversity and in doing states that any activities must avoid adverse effects in the coastal environment.

Case law from the Supreme Court⁴ has made it clear where policies are expressed in clearly directive terms, such as use of the word “avoid”, a decision-maker may have no option but to implement them.

The requirement is repeated in the Regional Policy Statement for Northland 2016 (RPS) with respect to avoiding adverse effects on indigenous vegetation and habitats of indigenous fauna in the coastal environment. The requirement to protect indigenous vegetation and habitats of indigenous fauna outside of the coastal environment is not as onerous and allows adverse effects to be avoided, remedied or mitigated so they are not significant. The RPS gives territorial authorities a two-year time frame to integrate rules relating to the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna into their District Plans.

Central Government has developed a Draft National Policy Statement for Indigenous Biodiversity (NPSIB) and has indicated a planned gazettal at the end of 2021. The draft NPSIB has requirements to identify and map significant indigenous vegetation and significant habitats of indigenous fauna with criteria listed in Appendix 1 of the NPSIB. The NPSIB also has a five-year timeframe for this work to be undertaken in accordance with a number of principles and methods for engagement, as well as more enabling provisions aimed at enabling development of Māori Freehold land.

The culmination of the above legislation means that Council has a responsibility to protect and maintain areas of significant indigenous vegetation and significant habitats of indigenous fauna through a District Plan.

Significant Natural Areas Mapping Project

Council has worked collaboratively with both the Kaipara and Whangarei District Councils to identify and map areas of significant indigenous vegetation throughout the region. This work commenced in 2018, with draft maps being supplied to Council in 2020.

At the start of May 2021, a mail out to affected landowners was undertaken. This involved sending letters, information packs and ecological reports to approximately 9,000 property owners who had potential SNAs identified on their property. The purpose of the mail out was to create further awareness of the issues and proposed methods, refine the SNA mapping and gather feedback on the draft policy framework and associated methods as a part of a non-statutory engagement program.

The mail out generated a large amount of public interest with over 3000 pieces of feedback being received, as well as the District Plan team fielding a large volume of calls and queries through email. The District Plan team also attended several hui and town meetings throughout May and June, generated by concerns that the community had around the project. A SNA livestream was also held on the 8th of June with representatives from council and a number of organizations to answer questions around SNAs. Tangata whenua had a particular concern with the processes followed for the SNA mapping project to date, as well as the implications that the SNA rules may have on their whenua.

Due to the large volume of public concern around the project, a direction is now sought from the Committee as to whether the SNA project is pursued and in what form SNAs take in the Proposed District Plan, keeping in mind our statutory obligations at both the national (NZCPS) and regional (RPS) level. Given Central Governments indication that the gazettal of the NPSIB will be at the end of 2021, it is also worth considering options around the timing of notification for the Proposed District Plan.

2) MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND OPTIONS

Option 1 - Continue the mapping project as planned, with the refinement of SNA maps occurring in the coming months before notification of the Proposed District Plan in December 2021.

⁴ SC 82/2013 [2014] NZSC 38 Environmental Defence Society Inc v New Zealand King Salmon Company Limited

This would include using oblique aerial imagery and site visits where requested to ensure that the SNA maps are as accurate as possible for inclusion in the Proposed District Plan. This option relies on refinement through engagement but would provide certainty for Council in terms of where SNAs are so they can be protected in accordance with the direction from central government and regional council. This method may also represent greater efficiencies and effectiveness due to less costs being passed onto individual landowners through requirements to undertake ecological assessments for resource consent applications. However, this method is also acknowledged to have a high level of community anxiety and concern, including concerns over cultural appropriateness and economic costs of compliance. Because of this level of concern, Option 1 is seen as having a high level of risk in terms of Council's relationships with Far North communities.

Option 2 - Discontinue SNA mapping project based on public concern and introduce methods in the draft District Plan that seek to achieve outcomes for biodiversity as required by higher order plans and directions.

Removing SNA maps in the District Plan would mean that the rule framework controlling the management of areas of indigenous vegetation will still need to 'give effect' to the RMA, NZCPS and RPS, and this will likely result in a more stringent rule framework than what is currently proposed with the inclusion of SNA maps. This is most relevant to those areas identified as having SNAs in the coastal environment where the test is to 'avoid' adverse effects. This option potentially puts the onus on every landowner in the district, particularly in the coastal environment, that has indigenous flora on their property to undertake an ecological assessment for land use activities and subdivision to ensure that proposed activities do not adversely affect a SNA. This method may result in a high cost for individual landowners when wanting to develop their land, and therefore may not dispel the community concern around SNAs.

Option 3 - Delay notification of the Proposed District Plan until the NPSIB is gazetted. Gazettal of the NPSIB is expected at the end of 2021 however, to allow for integration of a policy and rule framework into the Proposed District Plan, notification of the plan would occur in approximately April 2022. This option would allow for the framework afforded to indigenous biodiversity management in the NPSIB, including specific principles and processes for engagement, a potentially more enabling framework for the use of Māori land and recognition of continuation of existing pastoral land uses. This would allow the SNA maps to go through a long collaborative process before being integrated into the Plan at a later date. This option allows us to fulfil our statutory obligations under the RPS, while working towards aligning with the NPS in an achievable timeframe.

In the event that gazettal of the NPSIB does not occur within a timely manner (i.e six months after expected gazettal), the notification of the Proposed District Plan would go ahead and give effect to any relevant higher order planning documents, such as the RPS.

It is considered that this option would have the lowest level of risk in terms of both fulfilling statutory obligations and addressing community concern. However, it should be noted that there are other regulatory requirements at play when considering this option. Council's statutory requirements under the Climate Change Response (Zero Carbon) Amendment Act 2019 are due to come into play at the start of 2022 which may result in further work to integrate these requirements into a Proposed District Plan. As well as this, RMA reform offers another level of uncertainty, and there is a need to notify the Proposed District Plan prior to this occurring at the end of 2022. Therefore, ensuring that the plan is notified within the first half of 2022 is integral to this option being viable.

Option 4 - Discontinue the SNA project and maintain Operative District Plan approach to indigenous vegetation management.

This option would rely on including a similar policy framework for vegetation clearance in the Proposed District Plan as to what is in the Operative District Plan. This approach would involve having vegetation clearance thresholds and rules based on zoning. This would not fulfil our statutory obligations for the protection of areas of significant indigenous vegetation at both the national and

regional level. This method would not be defensible in statutory plan making processes given the nature of change in resource management obligations and methods since the District Plan was made operative in 2009 and is not considered a viable option.

Take Tūtohunga / Reason for the recommendation

It is recommended that the Policy & Strategy Committee and/or Council endorse and support Option one, two or three.

Option one would deliver the most efficient and effective outcomes for protection of significant indigenous vegetation and significant habitats of indigenous fauna by adding a level of certainty to where indigenous biodiversity is located without putting the onus on landowners to identify it through individual ecological assessments. However, Far North communities have expressed significant concerns with the mapping method and therefore this option has a high level of risk to the organisation associated with it.

Both options two and three provide alternative pathways to responding to the higher order documents and are defensible in statutory plan making processes.

Option two would be responsive to the directions set out in the RMA, NZCPS and RPS, however has the potential to have high costs transferred onto individual landowners through the requirement of ecological assessments being undertaken as a part of resource consent processes.

Option three involves delaying the notification of the proposed plan to enable the principles, processes and methods within the NPSIB to be expressed by the Proposed District Plan. This method acknowledges the stronger focus on working with communities in developing appropriate planning methods including maps, and ideally would allow for appropriate resourcing for implementation, that would be expected to take place over a number of years.

Option four is not supported as it would not represent a defensible approach given Council's statutory responsibilities and the changes to the resource management regulatory environment since the making of the Partly Operative District Plan in 2007.

Overall, Option one, two or three will fulfil Council's statutory obligations, however this would be achieved in different ways. Although Option 1 is likely the most efficient and effective way to manage areas of significant indigenous vegetation, in lieu of this being a viable option due to community concern, either Option two or three are seen as preferable as they allow Council to fulfil its statutory requirements under the RMA, the NZCPS and the RPS.

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

There are no immediate budgetary requirements. The SNA mapping project to date has been covered by the District Plan budget. However, further resources may be required once a direction on the SNA project is decided. This is outside of the scope of the current report.

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.

He Take Ōkawa / Compliance Requirement	Aromatawai Kaimahi / Staff Assessment
State the level of significance (high or low) of the issue or proposal as determined by the Council's Significance and Engagement Policy	The engagement we have undertaken so far has been non-statutory, however as the public interest in the project has increased, the significance of the issue has become high.
State the relevant Council policies (external or internal), legislation, and/or community outcomes (as stated in the LTP) that relate to this decision.	<p>In accordance with section 79 of the Resource Management Act 1991 (RMA), a local authority must commence a review of a District Plan within 10 years.</p> <p>The RMA requires the protection of areas of significant indigenous vegetation as a Section 6 matter (matter of national importance).</p> <p>The Regional Policy Statement for Northland (2016) requires areas of significant indigenous vegetation to be protected and maintained, and for adverse effects to be avoided in the coastal environment.</p> <p>The New Zealand Coastal Policy Statement 2010 (NZCPS) requires the protection of indigenous biological diversity and in doing states that any activities must avoid adverse effects in the coastal environment.</p>
State whether this issue or proposal has a District wide relevance and, if not, the ways in which the appropriate Community Board's views have been sought.	This is a District wide issue.
<p>State the possible implications for Māori and how Māori have been provided with an opportunity to contribute to decision making if this decision is significant and relates to land and/or any body of water.</p> <p>State the possible implications and how this report aligns with Te Tiriti o Waitangi / The Treaty of Waitangi.</p>	<p>A large portion of Māori Freehold Land has had a potential SNA identified on it, and therefore the effect on Māori is significant. Throughout the feedback period, there was a large amount of concern raised by Māori over the proposal. This has been taken into account in the authoring of the current report.</p> <p>Targeted iwi engagement on the Proposed District Plan is occurring in the second half of 2021, in the lead up to notification of the plan at the end of 2021.</p>

Identify persons likely to be affected by or have an interest in the matter, and how you have given consideration to their views or preferences (for example – youth, the aged and those with disabilities).	There has been a considerable amount of community concern around SNAs, which is in part why this report has been written. Although our process is under the RMA, the feedback period we undertook in March-May was non-statutory. We are currently collating feedback submitted through the SNA survey, and this will be used to inform a Section 32 report for the management of indigenous biodiversity under the RMA.
State the financial implications and where budgetary provisions have been made to support this decision.	There are no immediate budgetary or financial implications.
Chief Financial Officer review.	The Chief Financial Officer has reviewed this report

5.4 APPOINTED MEMBER ALLOWANCES POLICY

File Number: A3267254

Author: Caroline Wilson, Manager - District Administration

Authoriser: William J Taylor MBE, General Manager - Corporate Services

TAKE PŪRONGO / PURPOSE OF THE REPORT

Seek a recommendation to Council to adopt the policy on appointed member allowances.

WHAKARĀPOOTO MATUA / EXECUTIVE SUMMARY

- The Joint Climate Change Adaptation Committee (JCCAC) has prompted the possible need for an appointed member allowances policy to be adopted. There is no clarity from the Northland Regional Council (the administering body) to date as to whether appointed members from each of the Councils will be remunerated according to the policy of the administering body or from each individual Council – the terms of reference for the joint committee are silent on this matter.
- There is increasing interest in appointing external expertise to Councils own committees.
- This policy has been created in consultation with the councils within the region to ensure a consistent approach and fee structure for appointed members.
- Council currently doesn't have a policy under which it can remunerate our appointed member to JCCAC.

TŪTOHUNGA / RECOMMENDATION

That the Strategy and Policy Committee recommend that Council adopt the Appointed Members Allowances Policy.

1) TĀHUHU KŌRERO / BACKGROUND

Council has not previously appointed external experts to their committees, with the exception of the Assurance Risk and Finance Committee which has had an independent member for a number of triennia, under a contractual arrangement.

Council recently entered into an agreement for a Joint Climate Change Adaptation Committee and is also discussing options for external participation at a committee level.

The joint committee terms of reference have been silent on the matter of appointed members remuneration and whether the administering body's policy apply (in this case NRC) or whether each individual councils' own policy will apply. This is still a work in progress.

It is time to consider the adoption of a policy to ensure appointed members are fairly and transparently recompensed for their participation and provide clarity to the current appointed member's remuneration irrespective of the decision made by NRC and the JCCAC.

2) MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND OPTIONS

The council recognises that appointed (non-elected) members bring skills and expertise to the decision-making process. Having a fair and transparent allowances policy ensures that the financial impact of their participation does not act as a disincentive to participation. A transparent, fair and balanced policy on the payment of allowances to appointed members promotes public confidence in the council's financial stewardship.

Many councils have independent advisory committees and/or specific expertise appointed to committees of Council. In such cases, councils have adopted an allowances policy to provide a consistent and transparent approach to recognising their contribution and encouraging expertise to the table that may otherwise not be available to members in their decision-making.

This policy was designed in consultation with the Northland Regional, Whangarei and Kaipara District Councils to ensure consistency and equity particularly in light of the joint committee. It also sets the rules for future appointments to council committees.

The policy principles are the same across the region, with some minor localised variations, and the fee structure is relatively consistent.

The three other Northland based Councils either have the following fee structure or are about to propose the following fee to their Council at their next Council meeting. The TOAT fee has been added to assist with comparison.

Council	Meeting Fee
Northland Regional	\$240
Whangarei District	\$280
Kaipara District	\$240
Far North District	\$240
TOAT Member (set in legislation)	\$275

Cost comparison across other Councils sees the fees set between \$170 - \$400 per meeting fee. Some provide only hourly rates between \$50 to \$70 per hour, up to a typical maximum of \$600 per meeting (Auckland City). The allowance is less than the current pro-rata equivalent of the councillor base rate (determined by the Remuneration Authority) but above the minimum allowable and will be closer if/when we move to 10 councillor structure through the representation review.

This policy will apply to any appointed members to governance committees of the Far North District Council, or any joint committees where the Far North District Council is either the administering body or has their own appointed members. Appointed members would also be eligible to claim vehicle and travel time allowance, under the current Elected Members Allowances and Reimbursement policy.

Option 1 – adopt the policy

In this option we adopt the policy which is aligned with a regional approach to remuneration of appointed members. This ensures a high degree of consistency, particularly as we may appoint expertise in the future that has been previously appointed to other councils within the region. It would resolve any issue of perceived disparity with the fee structure and payable allowances. This is the preferred option.

Option 2 – not adopt the policy at this stage

We could wait for direction from NRC which may be forthcoming prior to this policy coming before Council for adoption. It does require a change to JCCAC terms of reference and approval from each Council which could mean this is delayed until later this year. As we have not yet received a report on a participation model at committee level, we are not yet required to have a policy in place. However it might be considered prudent to have this approved for when Council does decide to pursue this option and provide clarity to any potential candidates related to allowances. This is not the preferred option.

Take Tūtohunga / Reason for the recommendation

Adopt the policy on appointed members allowances to ensure Council is prepared for appointing external expertise to Council committees and/or joint committees.

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

Budget has been allocated in the 2021-2022 financial year should Council wish to pursue the option of appointing external expertise to Committees.

ĀPITIHANGA / ATTACHMENTS

1. **Appointed Members Allowances Policy - A3270283** [↓](#) 

Hōtaka Take Ōkawa / Compliance Schedule:

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

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

He Take Ōkawa / Compliance Requirement	Aromatawai Kaimahi / Staff Assessment
State the level of significance (high or low) of the issue or proposal as determined by the Council's Significance and Engagement Policy	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.	Elected Members Allowances and Reimbursement Policy relates for the provision of vehicle mileage and travel time claims.
State whether this issue or proposal has a District wide relevance and, if not, the ways in which the appropriate Community Board's views have been sought.	This has district wide relevance.
State the possible implications for Māori and how Māori have been provided with an opportunity to contribute to decision making if this decision is significant and relates to land and/or any body of water. State the possible implications and how this report aligns with Te Tiriti o Waitangi / The Treaty of Waitangi.	There is no particular significance for 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).	There is no identified interested parties.
State the financial implications and where budgetary provisions have been made to support this decision.	Budgetary provision has been made in the 2021-22 financial year.
Chief Financial Officer review.	The Chief Financial Officer has reviewed this report

Appointed Members Allowances Policy

Drafted: 25 June 2021

Context

This policy has been developed in consultation with the Northland Regional, Whangarei District and Kaipara District councils to ensure fair, transparent and consistent payment of allowances to non-elected (appointed) members.

Elected members' remuneration, expenses and allowances are governed by the Remuneration Authority. The Authority does not concern itself in a council's methods or policies for rewarding or compensating non-elected members.

Legislative Context

The Local Government Act 2002 (Schedule 7, clause 31(3)) provides that the Council may appoint to a committee or subcommittee a person who is not an elected member if that person has the skills, attributes and knowledge that will assist the work of the committee or subcommittee.

Principles

The principle of this policy is for the allowances paid to appointed members to be transparent, accountable, and fair by:

- 1 appointed members not being financially disadvantaged by their participation in committees, working parties or other bodies.
- 2 the financial impact of participation in committees, working parties or other bodies is not a disincentive to participation.
- 3 Fees being set on a fair but conservative basis to reflect an element of public service involved.

The expected outcome of this policy is public confidence in the council's financial stewardship and alignment with our regional counterparts, particularly as appointed members may be engaged to more than one committee and at more than one council within the district.

Application of this Policy

- 1 This policy applies to attendance at the following:
 - a. Standing Committee Meetings: i.e. a committee appointed by the council (only) that meets on a regular basis to address specific issues covered by the committee's delegations;
 - b. Joint Committee or Subcommittee Meetings if their appointment has been approved by council or committee formal resolution;
 - c. Standing Committee or Subcommittee Workshops if the membership has been approved by council or committee resolution;

- d. Meetings of any other sub-ordinate bodies set up by Standing Committees or Subcommittees if the membership has been approved by council or committee resolution;
- e. Scheduled meetings of External Bodies; provided council has approved by resolution that the appointed member will represent council at these meetings.

2 This policy does not apply to:

- a. The Mayor and Elected Members, who have their remuneration agreed through the Remuneration Authority and a decision of the Council at the beginning of each triennium;
- b. Boards established under specific legislation (e.g. Te Oneroa-a-Tōhe Beach Board) which have separate and specific allowances;
- c. The District Licensing Committee Chair and Members, who have remuneration set by Government regulation;
- d. Independent Hearing Commissioners engaged by the Council, who are remunerated separate from this policy;
- e. Internal or external staff attending a committee or panel meeting as part of their employment;
- f. Any appointed member whose participation on a committee, subcommittee, working party or external body is remunerated by a government agency, another local authority or private/public interest group.
- g. The council's independent Deputy Chair of the Assurance Risk and Finance Committee, as that member is paid by contractual agreement;
- h. Appointments to a Community Board committee or working party recognising that their role is advocacy and largely for the public good;
- i. Council established community committees or working parties, (for example - but not limited to - hall, reserves, cemetery committees);
- j. Workshops or functions not organised by Democracy Services.

Meeting (workshop) Allowance

- a. The council will pay a daily meeting (workshop) allowance for members of \$240 and \$300 for the chair. For clarity, if a member attends two meetings (workshops) on the same day, the allowance may only be claimed once for that day. Members may choose to not claim this allowance;
- b. The meeting (workshop) allowance covers all work associated with participation in the meetings of the body, including that performed outside of meetings (e.g. preparation and post-meeting follow-up);
- c. The allowance will not be paid if a meeting/workshop is cancelled with two days notice. Appointed members are eligible to claim travel and meeting allowances if a meeting lapses due to lack of a quorum and they have travelled to that meeting;
- d. The meeting (workshop) allowance does not cover specific work that may be required of member(s) of the body/group over and above participation in meetings. Such additional or extra work will be remunerated by other means, via specific contract or koha, for example. and must be approved and recorded by the body before it is undertaken and is subject to agreement by the council.

Vehicle Mileage and Travel Time Allowance

The council will pay the vehicle mileage and travel time allowance as set out in its current Elected Members' Expenses and Allowances Policy. The annual cap and minimum distance requirements of the Elected Members' Expenses and Allowances Policy apply. Eligible appointed members may choose to not claim mileage.

The allowance will not be paid for any mileage that is not associated with travel between a member's primary residence and properly scheduled meetings of a committee or subcommittee, in the member's own vehicle, and by the most direct route that is reasonable in the circumstances.

Exceptions

Exceptions to this policy can be made in certain circumstances on a case by case basis. An application must be made to the Chief Executive or their delegate for approval through Democracy Services.

Procedure for claiming allowances

- a. After each meeting, the appointed member is to send an invoice for the allowances they wish to claim, along with relevant receipts to accountspayable@fndc.govt.nz. For the purposes of this policy, appointed members are not classed as employees of Council and must adhere to relevant IRD requirements in relation to tax and expenses.
- b. The Council will aim to pay allowances within a fortnight of receipt of an invoice.

Related information

Far North District Council's Elected Members' Expenses and Reimbursement Policy - [elected-members-allowances-and-reimbursement-policy-2017.pdf \(fndc.govt.nz\)](#)

Monitoring and Review

The Democracy Services team is responsible for overseeing implementation of this policy and for providing guidance for decisions made under the policy.

It will be reviewed:

1. When a formal request to do so is received from either:
 - a. A northland region local authority (to maintain a level of regional consistency with meeting and workshop fees);
 - b. From the chair of a committee or subcommittee
2. At the end of each triennium.
3. If there is a legislative amendment that requires a review of this policy.
4. If a recommendation to review is received by Audit New Zealand.

6 INFORMATION REPORTS

6.1 STRATEGY AND POLICY ACTION SHEET UPDATE JULY 2021

File Number: A3278597

Author: Kim Hammond, Meetings Administrator

Authoriser: Aisha Huriwai, Team Leader Democracy Services

TAKE PŪRONGO / PURPOSE OF THE REPORT

To provide the Strategy and Policy Committee with an overview of outstanding decisions from 1 January 2020.

WHAKARĀPOOTO MATUA / EXECUTIVE SUMMARY

- Council staff have reintroduced action sheets as a mechanism to communicate progress against decisions/resolutions and confirm when decisions have been implemented.
- The focus of this paper is on Strategy and Policy decisions.
- Action sheets are also in place for Council and Community Boards.

TŪTOHUNGA / RECOMMENDATION

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

1) TĀHUHU KŌRERO / BACKGROUND

The Democracy Services Team have been working on a solution to ensure that elected members can receive regular updates on progress against decisions made at meetings, in alignment with a Chief Executive Officer key performance indicator.

Action sheets have been designed as a way to close the loop and communicate with elected members on the decisions made by way of resolution at formal meetings.

Action sheets are not intended to be public information but will provide updates to elected members, who, when appropriate can report back to their communities and constituents.

2) MATAPAKI ME NGĀ KŌWHIRINGA / DISCUSSION AND OPTIONS

The outstanding tasks are multi-facet projects that take longer to fully complete.

The Democracy Services staff are working with staff to ensure that the project completion times are updated so that action sheets provided to members differentiate between work outstanding and work in progress.

Take Tūtohunga / Reason for the recommendation

To provide the Strategy and Policy Committee with an overview of outstanding committee decisions from 1 January 2020.

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

There are no financial implications or need for budgetary provision in receiving this report.

ĀPITIHINGA / ATTACHMENTS

1. **Strategy and Policy Committee Outstanding Actions 20200101 - 20210707 - A3278657**



OUTSTANDING ACTIONS REPORT			
Division: Committee: Officer:		Strategy and Policy Committee	
		Printed: Wednesday, 7 July 2021 1:01:09 PM Date From: 1/01/2020 Date To: 7/07/2021	
Meeting	Title	Resolution	Notes
30/07/2020	Options Report - Parks and Reserves General Policies Development	RESOLUTION 2020/3 Moved: Cr Moko Tepania Seconded: Cr John Vujcich The Strategy and Policy Committee agrees and recommends to Council that new general policies for the management of parks and reserves be developed. <p style="text-align: right;">CARRIED</p> Note: The Committee requested the minutes note that the process needs to be inclusive of Community Boards in recognition of their delegations.	
30/07/2020	Options Report - Parks and Reserves General Policies Development	RESOLUTION 2020/3 Moved: Cr Moko Tepania Seconded: Cr John Vujcich The Strategy and Policy Committee agrees and recommends to Council that new general policies for the management of parks and reserves be developed. <p style="text-align: right;">CARRIED</p> Note: The Committee requested the minutes note that the process needs to be inclusive of Community Boards in recognition of their delegations.	
1/12/2020	Joint Local Authority Climate Change Committee - Agreement and Appointment of Members	RESOLUTION 2020/25 Moved: Cr David Clendon Seconded: Cr Moko Tepania The Strategy and Policy Committee a) revokes the decision made at the Committee meeting on 30 July 2020 (resolution 2020/2) 4.1 JOINT CLIMATE CHANGE ADAPTATION GOVERNANCE COMMITTEE <i>Agenda item 4.1 document number A2905655, pages 14 - 22 refers.</i>	

OUTSTANDING ACTIONS REPORT			
Division: Committee: Officer:		Strategy and Policy Committee	
		Printed: Wednesday, 7 July 2021 1:01:09 PM Date From: 1/01/2020 Date To: 7/07/2021	
Meeting	Title	Resolution	Notes
		<p>COMMITTEE RESOLUTION 2020/1</p> <p>Moved: Cr Rachel Smith Seconded: Cr John Vujcich That the Strategy and Policy Committee:</p> <p>a) approve the forming of a Joint Climate Change Adaptation Governance Committee with one tangata whenua representative from each of the four Councils that are contained in the Northland Region, these being Northland Regional Council, Whangarei District Council, Kaipara District Council and Far North District Council and that; and</p> <p>b) approve that Councillor Clendon as the climate change portfolio holder, Councillor Stratford as an alternative, to be appointed as the Far North District Council elected member representative on the proposed Joint Climate Change Adaptation Governance Committee and that;</p> <p>c) approve that Te Kahu O Taonui be asked to nominate a representative and an alternate as tangata whenua representation on the proposed Joint Climate Change Adaptation Governance Committee and that;</p> <p>d) approve the development of a policy for the remuneration of non-elected members to committees of Council.</p> <p style="text-align: right;">CARRIED</p> <p>The Strategy and Policy Committee recommends Council</p> <p>b) agrees, under clause 30A(1) of Schedule 7 of the Local Government Act 2002, with the Northland Regional Council, Whangārei District Council and Kaipara District Council to appoint a joint committee called the Joint Climate Change Adaptation Committee as specified in the Terms of Reference (A2994705), subject to the Terms of Reference being amended by:</p> <ul style="list-style-type: none"> replacing, in the Membership section, the words “nominated”, “nomination” and “nominate” with the words “appointed”, “appointment” and “appoint” respectively replacing, in the Committee Chair and Deputy Chair section, the words “elected from” with the words “appointed by” 	

OUTSTANDING ACTIONS REPORT			
Division: Committee: Officer:		Strategy and Policy Committee	
		Printed: Wednesday, 7 July 2021 1:01:09 PM Date From: 1/01/2020 Date To: 7/07/2021	
Meeting	Title	Resolution	Notes
		<ul style="list-style-type: none"> replacing, in the Remuneration section, the words “non-elected members remuneration policy of that Council” with “the Northland Regional Council Appointed Members’ Allowances Policy”. <p>c) appoints Councillor Clendon as the Far North District Council elected member on the Joint Climate Change Adaptation Committee.</p> <p>d) appoints Councillor Stratford as the Far North District Council alternative elected member on the Joint Climate Change Adaptation Committee.</p> <p>e) request His Worship the Mayor and Cr Clendon to invite Te Kahu o Taonui to nominate two people with skills, attributes, or knowledge that will assist the work of the Joint Climate Change Adaptation Committee to be the Far North District Council iwi/hapū member and alternative iwi/hapū member of the Committee.</p> <p style="text-align: right;">CARRIED</p> <p>RESOLUTION 2020/26</p> <p>Moved: Deputy Mayor Ann Court Seconded: Cr John Vujcich</p> <p>That the Strategy and Policy Committee</p> <p>a) recommend to Council that a policy for the rummuneration of non-elected members for committees of Council be developed.</p> <p>b) request that the policy is not inconsistent with other Northland Councils remuneration policies for Joint Regional committees.</p> <p style="text-align: right;">CARRIED</p>	
1/12/2020	Consultation on Draft District Plan	<p>RESOLUTION 2020/27</p> <p>Moved: Cr David Clendon Seconded: Cr John Vujcich</p> <p>That the Strategy and Policy Committee</p> <p>a) endorse the approach to include “Significant Natural Areas” in the consultation process on the draft District Plan and FN2100.</p>	

OUTSTANDING ACTIONS REPORT			
Division: Committee: Officer:		Strategy and Policy Committee	
		Printed: Wednesday, 7 July 2021 1:01:09 PM Date From: 1/01/2020 Date To: 7/07/2021	
Meeting	Title	Resolution	Notes
		b) request a workshop be scheduled early in the new year to provide Elected Members insight into the detail of the documents prior to consultation. CARRIED	
9/02/2021	Briefing Paper On-Site Water Storage February 2021	RESOLUTION 2021/5 Moved: Cr Kelly Stratford Seconded: Cr David Clendon That the Strategy and Policy Committee: a) receive the report 'Briefing Paper On-Site Water Storage February 2021'. b) request Council receive a report, outlining the scope, resourcing and delivery timeframes, relating to the in-depth report referenced. c) request a workshop be held to discuss opportunities and risks for private water supplies, and options for the provision of water tanks for the Far North district before November 2021. CARRIED	29 Apr 2021 10:44am Sheppard, Donald Report and workshop to occur later this year 16 Jun 2021 4:36pm Sheppard, Donald Report still being prepared
23/03/2021	Solid Waste Bylaw Review	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	29 Apr 2021 10:36am Macken, Briar Next steps: Work on consultation requirements underway. Proposal due 20 July meeting.

OUTSTANDING ACTIONS REPORT			
Division: Committee: Officer:		Strategy and Policy Committee	
		Printed: Wednesday, 7 July 2021 1:01:09 PM Date From: 1/01/2020 Date To: 7/07/2021	
Meeting	Title	Resolution	Notes
4/05/2021	Proposal for a Treated Water Supply Bylaw	RESOLUTION 2021/14 Moved: Cr Kelly Stratford Seconded: Cr David Clendon 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, be agreed upon between Chairperson Smith, Cr Clendon and the Chief Executive Officer; 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 Officer to make minor changes to the Treated Water Supply Bylaw Proposal to correct grammatical or spelling errors, or formatting. CARRIED	
4/05/2021	New Parking and Road Use Bylaws	RESOLUTION 2021/15 Moved: Deputy Mayor Ann Court Seconded: Cr Moko Tepania 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: i) competition for space in the central business districts.	17 Jun 2021 12:05pm Smith, Siân New bylaws being developed. Target date for Committee to approve draft bylaws for public consultation is meeting on 07 September 2021.

OUTSTANDING ACTIONS REPORT			
Division: Committee: Officer:		Strategy and Policy Committee	
		Printed: Wednesday, 7 July 2021 1:01:09 PM Date From: 1/01/2020 Date To: 7/07/2021	
Meeting	Title	Resolution	Notes
		ii) congestion in the central business districts. CARRIED	
4/05/2021	Control of On-site Wastewater Disposal Systems Bylaw	RESOLUTION 2021/16 Moved: Deputy Mayor Ann Court Seconded: Cr John Vujcich 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. CARRIED	17 Jun 2021 9:13am Macken, Briar Drafting of new bylaw underway with cross-council input. Draft and proposal for consultation is planned to be presented at the 07 September 2021 Strategy and Policy Committee meeting.
4/05/2021	Review of Psychoactive Substances Local Approved Products Policy 2014	RESOLUTION 2021/17 Moved: Deputy Mayor Ann Court Seconded: Cr Kelly Stratford 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. CARRIED	
15/06/2021	Resident Opinion Survey	RESOLUTION 2021/20 Moved: Chair Rachel Smith Seconded: Cr Moko Tepania That the Strategy and Policy Committee agrees to the changes of the frequency for the Resident Opinion Survey from annually to quarterly in 2021/2022.	

OUTSTANDING ACTIONS REPORT			
Division: Committee: Officer:		Strategy and Policy Committee	
		Printed: Wednesday, 7 July 2021 1:01:09 PM Date From: 1/01/2020 Date To: 7/07/2021	
Meeting	Title	Resolution	Notes
		CARRIED	
15/06/2021	Speed Limit Bylaw Review Statement of Proposal	RESOLUTION 2021/22 Moved: Cr Kelly Stratford Seconded: Cr Felicity Foy That the Strategy and Policy Committee: a) adopt the attached “Statement of Proposal – Proposed Amendments to the Speed Limits Bylaw 2019” for consultation. b) agrees to undertake consultation on the proposed changes to speed limits set out in the attached Statement of Proposal in accordance with the Special Consultative Procedures set out in Section 83 of the Local Government Act 2002. c) confirms that the submission period will last for a period of six weeks from 29th June 2021 to 10th August 2021. d) authorises the Chief Executive to make any necessary minor drafting or presentation amendments to the attached Statement of Proposal and to approve the final design and layout of the documents prior to final printing and publication. <div style="text-align: right;">CARRIED</div>	

7 KARAKIA WHAKAMUTUNGA – CLOSING PRAYER

8 TE KAPINGA HUI / MEETING CLOSE