

File number: 2124.04.03
Report to: Council
Meeting date: 14 November 2017
Subject: Library Strategy
Date of report: 30 October 2017
From: Natalie Robinson, Acting Policy Manager

Approved for agenda

Report purpose **Decision** **Information**
Assessment of significance **Significant** **Non-significant**

Summary

There have been two previous reports to Council (February and May 2017) regarding the Library+ concept. The first report sought in principle support for the relocation of the Dargaville Public Library, and the second report undertook an evaluation of possible options, before determining three 'shortlist' options which would be further investigated.

That Report also considered ensuring that the future state of the libraries would include enhancing and maximising the level of service offered across the network of community libraries, and ensuring that any development of the Dargaville Public Library would have 'roll-on effects' across the district.

To ensure that this aim is met, and as part of a wider strategic focus on ensuring collaboration and cohesiveness across the Library network, a 'Strategic Plan for Library Service Across Kaipara District' has been developed ('Library Strategy') (**Attachment 1**). This Strategy will tie performance indicators into community library Contracts for Service, to ensure a consistent level of service is achieved across the district.

Recommendation

That Kaipara District Council:

- 1 *Receives the Acting Policy Manager's report 'Library Strategy' dated 30 October 2017; and*
- 2 *Believes it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with the provision of s79 of the Act determines that it does not require further information prior to making a decision on this matter; and*
- 3 *Supports the Library Strategy, Attachment 1 of the afore-mentioned report, and works towards a consistent level of library service across Kaipara district by the four community libraries with support from the Dargaville Public Library.*

Reason for the recommendation

The Library Strategy will address the current ad-hoc basis of the library system, by ensuring that the network of libraries offers a consistent level of service across the district.

Reason for the report

The Library+ concept is aimed at not only providing a future-proofed facility for Dargaville, but ensuring that any benefits of the Library system are 'rolled-out' across the district. The Library Strategy has been created to identify gaps in the current situation and how these can be improved.

The community libraries are run independently, therefore Council staff cannot require them to make changes. Council support is being sought to set expectations and minimum standards for the community library service and funding.

Background

The Dargaville Public Library is supported by a network of four volunteer-run community libraries, located in Paparoa, Kaiwaka, Maungaturoto and Mangawhai. The libraries offer an uneven level of service to their borrowers, which is caused by a number of issues. These issues are discussed in the Library Strategy.

The Library+ concept has motivated a Strategic Plan to ensure that the performance of libraries across the district is improved, and the Strategy has considered how this will be achieved. The Strategy defines service goals, outlines a gap analysis and considers how the level of service can be raised across the district. The Strategy will be used as an internal document over the next five years, but Council support is sought to ensure that the Strategy is recognised as a directional document, in order to ensure reporting against the measures that have been set, and a demonstrated commitment to raising the level of service across the network of libraries in the Kaipara district.

Issues

The Library Strategy considers the issues which are considered relevant to the current situation. The Strategy has also undertaken a gap analysis, and has determined minimum standards ('need to haves') and optional standards ('like to haves'). This includes increasing staff training, encouraging junior membership across the district, a 'one Library card' system, and opening hours that are reflective of the communities in which the libraries are located.

The Dargaville Public Library wishes to work with the four community libraries to help them achieve a consistent level of library service across Kaipara district. Their Contract for Service is due for renewal next year, so this is considered the time to help them improve their level of service.

Factors to consider

Community views

The Library service rates high in community surveys and is considered a reflection of how residents feel about the libraries. A Library survey was undertaken in September 2017 and the Strategy appends the results of this survey. The survey indicates that a number of the 'minimum standards' gained a high level of support from survey respondents (i.e. 'one card' system and junior memberships). The Strategy has been developed to meet the expressed wants and needs of the community, and is focused on ensuring a consistent level of service across the communities of the Kaipara.

Policy implications

The Library Strategy will, in effect, act as a policy to drive the directional plan for the Kaipara District Libraries network over the next five years.

Financial implications

It is anticipated that the costs of implementing the Strategy have been allowed for in existing budgets.

Options

Option A: Support the Library Strategy, to ensure consistent levels of service are offered by libraries across the district.

Option B: Do not support the Library Strategy.

Assessment of options

Option A will set a clear direction for the network of libraries across the district, to ensure a consistent level of service that will be enjoyed by residents.

Option B will send an inconsistent message to the community libraries regarding the support and drive for the Strategy, as Council buy-in is considered an important motivating factor in facilitating the change sought under the Strategy.

Assessment of significance

The support of the Library Strategy will not trigger the Significance and Engagement Policy.

Recommended option

The recommended option is **Option A**.

Next step

The Library Strategy will be used to inform the activity plan for the Libraries team, commencing in the 2018/2019 year, but it is intended that minimum standard levels will begin to be addressed in late 2017.

Attachments

- Strategic Plan for Libraries Across the Kaipara District (**Attachment 1**)



Strategic Plan for Library Service Across Kaipara

October 2017



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Purpose of the Strategic Plan

Kaipara Libraries rate high in Community Surveys. This is a reflection of how residents feel about libraries. The purpose of this Strategic Plan is to set a path towards consistent library service throughout the district.

Dargaville Public Library provides local service as well as supporting the four community libraries, which are independently run by volunteer committees. The libraries offer uneven level of service to their borrowers. Long term, the libraries should be standardising their service to think and work together as Kaipara Libraries.

The factors relative to the current situation include insufficient funding, lack of paid professional staff, aging committees, concerns about change, lack of shared vision, concerns over control and inadequate marketing. These factors are stopping them from embracing strategies that could lead to better service, increased membership and goodwill in their communities.

To move forward, we need to focus on what services can be standardised throughout the region, in response to the community's needs, to provide a more comprehensive library experience to residents. These services are examined later in this plan. To do this, we need a lever to push the libraries to change, as the current situation has stalled and we are unable to progress new services and standards in the district. We would like to tie performance indicators (standards) into their Contract for Service, which would impact on the level of funding that they would receive.

Current situation

There is one public library in Kaipara in Dargaville and four volunteer run community libraries in Paparua, Maungaturoto, Kaiwaka and Mangawhai. There are 7484 resident members of Kaipara Libraries.

Dargaville Public library is funded by rates. The four other libraries receive Council funding each year through a Contract for Service, as well as additional assistance in the form of Council paying for power, building rentals et cetera. With their charitable status, they are able to apply for other types of grants but, other than the rare exception, most do not. Dargaville Library provides professional support and guidance as well as paying for subscriptions to the Northland Librarians Network, which allows community libraries to borrow large print and talking books. All libraries offer free membership to Kaipara residents. **See Appendix 1 for spending breakdown.**

Dargaville Library offers five free computers and WiFi printing as well as 24/7 WiFi. The libraries at Mangawhai, Kaiwaka and Maungaturoto offer free 24/7 WiFi. Digital services are available 24/7 to all residents from anywhere with internet access. Services provided include two free eBook and eAudiobook providers, RB Digital free eMagazines, Encyclopedia Britannica online and the Generosity funding database. These services are funded by the Dargaville Library.

Libraries have changed dramatically in the last twenty years and are no longer quiet spaces. They are places of discovery, of finding information online as well as in print; and meeting places that provide a variety of programmes. Libraries support young families, new immigrants, tourists, seasonal workers

and the elderly. They provide business centres and meeting rooms. Librarians help you find information, promote recreational reading, can show you how to set up your device to access online services, help you navigate the internet and communicate digitally through websites and social media. This is the reality at Dargaville Public Library but not in Kaipara’s community libraries.

Currently, all the managers lack confidence in their volunteers. As a result, only basic borrowing and returning are offered. Training is managed in-house, and offers for assistance from Dargaville have been turned down. Many volunteers are out of their comfort zones promoting online services and the opportunity to promote digital services and offering assistance with devices are lost. Most volunteers still believe that libraries are quiet book exchanges not vital social spaces.

In September 2017, we promoted a library standards survey asking residents what they liked about their libraries and what changes they would like to see. Survey results found that 81% of respondents thought Kaipara Libraries should offer junior membership. Three community libraries in Kaipara do not offer junior membership. Children in their communities whose parents are not members are excluded from borrowing. There is also a reluctance to consider one card for Kaipara, yet 87% of respondents supported the idea. We would like to shift the thinking from my/our book collection to all being part of Kaipara’s collection. **See Appendix 2 for overall survey results.**

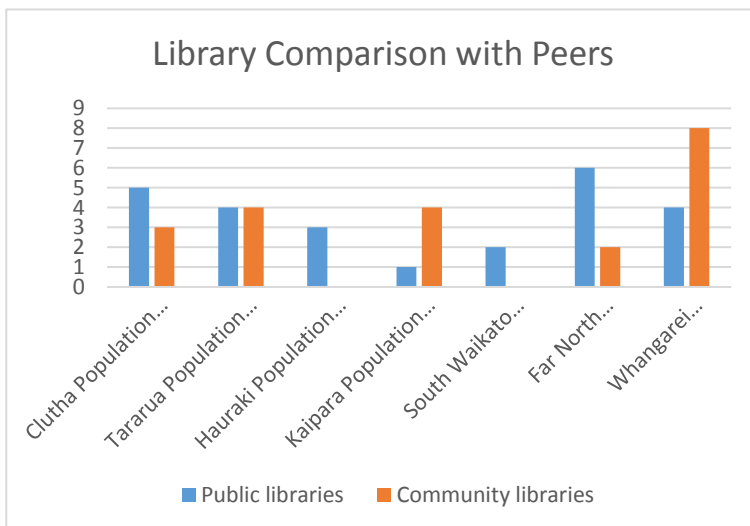
Foot traffic in public libraries around the globe is steadily increasing as is the range of services offered. In Kaipara, Kaiwaka and Mangawhai Libraries are showing growth, while Papanui and Maungaturoto libraries are losing ground. Until the libraries make positive changes, their membership will not grow.

Comparisons with peers:

- Kaipara spends 1.14% of its budget on libraries, compared to an average of other rural local authorities spend of 1.9%
- Clutha, Tararua and Hauraki have more public libraries than Kaipara, with smaller populations
- Far North, a more deprived region than Kaipara, has a public library for every 10,333 people, as opposed to Kaipara’s one for 21,700 people
- South Waikato has two public libraries for 23,800, as opposed to Kaipara’s one for 21,700

Time for a Change

We need a way to encourage the libraries to take the support offered and allow their libraries to develop from book collections into modern libraries. We have an opportunity in the next round of Contract for Service applications for the 2018—2021 years to set some expectations and minimum standards to their funding. We would like to offer a minimum for staying with the status quo and incentives to raise



standards, offer other services and allow Dargaville Library staff to offer more tangible training and support.

While we are working with the volunteer libraries, we are also looking forward to Kaipara offering more budgeted services to its communities. In our current activity plan, we are indicating a branch library in South Kaipara and the possibility of a paid staff member working in each library one day a week. We hope that, over time, this concept will give libraries the resources to provide more consistent services within the district.

Service Goals for Kaipara District Libraries

- To welcome all members of society
- To provide consistent service to all areas
- To support learning and literacy
- To provide recreational opportunities
- To provide research facilities and support
- To preserve local heritage
- To provide computers and Wi-Fi
- To provide free digital resources
- To provide business support
- To welcome new residents
- To support new immigrants
- To contribute to local schools



Gap Analysis

Need to have (minimum standard)

Training is a key issues among volunteers. Regular and consistent training should be provided by Dargaville Library staff and will include:

- Issue and return items;
- Shelving;
- Search the catalogue to answer requests and offer suggestions;
- Find and reserve items either on loan or available from another Kaipara Library;
- Join new members;
- Share knowledge and enthusiasm using library digital services; and
- Be confident in helping customers in the digital space.

Collection condition standard – Dargaville’s professional staff can guide the collections and remove damaged and unread items:

The book standard in the community libraries could be better. The presentation on shelves needs work, as newer items are obscured by the volume of older items in the collections. Condition and history need to be considered without sentimentality. Each library does not need to hold its own complete collection as there is a weekly service transporting books between libraries.

Junior membership across the district – All Kaipara Libraries should offer membership to residents regardless of age:

Offering library membership to children is more than just about getting books. Children can learn a great deal about responsibility with a library card. They need to look after the card and the items taken out and accept the consequences for items not looked after. It gives children opportunities to learn how to choose, developing decision-making skills. A library card is a key that allows children to participate in society, while at the same time helping them to grow.

Junior membership is standard in New Zealand Public and Community Libraries. There is also a question of the legality under the Local Government Act to deny public library membership to any resident, regardless of age. While 81% of Kaipara survey respondents favour junior membership, there is resistance to opening the library membership to children in Paparoa and Maungaturoto. Mangawhai Library already does and Kaiwaka is considering it positively.

One library card district-wide – All Kaipara Libraries members should be able to borrow from any library and return to any library regardless of where the item was borrowed. 87% of recent survey respondents favour one card. Weekly runs between libraries would provide a return service.

Residents do not understand the need to join each library separately and would like to be able to return items to any Kaipara library. It does not make sense to Dargaville staff either:

Customers have been asking for this service for a while. The community libraries remain unwilling. Their reasons include concerns over books going missing and who will pay for the service. The reality is that items do go missing, regardless of cards et cetera. Libraries need to accept that to loan is to risk, and the consequence is that the erring customer can no longer borrow any items.

Opening hours that reflect the community – Hours are a barrier to some residents accessing the collection. Communities need to be consulted, and their suggestions responded to.

Programmes – Dargaville staff would like to work with the libraries to offer programmes around the district:

Every person that you get through the door is an opportunity to grow your library; the wider the door, the more valued the service. The committees are focused on exchanging books. There is the opportunity to entice volunteers who do not want to work on the desk and, with support from Dargaville, offer programmes to the community.

Like to have (optional)

Branch library – a Council-staffed and funded library in the South Kaipara managed by Dargaville Public Library.

Paid staff in all libraries – providing professional services consistently around the district.

Part of the current library activity plan includes lobbying for a paid staff member in each library one day a week.

Floating Collection – The books no longer have homes, but stay in the last library they were borrowed from.

The end result is that each library reflects its community, as it is the customers who determine which books sit in which library. Auckland Libraries are an example: in Remuera, you find high-end travel books and the majority of English as a second language books are housed in Otara. With a regular courier service between the libraries, customers do not wait long for any request.

This would break down the barriers of libraries thinking of a book as theirs, rather than Kaipara's. With the majority of funding for all collections provided by Kaipara District Council, this seems better all-around for residents. In this system, there is still room for local collections to stay put such as reference or local history.

Currently, some libraries will not loan rental items to other libraries, even if there is little interest at the home library. Their reasoning is that the book is for their customers. This has caused Kaipara Libraries to purchase duplicate copies unnecessarily. We need to break down the mine/yours mentality and start thinking of all items as part of Kaipara's collection.

Standard approach to rental items – Criteria and price are the same at all Kaipara libraries.

There is currently five different criteria for rental items and a variety of prices. We believe that a standardised approach is necessary, especially if we were to float the collection.

Mayor and Council Support

This strategy is to inform the Mayor and Council of the current situation and the goals and standards we would like to implement across the district. Because community libraries operate independently, we cannot require them to make changes. It would benefit the district if consistent minimum standards are established. The next Contract for Service funding application for the 2018—2021 period is an opportunity to set standards.

We ask for Council's support to set expectations and minimum standards to the community library funding. We can offer a minimum for staying with the status quo and incentives to offer other services and allow Dargaville Library staff offer more tangible training and support.

Activity Plan for the Next Ten Years

Ongoing	2018/2019	2019/2020	2020/2021	2021–2027
Dargaville Public	Break ground or start redevelopment of new library space	Complete new build or redevelopment of new library space	Provide new services and programmes in Dargaville to fully utilise new space	Develop digitalisation programme for local heritage
Community Libraries	Provide support for community libraries to improve and develop services	Investigate a branch library with paid staff in South-East Kaipara	Open branch library with paid staff in South-East Kaipara	Employ paid librarian one day per week for community libraries
Community Libraries	Offer programmes at community libraries	Provide support for community libraries to improve and develop services	Continue support for community libraries to improve and develop services	Keep up-to-date with new technologies and develop services to meet community needs
Improve Services	Investigate RFID (self check-in and -out) options for Dargaville	Develop floating collection between Kaipara Libraries, review opening hours	Implement floating collection between Kaipara Libraries	Work with stakeholders and partners to develop new programmes and services
Community Outcome	Investigate reciprocal free membership between Kaipara and Whangarei Libraries	Offer reciprocal free membership between Kaipara and Whangarei Libraries	Implement one card for Kaipara across all libraries	Work with Far North and Whangarei on shared services
Community Outcome	Investigate co-operative initiatives with Far North	Develop One Card for Kaipara		Investigate funding partnerships

Appendix One: Council Spending on Community Libraries 2016/17

As at 30 June 2017	Dargaville	Mangawhai	Kaiwaka	Maungaturoto	Paparoa
Council Funding	\$101,000*	\$13,725.00*	\$4,000.00*	\$12,298*	\$10,941*
Card Holders	2741	659	197	216	174
(including other family members)	4800	1656	197	470	361
Cost per card holder*	\$36.85	\$20.80	\$20.30	\$56.93	\$62.88
Issues 2016/17	100,549	16,105	5,138	6,100	6,324
Cost per Issue*	\$0.91	\$0.85	\$0.78	\$2.02	\$1.73
Issues per head of population*	20 P 4920	15 P 1086	14 P 579	26 P 756	23 P 270
Issues per card holder*	37	24	26	28	23
Hours open per week	43	11.5	16	19	15

* 2016/17 Council funding divided by members

* **2016/17 Council funding divided by issues**

* **Operational budget only – 2016/17– does not include staff, depreciation or organisational corporate overheads**

* **Council grant 2016/17. Includes rent for Paparoa and Maungaturoto**

* **Issues divided by population in each centre. All population Statistics relate to population centres as outlined in the 2013 Census - <http://www.stats.govt.nz/Census/2013>, apart from Paparoa's – which is taken from www.paparoa.org.nz Population figures are relative to the towns that have library service and don't add up to the total Kaipara population.**

- \$28,000 per year on Contract for Service grants
- \$1,200 per year on internet and \$2,160 per year on telephones
- Approximately \$1,932 per year on power for Maungaturoto and Paparoa
- \$550 grant for insurance at Maungaturoto Library
- \$5,328 on Wi-Fi in Mangawhai, Maungaturoto and Kaiwaka
- \$320 Northland Libraries Network Subscription for Large Print and Talking Book loans

Other costs such as stationary, printer cartridges et cetera are paid for out of Dargaville Library's budget.

Appendix Two: Overall Survey Results

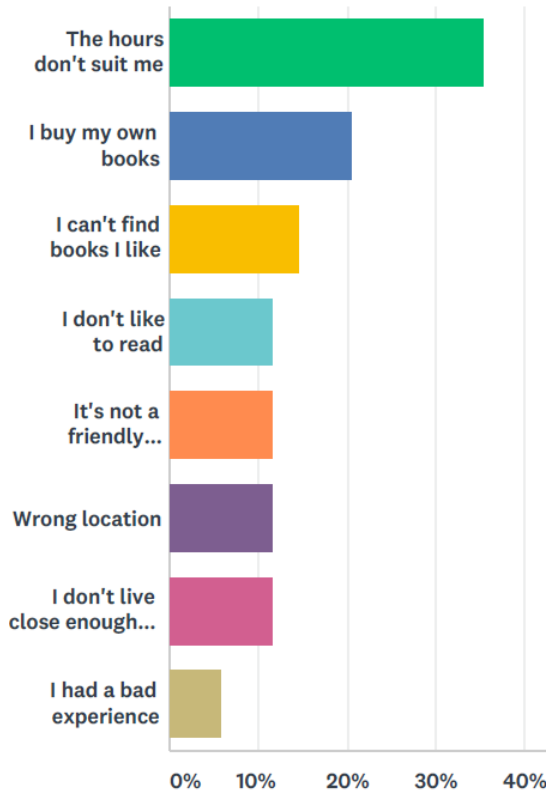
September 2017 Library Standards Survey

Respondents were from around the Kaipara with good response from all but Maungaturoto.

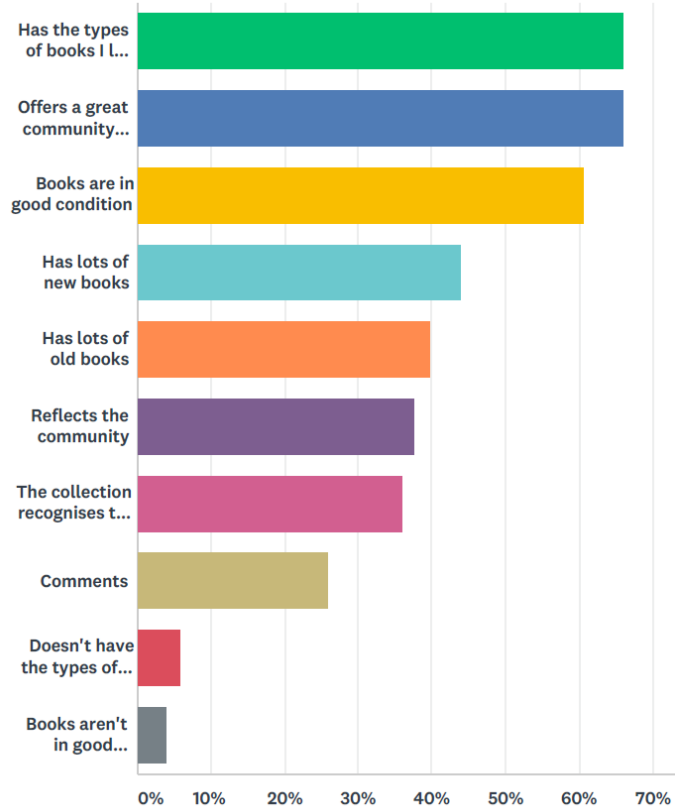
Which library do you live closest to?

I don't live close enough to any of them	0.28%	1
Maungaturoto	6.37%	23
Kaiwaka	12.19%	44
Paparoa	14.40%	52
Mangawhai	22.16%	80
Dargaville	44.60%	161
TOTAL		361

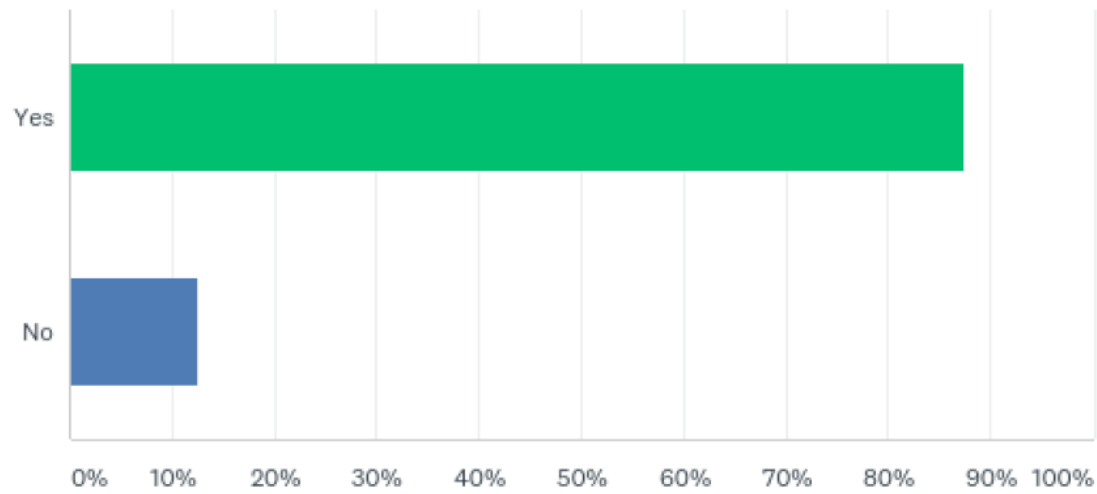
If you don't use the libraries, why not?



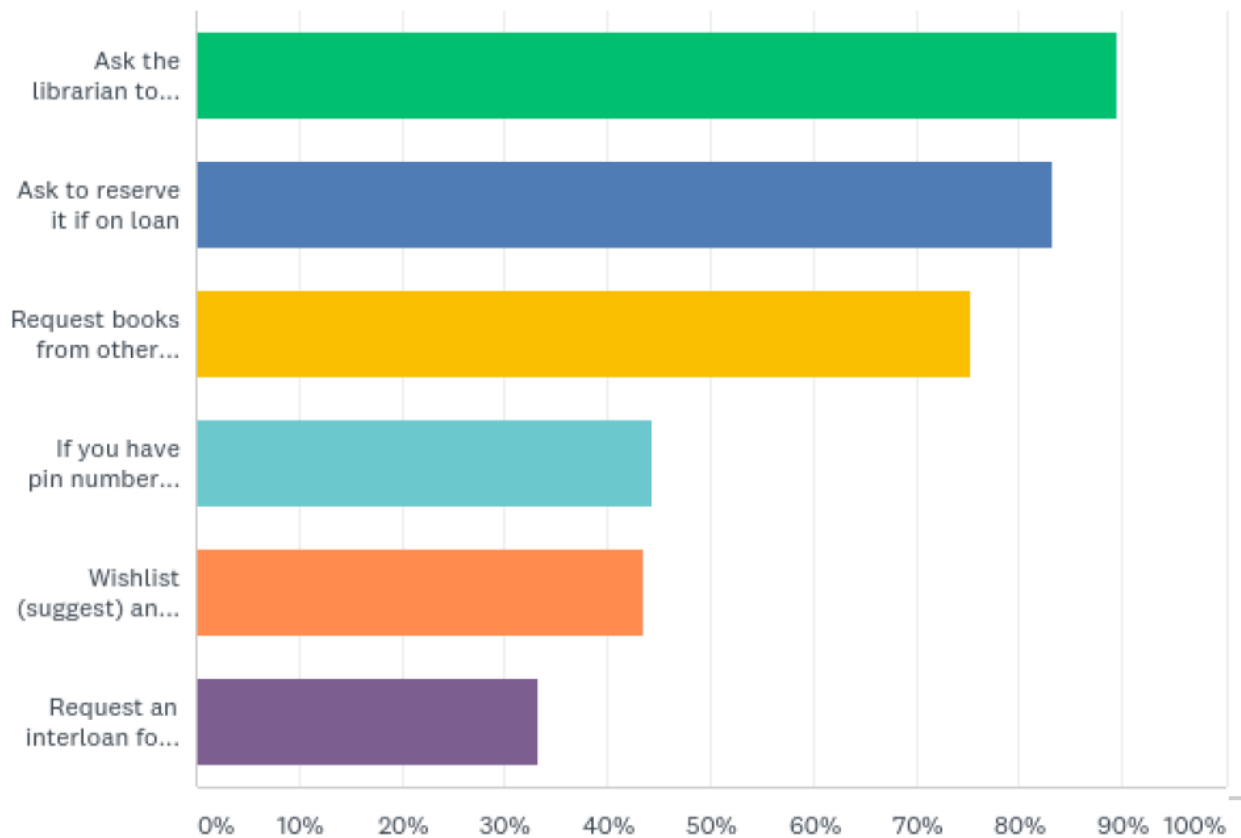
What do you think about the current library collection?



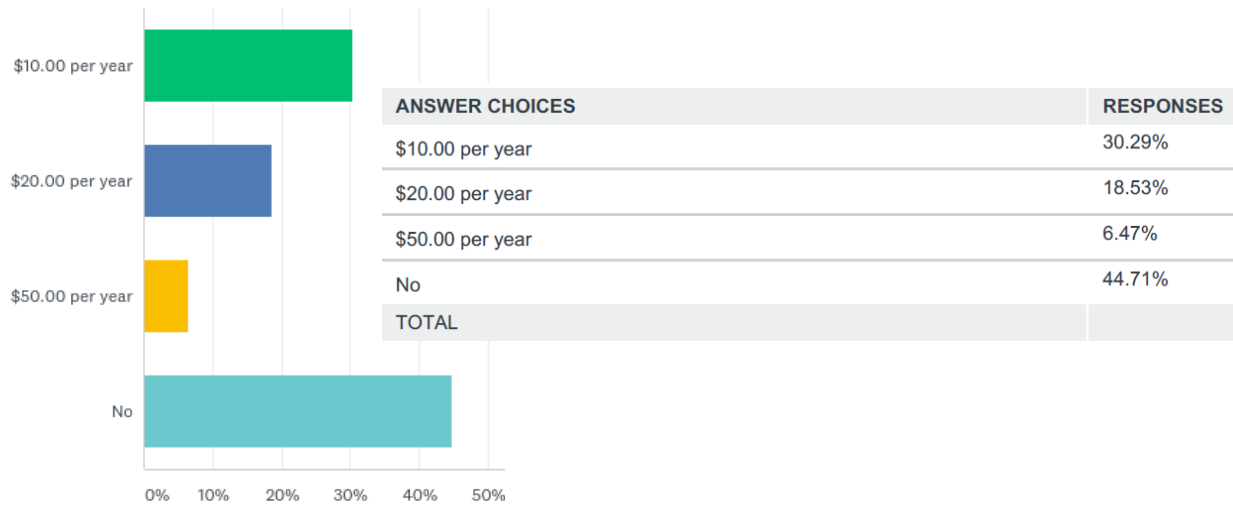
Do the library hours suit you?



If you can't find something on the shelf are you are that you can:



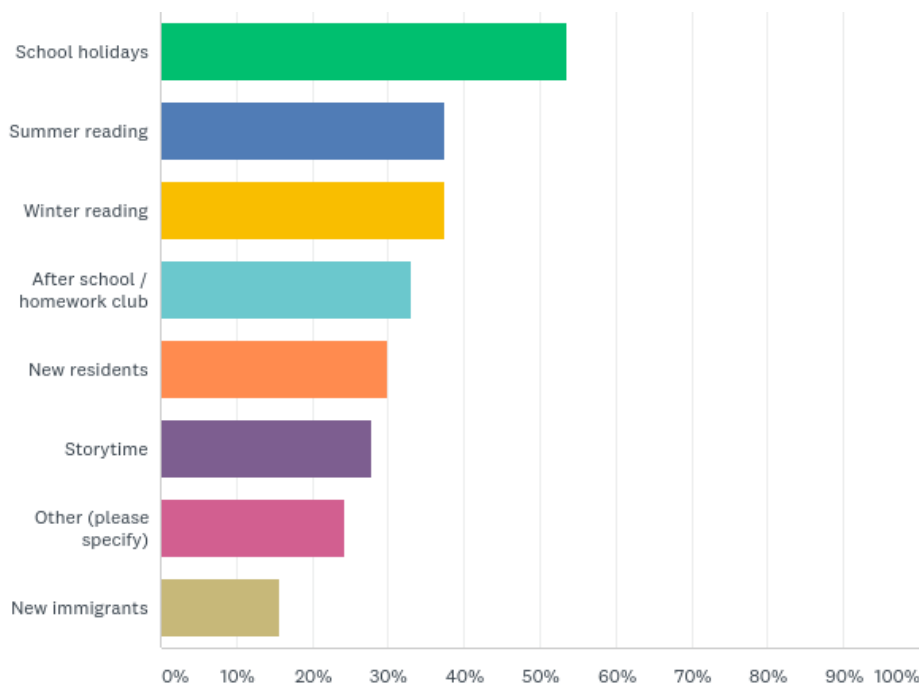
Would you be prepared to pay more in your rates for a better service?



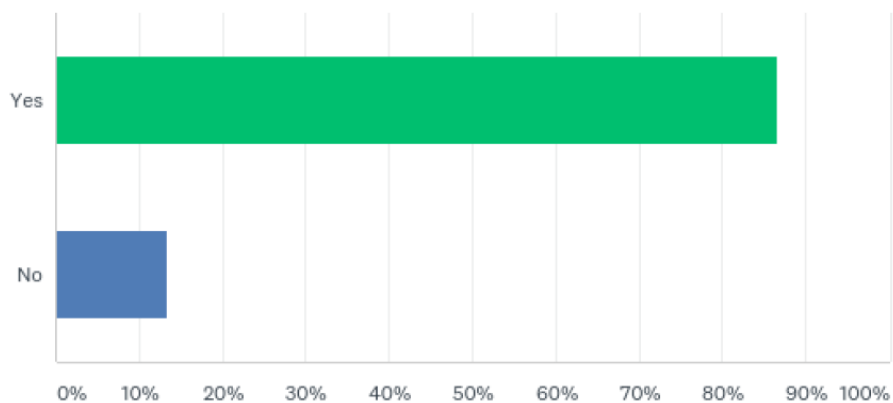
What items are you prepared to pay a rental fee for:

ANSWER CHOICES	RESPONSES
Bestseller fiction	52.41% 174
New fiction i.e. less than a year since publication date	41.27% 137
New Zealand authors	11.45% 38
Non-fiction i.e. less than a year since publication date	34.04% 113
Not prepared to pay for items	28.92% 96
Total Respondents: 332	

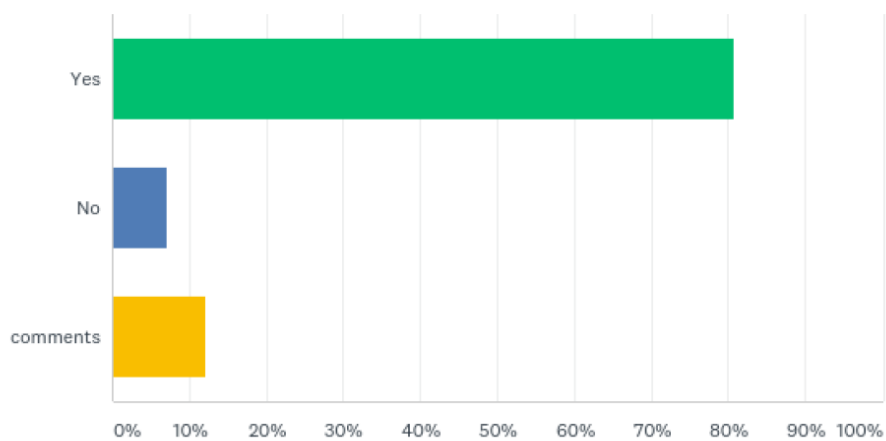
Would you be interested in programmes being offered in your library?



Would it be helpful to you to have one library card for the district, rather than needing to join each library separately?



Do you think that Kaipara libraries should offer junior library membership to children?



Comments from the recent library survey:

- Dargaville
I live too far away for programmes.
Staff always courteous & helpful, more space would be worthwhile. A great community asset.
- Mangawhai
Old fashioned space, needs more digital access for all ages... modern libraries are awesome
Mangawhai is under resourced and very small.
... best little library this side of the harbour bridge.
- Paparoa
Would like Wi-Fi and more interaction and information given to what services are provided.
Is a sweet little place with friendly and obliging staff.
I would like computers to use. My four children and I love visiting.
- Kaiwaka
I'd like to see more new fiction on the shelves.
The recently introduced Wi-Fi has been very popular. A very good library service generally, especially given our limited budget.
... love the library service we have, it is great you can join for free, I would like cards for children as well.
- Maungaturoto
I think what they offer now is very good for such a small community, well done.
While I realise we have volunteers running the library, I find the service inconsistent at times and the people somewhat rude, brisk and judgemental.
My family subscribe to Whangarei library and pay the annual fee because it's more convenient and a better library.

File number: 3820.06 **Approved for agenda**
Report to: Council
Meeting date: **14 November 2017**
Subject: **Northland Regional Council: Regional Plan - Kaipara District Council
Submission 2017**
Date of report: 30 October 2017
From: Natalie Robinson, Policy Analyst
Report purpose **Decision** **Information**
Assessment of significance **Significant** **Non-significant**

Summary

This agenda report seeks Council's endorsement of the Kaipara District Council (KDC) submission to the proposed Northland Regional Plan.

The Resource Management Act 1991 ('RMA') provides the statutory framework for planning in New Zealand. This includes specifying a planning hierarchy, as well as requirements for each 'lower order' planning document to reflect 'higher order' planning documents at varying levels of compliance, and the responsibilities of regional councils and territorial authorities.

The RMA requires that all provisions in a regional plan be reviewed every 10 years. Northland Regional Council (NRC) undertook a review of these three Regional Plans in December 2014 and, as a result of that review, NRC decided to prepare a new single Regional Plan.

NRC undertook consultation in 2016 on its 'draft' Regional Plan. The status of 'draft' means the Regional Plan was released for feedback only, and had no legal effect. KDC submitted on this draft Regional Plan, while still in the Commissioner environment, in September 2016.

The 2017 submission (**Attachment 1**) has taken a more narrow approach to the Regional Plan, and has focused on submitting to:

- Support provisions which make providing District Council infrastructure easier, and subsequently opposing provisions which require 'red-ape' for KDC to provide necessary infrastructure; and
- Ensuring the Regional Plan is consistent with our District Plan, and the Regional Policy Statement

The submission has only addressed provisions that staff have identified issues with, either by opposing the provision or seeking clarification. Staff recommend that KDC should speak to our submission at the Hearing stage, and that the most appropriate speaker would be a Councillor, in order to appropriately represent the Kaipara district.

The submission period closes on 15 November 2017. Once the submission is endorsed, it will be submitted to NRC. Staff acknowledge the tight timeframes which have defined this submission and have endeavoured to have preliminary discussions with the Mayor regarding the direction of the submissions. Staff have also undertaken discussions with Whangarei District Council (WDC) and Far North District Council (FNDC) about regional and cross-boundary issues.

Recommendation

That Kaipara District Council:

- 1 *Receives the Policy Analyst's report 'Northland Regional Council: Regional Plan - Kaipara District Council Submission 2017' dated 30 October 2017; and*
- 2 *Endorses the Kaipara District Council submission to Northland Regional Council's Proposed Regional Plan (as per Attachment 1 of the above-mentioned report); and*
- 3 *Nominates a Councillor to speak to this submission at the Hearings.*

Reason for the recommendation

In order to ensure that the Mayor and Councillors have received and approved the Kaipara District Council submission on the 2017 Proposed Northland Regional Plan.

Reason for the report

The RMA outlines a strict hierarchy of planning documents. KDC, as a territorial authority, must have a District Plan. This District Plan must 'give effect to' a number of 'higher order' planning documents including the New Zealand Coastal Policy Statement and the Northland Regional Policy Statement.

A District Plan must *'not be inconsistent with'* a Regional Plan. This is a much lower threshold of compliance with a Regional Plan than a Regional Policy Statement, but confirms that territorial authorities should still consider any proposed Regional Plan.

KDC staff prepared a submission on the draft Regional Plan in September 2016. This submission was relatively informal, but in-depth, and was created without the direction of an elected Council, as it was prior to the local government elections in October 2016. This report is in order to provide this Council with a copy of the KDC submission on the draft Regional Plan, and to seek direction and prioritisation of issues and topics with regards to the preparation of a Council submission on the proposed Regional Plan.

Background

In summary, the NRC is responsible for (s30 RMA):

- Controlling the land for the purpose of:
 - Soil conservation;
 - Maintaining and enhancing water quality, quantity and ecosystems in water bodies and coastal water; and
 - Avoiding or mitigation natural hazards;
- Investigating the land for the purposes of identifying and monitoring contaminated land;
- The coastal marine area (in conjunction with the Minister of Conservation);
- The taking, using, damming and diversion of water in any water body;
- Controlling discharges of contaminants into the environment.

NRC currently has three Regional Plans which cover their responsibilities under s30. These are the:

- Northland Regional Coastal Plan (Operative 01 July 2004);
- Northland Regional Water and Soil Plan (Operative 28 August 2004); and

- Northland Regional Air Quality Plan (Operative March 2003).

KDC staff submitted on the draft Regional Plan in September 2016. The submission was generally supportive of the draft Regional Plan. Council staff took the view that the draft Regional Plan will lower the cost and minimise the process for KDC when performing its functions as an asset-owner (i.e. maintenance in the Coastal Marine Area is now permitted, rather than controlled).

The draft Regional Plan takes a relatively permissive approach with regards to the majority of its activities, with many activities moved to a lesser activity status, with NRC adopting a 'modified status quo' approach to a number of activities, which currently require a resource consent, but will now be permitted. An example of this is maintenance works within a land drainage district.

The draft rules were also prepared in order to 'give effect to' higher order planning documents, including the Northland Regional Policy Statement, and the New Zealand Coastal Policy Statement, which have both been made operative since the Regional Plans were last reviewed. There are also a number of National Planning documents and case law which has impacted on the development of the Regional Plan.

Issues

Kaipara District Council's submission is generally supportive of the approach taken by NRC, particularly with regards to streamlining the Regional Plans, making them easier to use, and avoiding the 'rubber-stamping' of standard resource consent applications.

KDC has submitted in support of the Regional Plan, with exceptions as per the attached submission. These exceptions are generally concerned with draft provisions which may:

- **Restrict Kaipara District Council's ability to undertake maintenance works.** KDC has supported the majority of the maintenance provisions becoming permitted, but has submitted against permitted activity performance standards which would be better considered as a matter of control.
- **Require more stringent activity status which will hinder Kaipara District Council's obligations under the Local Government Act 2002.** This includes submitting that registered water supplies should be provided an additional level of support with regards to water takes, and should be mapped with a stock exclusion zone around them. This has also included submitting supporting 'core local infrastructure' being considered as important as 'regionally insignificant infrastructure', and that required management plans (i.e. for stormwater and wastewater networks) should be given five years to be completed, rather than two, to align with budgeting and Long Term Plan cycles.
- **Areas where the Regional Plan would not be consistent with the Kaipara District Plan.** The proposed plan takes a relatively permissive approach to onsite wastewater systems. KDC is concerned this does not align with the Wastewater Drainage Policy and Bylaw, and has submitted that NRC should regulate the location and maintenance of systems, to ensure that the environment is not adversely affected by faulty systems.

The strongest regional issue which KDC, FNDC and WDC are submitting on is C.7.2.5, which proposes that a discharge to air from the use of public roads by motor vehicles is a permitted activity **provided**

that the local road controlling authority (i.e. respective district councils) have in place a priority sealing programme. All territorial authorities are submitting in opposition to this point. KDC's submission opposes a directive under the Regional Plan to seal or implement dust suppression, given the unaffordability of it, which would act in contradiction to KDC's obligation under the LGA 2002 to deliver services in a manner which is the most cost-effective for its community.

KDC's submission also supports the submission made by the Mangawhai Harbour Restoration Society (MHRS) (C.1.4.1, C.1.4.3 and C.1.4.5). MHRS is seeking a Mangrove Management Area, which will be defined in the Regional Plan and will allow the Society to undertake mangrove clearance to restore the Harbour, and is based on a similar approach taken through local legislation in the Firth of Thames.

A submission point Council may wish to consider is regarding the water takes from Pouto lakes (E.0.3). This rule allows as a permitted activity the taking of water from the lake (other than for stock drinking and domestic needs) provided the water is taken when the water level is above a minimum level. Should a timeframe be added to this rule, to allow farmers a reasonable amount of time to establish an alternate supply as a backup, should their water take from the lake need to stop, because the lake has reached its minimum level?

Factors to consider

Community views

The Regional Plan is required to go through the First Schedule Resource Management Act 1991 process. This process requires public notification, the ability for members of the public to make submissions and be heard on those submissions, and a number of other requirements which ensure community views must be considered by NRC. NRC has a proactive approach to ensuring members of the public are consulted on statutory documents, such as pop-up workshops and broad media releases.

Policy implications

This matter will not trigger KDC's Significance and Engagement Policy. The Regional Plan is an NRC matter and, as discussed above, will be subject to the First Schedule of the RMA Plan Change process, which will allow for consultation and community engagement.

KDC's submission on the Regional Plan will primarily reflect its position as an asset-owner who may be affected by the proposed provisions.

Financial implications

There may be a financial implication on KDC if particular provisions which impose a burden on Council are adopted by NRC, such as management plans.

Assessment of significance

The submission is not considered significant. It is in effect KDC's submission on the Regional Plan as it affects the operational functions of KDC, rather than policy setting or 'trickle down' implications as the result of the planning hierarchy.

The proposed Regional Plan is also subject to public notification and a submission period under the Resource Management Act 1991, which enables Northland residents to submit on the Regional Plan.

Next step

Council officers will proceed to submit the attached submission to NRC. The nominated Councillor will be asked to attend the Hearings and speak to the submission.

Attachments

- 2017 Kaipara District Council Submission on NRC's Proposed Regional Plan (**Attachment 1**)

PROVISION	RELIEF SOUGHT	REASON
DEFINITIONS		
Section B, Definitions	<p>Support in part.</p> <p>Insert a definition for district council or territorial authority infrastructure, being all infrastructure constructed, operated and maintained in accordance with the Local Government Act 2002 i.e. 'core local infrastructure'.</p> <p>Insert definitions for:</p> <ul style="list-style-type: none"> • Hazardous substances • Native woody vegetation • Noise sensitive activities • Channel • Bank full edge • Trade waste. 	<p>KDC is required, under the LGA 2002, to maintain levels of service for all infrastructure for which rates are collected and therefore KDC seeks that this infrastructure is treated in a similar manner to 'regionally significant infrastructure', in order to reduce operating costs for KDC's infrastructure. These definitions will assist in interpretation of the Regional Plan.</p>
C.1 COASTAL ACTIVITIES		
C.1.1.1 Existing structures – Permitted Activity	<p>Support in part.</p>	<p>KDC generally supports this provision but requests that 'wastewater outlet pipes' or similar be added to the list of existing structures.</p>
C.1.1.17 Hard Protection Structures – Discretionary Activity	<p>Support in part.</p> <p>Request assessment criteria or amendment to D.6.2 to require consideration of the effects of the hard protection structure on land not owned by the applicant, or similar relief.</p>	<p>Occasionally hard protection structures may be required to be placed on land not owned by the applicant. Landowner approval would be required in order to implement the consent and should be considered when determining effects to protect neighboring property and public esplanade.</p>

PROVISION	RELIEF SOUGHT	REASON
C.1.1.18 Hard protection structures for reclamations associated with regionally significant infrastructure	<p>Support in Part.</p> <p>Amend to protect hard protection structures that are directly associated with the protection of regionally significant infrastructure.</p> <p>Amend to protect core local infrastructure.</p>	<p>This rule should be written to allow for hard protection structures associated with regionally significant infrastructure, even if they do not have reclamation aspects themselves.</p> <p>In order to enable KDC to meet its obligations under the LGA 2002 relating to provision of infrastructure, this rule should allow for hard protection structures <i>associated</i> with regionally significant infrastructure and ‘core local infrastructure’.</p>
C.1.1.22 Structures within a significant marine area	<p>Support in Part.</p> <p>Seek amendment to provide for core local infrastructure as a discretionary activity, rather than non-complying.</p>	<p>As worded, this Rule currently provides a non-complying activity status for structures within significant marine areas. There is no rule framework which provides for structures specifically in significant marine areas where the structure is for the purpose of regionally significant or core local/district council infrastructure.</p> <p>The RPS recognises the importance of infrastructure, by recognising and promoting the benefits of regionally significant infrastructure, and aligns with the LGA 2002 regarding the importance of providing infrastructure for well-being. A non-complying activity status does not reflect the importance of infrastructure as provided for in the RPS. KDC supports WDC and FNDC in providing for this activity to be assessed as discretionary. This is considered appropriate.</p>
C.1.2.8 New mooring in a Mooring Zone with limited shore-based facilities –	<p>Support in Part.</p> <p>Add to matters of discretion <u>‘the need for the integrated management of any associated land use effects outside the Coastal Marine Area’</u>, or similar relief.</p>	<p>This rule provides for new moorings in the Mangawhai Heads Mooring Zone, as a restricted discretionary activity. The matters of discretion includes consideration of the ‘effects on parking, toilet facilities, refuse disposal, and dinghy storage’. However,</p>

PROVISION	RELIEF SOUGHT	REASON
Restricted Discretionary Activity	Add to matters of discretion ' <u>the effect of the location of the Mooring Zone on established community uses in the area</u> ', or similar relief.	KDC supports the proposal by FNDC, to amend this criteria to capture effects and activities that may be broader. The proposed amendment would require applicants to contact KDC and ensure that the proposed activity will not trigger any need for resource consent under the Kaipara District Plan. The proposed amendment would also allow the effect of the location of a new swing mooring on established uses i.e. swimming spots and pontoons in the Mangawhai Harbour area.
C.1.3 All aquaculture provisions	Support in Part. Require, as a matter of discretion, for all applications to new activities or extensions, ' <u>the need for the integrated management of any associated land use effects outside the Coastal Marine Area</u> ', or similar relief.	Similar to the Mooring Zone provision, KDC seeks to ensure that there is integrated management of adverse effects in both the marine and terrestrial environment. This proposal would require applicants to contact KDC to ensure that their proposed activity does not trigger a resource consent under the Kaipara District Plan.
C.1.4 Mangrove Removal C.1.4.1 Mangrove seedling removal – Permitted Activity C.1.4.1 Minor mangrove removal – Permitted Activity C.1.4.3 Mangrove Removal – Controlled Activity C.1.4.5 Mangrove Removal – Discretionary Activity	KDC supports the submission made by Mangawhai Harbour Restoration Society (MHRS). KDC supports the proposal of MHRS to establish a Mangrove Management Area in Mangawhai.	KDC supports MHRS's submission, on the basis that it will allow for an acceptable level of mangrove vegetation in order to restore, protect and enhance any amenity values or ecosystems in the coastal area. KDC supports the creation of a Mangrove Management Area in Mangawhai and would welcome the opportunity to be involved in the collaborative management of mangroves.

PROVISION	RELIEF SOUGHT	REASON
C.1.5.1 Activities on foreshore areas and use of vehicles on beaches – Permitted Activity	Support in part.	<p>KDC supports a rule to address the environmental effects of vehicles on beaches, which sits under the functions of the regional council. KDC also supports the Note to this rule, which references Council bylaws.</p> <p>Similar to WDC and FNDC, KDC seeks clarification on the jurisdiction of this rule. There is a misalignment regarding whether this rule applies to the area below MHWS or whether the rule is intended to exclude vehicle use from the coastal hazard management area and dune environment above MHWS, as the rule is titled ‘activities on foreshore areas and use of vehicles on beaches’, while the section of the Act cited refers to activities only on the foreshore and seabed.</p> <p>As a permitted activity rule, KDC is concerned about the criteria which states vehicles must ensure ‘minimal disturbance of the foreshore and seabed’. It is considered that a rule is require to address the effects of vehicle use which does not comply with this rule, and to exclude vehicle use from areas of significant habitat value.</p>
C.1.5.6 Clearing of storm water pipe outlets – Permitted Activity C.1.5.8 Clearing tidal stream mouths – Permitted activity	Support in part	<p>KDC supports the permitted activity status, which will enable maintenance of coastal infrastructure. As per the suggested amendments for the removal of mangroves, KDC proposes that the requirement for a clearance area to be limited to that required to create a free-draining path from the stormwater outlet to the sea, be amended to include a 5m buffer.</p>

PROVISION	RELIEF SOUGHT	REASON
		KDC also submits that C.1.5.6(3) and C.1.5.8(5) 'there is no disturbance of indigenous or migratory bird nesting sites' is not a practicable measure, and would trigger consent at a level that does not appropriately balance maintenance functions with environmental protection, and should therefore be removed.
C.1.5.10 Maintenance dredging – Controlled Activity	Support in part. Insert 7)i) acid sulphate soils.	Disturbing acid sulphate soils can release acid that damages water quality, aquatic life and infrastructure.
C.1.6.3 Reclamation for regionally significant infrastructure – Discretionary Activity	Support in part. Proposed to include reclamations that are necessary for core local infrastructure.	KDC submits that the proposed provision should include recognition of the necessity for reclamations to provide for core local infrastructure.
C.1.6.5 Reclamation in areas with significant value	Oppose in part.	KDC requests that reclamation in areas of significant value associated with the purpose of regionally significant infrastructure or core local infrastructure be considered as a discretionary activity. KDC objects to a non-complying activity status for activities and functions which are a statutory requirement under the LGA 2002, and which may have an operational or functional need to be in that location in order to meet the communities' requirements for infrastructure.
C.1.8 Coastal Works – General Conditions	Support in part. Relief identified.	KDC supports the approach taken by other territorial authorities, to add a further clause to require evidence of the approval of the landowner or administering body to be provided, where a

PROVISION	RELIEF SOUGHT	REASON
		<p>structure spans the CMA and land. This will capture structures that have been erected by individuals to provide private access to the coastal marine area and occupy esplanade reserve administered by KDC, who have not authorised these structures. These structures may affect the access of the public to the coastal marine area, and can create a health and safety issue.</p> <p><i>Condition 11:</i> The modification or maintenance of coastal structures, such as repairs, has a high probability of causing erosion, at least at a minor level as a result of construction. It is submitted that this condition be modified, to allow temporary erosion, at a level consistent with Condition 13. It is improbable that 11c will be able to be complied with. Any culvert or bridge will reduce river conveyance if there is debris, and will therefore all require consent, which does not appear to be the intent of the rule.</p>
C.2 ACTIVITIES IN THE BEDS OF LAKES AND RIVERS AND IN WETLANDS		
C.2.1.1 Introduction of planting of plants in rivers and lakes – Permitted Activity	Support in part.	KDC requests removal of 3), as planting is often designed to slow water flow and decrease erosion.
C.2.1.3 Maintenance of the free flow of waters in rivers and mitigating bank erosion – Permitted Activity	Clarification sought.	KDC supports this rule, but seeks clarification. Condition 6) enables the channel to be widened by up to 20% as a permitted activity performance standard, while Condition 7) states that modification must be within the bank full edge. These appear to contradict each other, and may create confusion for plan users. It

PROVISION	RELIEF SOUGHT	REASON
		is also noted that neither 'channel' nor 'bank full edge' are defined.
C.2.1.4 Existing authorized structures – Permitted Activity	Support in part.	KDC supports this rule, which provides the ability to repair, maintain and reconstruct structures as a permitted activity. KDC supports the submission by FNDC, that provision 3) should be reworded to read ' <u>there is no designed permanent increase in dimensions</u> ', or similar relief, as where an earth structure is reconstructed, there will necessarily be an increase in dimensions to allow for shrinkage and erosion.
C.2.1.5 Maintenance or repair of authorized flood defence – Permitted Activity	Support in part.	KDC supports this rule, which provides the ability to repair and maintain authorised flood defences as a permitted activity. KDC supports the submission by FNDC, that provision 1) should be reworded to read ' <u>there is no designed permanent increase in dimensions</u> ', or similar relief, as where an earth structure is reconstructed, there will necessarily be an increase in dimensions to allow for shrinkage and erosion.
C.2.1.12 Freshwater structures – Controlled Activity	Support in Part. Seek deletion of Clause 2) 'The length of a culvert does not exceed 25 metres'.	The impact of a proposed length can be addressed as a matter of control, rather than a specific length. As the width of a legal road is 20m, culverts greater than 25m may be required. As a resource consent will be required under this rule as a controlled activity, any effects associated with culvert length can be addressed and considered under the matters over which control is exercised.
C.2.1.14 New flood defence – Discretionary Activity	Support in part.	KDC submits that this rule be solely for new flood defences, and that ' <u>an addition to an existing flood defence</u> ' be a restricted

PROVISION	RELIEF SOUGHT	REASON
		discretionary extent, with the one of the matters over which discretion is restricted be the scale of the addition i.e. if the addition is only minor, should be restricted discretionary.
C.2.1.15 Structures in a significant area – Non-complying Activity	<p>Oppose.</p> <p>KDC seeks discretionary activity status for structures associated with core local infrastructure and regionally significant infrastructure.</p>	<p>The RMA requires regional plans to provide for 'strategic integration of infrastructure with land use', and the RPS (Objectives 3.7 and 3.8) provides for regionally significant infrastructure. It is therefore consistent with the RPS, and the RMA, and should therefore not be a non-complying activity.</p> <p>KDC submits that a discretionary status is also appropriate for such activities as the provision of infrastructure by KDC, given their operational need, and the statutory requirements under the LGA 2002 to deliver such infrastructure to the Districts' communities.</p>
C.2.2.1 Wetland management and enhancement – Permitted Activity	<p>Support in part.</p>	<p>The provisions do not allow for infrastructure works within wetlands where infrastructure is already present. KDC suggests amending the provision to allow for infrastructure maintenance as a permitted activity.</p>

PROVISION	RELIEF SOUGHT	REASON
C.2.2.4 Activities in wetlands – Discretionary Activity C.2.2.5 Activities affecting wetlands – Non-complying Activity	<p>Oppose.</p> <p>Amend C.2.2.5 and C.2.2.4 to provide discretionary activity status for core local/district council infrastructure, and regionally significant infrastructure.</p>	<p>The RMA requires regional plans to provide for ‘strategic integration of infrastructure with land use’, and the RPS (Objectives 3.7 and 3.8) provides for regionally significant infrastructure. It is therefore consistent with the RPS, and the RMA, and should therefore not be a non-complying activity.</p> <p>KDC submits that a discretionary status is also appropriate for such activities as the provision of infrastructure by KDC, given their operational need, and the statutory requirements under the LGA 2002 to deliver such infrastructure to the Districts’ communities.</p>
C.3 DAMMING AND DIVERTING WATER		
C.3 All damming and diverting water provisions	<p>Support in part.</p> <p>Add <u>To enable a water take for public water supply</u> to C.3.1, C.3.2 as a permitted activity performance standard.</p>	<p>The RMA requires that regional plans ensure that there is <i>sufficient development capacity, and the strategic integration of infrastructure with land use</i>. Dams contribute to the well-being of the district through flood attenuation, water storage and irrigation. Off-stream dams can be used to attenuate stormwater flows from subdivision and land use.</p>
C.4 LAND DRAINAGE AND FLOOD CONTROL		
C.4.3 Repair and maintenance of a stopbank, floodgate or drain – Permitted Activity	Support in part	<p>KDC supports the permitted activity status for the repair and maintenance of stopbanks, floodgates or drains. KDC submits that where an earth structure is reconstructed, there will be an increase in dimensions to allow for shrinkage and erosion, and</p>

PROVISION	RELIEF SOUGHT	REASON
		therefore suggests 2) should be reworded to provide that is <u>no permanent increase in the length, width or height of the original stopbank, floodgate or drain, or similar.</u>
C.4.8 Land drainage and flood control general conditions	Support	KDC proposes Condition 6 be changed, from 'may be carried' to ' <u>is likely to be carried</u> '.
C.5 TAKING AND USING WATER		
C.5.1.1 Minor Takes – Permitted Activity	Support in part.	<p>KDC is obliged, under the LGA 2002, to provide water services, and therefore submits that the Regional Plan should be consistent with the broad range of statutory requirements relating to water supply.</p> <p>KDC, like other territorial authorities, support a framework which requires or promotes the registration of public water supplies. The Ministry of Health is not able to identify public supplies unless they are registered, and therefore KDC submits that the conditions for permitted activity rules and the consent process could include measures to ensure that the DHB is informed of community supplies. This will allow for the maintenance of a register, which will be used to respond to health incidents.</p> <p>KDC supports the submission of FNDC that at the very least, meters should be a mandatory requirement for water takes in all high/over-allocated water catchments. KDC further supports the submission that new bores should be required to be fitted with a</p>

PROVISION	RELIEF SOUGHT	REASON
		bore backflow device to protect the aquifer from contamination, and that the condition should require ongoing maintenance.
C.5.1.7 Takes existing at the notification date of the plan – Controlled Activity	Support in part.	KDC supports the submission of FNDC that a matter over which control is reserved should be that a meter is installed as a condition of consent, particularly in high or over-allocated catchments.
C.5.1.11 Water take below a minimum flow or water level – Non-Complying Activity C.5.1.12 Water take that will exceed an allocation limit – Prohibited Activity	<p>Oppose.</p> <p>For takes necessary for district council infrastructure i.e. registered drinking water supplies, the activity status should be discretionary, not non-complying.</p> <p>An existing consent should be able to be renewed without requiring an application for a non-complying activity.</p>	<p>The RMA requires regional plans to provide for 'strategic integration of infrastructure with land use', and the RPS (Objectives 3.7 and 3.8) provide for regionally significant infrastructure. It is therefore consistent with the RPS, and the RMA, and should therefore not be a non-complying activity.</p> <p>KDC is required to maintain a level of service to potable water supply networks under the LGA 2002, and KDC is required to protect the health and safety of communities through the adequate provision of safe and wholesome drinking water. Therefore, any application made by a registered drinking water supply i.e. such as KDC, should be a discretionary activity, rather than non-complying consent. KDC also seeks discretionary status of the renewal of existing consents associated with registered drinking water supplies.</p> <p>KDC supports a non-complying activity status for water takes that will exceed an allocation limit that are not associated with registered drinking water supplies.</p>
C.6 DISCHARGES TO LAND AND WATER		

PROVISION	RELIEF SOUGHT	REASON
<p>C.6.1.1 Existing on-site domestic type wastewater discharge – Permitted Activity</p> <p>C.6.1.3 Other on site treated domestic wastewater discharge – Permitted Activity</p>	<p>Support in part.</p>	<p>The permitted activity status and performance standards will not enable NRC to monitor and record where onsite treatment systems have been installed. There is no requirement within the rule to submit information that demonstrates maintenance requirements have been complied with.</p> <p>KDC is concerned that these rules are too permissive, and would prefer to see an approach that mirrors the risk management framework as adopted by KDC in its Wastewater Drainage Bylaw, requiring a ‘warrant of fitness’ scheme to provide proof that systems are being maintained.</p> <p>KDC also opposes the rule as drafted, as it allows for onsite wastewater systems where they are located within a reticulated wastewater catchment (i.e. Mangawhai).</p> <p>KDC would like to see a rule framework which requires new onsite treated domestic wastewater discharges, or replacement discharge permits, that are able to connect to core local infrastructure (i.e. a reticulated wastewater network) to be connected.</p>
<p>C.6.1.4 Replacement discharge permits – Controlled Activity</p>	<p>Support in part.</p>	<p>This enables the replacement of consents for domestic type wastewater. Where this discharge will be received by the KDC stormwater network, KDC would like to ensure that one of the matters over which control is reserved provides sufficient consideration that water quality standards will not be adversely affected.</p>

PROVISION	RELIEF SOUGHT	REASON
		<p>KDC also opposes the rule as drafted, as it allows for onsite wastewater systems where they are located within a reticulated wastewater catchment (i.e. Mangawhai).</p> <p>KDC would like to see a rule framework which requires new onsite treated domestic wastewater discharges, or replacement discharge permits, that are able to connect to core local infrastructure (i.e. a reticulated wastewater network) to be connected.</p>
<p>C.6.2.1 Wastewater discharge from a pump station or pipe network – Controlled Activity</p>	<p>Support in Part.</p> <p>KDC seeks C.6.2.1 be amended, to allow that an application for resource consent be received by the regional council within five years of the rule becoming operative.</p>	<p>KDC opposes the timeframe set by the proposed rule and submits in support of WDC and FNDC, seeking a minimum five year period to meet this requirement. This will allow LTP cycles and funding programmes to be developed to support the work required for Management Plans, and to consider upgrades to the pump stations and pipe networks.</p> <p>KDC requests consideration be given to the operational requirements of pressure sewer pump stations, for instance, small stations which may not be equipped with automatic control and alarm systems (i.e. Condition 3), but due to their nature, this is considered a disproportionate safety measure. The need for such emergency management procedures can be considered as part of the Network Management Plans, and determined on a case-by-case basis, upon agreement between NRC and KDC.</p> <p>KDC also seeks clarification on the definition of ‘immediate’ under Condition 3(a)(i), and seeks a time-based limit. Condition 4 will</p>

PROVISION	RELIEF SOUGHT	REASON
		<p>effectively require a treatment system at every pump station and overflow point, which is not considered to be a reasonably practicable option. KDC supports WDC's submission that conditions should relate to an appropriate screen size, rather than full prevention of all suspended floating materials.</p> <p>KDC supports the non-notification of this rule.</p>
C.6.2.4 Wastewater discharge – Prohibited Activity	Support in part.	There may be circumstances beyond Council's control, such as a natural disaster, that damage wastewater infrastructure and result in a discharge.
C.6.4.1 Stormwater discharges from a public stormwater network – Permitted Activity	Support in part. KDC seeks C.6.4.1.6) be amended to require management plans within five years, rather than two.	<p>KDC opposes the timeframe set by the proposed rule, and submits in support of WDC and FNDC, seeking a minimum five year period to meet this requirement. This will allow LTP cycles and funding programmes to be developed to support the work required for Management Plans, and to consider upgrades to the stormwater networks.</p> <p>KDC has a number of concerns with the rule as it is currently drafted.</p> <p>Condition 1 requires that the diversion and discharge does not cause erosion at the point of discharge. KDC seeks clarification regarding the definition of 'point of discharge', as a stormwater flow may enter and exit through various discharge points within the network, before reaching its ultimate discharge point.</p> <p>Condition 3 provides that the discharge does not contain any wastes or cooling water from a trade or industrial premises. While</p>

PROVISION	RELIEF SOUGHT	REASON
		<p>KDC officers have begun research into a proposed Trade Waste Bylaw, at present there is no regulatory mechanism in place for KDC to ensure that this condition is met, and therefore this condition is not reasonably practicable.</p>
<p>C.6.4.2 Other stormwater discharges – Permitted Activity</p>	<p>Support in part.</p> <p>KDC seeks the following changes, in line with the submission of FNDC and WDC:</p> <p>4) Where the stormwater diversion or discharge is from an industrial or trade premises that is not a high risk industrial or trade premises:</p> <p>a) The stormwater collection system is designed and operated to prevent any other contaminants stored or used on the site from entering stormwater, unless the stormwater is discharged through a stormwater <u>contaminant</u> interceptor; and</p> <p>b) Any process water or waste stream on the site is bunded, or otherwise contained, within an area of sufficient capacity to provide secondary containment equivalent to 100 percent of the quantity of any process water or waste that has the potential to spill into a stormwater collection system; and</p> <p>c) <u>Stormwater diversion drains, bunds or similar, are used to prevent uncontaminated stormwater from entering the contaminated site</u> (or similar relief).</p>	<p>KDC supports the submission of FNDC and WDC, and requests the insertion of clause c) in order to reduce the volume of stormwater entering contaminated sites. This reduces the potential for stormwater contamination and contaminated runoff.</p>

PROVISION	RELIEF SOUGHT	REASON
C.6.4.3 Stormwater discharges – Controlled Activity	Support in part. Amend as follows: '4) The adequacy of measures to minimise flooding in areas affected <u>caused</u> by the stormwater network'	KDC should not be expected to mitigate the effects of flooding caused by private systems or weather events.
C.6.7.2 Discharges to land from closed landfills – Permitted Activity	Oppose. KDC seeks a change to a controlled activity status.	KDC believes that it would be difficult for any closed landfills to reasonably comply with the conditions, and recommends a controlled activity status be applied to all closed landfills in order for appropriate conditions of consent to be provided for.
C.6.7.6 Waste transfer stations – Controlled Activity	Support in part.	KDC requests a non-notification clause for this provision, which is consistent with the controlled activity status, and the ability for Council to manage adverse effects through appropriate conditions. KDC recommends deleting Condition 1, as appropriate concentration limits can be determined under matters of control, based on proximity to surface water and groundwater.
C.6.9.4 Discharge of sluicing water – Permitted Activity	Support.	This rule provides for sluicing of public or community water supply mains. For the purpose of clarity, KDC seeks that reservoir draining also be excluded from this provision.
C.6.9.5 Discharges to land or water not provided for by other rules – Permitted Activity	Support in part.	KDC requests that discharges of raw water from water treatment plants, and for other infrequent events (i.e. public water main breaks) are provided for as a permitted activity. These events are typically of a short duration, and of raw or semi-treated water. If chlorine is present in the water, is usually rapidly dissipated with

PROVISION	RELIEF SOUGHT	REASON
		exposure to light and air, and therefore does not have a significant adverse effect on the environment.
C.7 DISCHARGES TO AIR		
C.7.2.5 Discharges to air from the use of public roads by motor vehicles - Permitted Activity	Oppose.	<p>KDC acknowledges that dust is adversely affecting some rural communities, but does not consider that the proposed provision in the Regional Plan is the best way to manage the issue.</p> <p>KDC opposes any directive under the Regional Plan to seal or implement dust suppression. This is expensive to the point of being unaffordable, and such a requirement acts in contradiction with KDC's obligation under the LGA 2002 to deliver services in a manner which is the most cost-effective for its community.</p> <p>KDC requires flexibility in its policies for considering the impact and potential solutions of dust effects, and while open to monitoring and reporting in conjunction with NRC, opposes a rule that requires KDC to have a programme in place, or that requires any prioritisation of mitigating dust effects.</p>
C.8 LAND USE AND DISTURBANCE ACTIVITIES		
C.8.1.1 Access of livestock to the bed of a water body or permanently flowing water course – Permitted Activity	Support in part.	<p>The Resource Management (National Environmental Standards for Sources of Human Drinking Water) Regulations 2007 provide limitations on permitted activity rules for activities upstream of abstraction points.</p> <p>KDC has concerns about stock accessing waterways above water takes, and requests a rule framework for all registered water takes</p>

PROVISION	RELIEF SOUGHT	REASON
		which protects public water supplies, in support of the submission made by WDC.
C.8.1.2 Access of livestock to rivers, lakes and wetlands – Restricted Discretionary Activity	Support in part.	<p>KDC has concerns over stock accessing waterways above water intakes, and requests the matters of discretion include the effect on public drinking water supplies.</p> <p>Concerns are raised that this rule, which precludes resource consent applications from limited or public notification, will exclude KDC and the DHB from being considered as affected parties, and therefore restricts KDC's ability to protect public drinking water supplies.</p>
C.8.2 All cultivation provisions	Support in part.	<p>KDC supports the submission by WDC that activities on private property should not create externalities to be borne by ratepayers. Therefore, KDC supports more stringent standards for cultivation occurring within a reasonable distance of a potable water take, and the removal of the notification provisions, to allow KDC a chance to be involved in the consenting decision.</p>
C.8.3.1 Earthworks – Permitted Activity C.8.3.2 Earthworks – Controlled Activity C.8.3.3 Earthworks – Discretionary Activity	Support in part. Insert a matter of control that considers effects of indicative Acid Sulphate Soil Risk Areas.	<p>KDC supports the requirement for erosion and sediment control, to protect KDC roads and stormwater networks.</p> <p>Acid sulphate soils can reduce water quality and damage infrastructure.</p>

PROVISION	RELIEF SOUGHT	REASON
C.8.4.2 Clearance of native woody vegetation – Permitted Activity	Support in part. Amend to consider SNA's.	<p>The RPS requires NRC to provide guidance on the location of Significant Natural Areas (SNAs), and there where they are located in riparian or coastal areas, they should be protected through the Regional Plan. The Regional Plan does not provide a definition of 'native woody vegetation', which therefore provides scope for a vast number of vegetation to be cleared. The intent of the rule is not clear.</p> <p>The rule is not consistent with Objective 3.4 of the RPS or Policy 4.4 of the RPS.</p>
C.8.6.2 Rebuilding of materially damaged or destroyed buildings – Non-Complying Activity	Support.	<p>KDC supports the non-complying activity status for materially damaged buildings. The redevelopment of buildings which do not reduce the risk of damage from coastal hazards/flooding events should not be encouraged in hazard zones and are contrary to the RPS. Non-complying status allows a consideration against Policy D.6.3 and the option to refuse the consent.</p>

D POLICIES

PROVISION	RELIEF SOUGHT	REASON
D.1 TANGATA WHENUA		
D.1.1 – D.1.15	Clarification sought.	KDC raises concerns that the policies under D.1 are effectively information requirements to support a resource consent application and not policies. Concerns are raised around the wording of D.1.4 which provides a directive that a resource consent 'may only be granted' if there are 'no more than minor' effects 'on the values'. Further clarity around the application of this policy is required and the threshold for declining a resource consent.
D.1.1 When an analysis of effects on tangata whenua and their taonga is required	Support in part.	Ensure effects on tangata whenua and their taonga are included as matters of control or discretion for relevant activities in the Plan.
D.2 GENERAL		
D.2.3 Application of policies in the Regional Policy Statement for Northland to non-complying activities	Support in part.	This policy seeks to restrict the consideration and application of particular policies, while KDC submits that the full suite of RPS policies should be considered when processing non-complying activities.
D.2.8 Precautionary approach to managing effects on significant indigenous biodiversity	Support in part. Amend policy to require consideration of Significant Natural Areas (SNAs).	The Kaipara district supports a precautionary approach and welcomes the opportunity to work with NRC, Councils and the community to achieve region-wide co-ordination of biodiversity management.

PROVISION	RELIEF SOUGHT	REASON
D.4 LAND AND WATER		
D.4.1 Water quality standards for rivers	Clarification sought.	<p>These standards will be replaced by national standards under the NPS Freshwater Management. It would be better to refer to standards or the NPS.</p> <p>The provisions imply discharge from a point source and do not mention mixing zone or where testing should take place. There is no reference to the source of the standards, associated methods or justification of using the source.</p>
D.4.2 Water quality standards for lakes		<p>These standards will be replaced by national standards under the NPS Freshwater Management. It would be better to refer to standards or the NPS.</p>
D.4.3 Coastal water quality standards		<p>The provisions imply discharge from a point source and do not take into account diffuse discharge. There is no mention of mixing zone or where testing should take place. There is no reference to the source of the standards or the justification of using this source.</p>
D.4.4 Coastal sediment quality standards		<p>KDC raises concerns that this policy may not be achievable given the highly permissive earthworks limits.</p>
D.4.5 Maintaining overall water quality		<p>These policies are unclear, and should be redrafted to provide certainty.</p>
D.4.6 Offsetting residual non-toxic contaminants		<p>These policies are unclear, and should be redrafted to provide certainty.</p>
D.4.7 Wastewater discharges to water		<p>These policies are unclear, and should be redrafted to provide certainty, especially regarding 'best practicable option'.</p>
D.4.8 Zone of reasonable mixing		<p>The zone of reasonable mixing is referred to in permitted activity rules, however the policy does not provide enough clarity for this purpose. The policy should not seek</p>

PROVISION	RELIEF SOUGHT	REASON
		to define a mixing zone that will be reasonable in all cases, it will be a question of fact and degree for each particular case.
D.4.12 Application of biosolids to land	Support in part.	Seek clarification that sludge from a wastewater treatment plant is a biosolid and can be applied to land.
D.4.13 Achieving freshwater quantity related outcomes	Support in part.	The LGA requires that KDC continue to provide potable water. Water storage may be required to simultaneously meet freshwater outcomes and provide potable water.
D.4.14 Minimum Flows for Rivers	Support in part.	<p>The LGA requires that KDC continues to provide potable water. Water storage may be required to simultaneously meet freshwater outcomes and provide potable water. Some water takes may already have resource consent conditions that do not comply with the standards stated in this policy.</p> <p>This policy is supported on the provision that Policy D.4.19 is taken into consideration in tandem. D.4.19 provides for exceptions to minimum flows or levels where the water is to be taken for the health of people as part of a registered drinking water supply.</p>
D.4.15 Minimum levels for lakes and wetlands	Support in part.	The LGA requires that KDC continue to provide potable water. Water storage may be required to simultaneously meet freshwater outcomes, and provide potable water.
D.4.16 Allocation limits for rivers	Support in part.	Under D.4.16(1)(b), KDC seeks the addition of reference to rule C.5.1.6 to provide for replacement water permits for registered drinking water supplies.
D.4.19 Exceptions to minimum flows or levels	Support.	KDC supports this policy, as it recognises water takes to provide for the health of people as part of a registered drinking water supply.
D.4.23 Conditions on water permits		KDC supports the requirement for all water takes to be metered, particularly in high or over-allocated catchments. KDC supports the requirement for the installation (and

PROVISION	RELIEF SOUGHT	REASON
		ongoing maintenance) of backflow prevention systems to prevent contamination of drinking water supplies.
D.4.25 D.4.26	Support in part. Amend D.4.26 to require that new land drainage avoids, remedies or mitigates the effects of dewatering acid sulphate soils.	Acid sulphate soils can release acids that damage water quality, biodiversity and infrastructure.
D.4.31 Managing the effects of land-disturbing activities	Support in part. Insert clause ' <u>d. Aquatic receiving environments that are sensitive to acidity and heavy metals released by acid sulphate soils</u> '	KDC believes that the effects acid sulphate soil may have on sensitive receiving environments is an environmental concern which should be addressed through the Regional Plan.
D.5 COASTAL		
D.5.22, D.5.23, D.5.24 Mangrove Removal – Purpose, outcome and adverse effects	Support.	KDC supports the guidance provided in the policies for when mangrove removal is appropriate and for adverse effects to be considered through the resource consent process.
D.6 NATURAL HAZARDS		
D.6.1 Appropriateness of hard protection structures	Support.	KDC supports the reference to core local infrastructure in this policy, and requests that the term 'core local infrastructure' be included in the definitions section of the Regional Plan.

PROVISION	RELIEF SOUGHT	REASON
E. CATCHMENTS		
E.0.3 Water takes from a lake in the Pouto catchment E.0.4 New plantation forestry in the Pouto Forestry Restriction area – restricted discretionary activity E.0.5 New plantation forestry within 20 metres of outstanding Pouto Lakes – restricted discretionary activity	Support.	<p>These rules have been developed in order to give effect to the Pouto Catchment Management Plan. KDC recognises the collaborative effort between affected landowners and key stakeholders which has delivered the CMP, and supports rules which give effect to the objectives of the CMP.</p> <p>KDC supports ongoing collaboration between the regional council, KDC, tangata whenua and affected landowners and key stakeholders.</p>
F OBJECTIVE		
Objective	Support in part.	The Objective repeats the intent and purpose of the RMA. KDC recommends the proposed objective is amended and if necessary, additional objectives are added, to provide a clearer outcome of what the plan is hoping to achieve, and to provide for trade-offs where appropriate.
APPENDIX H1 WASTEWATER MANAGEMENT PLANS		
H.1 Wastewater Network Management Plans	Support in part.	<p>Some of the requested information to support the preparation of Wastewater Management Plans is not readily available. Consequently, NRC should assess and approve Wastewater Management Plans on a case-by-case basis.</p> <p>As identified earlier in this submission, KDC has requested extended timeframes for management plans to be provided (a minimum of five years). This information</p>

PROVISION	RELIEF SOUGHT	REASON
		required under the plan will require significant resourcing and this will need to be funded through the long term plan process.
APPENDIX H2 STORMWATER MANAGEMENT PLANS		
H.2 Stormwater Network Management Plans	Support in part.	Some of the requested information is not readily available. Consequently, NRC should assess and approve Stormwater Management Plans on a case-by-case basis. As identified earlier in this submission, KDC has requested extended timeframes for management plans to be provided (a minimum of five years). The information required under the plans will require significant resourcing and this will need to be funded through the Long Term Plan process.
MAPS		
Mooring Zone Maps – Mangawhai Harbour	Support in part.	KDC submits that the Mooring Zone at Mangawhai Harbour should be mapped to allow room for recreational activities (i.e. swimming) close to the coastal edge, similar to the mapping for the Pahi Mooring Zone.
New map layer requested for Acid Sulphate Soils	Add Maps (supported by rules).	KDC considers that the relationship between acid soil disturbance i.e. through earthworks, and the risk of environmental harm should be explored further, and that this matter sits appropriately under the functions of the Regional Plan, giving the document controls land disturbance, dredging and dewatering activities. OPUS has mapped the risk of acid sulphate soils across the Northland region. KDC supports the submission of WDC and requests that the soils are mapped and appropriate rules are included in the Regional Plan. There is further detail regarding the risk of acid sulphate soils, and the proposed rules, located below.

PROVISION	RELIEF SOUGHT	REASON
New map layer requested for Registered Drinking Water Supply Intakes (and associated buffer zones)	Add Maps (supported by rules).	In order to protect drinking water supplies, KDC supports the submission of WDC and seeks the mapping of abstraction points for registered public water supplies, supported by a rule framework which allows for a buffer zone around the intakes to regulate catchment management and discharges within the specified proximity to these intakes. This should be developed through collaboration with territorial authorities and the District Health Board.

ACID SULPHATE SOILS
<p>Over recent years, particularly in the Whangarei context, there has been mounting evidence that acid sulphate soils are present in Northland. These soils contain a naturally elevated level of sulphides within anaerobic conditions. When disturbed and exposed to oxygen i.e. through dredging or excavation, these sulphides can release acidity.</p> <p>If left undisturbed, and without exposure to oxygen, these sulphides remain in the soil without causing any major issues. If the sulphides are disturbed, such as through earthworks which aerates the soil, the sulphides can react with oxygen. When the sulphides react with oxygen, this can release sulphuric acid, which can allow acidic runoff. This runoff can have effects on the natural and built environment. These adverse effects include potential negative effects on aquatic ecosystems (fish and plant life), adverse effects on crop growth and yield where irrigation water has high concentrations of metal, adverse effects on drinking water through pH change, concentrations of dissolved metals or loads of suspended solids, loss of recreational amenity from acidic waters (including odours and discolouration of water). Iron from acid sulphate soils is known to stimulate harmful algal blooms.</p> <p><i>Natural Environment</i></p> <p>When groundwater becomes acidic, metals which naturally exist in the soil can become more soluble. This can cause them to leach out of the soil and be discharged into the environment. When dissolved in acidic solution the metals are often colourless and cannot be seen, but when acidic runoff is neutralised i.e. mixes with downstream water, the metals fall out of solution and become visible. A prominent example of this is seen with iron, where iron oxide 'rust' stains on surfaces are commonly associated with acidic runoff which has since neutralised.</p>

Management of acidic soils fits well within existing RPS Objectives:

- Objective 3.2 (Region Wide Water Quality) seeks an overall improvement in the quality of Northland's fresh and coastal water, and the management of acid sulphate soils aligns with this objective, which will prevent the release of acidic runoff and dissolved metals into groundwater and surface water bodies.
- 8.12 Indigenous Ecosystems and Biodiversity
- 8.13 Enabling economic well-being

Relief Sought:

That the Regional Plan addresses the effects of acid sulphate soils through amendments to rules, as addressed earlier in KDC's submission. KDC also seeks the inclusion of an additional Policy:

'Policy D.4.35 – When considering an application for resource consent in mapped acid sulphate soil risk areas, consider the proposed methods for avoiding, remedying or mitigating effects on infrastructure, water quality and biodiversity'.

File number: 2304.03/LTP 2018 2028
Report to: Council
Meeting date: 14 November 2017
Subject: Review of rating policy
Date of report: 06 November 2017
From: Glennis Christie General Manager Finance

Approved for agenda

Report purpose **Decision** **Recommendation** **Information**
Assessment of significance **Significant** **Non-significant**

Summary

The purpose of this report is to review rating policy

As part of the Long Term Plan 2018/2028, these policies needs to be reviewed and any refinements and/or improvements recommended.

Since the adoption of the current policies in 2015, a number of issues have arisen. The issues are not considered to be significant but require some further refinement of the policies. These have been addressed by suggested amendments contained in the attachments and described below.

Recommendation

That Kaipara District Council:

- 1 *Receives the General Manager Finance's report 'Review of rating policy' dated 06 November 2017; and*
- 2 *Believes it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with the provision of s79 of the Act determines that it does not require further information prior to making a decision on this matter; and*
- 3 *Adopts the Early Payment of Rates policy, Maori Freehold Land Rates Postponement and Remission Policy and Rates Postponement and Remission Policy as attached to this report.*

Reason for the report

As part of the 2017/2018 Annual Planning Councillors signalled a review of the rating system. The current policies were adopted in February 2015 and is scheduled to be reviewed triennially. It is appropriate to undertake this review as part of the wider review of the Long Term Plan 2018/2028.

Background

Council rating policy currently comprises of three policies:

- Early Payment of Rates Policy; and
- Māori Freehold Land Rates Postponement and Remission Policy; and

- Rates Postponement and Remission Policy.

Early Payment of Rates Policy

Section 55 of the Local Government (Rating) Act 2002, empowers councils to accept early payment of rates.

Currently, early payment of current year rates does attract neither a discount, nor interest on the sum paid. There are 858 (5%) properties for which rates were paid in full by the first instalment due date (20 August 2017) including 132 (1%) properties owned by Council. This equals \$1.2 million rates being paid early. If a discount of 3% was offered on this amount, the cost would be \$50,000. This cost would only be partially offset by decreased financing costs.

If Council offered a discount of 3% and say 25% of ratepayers received the discount, rates would need to be increased by 0.5% -1.0%. It is proposed to not change Council's policy concerning early payment of current year rates.

Currently, Council policy allows for the early repayment of rates for subsequent years for specified rates. The objective of this policy scheme is to assist ratepayers who want to make payment of specified rates (Wastewater - Mangawhai Capital Contribution targeted rates A, D, E and F) in anticipation of liability for the specified rates in subsequent financial years. This Policy is made under section 56 of the Local Government (Rating) Act 2002. Its effect is to provide ratepayers with the opportunity to extinguish their liability in relation to the Mangawhai Wastewater Capital Contribution sooner than under the long term rating option, and at a discount to the amount payable over time.

There are 88 ratepayers who have chosen this option, often being a condition of sale. There remain 567 ratepayers paying the capital contribution over up to 30 years. It has been suggested that Council further informs these ratepayers of the possibility to repay early the capital contribution.

The current policy is as attached with the proposed changes tracked (Attachment 1).

Māori Freehold Land Rates Postponement and Remission Policy

Section 102(2) of the Local Government Act 2002 provides that a Council must adopt a policy on the postponement and remission of rates on Māori freehold land (MFL).

The objective of current Council policy is to ensure the fair and equitable collection of rates occurs from all sectors of the community. It is important to also recognise that Māori freehold land has particular conditions, and ownership structures which may make it appropriate to provide relief from rates.

Specifically this Policy considers the matters set out in schedule 11 of the LGA 2002 and is intended to support the following objectives:

- Recognise matters related to the physical accessibility of the land;
- Facilitate development or use of the land.

This Policy also has an objective to recognise situations where there is no occupier, or person gaining an economic or financial benefit from the land.

The policy has been applied in a number of properties since it's' adoption.

The Northland councils are currently reviewing MFL rates postponement and remission. The objectives of the group are to harmonise policy across the region where appropriate and to ensure that economic development of MFL is not hindered by rating policy.

Taking in consideration the regional review and the current policy meets ratepayers' requirements, it is proposed to make no amendments until the review is complete.

The current policy is as attached with any proposed changes tracked (Attachment 2).

Rates Postponement and Remission Policy

Section 102(3) of the Local Government Act 2002 provides that a Council may adopt a rates remission policy and/or a rates postponement policy. The two policies were combined into a single Rates Postponement and Remission Policy and the new policy was adopted in February 2015. The current policy is as attached with the proposed changes tracked (Attachment 3).

The Council must consult on a draft policy or amendment in a manner that gives effect to section 82 of the Local Government Act 2002 to adopt and amend this Policy.

The objective of Council's Rates Postponement and Remission Policy is to provide a mechanism to remit or postpone rates (including penalties) if the ratepayer's circumstances meet defined conditions and criteria. The cost to Council of remissions both policy and statute driven can be found in the attached November 2016 briefing (Attachment 4).

The policy has been divided into four parts. The first part addresses those ratepayers in extreme financial hardship and provides for penalty remission. The second part extends the remission provided by statute where appropriate. Parts three and four address wastewater and water targeted rates.

In general, current policy allows Council to address most issues that arise. However, as part of the Long Term Plan 2018/2028 process, there are two items that may need to be reviewed:

- Rates remission of multiple Uniform Annual General Charges and other Uniform Charges on rating units; and
- Rates postponement for targeted rate capital contribution A, capital contribution B and capital contribution C.

The rates postponement and remission policies that we do not consider need to be reviewed are:

Part One - Financial Assistance and Support

- Rates Postponement for Financial Hardship
- Rates Remission for Financial Hardship
- Rates Remission of Penalties

Part Two - Addressing Anomalies

- Rates Remission for Community, Sporting and Other Organisations
- Rates Postponement or Remission for Miscellaneous Purposes

Part Three - Addressing Matters Related to Wastewater Charges

- Rates Remission for School Sewerage Charges

Part Four - Other Schemes

- Water Supply Rates Remission for Excessive Water Rates due to a Fault.

Rates remission of Uniform Annual General Charges and other Uniform Charges on rating units

The objective of this policy is to enable Council to act fairly and equitably with respect to the imposition of uniform charges on two or more separate rating units that are contiguous, and used jointly for a single residential or farming use but do not currently meet section 20 of the Local Government (Rating) Act 2002.

There has been some confusion within the community concerning properties subdivided for sale. Legal precedence does not include these properties as being eligible for remission. For clarity, it is proposed to add this to the policy.

Current policy also excludes remission for farming operation when rating units that have different property categories. In example of this is a pastoral farming operation jointly used with a lifestyle block.

The suggested amendments have been tracked in Attachment 3.

Rates postponement for targeted rates capital contribution A, capital contribution B and capital contribution C

It is proposed to delete this policy, as the cost to ratepayers outweighs any benefits, no ratepayers have taken up this option. In addition, capital contribution B and C are fully paid which only leaves capital contribution A for which ratepayers prefer to repay early rather than postpone.

Issues

Since the adoption of the current policies in 2015, a number of issues have arisen. The issues are not considered to be significant but rather refinement of the policies. These have been addressed by the suggested amendments.

Factors to consider

Community views

The community would prefer fair and equitable rates remission and postponement policy that is clear and easy to apply. Consultation on any definitive proposed change would occur as part of the consultation on the Long Term Plan 2018/2028.

Policy implications

In principle proposals are consistent with the current policy framework.

Financial implications

Financial implications are being worked through in a number of separate but related work streams for the Long Term Plan 2018/2028, including the 30 year infrastructure plan, Asset Management Plans, the financial strategy and associated 10 year financials.

Legal/delegation implications

This report is to be considered by Council as part of the preliminary work leading into the preparations of the Draft Long Term Plan 2018/2028.

Options

There are five options to consider concerning Rates Postponement and Remission Policy

Option A: Status Quo – Continue with existing policies with no changes.

Option B: Include the suggested amendments to the rating policies .

Option C: Request Council officers investigate further options,

Assessment of Options

Option A is consistent with current policy settings, however it does not address inequity.

Option B is consistent with the current policy framework and addresses inequity.

Assessment of significance

In terms of Council's Policy on Significance this is not a significant issue.

Recommended Option

The recommended option is Option B.

Next Steps

The adopted policies are included in the draft Long Term Plan work for consultation.


Attachments

Attachment 1: Early Payment of Rates Policy Tracked

Attachment 2: Māori Freehold Land Rates Postponement and Remission Policy Tracked

Attachment 3: Rates Postponement and Remission Policy Tracked

Attachment 4: November 2016 Briefing

 <small>Kaipara te Orangakui</small> KAIPARA DISTRICT <small>The Oceans The Harbours</small>	Title of Policy	Early Payment of Rates Policy		
	Sponsor	General Manager Finance	Authorised/Adopted by	Council
	Written By	Revenue Manager	Date Adopted	09 February 2015
	Type of Policy	Rating	Review Date	09 February 2018 <u>August 2017</u>
	File Reference	2306.20/ <u>2304.03</u>		

1 Early Payment of Current Year Rates Policy

In accordance with section 55 of the Local Government (Rating) Act 2002, which empowers councils to accept early payment of rates, Council will accept payment in full of all rates assessed in the current year on or before the due date for the first instalment of the year. Early payment of rates will attract neither a discount, nor interest on the sum paid.

2 Early Payment of Rates for Subsequent Years Policy

2.1 Overview and Background

The objective of this policy scheme is to assist ratepayers who want to make payment of specified rates (Wastewater - Mangawhai Capital Contribution targeted rates A, D, E and F) in anticipation of liability for the specified rates in subsequent financial years. This Policy is made under section 56 of the Local Government (Rating) Act 2002. Its effect is to provide ratepayers with the opportunity to extinguish their liability in relation to the Mangawhai Wastewater Capital Contribution sooner than under the long term rating option, and at a discount to the amount payable over time.

This policy is limited to the rates listed under the conditions and criteria. Council will accept payment of other rates for subsequent financial years not listed in the conditions and criteria below. However, early payment of these rates will attract neither a discount, nor interest on the sum paid.

2.2 Conditions and Criteria

- 1 Definition: "specified rates" means any one of the following targeted rates:
 - Wastewater – Mangawhai Capital Contribution A
 - Wastewater – Mangawhai Capital Contribution D
 - Wastewater – Mangawhai Capital Contribution E
 - Wastewater – Mangawhai Capital Contribution F
- 2 As long as a rating unit is subject to one of the specified rates, the ratepayer may, at any time before the due date for the last instalment of rates payable in that financial year, pay an amount calculated in accordance with this Policy to clear the rating unit's liability for the specified rate for all future years.
- 3 The sum to clear the rating unit's liability will equal the original principal amount (excluding GST) applying to that specified rate, less the principal paid (excluding GST), divided by the number of rating units liable for the targeted rate in the financial year (plus GST).


- 4 In the financial years 2015/2016, 2016/2017 and 2017/2018 the amount of the payment to clear a rating unit's liability will be:

Schedule of Wastewater – Mangawhai Capital Contribution Targeted Rates	Liability per unit if paid in <u>2015/2016/2016/2019</u> financial year (GST incl)	Liability per unit if paid in <u>2016/2019/2017/2020</u> financial year (GST incl)	Liability per unit if paid in <u>2017/2020/2018/2021</u> financial year (GST incl)
Wastewater – Mangawhai Capital Contribution A	\$ <u>8,212.677,884.98</u>	\$ <u>8,110.747,660.13</u>	\$ <u>8,001.677,626.56</u>
Wastewater – Mangawhai Capital Contribution D	\$ <u>5,429.50923.64</u>	\$ <u>5,239.07765.00</u>	\$ <u>5,595.27035.33</u>
Wastewater – Mangawhai Capital Contribution E	\$ <u>6,443.575,946.06</u>	\$ <u>6,286.235,755.38</u>	\$ <u>6,117.885,551.38</u>
Wastewater – Mangawhai Capital Contribution F	\$ <u>6,979.65481.11</u>	\$ <u>6,823.90290.88</u>	\$ <u>6,657.27087.35</u>

- 5 Elections must be in writing and addressed to the General Manager Finance or Finance Manager.
- 6 The Council will credit the payment in accordance with the Policy.
- 7 The discount offered by electing to make a payment in accordance with this Policy equals the Council's estimate of the cost of interest (plus GST) over the estimated term of the specified rate.

2.3 Delegation of decision-making

Decisions about applying the discount will be made by the Revenue Manager, General Manager Finance or Chief Executive.

 <p>KAIPARA DISTRICT The Oceans The Harbours</p>	Title of Policy	Maori Freehold Land Rates Postponement and Remission Policy		
	Sponsor	General Manager Finance	Authorised/Adopted by	Council
	Written By	Revenue Manager	Date Adopted	09 February 2015
	Type of Policy	Policy Rating	Review Date	09 February 2018
	File Reference	2306.20/2304.03.		

1 Māori Freehold Land Rates Postponement and Remission Policy

1.1 Overview, Background and Objectives

Section 102(2) of the Local Government Act 2002 provides that a Council must adopt a policy on the postponement and remission of rates on Māori freehold land.

This Policy is to ensure the fair and equitable collection of rates occurs from all sectors of the community. It is important to also recognise that Māori freehold land has particular conditions, and ownership structures which may make it appropriate to provide relief from rates.

Specifically this Policy considers the matters set out in schedule 11 of the LGA 2002 and is intended to support the following objectives:

- Recognise matters related to the physical accessibility of the land;
- Facilitate development or use of the land.

This Policy also has an objective to recognise situations where there is no occupier, or person gaining an economic or financial benefit from the land.

1.2 Conditions

1.2.1 Remission for undeveloped and inaccessible Māori Freehold Land

- 1 Council may remit rates penalties and/or current year or arrears of rates on Māori freehold land where the land has been unoccupied for the period which the remission is requested;
- 2 To be eligible for remission no person may, during the course of the year for which the remission is granted:
 - a) lease the land;
 - b) do one or more of the following things on the land, for profit or other benefit:
 - i. reside on the land;
 - ii. de-pasture or maintain livestock on the land;
 - iii. store anything on the land;
 - iv. use the land in any other way.

1.2.2 Remission to facilitate development of Māori Freehold Land

Council may remit the previous years' arrears and penalties provided the person or entity requesting the remission will pay for the annual rates for the current and previous two years and has agreed to contract to Council to keep all future rates paid in full.

1.3 Criteria


- 1 Application for land to be granted remission of rates must be made by the owners or trustees, Council or any person(s) who has gained a right to occupy through the Māori Land Courts and is the authorised occupier(s).
- 2 The land is Māori freehold land as defined in the Local Government (Rating) Act 2002.
- 3 Owners or trustees or any authorised occupier(s) must include the following information in their application:
 - a) The details of the property for which the application for remission is being made;
 - b) The objectives (as outlined under Overview, Background and Objectives above) that will be achieved by providing a remission, together with an explanation as to how the land fits within the objectives;
 - c) Documentation that proves the land which is the subject of the application is Māori freehold land, as defined above.

1.4 Delegation of decision-making

Decisions about applying a remission of rates will be made by the General Manager Finance or Chief Executive.

1.5 Rates Postponement

This Policy does not provide for the postponement of the requirement to pay rates.

 <small>Kaipara te Orangahau</small> KAIPARA DISTRICT <small>The Oceans The Harbours</small>	Title of Policy	Rates Postponement and Remission Policy		
	Sponsor	General Manager Finance	Authorised/Adopted by	Council
	Written By	Revenue Manager	Date Adopted	09-February-2015
	Type of Policy	Rating	Review Date	09-February-16-May-2018
	File Reference	2306.20		

1 Rates Postponement and Remission Policy

1.1 Overview and Background

Section 102(3) of the Local Government Act 2002 provides that a Council may adopt a rates remission policy and/or a rates postponement policy. The two policies have been combined into a single Rates Postponement and Remission Policy.

The objective of this scheme is to:

- provide financial assistance and support to ratepayers
- address rating anomalies
- address matters related to wastewater charges
- cover other objectives.

The Council must consult on a draft policy or amendment in a manner that gives effect to section 82 of the Local Government Act 2002 to adopt and amend this Policy.

The Council's Rates Postponement and Remission Policy is set out in four parts, each containing a number of schemes.

Part One - Financial Assistance and Support

- Rates Postponement for Financial Hardship
- Rates Remission for Financial Hardship
- Rates Remission of Penalties Only.

Part Two - Addressing Anomalies

- Rates Remission of Multiple Uniform Annual General Charges and other Uniform Charges on Rating Units
- Rates Remission for Community, Sporting and Other Organisations
- Rates Postponement or Remission for Miscellaneous Purposes.

Part Three - Addressing Matters Related to Wastewater Charges

- Rates Remission for School Sewerage Charges
- ~~Rates Postponement for Mangawhai Targeted Rate Capital Contribution A, Capital Contribution B or Capital Contribution C.~~

Part Four - Other Schemes

- Water Supply Rates Remission for Excessive Water Rates due to a Fault.

1.2 Full details of each rates remission and postponement scheme

Part One - Financial Assistance and Support Schemes

Rates Postponement for Financial Hardship

Objective

The objective of this scheme is to assist ratepayers experiencing financial hardship which affects their ability to pay rates.

Criteria

The ratepayer must meet the following criteria to be considered for rates postponement for hardship:

- 1 The ratepayer must be the current owner of the rating unit and owned the property for at least five years.
- 2 The rating unit must be used solely by the ratepayer as his/her residence.
- 3 No person entered on the Council's rating information database as the "ratepayer" must own any other rating units or investment properties (whether in the District, in New Zealand or overseas) or have significant interests or ownership of a businesses or shares.
- 4 The current financial situation of the ratepayer must be such that he/she is unlikely to have sufficient funds left over, after the payment of rates, for normal health care, proper provision for maintenance of his/her home and chattels at an adequate standard, as well as making provision for normal day-to-day living expenses.
- 5 The ratepayer (or authorised agent) must make an application to Council on the prescribed form (copies can be obtained from the Council Offices, at either Dargaville or Mangawhai, or on Council's website www.kaipara.govt.nz).

Conditions

The Council will consider, on a case-by-case basis, all applications received that meet the above criteria.

- 1 For the rates to be postponed, written confirmation of the ratepayer's financial situation must be provided from the ratepayer's budget advisor. Additionally, Council reserves the full right to have the question of hardship addressed by any outside agency with relevant expertise e.g. budget advisors or the like.
- 2 For the rates to be postponed, the Council will require a statutory declaration:
 - a) that the ratepayer does not own any other property or have significant interest in a business or shares; and
 - b) containing the value of the ratepayer's property insurance and the value of encumbrances against the property, including mortgages and loans.

- 3 For the rates to be postponed, the Council will require the ratepayer to first make acceptable arrangements for payment of future rates, for example by setting up a system for regular payments.
- 4 The Council will add a postponement fee each year to the postponed rates. The fee will cover the period from when the rates were originally due to the date that they are paid. This fee will not exceed the Council's administrative and financial costs of the postponement.
- 5 The postponement will apply from the beginning of the rating year in which the application is made, although the Council may consider backdating to before the rating year in which the application is made depending on the circumstances.
- 6 Any postponed rates will be postponed until:
 - a) the death of the ratepayer(s); or
 - b) the ratepayer/s cease/s to be the owner or occupier of the Rating Unit; or
 - c) the ratepayer/s cease/s to use the property solely as his/her residence; or
 - d) the postponed rates are 80% of the available equity in the property; or
 - e) a date specified by Council.
- 7 All or part of the postponed rates may be paid at any time. The applicant may also elect to postpone the payment of a lesser sum than that which they would be entitled to have postponed pursuant to this scheme.
- 8 Postponed rates will be registered as a statutory land charge on the rating unit title. This means that the Council will have first call on the proceeds of any revenue from the sale or lease of the rating unit.

Delegation of decision-making

Decisions relating to the postponement of rates will be made by the General Manager Finance or Chief Executive.

Rates Remission for Financial Hardship

Objective

The objective of this Policy is to assist ratepayers experiencing extreme financial hardship which affects their ability to pay rates.

Criteria

The ratepayer must meet the following criteria to be considered for a rates remission for financial hardship:

- a) The ratepayer must be the current owner of the rating unit and owned the property for at least five years.
- b) The rating unit must be used solely by the ratepayer as his/her residence.
- c) No person entered on the Council's rating information database as the "ratepayer" must own any other rating units or investment properties (whether in the District, in

New Zealand or overseas) or have significant interests or ownership of a businesses or shares.

- d) The current financial situation of the ratepayer must be such that s/he is unlikely to have sufficient funds left over, after the payment of rates, for normal health care, proper provision for maintenance of his/her home and chattels at an adequate standard, as well as making provision for normal day-to-day living expenses.
- e) The ratepayer (or authorised agent) must make an application to Council on the prescribed form (copies can be obtained from the Council Offices, at either Dargaville or Mangawhai, or on Council's website www.kaipara.govt.nz).

Conditions

The Council will consider, on a case by case basis, all applications that meet the above criteria.

- a) For the rates to be remitted, the ratepayer's financial situation must be such that the ratepayer is eligible for, and has applied for, the Government rates rebate scheme. Additionally, Council reserves the full right to have the question of hardship addressed by any outside agency with relevant expertise e.g. budget advisors or the like.
- b) For the rates to be remitted, the Council will require a statutory declaration that the ratepayer does not own any other property or have significant interest in a business or shares.
- c) The remission will apply from the beginning of the rating year in which the application is made, although the Council may consider backdating to before the rating year in which the application is made depending on the circumstances.

Delegation of decision-making

Decisions relating to the remission of rates for financial hardship will be made by the General Manager Finance or Chief Executive.

Rates Remission of Penalties Only

Objective

The objective of this scheme is to enable the Council to act fairly and reasonably in relation to penalties applied when rates have not been received by the due date.

Criteria

- 1 Where the ratepayer meets the payment conditions agreed with the Council to resolve a rates arrears, the Council can remit any part of the penalties already incurred or yet to be incurred.

- 2 The penalties incurred on the first instalment of each financial year will be remitted if the ratepayer pays the total amount of rates due for the year, excluding the penalty on the first instalment, but including any arrears owing at the beginning of the financial year, by the second instalment due date.
- 3 There are extenuating circumstances.
- 4 The ratepayer has paid after the penalty date, but has not received a rates penalty remission under this scheme within the past two years.

Conditions

- 1 If the ratepayer stops paying rates then the Council is able to reinstate the penalties.
- 2 The remission will apply from the beginning of the rating period in which the application is approved and may not necessarily be backdated to prior years.

Treatment of Penalties on Small Overdue Balances

When a small balance is overdue which is uneconomical to collect, the Revenue Manager, the General Manager Finance or the Chief Executive may write-off the balance in line with other Council procedures. Penalties will not be applied in these circumstances.

Delegation of decision-making

Decisions relating to the remission of rates penalties will be made as follows:

- for meeting condition/criterion 1 (enters payment conditions to resolve rate arrears) - General Manager Finance or Chief Executive
- for meeting condition/criterion 2 (pays outstanding rates by instalment 2) - Revenue Manager, General Manager Finance or Chief Executive
- for meeting condition/criterion 3 (extenuating circumstances) - General Manager Finance or Chief Executive
- for meeting condition/criterion 4 (late payment but first in two years) - Revenue Manager, General Manager Finance or Chief Executive
- for meeting condition/criterion 6 (backdating remission to prior years) - General Manager Finance or Chief Executive.

Part Two - Addressing Anomalies

Rates Remission of Uniform Annual General Charges and other Uniform Charges on Rating Units

Objective

To enable Council to act fairly and equitably with respect to the imposition of uniform charges on two or more separate rating units that are contiguous, and used jointly for a single residential or farming use but do not currently meet section 20 of the Local Government (Rating) Act 2002.

Conditions and Criteria

- 1 The Council may remit multiple sets of Uniform Annual General Charges and relevant targeted rates set as a fixed amount per rating unit or Separately Used or Inhabited Part of Rating Unit (SUIP) in the following circumstances:
 - a) Where a ratepayer owns and resides on two separate residential rating units that are contiguous and used jointly as a single residential property;
 - b) Where a farming operation consists of a number of separate Certificates of Title or rating units that are contiguous, the occupier of all rating units is the same and operated jointly as a single farm, but is owned by a number of separate owners. In some case the rating units may have different property categories.

2 Properties that have been subdivided for sale are not eligible for remission of Annual General Charges and relevant targeted rates.

23 Targeted rates set as a fixed amount for a service actually provided or made available to each separate part of the rating unit, such as water and wastewater rates, shall not be eligible for remission.

34 Owners wishing to claim a remission under this scheme may be required to make a written application or declaration using the appropriate application form and to supply such evidence as may be requested to verify that a remission should be granted under this scheme.

Delegation of decision-making

Decisions relating to the remission of rates will be made by the Revenue Manager, General Manager Finance or Chief Executive.

Rates Remission for Community, Sporting and Other Organisations

Objective

To enable Council to act fairly and equitably with respect to the imposition of rates on land used or occupied by societies or association of persons for organisations that have a strong community focus, but do not currently meet the 100% and 50% non-rateable criteria under Schedule 1 of the Local Government (Rating) Act 2002.

Criteria

- 1 Council may remit all or part of rates to land that is being used or occupied under the following circumstances:
 - a) Land owned or used by a society or association of persons, whether incorporated or not, for the purposes of a public hall, library, museum or other similar institution.
 - b) Land owned or used by a society or association of persons, whether incorporated or not, for games or sports other than galloping races, harness races and greyhound races, and does not meet the 50% non-rateable definition as a club licence under the Sale and Supply of Alcohol Act 2012 is for the time being in force.
 - c) Land owned or used by a society or association or persons, whether incorporated or not, the object or principal object of which is to conduct crèches or to conserve the health or well-being of the community or to tend the sick or injured.
 - d) Land owned or used by a society or associations of persons, whether incorporated or not for sporting, recreation, or community purposes that does not meet the 100% and 50% non-rateable criteria under Schedule 1 of the Local Government (Rating) Act 2002.
- 2 In all cases, land that is used for the private pecuniary profit of any members of the society or association shall not be eligible for a rates remission.

Conditions

- 1 The rates remission for the following uses is:

Land use	Remission
Public halls, libraries, museums	100%
Sports Clubs	50%
Other community groups	50%

- 2 The remission of rates does not extend to rates set for water supply, wastewater services and (if applicable) refuse services.

Delegation of decision-making

Decisions relating to the remission of rates will be made by the Revenue Manager, General Manager Finance or Chief Executive.

Rates Postponement or Remission for Miscellaneous Purposes

Objective

The objective of this scheme is to enable the Council to postpone or remit rates and/or penalties on rates in circumstances that are not specifically covered by other schemes in the Rates Postponement and Remission Policy, but where the Council considers it appropriate to do so.

Criteria

- 1 The Council may postpone or remit rates and/or penalties on rates on a rating unit where

it considers it just and equitable to do so because:

- a) There are special circumstances in relation to the rating unit, or the incidence of the rates (or a particular rate) assessed for the rating unit, which mean that the unit's rates are disproportionate to those assessed for comparable rating units;
- b) The circumstances of the rating unit or the ratepayer are comparable to those where a postponement or remission may be granted under the Council's other rates postponement or remission schemes, but are not actually covered by any of those schemes;
- c) There are exceptional circumstances that the Council believes that it is equitable to postpone or remit the rates and/or penalties on rates.

Conditions

- 1 Where the Council and the ratepayer have agreed to postpone rates and/or penalties on rates:
 - a) Applications must be received in writing by Council from the ratepayer.
 - b) Applicants may elect to postpone a lesser amount than the maximum they would be entitled to under the scheme.
 - c) Postponed rates will be registered as a Statutory Land Charge on the Certificate of Title.
 - d) Council will add a postponement fee to the postponed rates for the period between the due date and the date the rates are paid. This fee is to cover Council's administrative and financial costs and may vary from year to year.
 - e) Any postponement is valid for the year in which the application was made.
 - f) Ratepayers will be encouraged to obtain financial and/or legal advice about the rates postponement from an appropriate independent person.
- 2 The Council has the final discretion to decide whether to grant a rates postponement or rates and/or penalties on rates remission under this scheme.

Delegation of decision-making

Decisions relating to the remission of rates and/or penalties on rates will be made by the Chief Executive.

Part Three - Addressing Matters Related to Wastewater Charges

Rates Remission for School Sewerage Charges

Objective

To maintain the intent in providing relief and assistance to educational establishments that are subject to multiple pan charges for wastewater services as defined in the since repealed Rating Powers (Special Provision for Certain Rates for Educational Establishments) Amendment Act 2001.

Conditions and Criteria

- 1 This part of the scheme will apply only to educational establishments as defined in the repealed Rating Powers (Special Provision for Certain Rates for Educational Establishments) Amendment Act 2001. The scheme does not apply to any schoolhouse, or any part of a school used for residential purposes.
- 2 The calculated number of pans of any educational establishment in any one year subject to the relevant wastewater targeted rate will be the lesser of:
 - a) The **actual** number of toilet pans in the establishment, or
 - b) The **notional** number of toilet pans in the establishment. The notional number is calculated as one pan per 20 pupils/staff. A part thereof a notional pan will attract no charge.
- 3 The charging regime to apply to these educational establishments will be the same as for commercial ratepayers with multiple pans. That is a fixed amount per rating unit of the education establishment will apply for the first two pans, with the third or more pans attracting a charge for each pan at 50% of the corresponding fixed amount.

Delegation of decision-making

Decisions relating to the remission of rates will be made by the Revenue Manager, General Manager Finance or Chief Executive.

~~Rates Postponement Mangawhai Targeted Rate Capital Contribution A, Capital Contribution B or Capital Contribution C~~

~~Objectives~~

~~The scheme is intended to provide a measure of rating relief to property owners where the transition to the Mangawhai Targeted Rate Capital Contribution A, Capital Contribution B or Capital Contribution C may cause undue transition difficulties.~~

~~To give such ratepayers the option of postponing the requirement to pay the Capital Contribution rate, subject to the full cost of postponement being met by the ratepayer and Council being satisfied that the risk of loss in any case is minimal. The other option available is not to allow for postponement of these rates.~~

~~Criteria~~

~~Rates postponement is available only on properties that are defined as residential where the following targeted rates are assessed:~~

- ~~1 — Mangawhai Targeted Rate Capital Contribution A and where the property is capable of connection but is not yet connected.~~
- ~~2 — Mangawhai Targeted Rate Capital Contribution B.~~
- ~~— Mangawhai Targeted Rate Capital Contribution C.~~

~~Postponement is available only if the applicant(s) is/are the legal owner(s) of the property. This~~

includes homes owned by Family Trusts.

Conditions

General Conditions

- ~~1 Council's financial year starts on 01 July and ends on 30 June each year. To apply for rates to be postponed for the year starting 01 July, the application must be received in writing by Council before 01 May.~~
- ~~1 All applications will be considered on a case-by-case basis and must meet the eligibility criteria.~~
- ~~1 The ratepayer is required to pay all other rates, including wastewater annual charges.~~
- ~~1 Where any instalment of a postponed rate is not paid by the due date for that payment:

 - ~~a) The Council may add penalties to the unpaid rate the same way as for any other unpaid rate;~~
 - ~~b) The Council may review whether the rest of the postponed rates will continue to be postponed under this scheme, or whether, and if so when, they will become payable.~~~~
- ~~1 Postponed rates and any part thereof may be paid at any time.~~
- ~~1 Applicants may elect to postpone a lesser amount than the maximum they would be entitled to under the scheme.~~
- ~~1 Postponed rates will be registered as a statutory land charge on the Certificate of Title.~~
- ~~2 Council will add a postponement fee to the postponed rates for the period between the due date and the date the rates are paid. This fee is to cover Council's administrative and financial costs and may vary from year to year and will vary between the three rates eligible for postponement under this scheme.~~
- ~~3 Applicants will be encouraged to obtain financial and/or legal advice about the rates postponement from an appropriate independent person.~~

Specific conditions

~~Mangawai Targeted Rate Capital Contribution A and where the property is capable of connection but not yet connected.~~

- ~~0 The ratepayer may apply to postpone the annual capital contribution of \$676.00 per annum. Any postponement is valid for that year only. Ratepayers must apply in writing each year in which rates postponement is sought.~~
- ~~0 Postponed rates will be payable at the earliest of:

 - ~~a) The ratepayer(s) ceasing to be the owner of the property, providing that in the event of death rates will be payable three months after grant of probate or letters of administration; or~~
 - ~~a) Seven years after the date of postponement; or~~~~

- ~~b) — A date specified by Council, in the event that any land rate is not paid by the due date for payment and the Council decides that the rates will no longer be postponed under this scheme.~~

~~Mangawhai Targeted Rate Capital Contribution B.~~

- ~~1 — The ratepayer may apply to postpone the Capital Contribution rate of \$4,198.50 by paying the amount over 15 years. Including the postponement fee, annual payments of \$460.68 (including GST) would apply. Each annual payment is to be paid in four equal instalments of \$115.17 each, the due date being the instalment date applicable for other land rates.~~
- ~~1 — If a ratepayer applies to postpone the Capital Contribution rate and pay the amount over 15 years, the ratepayer may also then apply to postpone the annual capital contribution of \$460.48 per annum. Any postponement is valid for that year only. Ratepayers must apply in writing each year in which rates postponement is sought.~~
- ~~1 — Postponed rates will be payable the earlier of:~~
- ~~) — The ratepayer(s) ceasing to be the owner of the property providing that in the event of death rates will be payable three months after the grant of probate or letters of administration; or~~
 - ~~) — Seven years after the date of postponement; or~~
 - ~~) — A date specified by Council, in the event that any land rate is not paid by the due date for payment and the Council decides that the rates will no longer be postponed under this scheme.~~

~~Mangawhai Targeted Rate Capital Contribution C.~~

- ~~1 — The ratepayer may apply in writing to postpone the capital contribution rate of \$1,482.50 by paying the amount over 5 years. Including the postponement fee, annual payments of \$361.48 (including GST) would apply. Each annual payment is to be paid by way of four equal instalments of \$90.37, the due date being the instalment date applicable for other land rates.~~
- ~~1 — Postponed rates will be payable the earlier of:~~
- ~~a) — The ratepayer(s) ceasing to be the owner of the property providing that in the event of death rates will be payable three months after grant of probate or letters of administration; or~~
 - ~~a) — A date specified by Council in the event that any land rate is not paid by the due date for payment and the Council decides that the rates will no longer be postponed under this scheme.~~

~~Other considerations~~

- ~~0 — Not less than once annually every ratepayer, whose rates have been postponed under this scheme, will be provided with:~~

- ~~a) A statement showing the total annual rates currently due;~~
- ~~a) A breakdown showing year-by-year the total amount of the postponed rates, and the postponement fee (showing administrative and financial costs).~~
- ~~0 All applicants are encouraged to seek independent financial and legal advice before postponing rates.~~

Delegation of decision-making

~~Decisions relating to the rates postponement will be made by the Revenue Manager, General Manager Finance or Chief Executive.~~

Part Four - Other schemes

Water Supply Rates Remission for Excessive Water Rates due to a Fault

Objective

The objective of this scheme is to provide relief to ratepayers who have excessive water rates due to a fault (leak) in the internal reticulation serving their rating unit.

Conditions and Criteria

- 1 Definitions:
 - a) Remission means the partial or total write-off of water rates owed to the Council;
 - b) The boundary between the Council maintained water system and the privately maintained water system is taken as being the water meter.
- 2 Council may remit the whole or part of water rates where the application meets the following criteria:
 - a) A remission will only be considered where immediate action to repair or minimise water loss is taken on notification. Any remission will only apply up to the date the ratepayer became aware of or was notified of the leak.
 - b) A remission will not normally be granted where the leak is the result of poor workmanship or incorrect installation.
 - c) All applicants are requested to submit their application in writing, using an 'Excess Water Charges Remission Application Form'.
 - d) Details of the location and the repairs to the reticulation be submitted for verification (e.g. receipt or supplier's invoice) and information supplied showing due diligence in the repair of the leak.
 - e) Any remission under this scheme is a "one-off" and any further remissions for subsequent leaks on the same reticulation supply line may only be granted if the full reticulation system is replaced. Where there are special circumstances which prevent this any remission will only be given at the discretion of the General Manager Finance.

Delegation of decision-making

Unless otherwise specified, decisions relating to the remission of rates will be made by the Revenue Manager, General Manager Finance or Chief Executive.

DRAFT

File number: 2306.11**Approved for agenda Y****Report to:** Council Briefing**Meeting date:** **Wednesday 09 November 2016****Subject:** **Rates Postponement and Remission Summary****Date of report:** 03 November 2016**From:** Alison Puchaux, Revenue Manager**Report purpose** **Decision** **Recommendation** **Information****Assessment of significance** **Significant** **Non-significant****Summary**

A summary of Rates Postponement and Remission is attached (**Attachment 1**).

Firstly, the summary lists remission that is legislated by the Local Government (Rating) Act 2002. The total amount of remissions for 2015/2016 is estimated \$1,813,000. The remissions are as follows:

- **100% non-rateable properties** are, in general, public owned and include national parks, reserves, conservation land, coastal areas and public gardens. Also included are community interest and “well-being” institutions e.g. churches, schools, hospitals, cemeteries, public halls, museums, marae and other places of cultural significance, utilities and public transport.
- **50% non-rateable properties** are properties owned by associations or societies for community and include sport clubs and other community clubs.
- **Uniform annual charge** remission if properties are contiguous, jointly owned and used.

Secondly, the summary lists the remission and postponement for which Council has adopted policy. Although the Act legislates that Council is to have a remission policy, the remission is at Council's discretion. The total amount of remissions for 2015/2016 was \$236,000.

We are working with Far North and Whangarei District Councils to align Maori Freehold Land remission policy and proposed amendments to the legislation may replace existing Council policy relating to unused and unoccupied land.

Reason for the report

To provide the information on rates remissions as requested by Councillor Geange.

Background

Council provides rates remissions each year. These can either be statutory or policy driven.

A summary of Rates Postponement and Remission is attached (**Attachment 1**).

Issues

This is an information report.

Factors to consider***Community views***

Policy driven remissions have been developed in response to community views. They are incorporated into Council's Long Term Plan.

Policy implications

N/A

Financial implications

N/A

Legal/delegation implications

N/A

Options

N/A – this is an information report

Next step

N/A

Attachment

- Rates Postponement and Remission Summary

Rates Remission defined by Local Government (Rating) Act 2002

Remission	Reference	Nature or use of land	Owner or user	Conditions	Estimated \$ (number)
Fully non-rateable land (excluding water, wastewater and refuse rates) s8 and 9	Schedule 1 Part 1(1-2)	National Park (National Parks Act 1980); Reserve (Reserves Act 1977); Conservation Area (Conservation Act 1987, Wildlife Reserve (Wildlife Act 1953); Flood pond area (Crown invested).		Excludes land used for commercial or private purpose.	\$241,000 (171) 26,071 hectares <i>Department of Conservation</i>
	Schedule 1 Part 1(3)	Conservation or preservation	Society or Association	No pecuniary profit; General public access.	
	Schedule 1 Part 1 (4)	Public: garden, reserve, playground; Games, sports (except horse or dog racing); Public: hall, library, museum, gallery; Public: swimming pool, baths, toilets; Flood control, soil conservation.	Local Authority	No revenue.	\$639,000 (573) 13,165 hectares <i>Other properties</i>
	Schedule 1 Part 1 (5)	Owned or used by: NZ Historic Places Trust, QE II National Trust, NZ Foundation for Child Family Health and Development, Royal NZ Foundation of the Blind.			\$0
	s25 and s26	Special school, state school, integrated school, special institution, early childhood, partnership school kura hourua.		No profit.	\$67,000 (47) 97 hectares
	Schedule 1 Part 1 (6)				

Remission	Reference	Nature or use of land	Owner or user	Conditions	Estimated \$ (number)
	Schedule 1 Part 1 (7)	Theology institution		Does not exceed 1.5 hectares.	\$48,000 (49) 14 hectares
	Schedule 1 Part 1 (9)	Church or Sunday School		No pecuniary profit.	
	Schedule 1 Part 1 (8)	Health institutions	District Health Board		\$3,000 (1) 8 hectares
	Schedule 1 (21)	Free maintenance or relief of people in need		Does not exceed 1.5 hectares.	\$0
	Schedule 1 Part 1 (10)	Cemetery, crematorium, burial ground. Maori burial ground.		No pecuniary profit Does not exceed 2 hectares.	\$17,000 (22) 14 hectares
	Schedule 1 Part 1 (11-13)	Maori customary land Te Ture Whenua Maori Act 1993: Marae s338; Maori reservation s340; Meeting House.	Maori Freehold Land	Does not exceed 2 hectares	\$11,000 (13) 8 hectares
	Schedule 1 Part 1 (14-20,22)	Electrical power, roading, airport, railway, wharf, parliament.		Excludes administrative, parking, freight, waiting, ticketing areas.	\$47,000 (29) 580 hectares
	Schedule 1 Part 1 (23-25)	Common marine and coastal area and fixed structures			\$0
50% non-rateable land (excluding water, wastewater and refuse rates)	Schedule 1 Part 2 (1)	Showground or meeting place	A and P Society or Association	No pecuniary profit	\$46,000 (42) 398 hectares
	Schedule 1 Part 2 (2)	Games, sports (except horse or dog racing)	Society or Association	No pecuniary profit No club licence (liquor)	

Remission	Reference	Nature or use of land	Owner or user	Conditions	Estimated \$ (number)
s8 and 9	Schedule 1 Part 2 (3)	Arts	Society or Association	No pecuniary profit	
Uniform Annual Charge	s20			Common ownership Used jointly as a single unit Contiguous	\$694,000 (980)
					Total \$1,813,000

Rates Remission and Postponement defined by Policy

Policy	Reference to LGA (Rating) Act	Criteria	Conditions	Delegated Authority	Remission \$
Postponement for Financial Hardship	s87-90	Owner and resident since at least five years; No other significant investments or interests; and Financial hardship.	Budgetary advisor: Statutory declaration; Payment arrangement for future rates: Statutory land charge and fees. Ceases if sold, owner dies, owner relocates or arrears 80% of equity. Applied in writing s87(b).	General Manager Finance or Chief Executive.	0
Remission for Financial Hardship	s85-86	Owner and resident since at least five years; No other significant investments or interests; and Financial hardship.	Statutory declaration; Eligible for rates rebate.	General Manager Finance or Chief Executive.	0
Remission of Penalties Only	s85-86	Payment arrangement for rates arrears: Extenuating circumstance; Annual rates paid by 20 November; OR Only remission in last two years	If stops paying rates, remission can be reapplied.	General Manager Finance or Chief Executive. General Manager Finance, Chief Executive or Revenue Manager.	2015/2016 \$121,000

Policy	Reference to LGA (Rating) Act	Criteria	Conditions	Delegated Authority	Remission \$
Postponement or Remission for Miscellaneous Purposes	s87-90	Disproportionate; Comparable circumstances to similar rating units with remission; Exceptional circumstances.	Discretionary; Postponed rates: Statutory land charge and fees.	Chief Executive.	2015/2016 \$0
Remission of Multiple Uniform Annual Charges	s20	<u>Residential:</u> <u>Farming:</u> contiguous and jointly used and farmed as one unit	s20 s20, however ownership not necessarily the same	General Manager Finance, Chief Executive or Revenue Manager.	Included in statutory remission s20
Remission for Community, Sporting and Other Organisations	Schedule 1	Public hall, library, museum or other similar institution; Games or sports club (not animal racing): Crèche, healthcare: Sporting, recreation, or community purposes and non-profit.	100% public halls, libraries, museums; 50% sports clubs and other: Excludes targeted rates (water and wastewater) May have a club licence (liquor).	General Manager Finance, Chief Executive or Revenue Manager.	Included in statutory Remission Schedule 1
Remission for School Sewerage Charges	s25 and 26	School only (not housing).	Lesser of actual or 20 pupils/staff per pan	General Manager Finance, Chief Executive or Revenue Manager.	Varies depending school rolls
Postponement for Mangawhai Targeted Rate Capital Contribution A, Capital	s87-90	Application before 01 May; Owner of property.	Financial advisor: Statutory declaration; Payment arrangement for	General Manager Finance, Chief Executive or Revenue Manager.	0

Policy	Reference to LGA (Rating) Act	Criteria	Conditions	Delegated Authority	Remission \$
Contribution B or Capital Contribution C			future rates: Statutory land charge and fees. Ceases if sold, owner dies, owner relocates or arrears 80% equity.		
Water Supply Rates Remission for Excessive Water Rates due to a Fault		Immediate action to repair or minimise water loss is taken on notification; Details of the location and the repairs to the reticulation be submitted; "One-off" (once only).	Partial or total write-off, and Only up to the date the ratepayer became aware of leak.	General Manager Finance, Chief Executive or Revenue Manager	2015/2016: \$115,000
Postponement or Remission for Maori Freehold Land	s114-115	Owner, trustee, Council or authorised occupier; Māori freehold land: Written application.	Undeveloped and inaccessible; or Facilitate development or use of the land.	General Manager Finance or Chief Executive.	2015/2016 \$0
					Total \$236,000

File number: 2206.3**Approved for agenda** **Report to:** Council**Meeting date:** 14 November 2017**Subject:** Whistleblowing Policy : Adoption and Implementation**Date of report:** 31 October 2017**From:** Hannah Gillespie, Human Resources Manager**Report purpose** **Decision** **Information****Assessment of significance** **Significant** **Non-significant**

Summary

The Audit, Finance and Risk Committee had previously asked Officers to investigate and review Council's Protected Disclosures Policy. The Committee wanted to see some changes made to the Policy to ensure it is understood by all levels of staff, and Council has additional external service available for staff to call if they would like to report a serious wrongdoing.

A draft Whistleblowing Policy was presented to Council's August 2017 meeting, and Audit, Risk and Finance Committee's September 2017 meeting for consideration and adoption. The Audit, Risk and Finance Committee has approved for adoption.

Attachment 1 is the revised draft Whistleblowing Policy and **Attachment 2** is the current Protected Disclosure Policy for Council's consideration.

Recommendation

That Kaipara District Council:

- 1 *Receives the Human Resources Manager's report 'Whistleblowing Policy : Adoption and Implementation' dated 31 October 2017; and*
- 2 *Believes it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with the provision of s79 of the Act determines that it does not require further information prior to making a decision on this matter; and*
- 3 *Adopts the Whistleblowing Policy (circulated with the above-mentioned report) for implementation.*

Reason for the recommendation

The recommendation has been made following a benchmarking process. We need to have a clear Policy that encourages staff to whistleblow any serious wrongdoings. The Audit, Risk and Finance Committee has recommended approval for adoption.

Reason for the report

To report on the investigation undertaken on Council's internal Protected Disclosures Policy.

The following was to be addressed:

- Investigation of an external organisation to take whistleblow enquiries;
- Ensure the Policy is understandable for employees at all levels;
- Ensure the Policy clearly shows it is whistleblowing and covers fraud, bullying harassment et al; and
- Ensure we have a best practice policy when compared to other organisations.

Background

The Protected Disclosures Act 2000 has a set out process for disclosures that organisations, both public and private, must adhere to. Our interpretation of the Act and how we publish that process is vital for employee involvement in the disclosure of wrongdoings. The key is to get staff to feel empowered to whistleblow in a safe and secure way.

Issues

The key issues to be considered in the development of a reviewed Protected Disclosure Policy include:

- The use of plain English and clear process so that staff at all levels of the organisation find it easy to understand;
- The inclusion of process options for the whistleblower so that they are able to follow the option most appropriate to the nature of the issue, and their own preference in terms of seniority and degree of confidentiality; and
- The scope of the Policy is broad enough to encompass serious wrongdoings in the business of Council.

External whistleblowing services

Two organisations have been researched that provide this service:

- Deloitte (current auditor);
- KPMG.

Deloitte – Offers a standard and tailored service which has different price points. Their tailored service is customised to Council, we can have a tailored bank of questions depending on the disclosure, unique 0800 number, email address, telephone introduction etcetera.

KPMG – Fixed annual cost based on an agreed number of reports per annum. Calls over that agreed number would incur a variable cost per report, but from their experience the 'agreed' number of reports have been in most instances adequate for other organisations.

Benchmarking analysis

Organisation	Protected Disclosure Officer/s	Others Involved	External agency	Policy owner	Review period
Kaipara (current)	HR Manager	CE	no	HR Manager	Five years
Tasman	Departmental Manager	CE	no	HR Manager, audit and risk	Three years

Organisation	Protected Disclosure Officer/s	Others Involved	External agency	Policy owner	Review period
Matamata-Piako	CE	Mayor, Audit and Risk Chair	no	Audit and Risk Committee	annually
Nelson	Group Manager Corporate Services, Group Manager Community Services, Manager – people and capability	CE	no	Executive / Leadership team	Three years
Palmerston North	General Manager/s	CE	no	HR	annually
NZME	Risk and Compliance Manager	CEO, NZME Counsel	yes	unknown	Unknown, last reviewed June 2016
Sanford	GM Risk and Corporate Affairs	CEO, Chairman of Board, Executive Chairman	no	unknown	annually

Factors to consider

Community views

The communities will hold the view that Council should be compliant with the Protected Disclosures Act, and have a Policy that facilitates early identification of serious wrongdoings within Council activities.

Policy implications

If adopted, this new Policy would replace the current Protected Disclosure Policy.

Financial implications

Our current policy has no external service for staff to report a serious wrongdoing to. A professional external service is available for under \$10,000 per annum.

Legal/delegation implications

Nil.

Options

Council has the following options:

Option A: Retain the current Protected Disclosure Policy.

Option B: Approve the draft new Whistleblowing Policy, but exclude the provision of the external service; or

Option C: Approve the draft new Whistleblowing Policy, including the provision of the external service.

Assessment of options

Option A is based on the Protected Disclosure legislation and is therefore legalistic rather than easy to understand by all staff. It also does not contain a completely confidential external optional route for the whistleblower.

Option B contains clearer titling and plain English language that will make it more accessible and understandable for staff at all levels. It does not contain a completely confidential external optional route for the whistleblower.

Option C contains clearer titling and plain English language that will make it more accessible and understandable for staff at all levels. It does contain a completely confidential external optional route for the whistleblower.

Assessment of significance

This is not a significant matter having regard to Council's Significance and Engagement Policy.

Recommended option

The recommended option is **Option C**.


Next steps

Human Resources Manager to engage with Deloitte to agree terms of service for external whistleblowing service.

Policy implemented and staff informed of the new changes. Information posters delivered to offices to inform staff.

Attachments

- Draft Whistleblowing Policy
- Protected Disclosure Policy

 Kaipara District	Title of Policy	Whistleblowing Policy		
	Sponsor	General Manager Corporate Services/Chief Executive	Adopted by	Council
	Author	Hannah Gillespie, Human Resources	Date adopted	
	Type of Policy	Staff	Last review date	August 2017
	File reference	2206.03	Next review date	August 2019

Document Control			
Version	Date	Author(s)	Comments
1 st Commenced			
1.0	July 2017	Hannah Gillespie	Periodic review, minor editing

1 Background

Kaipara District Council has approved this Policy and procedure to ensure people can raise concerns regarding actual or suspected contravention of Council's ethical and legal standards without fear of reprisal or feel threatened by doing so.

The Policy aims to facilitate disclosure of questionable practices, encourage proper individual conduct, and alert our Chief Executive, Mayor and Audit, Risk and Finance Committee of potential problems before they have serious consequences.

This Policy aims to support and reinforce our Code of Conduct Policy, Fraud Policy, and Bullying and Harassment Policy.

2 Objective

This Policy and procedure applies to all staff at the Council and includes:

- a) Former Staff members;
- b) Individuals seconded to Council;
- c) Individuals contracted to Council under contracts for services;
- d) Members of Council's Executive Management; and
- e) Appointed Governance members.

3 Types of reportable "serious wrongdoings":

A serious wrongdoing may include, but is not limited to, any actual or suspected:

- a) Conduct or practices which are dishonest, illegal or breach any law;
- b) Breach of any Council Policy including our Code of Conduct;
- c) Sexual harassment, bullying, discrimination;
- d) Inappropriate accounting, internal accounting controls, or auditing matters;
- e) Corrupt activities;
- f) Theft, fraud or misappropriation of assets;
- g) Significant mismanagement or waste of funds or resources;
- h) Abuse of authority; or
- i) Unsafe work practice environment.

At Council we consider and will take such allegations seriously. We equally expect and assume that allegations are made in good faith, are truthful and can be substantiated.

4 How to submit a Whistleblow

Concerns may be communicated by any of the following means:

Mail to:

Protected Disclosures Officer – Chief Executive/Human Resources Manager

Kaipara District Council

42 Hokianga Road

Dargaville 0310

Independent, confidential and externally hosted telephone line or email site:

• Telephone: XXXXXXXXXXXX

• Email: XXXXXXXXXXXX

All allegations will be forwarded to the Chief Executive/Human Resource Manager (unless the allegation involves the Chief Executive and/or Human Resources Manager, in which case that role will be excluded from the forward, and the matter will then be escalated to the Mayor).

The two responsible officers (if escalated, the Mayor and Deputy Mayor) will then discuss and decide the appropriate action to take in order to investigate and validate the allegation. The investigation will be conducted by suitably skilled and unbiased internal or external resources.

The responsible officers will acknowledge receipt of the Whistleblow, and will respond to the Whistleblower as soon as possible (not more than twenty (20) working days) with their action/outcome from the investigation.

5 What to include in your Whistleblow

An allegation should include enough information about the incident or situation to allow Council to investigate it properly.

Should the complainant wish to remain anonymous, he/she may send the complaint in a way that does not reveal their identity. Should, however, the complainant wish to co-operate in further investigation of the complaint, he/she should submit his or her name and contact details together with the complaint. If he/she identifies themselves in the whistleblow report the investigator might contact them to ask further matters reported in the complaint.

Every report of a possible violation, compliance concern, complaint or other allegation will be retained confidentially in our electronic system.


6 Protection for the whistleblower from retaliation

Council acknowledges that Whistleblowers fear possible retaliation from making a disclosure. This may be a concern of reprisals, discriminations, harassment or retribution. We are committed to minimise that from happening by:

- Keeping the details of the person making the whistleblow confidential and protecting their identity;
- Protection for the individual from victimisation for having made the disclosure; and
- Protection from personal disadvantage for having made the disclosure where the person disclosing has acted in good faith and has not engaged in misconduct or illegal activities or made a malicious disclosure.

Council intends to investigate any report thoroughly made in good faith. Every employee will be required to co-operate in internal investigations of misconduct or unethical behaviour.

draft

 <small>Kaipara te Orangahiri</small> KAIPARA DISTRICT <small>Two Oceans Two Harbours</small>	Title of Policy	Protected Disclosures Policy		
	Sponsor	Jill McPherson, General Manager Planning and Community		
	Written By	Kyle Whitfield, Policy Analyst	Authorised/Adopted by	ET/Council
	Type of Policy	Corporate	Date Adopted	27 May 2013
	File Reference	2206.03	Review Date	October 2019

1 Background

The purpose of the Protected Disclosures Act 2000 is to promote the public interest:

- a) By facilitating the disclosure and investigation of matters of serious wrongdoing in or by an organisation; and
- b) By protecting Staff who, in accordance with the Act, make disclosures of information about serious wrongdoing in or by an organisation.

2 Objective

This Policy and procedure applies to all staff at the Council and includes:

- a) Former Staff members;
- b) Individuals seconded to the Council;
- c) Individuals contracted to the Council under contracts for services;
- d) Members of the Council's Executive Management; and
- e) Appointed Governance members.

3 Definition of "Serious Wrongdoing"

A serious wrongdoing includes any of the following types:

- a) An unlawful, corrupt or irregular use of public funds or public resources; or
- b) An act, omission or course of conduct that constitutes a serious risk to public health or public safety or the environment; or
- c) An act, omission or course of conduct that constitutes a serious risk to the maintenance of law, including the prevention, investigation and detection of offences and the right to a fair trial; or
- d) An act, omission or course of conduct that constitutes an offence; or
- e) An act, omission or course of conduct by a public official that is oppressive, improperly discriminatory or grossly negligent or that constitutes gross mismanagement.
- f) Any of the above provisions apply, whether the wrongdoing occurs before or after the commencement of the Protected Disclosures Act 2000.

4 Policy Statement

4.1 Council Disclosure Officer

The person nominated by the Council for the receipt and investigation of protected disclosures is the Human Resources Manager or their appropriately delegated nominee.

4.2 When information may be disclosed

A Staff member, as falls under Point 2 of this Policy, may disclose information in accordance with the procedure described in the following section if:

- a) The information is about serious wrongdoing in or by the organisation; and
- b) The Staff member believes on reasonable grounds that the information is true or likely to be true; and
- c) The Staff member wishes to disclose the information so that the serious wrongdoing can be investigated; and
- d) The Staff member wishes the disclosure to be protected.

4.3 Personal grievance

Where a Staff member who makes a protected disclosure of information claims to have suffered retaliatory action from the Council, that Staff member may have a personal grievance in accordance with the provisions of the Protected Disclosures Act 2000.

4.4 Confidentiality

- a) Every person to whom a protected disclosure is made or referred must use his or her best endeavours not to disclose information that might identify the Staff member who made the protected disclosure unless;
- b) The disclosing Staff member consents in writing to the disclosure of that information; or
- c) The person who has acquired knowledge of the protected disclosure reasonably believes that disclosure of identifying information;
 - i. is essential to the effective investigation of the allegations in the protected disclosure; or
 - ii. is essential to prevent serious risk to public health or public safety or the environment; or
 - iii. is essential having regard to the principles of natural justice.
- d) A request for information under the Official Information Act 1982 (other than one made by a member of the police for the purpose of investigating an offence) may be refused, as contrary to the Protected Disclosures Act 2000, if it might identify the disclosing Staff member.

4.5 False allegations

The protections conferred by the Protected Disclosures Act 2000 and by section 66(1)(a) of the Human Rights Act 1993 do not apply where the disclosing Staff member makes an allegation known to that Staff member to be false or otherwise acts in bad faith.

4.6 Internal procedure

The procedure described in Section 5 of this Policy must be followed when Staff wish to disclose information about a serious wrongdoing. This is in accordance with the requirement of the Protected Disclosures Act 2000 that all public sector organisations must operate appropriate internal procedures.

4.7 Publication of procedure

Information about the procedure described in the following section will be published by the Chief Executive in the most appropriate way.

4.8 Twenty working days

The Council's response to any disclosure of serious wrongdoing must occur within 20 working days after the date on which the disclosure was made.

5 Procedure

The following procedure must be used whenever a Staff member wishes to disclose a serious wrongdoing in terms of the Protected Disclosures Act 2000:

- a) A disclosure of a serious wrongdoing should be made in writing to the Council Disclosure Officer except in certain circumstances (see items e) to g) below).
- b) The disclosure statement should include all relevant details and should be signed and dated by the disclosing Staff member. A returning address should also be provided.
- c) Upon receipt of the disclosure statement, the Council Disclosure Officer will acknowledge receipt, in writing, of the statement and take whatever action he/she deems appropriate to investigate and resolve the particular serious wrongdoing.
- d) The Council Disclosure Officer will, within 20 working days after the date on which the disclosure was made, report in writing to the disclosing Staff member what action he/she has taken or recommended to be taken.
- e) A disclosure may be made directly to the Chief Executive if:
 - i) The disclosing Staff member believes on reasonable grounds that the Council Disclosure Officer is or may be involved in the serious wrongdoing alleged in the disclosure; or
 - ii) The disclosing Staff member believes on reasonable grounds that the Council Disclosure Officer is, by reason of any relationship or association with a person who is or may be involved in the serious wrongdoing alleged in the disclosure, not a person to whom it is appropriate to make the disclosure.
- f) A disclosure may be made to the Chair of the Commissioners/Mayor or if appropriate to an external authority if the disclosing Staff member believes on reasonable grounds:
 - i) That the Chief Executive is or may be involved in the serious wrongdoing alleged in the disclosure; or

- ii) That immediate reference to an appropriate authority is justified by reason of the urgency of the matter to which the disclosure relates, or some other exceptional circumstances; or that there has been no action or recommended action on the matter to which the disclosure relates within 20 working days after the date on which the disclosure was made.

"Appropriate authority", without limiting the meaning of that term, includes:

- The Commissioner of Police; the Controller and Auditor-General; the Director of the Serious Fraud Office; the Inspector-General of Intelligence and Security; an Ombudsman; the Parliamentary Commissioner for the Environment; the Police Complaints Authority; the Solicitor-General; the State Services Commissioner; the Health and Disability Commissioner; and
- Includes the head of every public sector organisation, whether or not mentioned in paragraph (iii); and
- Includes a private sector body which comprises members of a particular profession or calling and which has power to discipline its members; but
- Does not include a Minister of the Crown; or a Member of Parliament.

- g) A disclosure may be made to a **Minister of the Crown** or **Ombudsman** if the disclosing Staff member:

- i) Has already made substantially the same disclosure in accordance with items 6 a) to e) above and believes on reasonable grounds that the person or appropriate authority to whom the disclosure was made; or
- ii) Has decided not to investigate the matter; or
- iii) Has decided to investigate the matter but has not made progress with the investigation within a reasonable time after the date on which the disclosure was made to the person or appropriate authority; or
- iv) Has investigated the matter but has not taken any action in respect of the matter nor recommended the taking of action in respect of the matter, as the case may require; and
- v) Continues to believe on reasonable grounds that the information disclosed is true or likely.

File number: 2308.01

Approved for agenda

Report to: Council

Meeting date: **14 November 2017**Subject: **Mangawhai Endowment Lands Account Policy Review**

Date of report: 31 October 2017

From: Annie van der Plas, Community Planner

Report purpose **Decision** **Information**Assessment of significance **Significant** **Non-significant****Summary**

The Mangawhai Endowment Lands Account (MELA) is managed under the Mangawhai Lands Empowering Act 1966 (sic), and every year grants are made available from the interest earned on this account to benefit the Mangawhai community.

The MELA Committee has recently undertaken a review of the grant funding from this account to ensure it is in alignment with Council's vision, and has made improvements to the criteria ensuring it is more user friendly for both staff administration and community groups who apply for funding.

The capital protection of MELA has also been reviewed and determined as part of this policy review, whereby the Committee recommends that capital protection of MELA be introduced once again.

Therefore, a new policy has been drafted outlining the recommended changes (**Attachment 1**) and now seeks adoption from Council.

Recommendation

That Kaipara District Council:

- 1 *Receives the General Manager Community's report 'Mangawhai Endowment Lands Account Policy Review' dated 31 October 2017; and*
- 2 *Believes it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with the provision of s79 of the Act determines that it does not require further information prior to making a decision on this matter; and*
- 3 *Adopts the new 2017 Mangawhai Endowment Lands Account Policy, as circulated with the above-mentioned report.*

Reason for the recommendation

The purpose of this Policy is to create clear guidelines and an effective process to enable Council to assist community organisations to achieve their goals through the distribution of grant funds available from the Mangawhai Endowment Lands Account (MELA). This Policy also addresses the capital protection of the account.

Reason for the report

To inform Council of the recent review of the MELA fund, and capital protection of the fund and request that they adopt the new Policy which outlines this improved funding process.

Background

MELA is managed under the Mangawai Lands Empowering Act 1966 (sic). MELA was created on dissolution of the Mangawhai Harbour Board, which had significant assets in the Mangawhai area. On dissolution the cash and income from land assets not transferred to the Northland Harbour Board for port purposes were invested to provide funding for county purposes that benefit or tend to benefit the district. The definition of “district” is the area of and adjacent to the endowment lands previously vested in the Harbour Board and now vested in Council and any area adjoining the Mangawhai Harbour. Over the years the land has been sold and the balance of MELA has increased. The land still held is typically on perpetual leases with low rental income.

As at June 2017, the MELA Account is made up of:

- Land - \$387,000
- Balance of Account - \$4,938,000
- Total - \$5,325,000

MELA has been reviewed numerous times over the years. A review was last held in 2015, which changed the way MELA was spent. Before the 2015 review, the capital fund was protected by applying a percentage of capital protection to the undistributed funds.

In 2015, the Committee at the time decided that rather than continuing with the practice of applying capital protection, to instead allocate all of the undistributed funds to the Mangawhai community.

Issues

MELA’s capital is not currently protected after a decision made by Council in 2015. The new MELA Committee would prefer that the capital of the account be protected, to ensure the longevity of this benefit to the Mangawhai community.

The current criteria for MELA funding is convoluted and can be subjective and difficult to determine a clear alignment when ranking applications.

As well as this, the administration of the account is cumbersome. The funding timeframe is currently long and drawn out, and applications are called for at a busy time for year for community groups.

Factors to consider

Community views

MELA funding is key for some community organisations and therefore some may have strong views on the administration and capital protection of the fund, especially if it affects the amount that local groups can access for funding purposes.

Improvements to the administration timeframe would be favourable to the community as many find the current timeframe rushed before Christmas, and they then have to wait for a significant amount of time for an outcome and subsequent payment if successful.

However, it is important to note, that on implementing this new policy, the MELA grant funding would be open for applications as usual in November 2017, with decisions made in approximately March 2018. However, there will be no funding round in 2018 to allow for the funding to align with the Community Assistance Grant Funding in June 2019. This will be well advertised to ensure groups are aware there will be no funding available in 2018.

Policy implications

A new policy will need to be developed and adopted (**Attachment 1**) as the MELA funding was previously included in the Community Assistance Policy that has since been reviewed and re-written and does not include this particular funding.

Financial implications

The previous Community Assistance Policy which included MELA stated that the account would not have capital protection of the fund, meaning larger amounts of funding were available yearly for the Mangawhai community. The amount available for distribution was previously the interest earned on the undistributed funds (closing balance less land value), plus the rental income.

The 2017 Policy states that funds available for grant distribution is now, the interest earned plus the rental income on the lands, less the calculated value to protect the capital value of the Account. This ensures the longevity of the Account for the benefit of the Mangawhai community.

Attachment 1 clearly lays out how this amount available for grant distribution is calculated.

In addition, when grants from the previous year are either not drawn down or are only partially used, the unused portion of the grants can either be:

- Carried over (in total or in part) into the next year and added to the grant money available for dispersion in that year; or
- Retained in the capital base of the fund.

In the event that this situation arises, the Grants Committee has discretion over which of these options, or combination of these options, will be applied.

Legal/delegation implications

Both the administrative changes and improvements regarding the clarity of the MELA criteria remain in keeping with the Mangawai Lands Empowering Act 1966 (sic). Council has delegation regarding changes to the capital protection of the account. Therefore, it is considered that there are no legal/delegation implications by adopting this new policy.

Options

Option A: Adopts the 2017 Mangawhai Endowment Lands Account Policy which allows for a more streamlined application process, clarity of grant funding criteria and capital protection of the account.

Option B: Does not adopt the 2017 Mangawhai Endowment Lands Account Policy.

Assessment of options

If Council adopts the new 2017 Mangawhai Endowment Lands Account Policy this would allow the grant funding process to be simpler and easier for the Mangawhai community to apply for, in terms of

understanding the criteria and meeting the timeframes. It would also allow for the administrative process to be more streamlined for Council staff, and ensure assessment of applications against the MELA criteria is clear for the Committee. By allowing for the capital protection of MELA, this means that the funds are available for future generations of the Mangawhai community. Although it does mean that a smaller amount is available for grant funding than is currently.

If Council does not adopt the Policy, this would leave the administration of the MELA funding in limbo, as it previously existed within the Community Assistance Policy which has since been rewritten and no longer includes MELA grant funding. A new Policy would still need to be developed to ensure MELA can be administered effectively in keeping with the Committee's vision. Not adopting the Policy would also mean that MELA would not have capital protection.

Assessment of significance

Both the administrative changes and improvements regarding the clarity of the MELA criteria remain in keeping with the Mangawai Lands Empowering Act 1966 (sic) and Council has delegation regarding changes to the capital protection of the account as long as it also remains in accordance with the Act. Therefore, it is considered that this new policy is not significant.

Recommended option


The recommended option is **Option A**.

Next step

Community Team arranges for upcoming November/December 2017 MELA funding round and call for applications.

Attachment

- Policy MELA 2017

	Title of Policy	Mangawhai Endowment Lands Account Policy		
	Sponsor	General Manager Community	Adopted by	Council
	Author	Annie van der Plas	Date adopted	
	Type of Policy	Mangawhai Endowment Lands Account	Last review date	October 2017
	File Reference	2308.01	Next review date	

Document Control			
Version	Date	Author(s)	Comments
1 st Commenced	11 October 2017	Annie van der Plas	
1.0			

1 Purpose

The purpose of this Policy is to create clear guidelines and an effective process to enable Council to assist community organisations to achieve their goals through the distribution of grant funds available from the Mangawhai Endowment Lands Account (MELA).

2 Objectives

The Policy has been aligned with the Community Outcomes as adopted by Council for the Long Term Plan 2018/2028. The Policy is intended to contribute to:

- A district with welcoming and strong communities;
- A district with plenty of active outdoor opportunities; and
- A trusted Council making good decisions for the future.

3 Background

Kaipara District Council is committed to the Vision of 'Thriving Communities Working Together'. Council seeks to achieve this by assisting the community in developing and providing their own facilities and services, and building strong and welcoming communities.

Council is committed to recognising and supporting achievement; developing community leadership and self-reliance; assisting and supporting community involvement.

This Policy ensures that Council's contributions to communities are fair, consistent and strategically aligned to Council's Vision, Community Outcomes and the intent of the *Mangawhai Lands Empowering Act 1966 [sic]*.

3.1 Mangawhai Lands Empowering Act 1966 [sic]

MELA is managed under the *Mangawhai Lands Empowering Act 1966 [sic]*. MELA was created on dissolution of the Mangawhai Harbour Board, which had significant assets in the Mangawhai area. On dissolution, the cash and income from land assets not transferred to the Northland Harbour Board for port purposes, were invested to provide funding for county purposes that benefit or tend to benefit the district.

The Act defines 'district' as;

"...the area of and adjacent to the endowment lands ... and any area adjoining the Mangawhai [sic] Harbour"

Over the years the land has been sold and the balance of MELA has increased. The land still held is typically on perpetual leases with low rental income.

The majority of the MELA fund is currently loaned to Council and the interest revenue generated by the loan is calculated as outlined in 3.2.

3.2 Calculation of revenue available for distribution as grants

Where:

- C = the value of capital loaned to Council from the MELA Account at 30 June in the year under consideration and expressed in \$;
- Rate 1 = The interest rate being the average of the 12 month term deposit rates offered by ANZ, BNZ and Westpac taken at 30 June and 31 December in the year under consideration, for investment sums of the value in the MELA in the year under consideration;
- Rate 2 = The actual interest rate paid by the Kaipara District Council on external borrowings for the year ending 30 June in the year under consideration;
- Rate 3 = The average of Rate 1 and Rate 2;
- Rate 4 = The Consumer Price Index as published by Statistics NZ for the annual rate to the 30 June in the year under consideration. *This is for the protection of the capital base of the fund;* and
- Rate 5 = Real interest Rate = $(1 + \text{Rate 3}) / (1 + \text{Rate 4}) - 1$.

Therefore, grant funds available for the year under consideration:

Grant Funds = C x Rate 5

Capital Protection = C x Rate 4.

3.3 Unused grant funds

When grants from the previous year are either not drawn down or are only partially used, the unused portion of the grants can either be:

- Carried over (in total or in part) into the next year and added to the grant money available for dispersion in that year; or
- Retained in the capital base of the fund.

In the event that this situation arises, the Grants Committee has discretion over which of these options, or combination of these options, will be applied.

4 Assessment criteria

- 1 The project or service that the funding is requested for must meet the criteria under the *Mangawai Lands Empowering Act 1966 [sic]*:
 - a) Funds must benefit or tend to benefit the district, that being a defined area (see attached map);
 - b) In keeping with the Act, applications that enhance and/or protect the Mangawai Harbour and surrounds will be given more favourable consideration.
- 2 Applicants' principal functions and/or activities must be of a not-for-profit nature.
- 3 The service or project proposed is not already provided by another group or agency.

- 4 Organisations are to be registered as an Incorporated Society or under the umbrella of one.
- 5 Only one grant per organisation will be available in any financial year.

5 General assessment criteria

Council will also consider the following when assessing applications received for MELA. These are general criteria which community organisations applying for support need to demonstrate in their applications.

5.1 Financial reporting

All applications must be accompanied by an audited or reviewed Statement of Financial Position for the previous financial year, and a budget projection for the next financial year.

5.2 Central government funding

Community organisations that receive the bulk of their funding from central government will not be eligible for grants.

5.3 Health and safety

Applicants must comply with all legislative requirements.

5.4 Acknowledgement

All successful applicants must acknowledge the support of the MELA fund administered by Kaipara District Council on any correspondence, advertising or other publicity material.

5.5 Accountability requirements

All recipients under this Policy are required to enter into a formal Agreement or Contract with Council that outlines the terms and conditions of the approved grant. Funds will not be provided until both parties have signed the Agreement or Contract, which will outline, among other obligations:

- The purpose for which the funding was provided;
- The conditions attached to the funding;
- The grant expenditure period of one year;
- Accountability requirements, including the methods to report back on the use of the funds; and
- The steps Council will take if progress is not as planned.

6 Exceptions

This Policy is not intended to fund applications for:

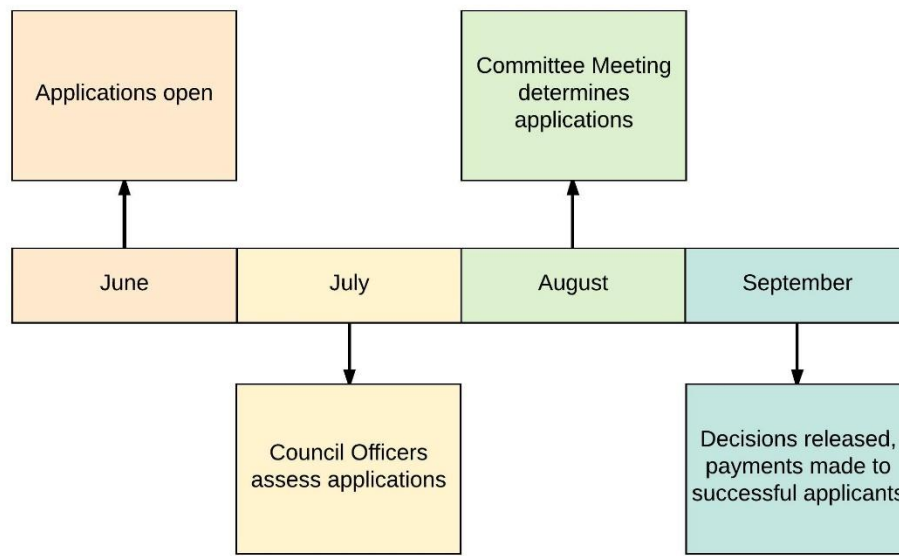
- Wages;
- Benefits to individuals;
- Central government funded services;
- Welfare services;
- Religion. This does not preclude religious organisations from applying, if they would otherwise meet the criteria in this Policy;

- Repaying or servicing debts; and
- Projects which seek to redistribute funding to others.

7 Administration of MELA

7.1 Timing of applications

The timing of MELA grants will be matched with other available community grants and the planning and budgeting cycles of Council. Council will call for applications in June and release decisions by September.



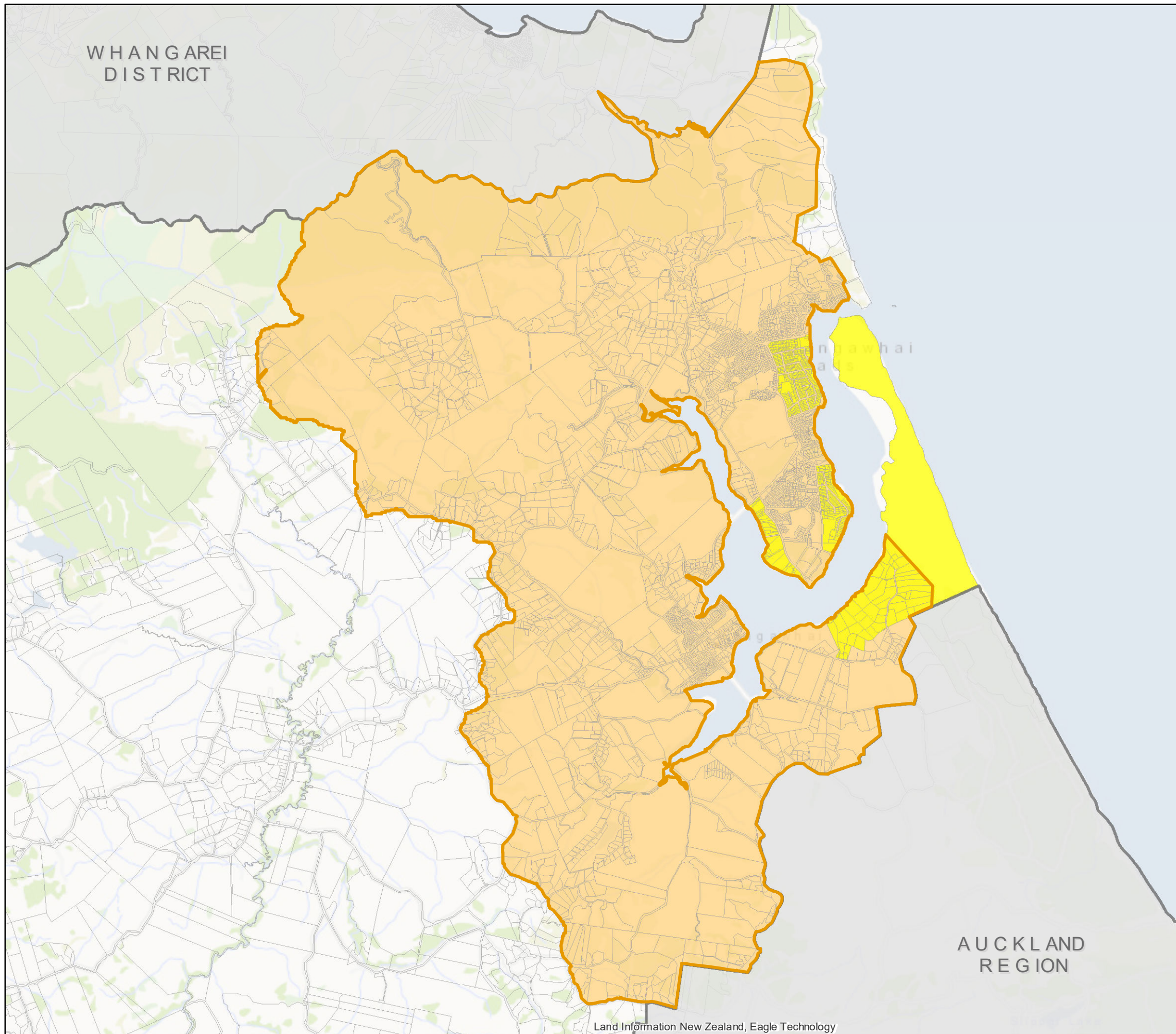
Decisions on MELA grant applications will be made by the MELA Committee, which has delegated authority from Council to make decisions on applications.

Application forms will be made available on Council's website and at Council offices when the funding round opens.

MAP

[Attachment 1 Map to be tabled at the Council meeting on 14 November 2017]

DRAFT



WHANGAREI
DISTRICT

AUCKLAND
REGION

Legend

- Mangawhai Harbour Catchment
- Endowment Lands

Land Information New Zealand, Eagle Technology

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The information in this map was derived from digital databases. Care was taken in the creation of this map, however, Kaipara District Council and its contactors cannot accept any responsibility for errors, omissions or positional accuracy. Not to be used for navigation. Cadastral information sourced from Land Information New Zealand 5 October 2017.



File number: 4102.17
Report to: Council
Meeting date: 14 November 2017
Subject: Selling of Road Reserve : 2 Wintle Street, Mangawhai
Date of report: 31 October 2017
From: Henri Van Zyl, Roothing and Solid Waste Manager

Report purpose **Decision** **Information**
Assessment of significance **Significant** **Non-significant**

Approved for agenda

Summary

Council was approached by Coast to Coast Law, acting on behalf of Mr Wayne Johnson, to acquire a road stopping of approximately 258 square metres (m²) of road reserve on the corner of Wintle Street and Mangawhai Heads Road adjoining PT LOT 25 DP 38923 (Valuation 0122118000).

An amendment was requested by Curt Martin, General Manager Infrastructure, recommending that Council will retain the western end of the unformed road for possible intersection roundabout/widening in future.

Council received a revised valuation for the road stopping application by Mr Johnson. The owner reduced the original size from 258m² to 145m² and had it revalued at \$10,000 (145m²).

Recommendation

That Kaipara District Council:

- 1 *Receives the Roothing and Solid Waste Manager's report 'Selling of Road Reserve : 2 Wintle Street, Mangawhai' dated 31 October 2017; and*
- 2 *Believes it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with the provision of s79 of the Act determines that it does not require further information prior to making a decision on this matter; and*
- 3 *Agrees in principle to the stopping of a portion of the section of unformed Wintle Street in Mangawhai, as marked red on aerial map (see Attachment 2 to the above-mentioned report) under s116 of the Public Works Act subject to reaching prior agreement with the purchaser on the terms and conditions of the Sale and Purchase Agreement, and that the purchaser meets all costs associated with the transaction.*

Reason for the recommendation

The section of road proposed to be stopped is not currently formed to any Council standard and is not maintained by Council. The only party that uses the unformed road currently is the purchaser who has made an application to Council for the road to be stopped.

The building encroaches within the road reserve and the Roothing Department supports the stopping of this portion to enable formalisation of the occupancy.

Reason for the report

To consider an application to stop an area of unformed road in Mangawhai that is not maintained by Council, does not offer water access and the land adjoining the unformed road is owned by the applicant.

Background

This report is to consider stopping a section of unformed road. The building at N°2 Wintle Street encroaches onto the road reserve (refer **Attachment 1**) and the stopping of this portion of the road and amalgamating it with the adjacent property would enable formalisation of the occupancy.

The different legislation offers local and central governments a mechanism to stop areas of road that may be formed but are no longer in use.

There are two methods available to Council when stopping roads. These are:

- Section 116 of the Public Works Act 1981
- Section 342 of the Local Government Act 1974 (LGA).

Both have merit and having two methods offers flexibility for different scenarios when considering stopping a road.

Issues

Staff are not aware of any issues surrounding the stopping of the Wintle Street section of unformed road.

Factors to consider

The community will not notice a difference, as this is formalising what is currently on site.

Policy implications

Such purchase being in accordance with Section 116 of the Public Works Act 1981.

Financial implications

If the portion of road was to be stopped a condition of the stopping would be that the applicant meets all the costs associated with the stopping and pays Council the fair market value of the land to be purchased i.e. there is no cost to Council.

Legal/delegation implications

The applicant has asked that Council consider this application under the PWA 1981, the reason being they believe that this legislation best suits their circumstance. This belief is also shared by Council's advisors, Crown Properties Ltd.

Land Information New Zealand (LINZ) published in August 2012 the Standard for stopping or resumption of road (LINZS15002). This standard states that LINZ prefers that, in the first instance, local authorities apply the procedures in s342 of the LGA, given the requirements for public notification. The road should be stopped using the LGA when there are likely to be objections to the proposal, or matters of public access to consider.

Council's advisors, Crown Properties Ltd., believe that in these circumstances the PWA 1981 can be applied as:

- The applicant is the surrounding sole adjoining landowner who wishes to acquire the land;
- There is no public expectation that the road may be formed or be a walkway;
- The road in question does not offer any public access to any area of interest or water.

Options

Option A: Give permission for the road to be stopped under s116 of the Public Works Act 1981 and make the recommendation to the Minister of Lands.

Option B: Agreement to Licence with responsibility for ongoing maintenance and alteration according to Council's Engineering Standards.

Option C: Deny the application for road stopping.

Assessment of options

Option A: Give permission for the road reserve to be stopped generally in accordance with the area as shown on **Attachment 1** and sold to the adjacent property owner at fair market value acceptable to Council and the applicant to bear all associated costs.

Option B: would likely see same issues resurface in future years with any new owner, this being less preferable from Council's point of view.

Option C: If the road stopping is denied the road will not be stopped and the status quo will be maintained.

Assessment of significance

In accordance with Council's Significance and Engagement Policy the selling of the portion of land has been assessed against the thresholds for significance. This assessment is shown in the table below:

Threshold	Significance
Budgeted expenditure of \$3,000,000 or more	No – No cost to Council.
Unbudgeted expenditure of \$300,000 or more	No – No cost to Council.
Increases individual rate levies by 10%	No – There will be no change.
Transfer ownership or control of a strategic asset to or from Council	No – The portion of land is seen as not significant and not a strategic asset.
It alters significantly the intended level of service provision for any significant activity.	No – the level of service will remain the same
Overall assessment	Not significant

Recommended option

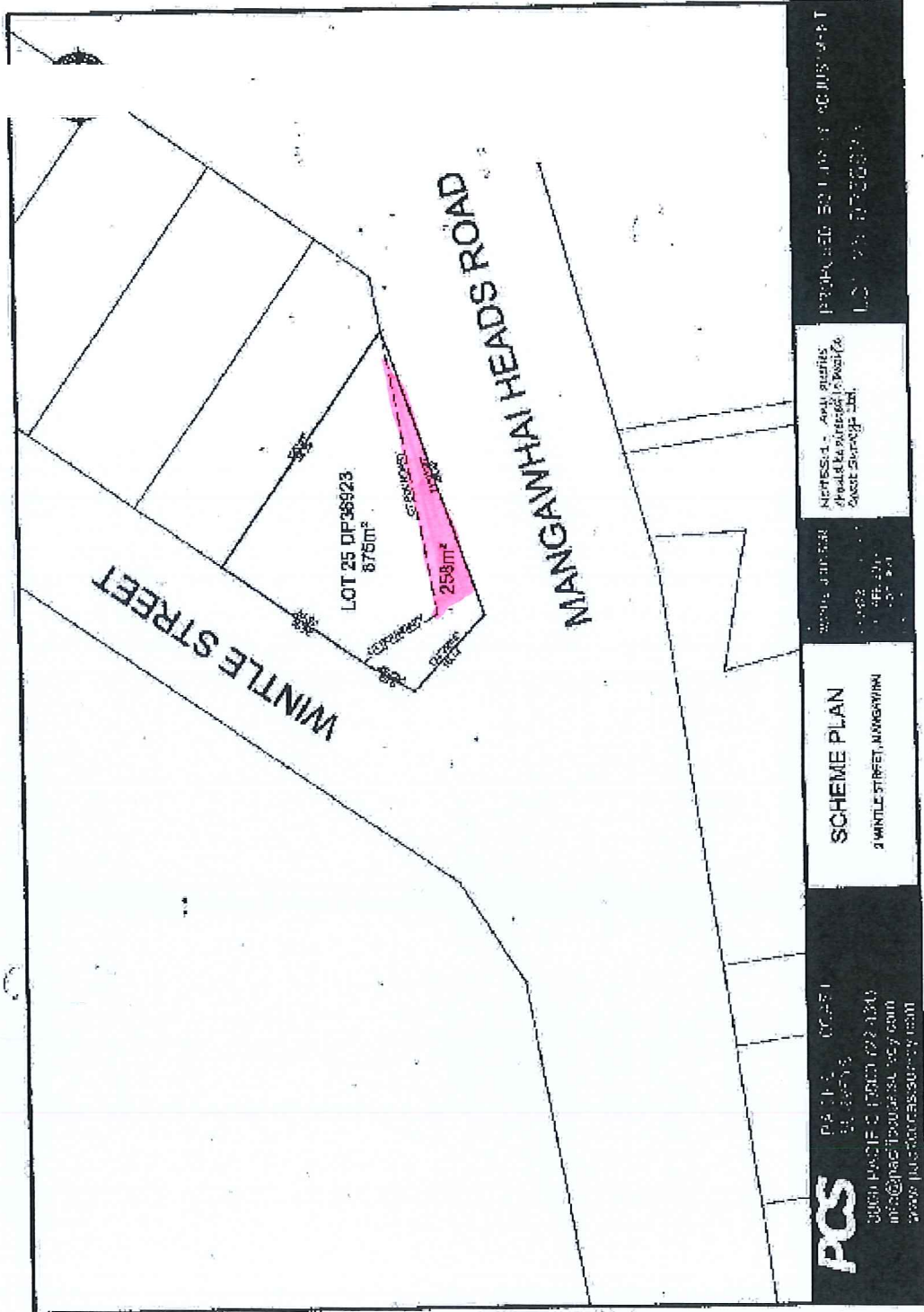
The recommended option is **Option A**.

Next step

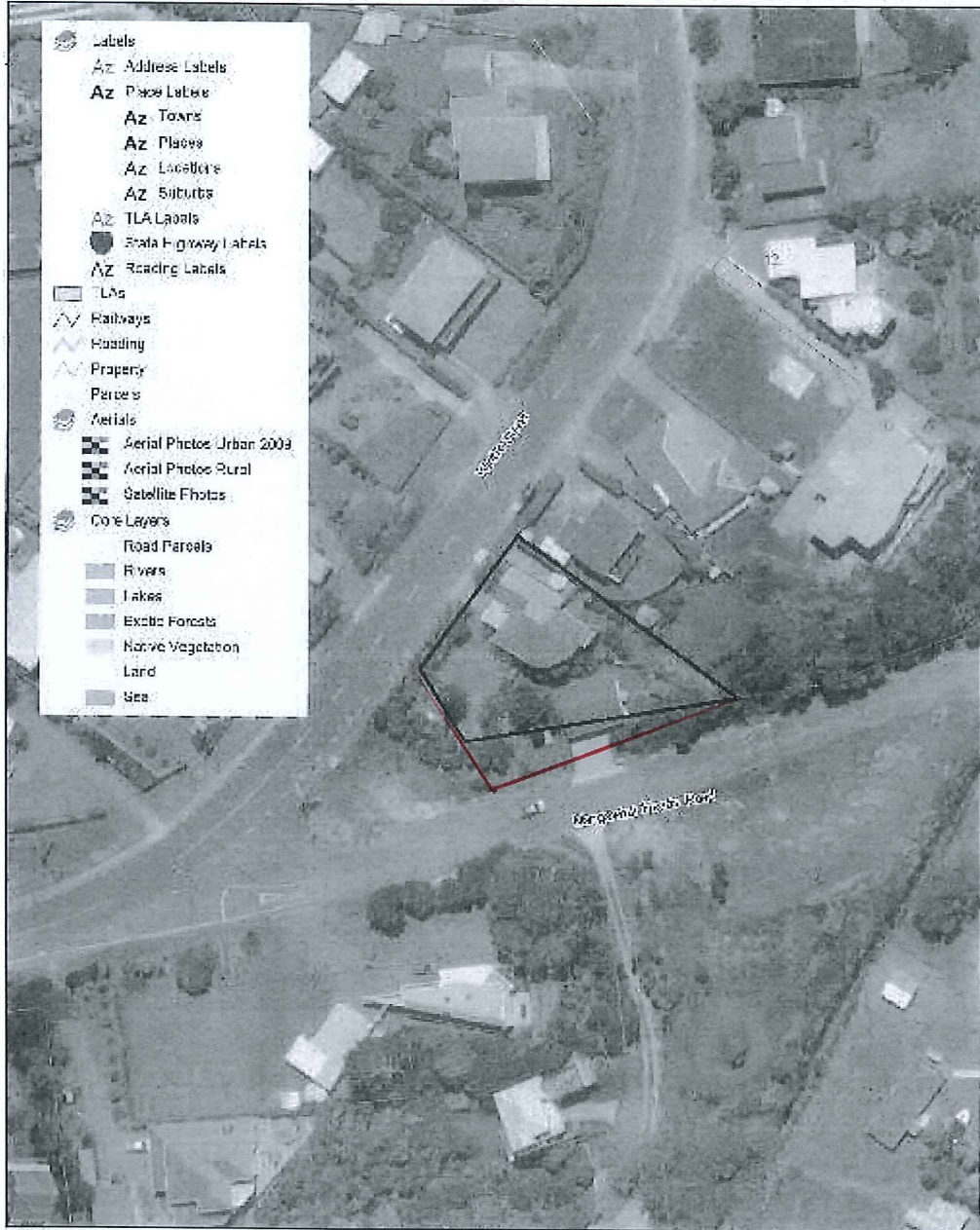
Advise the applicant of the outcome, and proceed with the process depending on the decision.

Attachments

- Attachment 1 - Scheme Plan showing the boundary of the proposed amendment.
- Attachment 2 - Aerial map showing proposed amended boundary marked red.



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Original: Sheet 504/51

File: 04/01 NZGD03 504 Mangawhai Mangawhai District
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This is a public information system. It is not intended for use in any legal proceedings. The information is provided as a service to the community and is not intended to be used for any other purpose. The information is provided as a service to the community and is not intended to be used for any other purpose. The information is provided as a service to the community and is not intended to be used for any other purpose.

File number: 4102.20.02
Report to: Council
Meeting date: 14 November 2017
Subject: Stopping Road/Sale of Land, Hastie Lane, Kaiwaka
Date of report: 31 October 2017
From: Henri Van Zyl, Roothing and Solid Waste Manager
Report purpose **Decision** **Information**
Assessment of significance **Significant** **Non-significant**

Approved for agenda

Summary

Council has been approached by the owner of a residential house at 2 Hastie Lane, Kaiwaka to rectify the fact that at a point in the past the building on the property was constructed in such a manner as to encroach onto Hastie Lane.

It appears the initial approach to Council regarding this matter was in July 2016 where the owner expressed the desire to tidy up the informal usage with a perspective buyer for the property and the Roothing team was in agreement to stop the road in July 2016 with the original owner. However no further progress was taken by Mr Stewart. In August 2016 after a site inspection to discuss the option of stopping a portion of the road, nothing happened until October 2016 when an Agreement to Licence was drafted with the new owners A Harlkey and A Atkins. In May 2017 Brookfields Lawyers Ltd suggested that Council and the adjoining owner consider stopping a portion of the road and selling it to the adjoining owner to be merged with existing Lot 3 DP 45141.

Recommendation

That Kaipara District Council:

- 1 *Receives the Roothing and Solid Waste Manager's report 'Stopping Road/Sale of Land, Hastie Lane, Kaiwaka' dated 31 October 2017, and*
- 2 *Believes it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with the provision of s79 of the Act determines that it does not require further information prior to making a decision on this matter; and*
- 3 *Agrees in principle to the stopping of a portion of the section of unformed Hastie Lane in Kaiwaka, under s116 of the Public Works Act subject to reaching prior agreement with the purchaser on the terms and conditions of the Sale and Purchase Agreement, and that the purchaser meets all costs associated with the transaction.*

Reason for the recommendation

Legal advice from Council's lawyers, Brookfields, in May 2017 observed that there is little security for the future with a Licence to Occupy and it could not be used to authorise any new or extended structures.

They suggest it may be a better solution for Council and the adjoining owner to consider stopping a portion of the road and selling to the adjoining owner to be merged with existing Lot 3 DP 45141.

Reason for the report

To consider an application to stop an area of an unformed road in Kaiwaka that is not maintained by Council, does not offer water access and the land surrounding the unformed road is owned by the applicant.

Background

This report is to consider stopping a section of unformed road.

Council has been approached by the owner of a residential house at 2 Hastie Lane, Kaiwaka to rectify the fact that at a point in the past the building on the property was constructed in such a manner as to encroach onto Hastie Lane.

The carport, lawn and hedges exceed onto road reserve and the owner wishes clarification on whether Council would like to stop part of the road and sell it to adjacent property owners or agrees to the Licence to Occupy.

The owners have applied to purchase a portion of the road reserve, as shown on Appendix C, however it is recommended that a lesser area, as highlighted yellow on Appendix B, is sold to the landowners to ensure that the buildings would be contained entirely within the private property.

The different legislation offers local and central government a mechanism to stop areas of road that may be formed but are no longer in use. There are two methods available to Council when stopping roads. These are:

- Section 116 of the Public Works Act 1981; or
- Section 342 of the Local Government Act 1974 (LGA)

Both have merit and having two methods offers flexibility for different scenarios when considering stopping a road.

Issues

Future road widening of the State Highway and ongoing owners structural maintenance/extensions.

Factors to consider

Council's lawyers (Brookfields) recommendation with regard to best long term outcome and Council's future intentions regarding Hastie Lane widening should it be necessary.

Policy implications

No policy implications.

Financial implications

If the road is to be stopped, a condition of the stopping would be that the applicants meet all costs associated i.e. no cost to Council. It is recommended that Council engages a Registered Valuer at the owners' expense to determine the fair market value of the land.

Legal/delegation implications

The applicant has asked that Council considers this application under the PWA 1981, the reason being they believe that this legislation best suits their circumstance. This belief is also shared by Council's advisors, Brookfields Lawyers Ltd.

Land Information New Zealand (LINZ) published in August 2012 the Standard for stopping or resumption of road (LINZS15002). This standard states that LINZ prefers that, in the first instance, local authorities apply the procedures in s342 of the LGA, given the requirements for public notification. The road should be stopped using the LGA when there are likely to be objections to the proposal or matters of public access to consider.

Council's lawyers (Brookfields) believe that in these circumstances the PWA 1981 can be applied as:

- The applicant is the surrounding sole adjoining landowner who wishes to acquire the land;
- There is no public expectation that the road may be formed or be a walkway;
- The road in question does not offer any public access to any area of interest or water.

Options

Option A: Give permission for the road reserve to be stopped generally in accordance with the area highlighted yellow on Appendix B and sold to the adjacent property owners at fair market value acceptable to Council, and the applicants to bear all associated costs.

Option B: Agreement to Licence with responsibility for ongoing maintenance and alterations according to Council's Engineering Standards (at Oct 2016 noted at \$1.00 per annum with penalty interest 14%).

Option C: Deny the application for road stopping.

Assessment of options

Option A: Using PWA with no other affected parties, and Council and the applicant working together can work to finalise this process. This option would provide certainty to the property owners and effectively legalise the encroachment.

Option B: would likely see the same issues resurface in future years with any new owner, this being less preferable from Council's point of view.

Option C: If the road stopping is denied the road will not be stopped and the status quo will be maintained.

Assessment of significance

In accordance with Council's Significance and Engagement Policy the selling of the portion of land has been assessed against the thresholds for significance. This assessment is shown in the table below:

Threshold	Significance
Budgeted expenditure of \$3,000,000 or more	No - No cost to Council.
Unbudgeted expenditure of \$300,000 or more	No - No cost to Council.
Increases individual rate levies by 10%	No - There will be no change.

Transfer ownership or control of a strategic asset to or from Council	No – The portion of land is seen as not significant and not a strategic asset.
Overall assessment	Not significant

Recommended option

The recommended option is **Option A**.

Next step

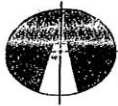
Advise applicants and to commence proceedings depending on Council's decision.

Appendices

- Appendix A- Aerial layout of dwelling in relation to boundaries marked 'A'
- Appendix B - Legal description map marked 'B' (Council's recommendation highlighted in yellow and the additional area is indicated by the red line)
- Appendix C - copy Buckton & Associates' Surveyors Plan of redefinition drawn April 2002







Buckton & Associates

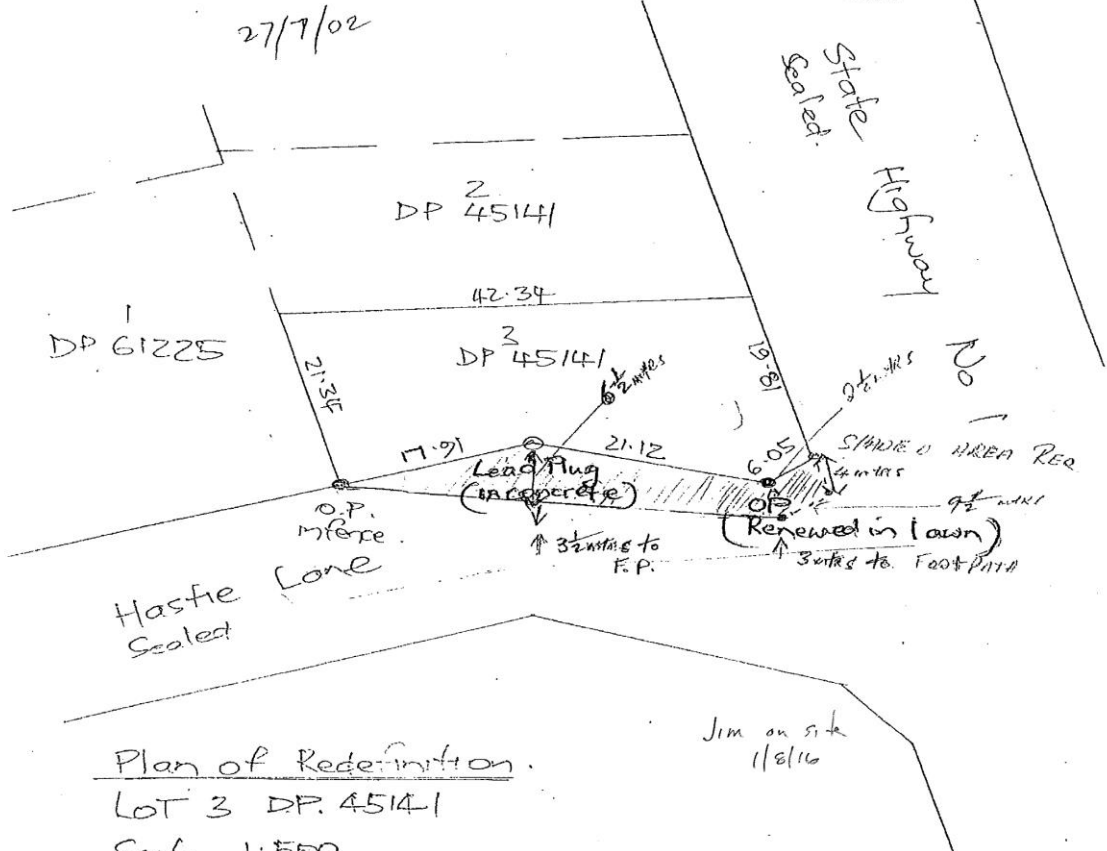
Registered Surveyors
Land Development Consultants

P.O. Box 107, 20 Neville St, Warkworth
Ph: (09) 425 8950 A/hrs: (09) 425 8472 Fax: (09) 425 8956
Email: buckton@wk.planet.gen.nz

Principal Ronald H. Buckton M.N.Z.I.S.
Associates Anthony H. Hayman B. Surv. M.N.Z.I.S.
Richard T. O'Flaherty B.Sc (Surv.) M.N.Z.I.S.

Our Ref. 5080

Your Ref.



Plan of Redemption.
 Lot 3 DP. 45141
 Scale 1:500
 24/4/02

File number: 4107.876 **Approved for agenda**
Report to: Council
Meeting date: 14 November 2017
Subject: Mangawhai Road Slips remediation RP750, RP1050 and RP2000 –
Approval to award Contract 876
Date of report: 18 October 2017
From: Henri van Zyl, Roading and Solid Waste Manager
Report purpose **Decision** **Information**
Assessment of significance **Significant** **Non-significant**

Summary

This agenda item seeks Council's approval to award Contract 876 (CON876) to GHK Piling. CON876 includes three emergency works slips remediation on Mangawhai Road, Mangawhai at three separate locations. These slips form part of the overall nine slips encountered after Cyclone Cook in April.

Recommendation

That Kaipara District Council:

- 1 *Receives the Roading and Solid Waste Manager's report "Mangawhai Road Slips remediation RP750, RP1050 and RP2000 – Approval to award Contract 876" dated 18 October 2017; and*
- 2 *Believes it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with the provision of s79 of the Act determines that it does not require further information prior to making a decision on this matter; and*
- 3 *Resolves to approve the award of Contract 876 to GHK Piling for the sum of \$1,148,735.00 plus GST.*

Reason for the recommendation

Council approval is required to award the Mangawhai Road, Mangawhai slips remediation Contract 876.

Reason for the report

This report is to request approval from Council to award Contract 876 to GHK Piling for remediation of slips on Mangawhai Road, Mangawhai at three separate locations in the current 2017/2018 financial year.

Background

This contract is for the remediation of three emergency works slips on Mangawhai Road, Mangawhai at locations RP750, RP1050 and RP2000 respectively. These slips form part of the overall nine slips encountered after Cyclone Cook in April. The slip at RP2000 has reduced the road to one-lane traffic with a temporary traffic signal arrangement and the slips at RP750 and RP1050 have large cracks in the traffic lanes with the road shoulders subsided. Mangawhai Road is one of the higher traffic volume roads on the network and the vulnerability of an accident at these locations is high, as well as significant disruption to the road users.

Issues

This contract is for emergency works and the remediation of the slips has been approved for the current 2017/2018 financial year. The remediation of the slips will provide a safer passage on Mangawhai Road as well as reduce the ongoing temporary traffic management costs (especially the temporary traffic signal setup).

The One Network Road Classification (ONRC) of Mangawhai Road is as follows:

Road	ONRC	ADT (Max)	Heavy Vehicles
Mangawhai Road	Primary Collector	3,012	211 (7%)

A total of two tenderers participated in the tendering process which yielded bids which differed by \$2,138.00 plus GST between the highest and the lowest bid.

Tenders were evaluated using the Price Quality Method, thus not only looking at the price attributes, but also at the non-price attributes and scoring the tenderers accordingly.

The engineer's estimate of \$986,282.00 plus GST differed by \$72,453.00 (7%) from the lowest conforming, and preferred tender, with a bid of \$1,058,735.00 plus GST (less contingencies).

The slip at RP2000 (currently one-lane traffic with temporary traffic lights) is the priority site and is scheduled to be repaired prior to Christmas. Temporary repairs at the slips at RP750 and RP1050 will provide for a safer passage for the general public during the festive season, with final remediation programmed after the busy Christmas/New Year period.

Factors to consider

Remediation of the slips will provide a safe and efficient route for the motorists by reinstating the affected sections of the carriageway. Council has assured the community that the project will be delivered as delaying the project will continue to have adverse impacts on the road due to loss of road shape and a risk of further subsidence of the slips resulting in a potential accident.

Community views

The community has been lodging complaints with Council's customer services on the condition of the road at the slip locations and raising concerns regarding the risks and inconvenience associated with the slips.

Policy implications

Nil.

Financial implications

The budget for this contract is \$1,264,528.00 and is to be funded as follows:

Contract Number	Name	Budget (\$)	Contract 876 Budget (\$)
876	Mangawhai Road Slips remediation RP750, RP1050 and RP2000	1,264,528	1,264,528
		Total (\$)	1,264,528

A breakdown of the costs associated with the Mangawhai Road Slips RP750, RP1050 and RP2000 is presented in the table below:

Estimate of Costs	
Budget	\$1,264,528
NTA and Professional Services Fees	-\$60,000
Tendered Price (physical works)	-\$1,148,735
Balance	\$55,793

Legal/delegation implications

No known legal implications.

Options

There are two options to consider:

Option A: Award Contract 876 to GHK Piling for the sum of \$1,148,735 plus GST.

Option B: Decline all tenders.

Assessment of options

Option A: Delivers the remediation of the emergency slips for the road commuters.

Option B: Would not deliver the remedial works for the slips and increases the risk of accidents during the higher volume of traffic travelling on Mangawhai Road during the festive season as well as incur additional costs from the temporary traffic management.

Assessment of significance

Not significant in relation to the Significance and Engagement Policy as:

- It does not involve more than \$3.0 million or more budgeted expenditure;
- It does not involve \$300,000 or more unbudgeted expenditure;
- The decision will not impact by increasing individual rate levies by 10%; and
- It is not seen as a high risk activity or contract for procurement.

Recommended option

The recommended option is **Option A**.

Next step

If approved by Council, award Contract 876 to the preferred tenderer GHK Piling.

Attachments

- Nil

File number: 2105.45 **Approved for agenda**
Report to: Council
Meeting date: 14 November 2017
Subject: Council Appointment to the Kaipara Community Health Trust
Date of report: 05 November 2017
From: Seán Mahoney, Democratic Services Manager
Report purpose **Decision** **Recommendation** **Information**
Assessment of significance **Significant** **Non-significant**

The Kaipara Community Health Trust (KCHT) is an independent, non-government organisation. It was formed in 1995 when local surgical services were greatly reduced and Dargaville hospital was under threat of closure.

The KCHT Deed requires that four of the 12 Trustees are appointed by Kaipara District Council in accordance with the historic four ward boundaries (Otamatea, Central, West Coast and Dargaville). One of the existing Trustees has completed a three year term on the KCHT Board. Trustees are allowed to serve a total of three terms of three years each and the Trustee, James Foster (Dargaville) has expressed an interest in serving a second term.

Council ran an expression of interest process to see if any other candidates would be interested in being a trustee. In response to this process no further interest was received.

Recommendation

That Kaipara District Council:

- 1 *Receives the Democratic Services Manager's report 'Council Appointment to the Kaipara Community Health Trust' dated 05 November 2017; and*
- 2 *Believes it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with the provision of section 79 of the Act determines that it does not require further information prior to making a decision on this matter; and*
- 3 *Re-appoints James Foster to the Kaipara District Health Trust as the Dargaville Ward appointee with effect from 01 December 2017.*

Reason for the recommendation

The Trust Deed requires four of the Trustees to be appointed by Council. The existing Trustee has indicated a desire to continue and there has been no other interest expressed.

Reason for the report

The KCHT Deed states that the Dargaville ward positions on the Trust are appointed by the Mayor or

Commissioners taking into account the profile of the community and the users of health services in the Kaipara area.

Background

KCHT's existing Trustee for the Dargaville ward completed a three year term on the Trust Board. Under the Trust Deed they can serve a further two, three-year terms and have indicated a desire to do so.

Issues

The Trust Deed still allows for four Trustees for each of the historic ward boundaries in Kaipara district. Under the Trust Deed the term of the Trustee will run from 01 December 2017 for a three year period.

Factors to consider

Community views

The ward-based Trustees provide a localised link for the community to KCHT.

Policy implications

There are no policy implications to making this decision.

Financial implications

There is no financial implication or commitment created by Council approving this re-appointment.

Legal/delegation implications

Under the Trust Deed the Mayor or Commissioners has the authority to make this appointment.

Options

Option A: Re-appoint the existing Trustee.

Option B: Run a further expression of interest process.

Assessment of options

Option A provides for continuity and for the Trust to continue with representation from the historic constituencies of Council. Option B would allow for further opportunity for people to express an interest.

Assessment of significance

This decision does not trigger the Significance and Engagement Policy.

Recommended option

The recommended option is **Option A**.

Next step

Send letters to the re-appointed representative and Kaipara Community Health Trust.

Attachments

- Attachment 1 Letter from Kaipara Community Health Trust, 05 November 2017 ()

Kaipara Community Health Trust

PO Box 363, Dargaville 0300
09 439 5050 ph, 09 439 6930 fax, devans@kcht.co.nz

5 November 2017

Greg Gent
Mayor
Kaipara District Council
Private Bag 1001
Dargaville 0300

Dear Greg

Mayor Appointment, Dargaville Ward onto the Kaipara Community Health Trust

In November, James Foster, the Dargaville Ward Representative (Mayoral/Commissioner Appointment) will have completed a three-year term on the KCHT Board.

James has been an active member of the KCHT Board and is eligible and happy to serve another term should he be reappointed to the position.

Extracts from KCHT Trust Deed:

"Ward representation. II. (A)

- a. *(2) One trustee residing in that area of the Kaipara District now known as the Dargaville Ward."*
- b. *"The trustees (2) (3) (4) and (5) above to be appointed by the Mayor or Commissioners of the territorial authority responsible for those areas and in making such appointments the Mayor or Commissioners shall take into account the profile of the community and the users of the Health services in the Kaipara area. Where the Mayor or Commissioners believe there is a specific need for a trustee to meet a particular need, a trustee may be selected to serve the needs of both the Central and West Coast areas of the Kaipara District and the Mayor or Commissioners may appoint a generic trustee to meet that specific need. "*

"II (E) The term of office of all permanent trustees appointed in terms of clause II (C) shall be three years from the 1st of December in the year in which they are appointed.

"(G) No Board member shall hold office either for more than 3 successive terms of 3 years each or for a total of 9 years if such terms are not successive."

KCHT Vision - We are Guardians of our community's health services.

KCHT Mission - To ensure appropriate and high quality health services are retained and enhanced for our community

Please find attached a copy of Kaipara Community Health Trust Strategic Plan 2017-2022.

Board Meetings

The Board meets quarterly, in Dargaville, on the third Wednesday of the month. Meetings normally start at 6.00 pm and finish around 9.00pm. A meal is provided. Subcommittees meet when required.

Do Trustees get paid?

Trust members are currently appointed on a volunteer basis and as such are not paid for their services. Travel expenses incurred as a result of attending meetings are payable.

If you would like to discuss this position further, please phone me on 0275586272, or please advise by mail prior to 1 November 2017 the contact details of the delegate selected to be representative of the Dargaville Ward on the KCHT Board from 1 December 2017.

Yours faithfully

Debbie Evans
Chief Executive

File number: 5105.09 **Approved for agenda**

Report to: Council

Meeting date: 14 November 2017

Subject: Northpower - Assignment of Lease

Date of report: 31 August 2017

From: John Burt, Property and Commercial Advisor

Report purpose **Decision** **Information**

Assessment of significance **Significant** **Non-significant**

Summary

This report is to obtain Council's approval for an assignment of the lease currently held by Northpower to the new owner of the adjoining property. The Kopuru Beach Domain is land administered by Kaipara District Council under the Section 59A of the Reserves Act 1977 and Section 17Q of the Conservation Act 1987.

The Kopuru Beach Domain grazing licences utilise 268.7 hectares (ha) with a total of eight licence holders. One of the licence holders, Northpower, occupies the most northern piece of this land comprised of 39.7ha. Northpower owns the land which adjoins the licence area and the licence area can only be accessed by 4WD, weather permitting, from the land Northpower owns. Northpower has advised that they have sold this adjoining land to Highview Investments.

Consequently Northpower has requested that Council approves an assignment of the lease to Highview Investments limited.

Recommendation

That Kaipara District Council:

- 1 *Receives the Property and Commercial Advisor's report 'Northpower Assignment of Lease' dated 31 August 2017; and*
- 2 *Believes it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with the provision of s79 of the Act determines that it does not require further information prior to making a decision on this matter; and*
- 3 *Approves the assignment of the grazing licence from Northpower to Highview Investments Limited; and*
- 4 *Delegates to the Chief Executive responsibility for execution of the Deed of Assignment on Council's behalf,*

Reason for the recommendation

To allow Northpower to formalise the transfer of its licence to the new owner of the adjoining property.

Reason for the report

This report is to obtain Council's approval for an assignment of the lease currently held by Northpower to the new owner of the adjoining property (Highview Investments Limited).

Background

The Kopuru Beach Domain is land administered by Kaipara District Council under the Section 59A of the Reserves Act 1977 and Section 17Q of the Conservation Act 1987.

The Kopuru Beach Domain grazing licences utilise 268.7 hectares (ha) with a total of eight licence holders.

One of the licence holders, Northpower, occupies the most northern piece of this land comprised of 39.7ha. Northpower owns the land which adjoins the licence area and the licence area can only be accessed by 4WD, weather permitting, from the land Northpower owns. The condition of the land being coastal requires a high level of prudent farming practices to ensure that the land is kept in good condition.

Issues

Council has now been approached by Northpower and advised that Northpower has sold the adjoining land to Highview Investments. They would like to include the licence agreement in the sale and have requested that Council approves a Deed of Assignment of Licence from Northpower to Highview investments.

Included in the request from Northpower is a statement from Highview Investments limited detailing their farming background and experience. This is contained in the letter from Northpower's Solicitors (**Attachment 1**) requesting an assignment.

The licence that Northpower has with Council does not provide for any assignment. Therefore there is no contractual obligation on Council to do so. However the licence area can only be accessed from the adjoining land that Highview Investments is purchasing so it makes sense that Council should give its consent to the Assignment.

Factors to consider

Community views

Most in the community would be unaware of these arrangements so it would be unlikely that there are particularly strong views held in respect of this matter.

Policy implications

There are no policy implications in respect of this report.

Financial implications

There will be minor costs associated with processing the assignment but under the terms of the licence can be recovered from the lessee.

Legal/delegation implications

Council would need to pass a resolution to approve the assignment as this power has not been delegated.

Options

There are two options available to Council.

Option A: That Council agrees to assign the licence from Northpower to Highview Investments Limited.

Option B: That Council does not agree to assign the licence from Northpower to Highview Investments Limited.

Assessment of options

The licence area can only be accessed from the adjoining land that Highview Investments is purchasing so it makes sense that Council should give its consent to the Assignment. The nature of the land being sandy coastal requires prudent farming practices to ensure that the land is kept in good condition. The new owners of the adjoining land are experienced farmers and appear to have the necessary abilities to manage the land appropriately. The licence has only 18 months left to run so Council will have an opportunity to review Highview Investments stewardship of the licence area in early 2019.

Assessment of significance

Council's Significance and Engagement Policy details thresholds and criteria that Council has determined it should consider in deciding whether a decision significant. This is not considered to have a high degree of significance.

The recommended option is **Option A**.

Next step

Execution of Deed of Assignment.

Attachments

- Attachment 1-Letter from Northpower Solicitors requesting an assignment.

26 July 2017

Attention: John Burt
Kaipara District Council
By Email: jburt@kaipara.govt.nz.

NORTHPOWER LIMITED - GRAZING LEASE / LICENCE
OUR FILE REF: 033640-7

We act for the above client, who holds a current Grazing Licence with Kaipara District Council (Grazing Licence and Renewal **attached** for ease of reference).

Our client has secured an unconditional sale on the property 858 Redhill Road, Dargaville, due for settlement on 1 September 2017 and they ask that Council agrees to assign the Lease to the incoming purchaser, or agrees to cancel the existing grazing lease and enter into a new 5 year lease on substantially the same terms with the purchaser.

The purchaser noted in the Agreement is Highview Investments Limited (company extract **attached**). The below is a summary of farming experience and management plans from director Peter Thorpe:

"I farm in partnership with my son Chris (44 years old). I have been farming since 1980, and my son since his graduating with a B/AG degree from Massey University some 20 years ago. We own three farms at present, one dairy farm (500 cows), one beef fattening unit, and one lamb fattening unit.

We intend to manage the farm at Te Kopuru with the day to day work being done by contract milkers. This is how our present dairy unit is managed, and it works very well.

Regards
Peter Thorpe."

We would be very grateful to receive notification of Council's agreement to the assignment of the lease or the granting of a new lease as soon as possible.

Yours faithfully

WEBB ROSS MCNAB KILPATRICK LIMITED



REBECCA MERRY

Director

Direct dial: 09 470 2565

Email: rebecca.merry@wrmk.co.nz

Webb Ross McNab Kilpatrick Limited

www.wrmk.co.nz

9 Hunt Street

Whangarei 0110

Private Bag 9012

Whangarei 0148

p 09 470 2400

f 09 470 2469

109 Victoria Street

Dargaville 0310

John Butler Centre

60 Kerikeri Road

Kerikeri 0230

Directors

Megan Bawden

David Grindle

Jim Kilpatrick

Wayne McKean

Neil McNab

Tony Savage

Steve Wong

Rebecca Merry

Chris Taylor

Consultants

Barbara Beck

Vanessa Crosby

Clive Jackson

Associates

Ryan Welsh

Dan Baker

293

Senior Lawyers

Rosemary Allen

Tania Beckham

Jared Cains

Alice Chapman

Simon Davies-Colley

Lawyers

Andrew Neill

Natalie Town

David Adams

Chloe Davenport

Law Clerks

Pierre Wong

Cheyenne Kumar

Allina Vegar

File number: 5105.09 **Approved for agenda**
Report to: Council
Meeting date: **14 November 2017**
Subject: **Dargaville Arts Association Licence to Occupy Variation for Municipal Building, Dargaville**
Date of report: 16 October 2017
From: Darlene Lang
 Parks and Community Manager

Report purpose **Decision** **Recommendation** **Information**
Assessment of significance **Significant** **Non-significant**

Summary

Council staff moved out of the Municipal Building in 2012 after the collapse of the ceiling in the ballroom (Council Chambers) from water damage caused by a leaking roof.

The building was reroofed in 2015 however the water damaged ceilings need to be repaired.

It has also been identified as an earthquake-prone building which requires seismic strengthening to be completed within 20 years at a cost estimated to be \$350,000. In May 2015, the Government announced that it had revised its policy on earthquake-prone buildings. Northland could become a low risk area and require seismic strengthening to be completed within 35 years. The scope of work could also reduce should legislation pass in its current form.

In 2016 the Dargaville Arts Association Incorporated (Arts Group) was approached to use the vacant areas of the building. They agreed and a Licence to Occupy (LTO) was entered into (**Attachment 1**).

The Arts Group's proposal was that the upstairs was to be used as office space and arts workshops and the bottom as an Art Gallery. Two existing storage areas used by Council would remain.

The following terms and conditions were approved:

- 1 Rental of \$1.00 per annum.
- 2 Term 15 years with right of renewal for similar term and conditions.
- 3 Council to insure the building and Arts Group to provide own contents insurance.
- 4 Arts Group to seek funds to undertake the interior repairs.
- 5 Arts Group to seek funds to undertake the seismic strengthening by 2022/2023.
- 6 Two existing Council storage areas to remain.

The Arts Group is aware that the building needs repair work and are prepared to apply to external funding agencies to renovate the interior of the building. This is a cost that Council would not have to fund.

The Arts Group is also aware that the building needs seismic strengthening and are willing to apply for funds on behalf of Council, however it cannot be guaranteed that they will be successful in obtaining the funds in the required timeframe. Regardless of the funding application the territorial authority will remain

responsible for ensuring the work is completed or public use of the building will need to cease. Some minor mitigation measures towards earthquake strengthening is proposed to be undertaken by Council before the end of this financial year.

As the Arts Group has evolved it has had the ceiling upstairs repaired and has also reconfigured the downstairs gallery area and painted the interior. A variation to the LTO is now needed as it would like to turn the upstairs space into a hub where like-minded and not-for-profit organisations can rent office space. Due to clause 15 of their LTO around subletting, a variation to the agreement is necessary. All rental money will go back into the Arts Group to provide a revenue stream for them to hire an Arts Centre Manager to take the Centre to another level.

The purpose of this report is to seek Council's approval in principal to a variation of the LTO based on the Particulars Schedule that they are permitted to rent office space as long as they continue to meet their performance measures which are:

- community benefits are continuing to be provided;
- not-for-profit status of the organisation is retained;
- the constituting document of the organisation permits membership or ability to participate to all members of the public who can legitimately take part in the activities of the organisation and no one shall be excluded from membership provided they pay the necessary fees and observe the usual and proper rules of the organisation;
- the degree and frequency of the undertaking of the permitted use; and
- the degree and frequency of use, including shared use, of the improvements and the land by other community organisations and members of the public.

That Kaipara District Council:

- 1 *Receives the Parks and Community Manager's report 'Dargaville Arts Association Licence to Occupy Variation for Municipal Building, Dargaville' dated 16 October 2017; and*
- 2 *Believes it has complied with the decision-making provisions of the Local Government Act 2002 to the extent necessary in relation to this decision; and in accordance with the provision of s79 of the Act determines that it does not require further information prior to making a decision on this matter; and*
- 3 *Approves in principle the variation as outlined in the abovementioned report for a Licence to Occupy with the Dargaville Arts Association Incorporated; and*
- 4 *Delegates the Kaipara District Council's Acting Chief Executive to finalise and sign the Licence to Occupy variation with the Dargaville Arts Association Incorporated.*

Reason for the recommendation

To get approval for a variation to the Arts Group's Licence to Occupy to enable them to rent out office space to organisations to allow the Arts Group an income to be able to put it back into the arts centre so they continue to grow.

Reason for the report

The Arts Group has applied for a variation to their Licence to Occupy for the Municipal Chambers, 37 Hokianga Road, Dargaville. This report sets out all matters that this proposal raises.

Background

Council staff moved out of the Municipal Building in 2012 after the collapse of the ceiling in the ballroom (Council Chamber) from water damage caused by a leaking roof.

The building was reroofed in 2015 however the water damaged ceilings are yet to be repaired.

The Municipal Building has been identified, by Council as the Territorial Authority, as an earthquake-prone building. Currently legislation requires building owners, in this case Council, 20 years to either strengthen their earthquake-prone buildings to a minimum 34% of the new building standard or demolish them.

Based on this requirement funding for seismic strengthening on the Municipal Building has been funded in the Long Term Plan in 2015/2025 at a cost estimated to be \$350,000.

The Arts Group were asked, by Commissioner John Robertson, if they would like to use the Municipal Building as an Arts Facility. They considered this and decided that it would be a great idea. They proposed that the upstairs could be used as office space and arts workshops and the bottom could be used as an Art Gallery.

The following terms and conditions are recommended as a starting point for negotiations:

- 1 Rental of \$1.00 per annum.
- 2 Term 15 years with right of renewal for similar term and conditions.
- 3 Council to insure the building and Arts Group to provide own contents insurance.
- 4 Arts Group to seek funds to undertake the interior repairs.
- 5 Arts Group to seek funds to undertake the strengthening by 2022/2023.
- 6 Two existing Council storage areas to remain.

The Arts Group is aware that the building needs repair work and are prepared to apply to external funding agencies to renovate the interior of the building. This is a cost that Council would not have to fund.

The Arts Group is also aware that the building needs seismic strengthening and are willing to apply for funds for this, however it cannot be guaranteed that they will be successful in obtaining the funds in the required timeframe. Some minor mitigation measures towards earthquake strengthening is proposed to be undertaken by Council before the end of this financial year.

As the Arts Group has evolved it has had the ceiling upstairs repaired and has also reconfigured the downstairs gallery area and painted the interior.

Issues

The Municipal Building is a Category II listed building with Heritage New Zealand. Under the Kaipara District Plan the building is listed in the Heritage Schedule, and the site is designated for local government purposes, with an underlying zone of Commercial.

This is a civic building and the proposed use is compatible with activities that occur in civic buildings.

Under the District Plan, maintenance and repairs to a heritage building is a permitted activity, and will not require a resource consent.

This proposal makes use of under-utilised space in a building that has been upgraded by Council.

The Arts Group's variation to the LTO will state in the particulars schedule that they are permitted to rent office space as long as they continue to meet their performance measures as stated in their current LTO.

The performance measures are:

- the Community Benefits are continuing to be provided;
- not-for-profit status of the Organisation is retained;
- the constituting document of the Organisation permits membership or ability to participate to all members of the public who can legitimately take part in the activities of the Organisation and no-one shall be excluded from membership provided they pay the necessary fees and observe the usual and proper rules of the Organisation;
- the degree and frequency of the undertaking of the Permitted Use; and
- the degree and frequency of use, including shared use, of the Improvements and the Land by other community organisations and members of the public.

The proposed use is compatible with existing uses that include the community-run ANZAC Cinema as well as Council's Library Archives room (downstairs) and a Council file room (upstairs).

The Arts Group is aware of the other uses and is satisfied that there will be no problems.

In May 2015, the Government announced that it had revised its policy on earthquake-prone buildings in favour of a more targeted approach focusing on the buildings that pose the greatest risk to life. They propose to vary the timeframes for identifying and strengthening earthquake-prone buildings according to the seismic risk around New Zealand (strengthening to be completed within 15, 25 and 35 years dependent on the seismic risk of the area). It is proposed that Northland would be low risk and the seismic strengthening requirement delayed for 35 years.

The Building (Earthquake-prone Buildings) Amendment Bill is currently being considered by the Local Government and Environment Select Committee.

Should the legislation pass in its current form seismic strengthening of the Municipal Building could be delayed up to 35 years. It could even reduce the scope of work that the building owners in low risk areas would need to undertake.

However, if the legislation is not amended and the Arts Group is not successful in getting the funds on behalf of the building owner to undertake the seismic strengthening the Territorial Authority may require the building owner to demolish or prevent public use must cease.

Factors to consider

Community views

The Arts Group has now been housed in the Municipal Building for a year and there has been no negative feedback from the community.

Policy implications

This proposal is consistent with the Community Assistance Policy.

Financial implications

Council has invested significantly in re-roofing the Municipal Building. Securing a long term tenant will support this investment.

The interior of the building needs some further work and seismic strengthening is required. The Arts Group will be able to apply for external funding to undertake this work. This is a cost that Council would not have to fund.

Entering into a variation to their LTO will allow the Arts Group to rent out office space and reinvest this into the Arts Centre.

Legal/delegation implications

There are no legal implications.

Options

Option A: Approve a variation to the Arts Group's LTO to allow them to rent out the space upstairs to other like-minded organisations to enable them to gather revenue to grow the Arts Centre.

Option B: Status quo.

Assessment of options

Option A is the recommended option. This will allow the Arts Group to rent out office space to organisations to give them an income to be able to put it back into the Arts Centre so they continue to grow.

Option B is not recommended as this would hinder the Arts Group and would restrict their growth.

Assessment of significance

This is not considered to be "significant" and does not trigger Council's Engagement and Significance Policy.

Recommended option

The recommended option is **Option A**, to approve a variation to the Arts Group's LTO to allow them to rent out the space upstairs to other like-minded organisations to enable them to gather revenue to grow the Arts Centre.

Next step

The Acting Chief Executive to have a LTO variation drawn up and negotiate with the Arts Group.

Attachments

- [Current Licence to Occupy](#)

Licence to Occupy

July 2016

Kaipara District Council

(Council)

Dargaville Arts Association Incorporated

(Organisation)

Licence to Occupy Land and Improvements (part of)

Community Arts Centre



Licence to Occupy Land and Improvements (part of)

AGREEMENT dated the 30th day of June 2016

PARTIES

- 1 Kaipara District Council ("Council")
- 2 Dargaville Arts Association Incorporated ("Organisation")

INTRODUCTION

- A The Council is the registered proprietor of the Land and Improvements described in Schedule 1 and holds such Land and Improvements for the benefit of the Kaipara community, which may allow for community organisations to use the Land and Improvements for community purposes.
- B The Organisation and the Council are parties to a Development Agreement which provides for the Organisation to undertake and complete a development of the Land and Improvements in accordance with the terms and conditions of the Development Agreement.
- C The Organisation has completed the Development and achieved Practical Completion (as both terms are defined in the Development Agreement) and pursuant to the Development Agreement the Council and the Organisation now enter into this Agreement to establish and provide for the Organisation to use and occupy the Land and Improvements on the terms and conditions set out in this Agreement.

1 Agreement

Grant of Licence

- 1.1 The Council grants and the Organisation accepts:
- (a) a licence to use and occupy the Improvements on the Land; except for
 - (b) that part of the Improvements occupied, in common with other organisations and persons to whom the Council has granted similar rights.

Terms and Conditions

- 1.2 The Council and the Organisation agree that they are bound by and will observe and perform their respective obligations under this Agreement as set out in the Schedules to this Agreement.



Signed by)

Kaipara District Council)

in the presence of:)



Jill McPherson

Acting Chief Executive

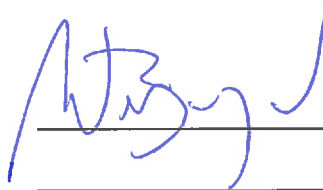
The Common Seal of)

Dargaville Arts Association)

Incorporated)

was affixed in the)

presence of:)

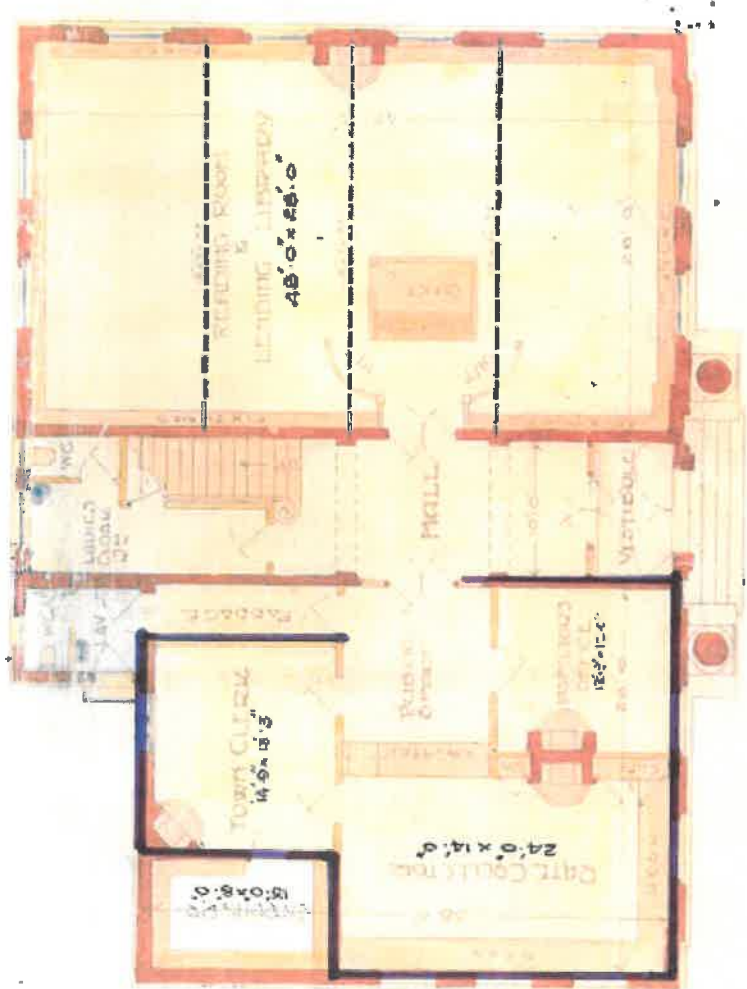


Peter Boyd

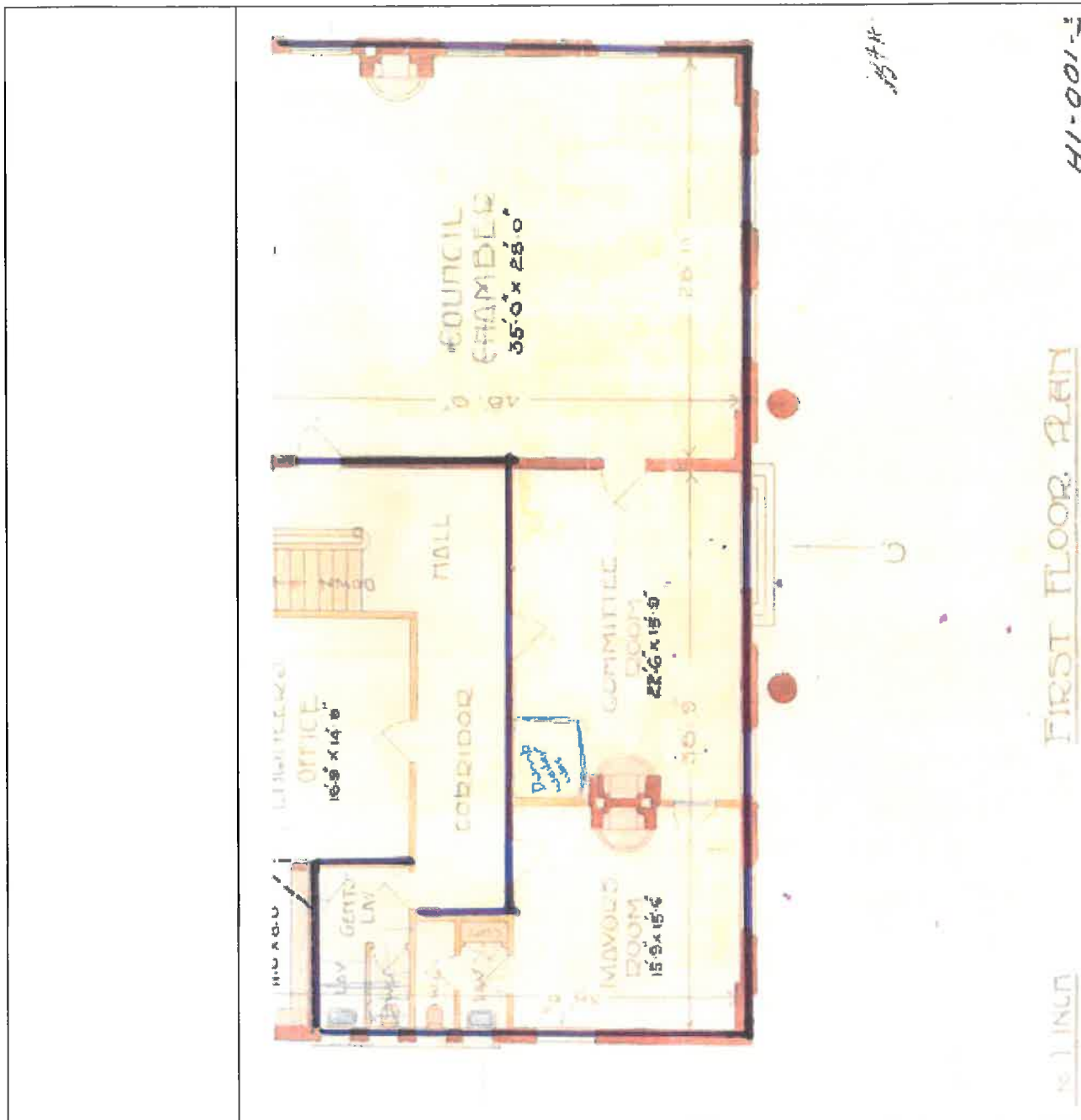
Chairman

Dargaville Arts Association
Inc.

Particulars Schedule

Organisation	Dargaville Arts Association Incorporated
Organisation Contact Details	<ul style="list-style-type: none"> • Peter Boyd, Chair • dargavillearts@gmail.com • 027 634 3674
Council Contact Details	<ul style="list-style-type: none"> • Community Facilitator • dlang@kaipara.govt.nz • Private Bag 1001, Dargaville 0340 • 09 439 3123
Land	<p>Part of Municipal Building located at 37 Hokianga Road, Dargaville, on the land described as LOT 3 DP 349566 LOT 2 DP 4917 LOT 15 DP 10897</p> <p>As per floor plan below:</p> 





FIRST FLOOR PLAN

1/8" = 1' INCL

<p>Improvements</p>	<p>Municipal Building – except for areas occupied by Dargaville Community Cinema Trust and Council.</p>
<p>Status of Organisation</p>	<p>Incorporated Society Registered Charitable Entity – No</p>
<p>Community Benefits</p>	<ul style="list-style-type: none"> • Arts facility to promote local artists; • Further education through the workshop facilities; • Assist emerging artists; • Identify and support artistic talent.
<p>Annual Licence Fee</p>	<p>\$1.00 per annum plus GST if requested.</p>

Reassessment Intervals	At the commencement of any extension of the Term
Outgoings payable by Organisation	Power and water; Contents Insurance.
Term	Fifteen years
Commencement Date	July 2016
Extension Terms	15 years subject to all performance measures being met, and the Organisation remaining active in the building.
Substantial improvements to be effected by Organisation	Best endeavours to complete seismic strengthening and internal refurbishment of those parts of the building it occupies.
Total Possible Term	Thirty years.
Permitted Use	Operation of a Community Arts Centre.
Public Risk Insurance Amount	\$2 million
Insurance Value	Replacement contents.
Conditions/Special Terms	<ul style="list-style-type: none"> Excluded from the footprint are the library archives room downstairs and the records safe room upstairs; Council will maintain the exterior of the building and will ensure the building is in a compliant condition; Council will cover building insurance.
Financial Year of Organisation	01 September until 31 August
Performance Measures	<ul style="list-style-type: none"> the Community Benefits are continuing to be provided; not-for-profit status of the Organisation is retained; the constituting document of the Organisation permits membership or ability to participate to all members of the public who can legitimately take part in the activities of the Organisation and no-one shall be excluded from membership provided they pay the necessary fees and observe the usual and proper rules of the Organisation; the degree and frequency of the undertaking of the Permitted Use; the degree and frequency of use, including shared use, of the Improvements and the Land by other community organisations and members of the public.



Schedule 2

Terms and Conditions

2 Definitions and Interpretation

Definitions

2.1 In this Agreement, including the Introduction and all Schedules to this Agreement, unless the context otherwise requires:

"Annual Licence Fee" is the annual licence fee, plus GST payable by the Organisation to the Council, which is set out in Schedule 1.

"Authority" means any local body, government or other authority having jurisdiction or authority over or in respect of the Land or the use or occupation of the Land.

"Commencement Date" means the commencement date of this Agreement as set out in Schedule 1.

"Community Benefits" means the community benefits for the Kaipara community as set out and described in Schedule 1 to be achieved by the Organisation by entering into this Agreement and undertaking the Permitted Use.

"Council" means the Kaipara District Council its successors and assigns and includes any Government body, local authority or other organisation that takes over the responsibility of Kaipara District Council in respect of the Land.

"Development Agreement" means the prior Agreement between the Council and the Organisation for the development of the Improvements on the Land.

"Extension Term/s" means extension/s of the Term as set out in Schedule 1 and as provided for in clause 2.

"Further Extension/s" means further extensions of the Term following the initial Term and the Extension Term/s, as set out in Schedule 1 and provided for in clause 2.

"Improvements" means the buildings structures and all other improvements occupied, placed erected or constructed by the Organisation on the Land and includes all services which serve the Improvements.

"Land" means the land set out and described in Schedule 1.

"Outgoings" means the outgoings in respect of the Improvements and the Land which, as set out in Schedule 1, shall be payable by the Organisation, and as provided for in clause 4.

"Organisation" means the Organisation named and described in Schedule 1 however does not include the Organisation's successors or assigns.

"Permitted Use" is the permitted use of the Improvements and the Land as set out and described in Schedule 1.

"Performance Measures" are as provided for in clause 9 and as more particularly set out in



Schedule 1.

"**Rates**" means the Council and Regional Council rates payable in respect of the Land or a proportion of such rates, as determined by the Council.

"**Term**" means the term of this Agreement and all extensions of the Term as set out and provided for in Schedule 1.

"**Total Possible Term**" is the total possible term of this Agreement including all extensions of this Agreement, if granted.

Interpretation

2.2 In this Agreement:

- (a) references to clauses and schedules are reference to clauses and to schedules to this Agreement unless stated otherwise. Each such schedule forms part of this Agreement;
- (b) where the context permits the singular includes the plural and vice versa;
- (c) all references to legislation are (unless stated otherwise) references to New Zealand legislation and include all subordinate legislation, any re-enactment of or amendment to that legislation and all legislation passed in substitution for that legislation;
- (d) where the context permits references to a "**person**" include an individual, firm, company, corporation or unincorporated body or persons, any public authority, territorial or regional council, any government or any governmental agency;
- (e) references to a "**party**" means a party to this Agreement and any reference to a party, to the extent applicable, includes the successors, executors and administrators (as the case may be) of that party;
- (f) defined words and expressions bear the defined meaning throughout this Agreement including the Introduction.
- (g) where any condition or special term set out in Schedule 1 is in conflict with or is inconsistent with any other term of this Agreement the condition or special term shall prevail.

3 Term of Licence and Extensions

- 3.1 The term of the licence granted by this Agreement shall be for the Term set out in Schedule 1 and shall commence on the Commencement Date as set out in Schedule 1.



DL:yh

- 3.2 If the Organisation, during the Term, has, to the satisfaction of the Council:
- (a) paid the Annual Licence Fee if requested;
 - (b) has complied with the Organisation's obligations under this Agreement;
 - (c) has and continues to meet the Performance Measures;
 - (d) for the purposes of a Further Extension has complied with the conditions set out in clause 5.3;
 - (e) has given written notice to the Council at least three months but not more than nine months (time to be of the essence) before the expiry of the Term of the Organisation's desire to accept an extension of the Term;

and if the Council is satisfied that the Improvements and the Land are being sufficiently used for the Permitted Use and there is a continuing community need for the Permitted Use, shall grant, and the Organisation agrees to accept, by way of extension of this Agreement, the relevant Extension Term as provided for in Schedule 1.

- 3.3 If this Agreement provides in Schedule 1 for a Further Extension of the Term on account of substantial improvements having been erected on the Land ("Further Extension") such extension shall be requested by the Organisation and granted by the Council in accordance with clause 2.2.
- 3.4 All extensions of the Term may be recorded in writing in such manner as the Council requires.
- 3.5 The total duration of the Term shall be limited to the Total Possible Term as set out in Schedule 1.

4 Annual Licence Fee

- 4.1 The initial Annual Licence Fee shall be the amount, plus GST, set out in Schedule 1.
- 4.2 The Organisation shall pay the Council the Annual Licence Fee during each year of the Term on the date and the frequency set out in Schedule 1. Council shall have the right to receive 5% of turnover greater than \$200,000 on or after the first year of this Agreement being in force and at successive yearly intervals thereafter if there should be any new facility or service which results in commercial activity being carried on at the Land which, in the opinion of the Council, is being operated independently through the Organisation on a commercial basis. If there should be any dispute between the parties as to what in the circumstances would be a fair annual licence fee then the dispute shall be determined by arbitration by a single arbitrator under the Arbitration Act 1996

5 Development

- 5.1 The Organisation shall with all reasonable speed using all reasonable endeavour, undertake and complete seismic strengthening and internal refurbishment of those parts of the building it occupies (the works) in a good and workmanlike manner:
- (a) in accordance with plans and specifications approved by the Council (in the Council's land owing capacity) acting reasonably prior to the commencement of construction of the Development which plans and specifications shall be consistent with the Project Plan;
 - (b) in accordance with all required consents and proper requirements of all relevant Authorities;

(c) within the Occupation Period.

5.2 The Organisation shall report progress of the complete seismic strengthening and internal refurbishment to the Council at such intervals as are reasonably required by the Council as provided for in the Project Plan. The reporting of progress shall be against the timelines and milestones as set out in the Project Plan and shall at all times be relative to the Occupation Period.

5.3 In undertaking the complete seismic strengthening and internal refurbishment the Organisation:

(a) shall use its best endeavours to ensure that as little inconvenience and disruption as possible is caused to occupiers of nearby properties or any other occupier or users of the Land or nearby Land owned by the Council;

(b) shall take out and keep in full force and effect during the refurbishment period and any extension of that period the following insurance covers:

(i) public liability insurance cover for a sum of not less than the sum set out in Schedule 1 for any single event or such greater sum required by the Council from time to time;

(ii) contractors all risks insurance cover;

and shall provide a copy of the policies or certificates of currency to the Council prior to the commencement of construction of the Development;

(c) shall comply with all requirements of the Council in respect of occupational health and safety, access to and through the Land for workmen, materials and machinery ensuring reasonable access and use of the Land is preserved for other users and occupiers of the Land;

(d) shall at its own cost comply with all legislation, bylaws, regulations or directions (statutory or otherwise) made or issued by any Authority, including the Council, as relate to the building and the complete seismic strengthening and internal refurbishment ; and

(e) shall permit the Council (by its officers, agents or contractors) to access the Land at any time for the purpose of inspecting the progress of the seismic strengthening and internal refurbishment and any other matter relating to this Agreement or relating to the Land (including the use and occupation of the Land by other persons).

5.4 The Council shall not be under any liability nor shall the Organisation have any right to claim damages or compensation against the Council where any delay in achieving Practical Completion is caused by adverse weather conditions, strikes, lockouts, accidents, unavailability of materials, fire, earthquake or any other cause including the Council performing any function in its regulatory capacity.

5.5 The Organisation shall be entitled to make variations or alterations to the seismic strengthening and internal refurbishment and the plans and specifications for these works (including substitution of unavailable materials) with the consent of the Council provided that such variations or alterations are of a minor nature and do not appreciably reduce or adversely affect the value, appearance or usefulness of the Building. The Council's consent shall not be unreasonably or arbitrarily withheld.



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6 Project Plan

- 6.1 The parties acknowledge to each other that elements of the Project Plan may not be achieved in whole or in part and that as a result the Organisation may wish to revise, vary or alter the Project Plan during the term of this agreement. The parties agree to follow a process to deal with any proposed revision variation or alteration to the Project Plan which may:
- (a) adversely affect the availability of funding for the seismic strengthening and internal refurbishment works;
 - b) extend the works Period; or
 - (c) otherwise adversely affect the project in a material respect.
- 6.2 The Organisation shall notify the Council in writing of any circumstance which may fall within any of the possible consequences set out in clause 5.1 immediately the Organisation becomes aware of the circumstance and shall provide the Council with all relevant details together with the Organisation's proposal ("variation proposal") for revision, variation or alteration to any element of the Project Plan.
- 6.3 The Council will consider the Organisation's variation proposal in good faith acting reasonably and will consult with the Organisation as it considers necessary. However the Council shall be under no obligation to agree to the Organisation's variation proposal and the Council, acting in its discretion, shall be entitled to:
- (a) agree to the variation proposal;
 - (b) agree to a modification of the variation proposal; or
 - (c) not agree to the variation proposal.
- 6.4 In the event of the Council not agreeing to the variation proposal the circumstance giving rise to the variation proposal shall be deemed to be a default under this Agreement on the part of the Organisation.
- 6.5 For the avoidance of doubt, if the Organisation wishes to revise, vary or alter the Project Plan where none of the circumstances set out in clause 5.1 will apply, the Organisation may amend the Project Plan following consultation with the Council and will give full and proper consideration to the views of the Council before proceeding with any proposed revision, variation or alteration.
- 6.6 The Organisation shall provide the Council with a full copy of any revised, varied or altered Project Plan.

7 Outgoings

- 7.1 The Organisation will, from the Commencement Date, duly and punctually pay for all consumables in respect of its undertaking of the Permitted Use and use and occupation of the Improvements and the Land which without limitation shall include charges for telephone, gas, electricity, water, sanitation and sewage, cleaning, garden and ground maintenance, licences, consents and permits and land tax (if any).
- 7.2 The Organisation shall pay all Outgoings direct or otherwise as the Council directs and in respect of

the Land, excluding the Improvements, shall pay a proportion of such Outgoings as are apportioned by the Council, which may include Outgoings which are shared with other organisations or persons.

7.3 The Council shall remit rates by operation of any policy implemented by the Council in relation to the remission of Rates.

7.4 All Outgoings payable by the Organisation shall be paid by the Organisation as and when each Outgoing falls due for payment and in the case of any outgoing which is payable to the Council upon request made by the Council.

8 Repair Maintenance and Replacement

8.1 The Organisation shall at all times during the Term in a proper and workmanlike manner and to the reasonable requirements of the Council:

- (a) keep and maintain the Improvements (internal and including all plant, fixtures and fittings, floor coverings and surfaces) in good serviceable and substantial repair and condition, repairing and replacing as necessary, and will at the end or earlier determination of the Term yield and deliver up the Improvements to the Council in such good serviceable and substantial repair and condition;
- (b) redecorate, by painting or staining as applicable, those parts of the interior of buildings and structures comprising the Improvements when they reasonably require repainting and redecoration, to a standard approved by the Council such approval not to be unreasonably withheld;
- (c) make good (by repairing or replacing as necessary) any damage to the Improvements at any time during the Term;
- (d) keep and maintain, repairing and replacing as necessary, the internal stormwater and wastewater systems on the Land which serve the Improvements;
- (e) ensure that all toilets, sinks, drains wastes, fittings and pipes on the Land are not blocked and are used for their designed purposes only and are regularly inspected, cleaned and maintained and repaired and replaced as necessary;

8.2 The Organisation shall at all times during the Term in a proper and workmanlike manner, and in such proportions as required by the Council where there is shared use of the Land by other organisations or persons:

- (a) keep all open areas of the Land, whether utilised as open space, paths or tracks, bush or planted areas or carparking in a clean and tidy condition repairing and replacing (including replanting) as necessary; and
- (b) regularly cause all rubbish and garbage to be removed from the Land and keep all rubbish bins and containers in a tidy condition. The Organisation will also, at the Organisation's own expense, cause to be removed all trade waste, boxes and other goods or rubbish not removable in the ordinary course by any local Authority.

- 8.3 If this Agreement provides in Schedule 1 for Further Extension/s, the Organisation shall as a condition for any such Further Extension to be granted by the Council:
- (a) have replaced or renewed all or some items of the Improvements on the Land during the initial Term or Extension Term/s provided for in this Agreement so that in the opinion of the Council their useful life extends into the Further Extension;
 - (b) prepare and provide to the Council a development plan for the Further Extension to include the replacement of those items of the Improvements which the Council has notified to the Organisation in writing require replacement and any new or additional items of Improvements which the Organisation wishes to construct on the Land; and
 - (c) obtain the approval of the Council to the development plan, such approval not to be unreasonably withheld.

9 Insurances

- 9.1 The Organisation shall keep the fixtures, fittings, plant, equipment and chattels situated in the improvements insured against loss, damage or destruction by fire, earthquake, flood, lightning, storm, aircraft, electric fusion, machinery breakdown, malicious damage, inevitable accident and other usual risks for the value specified in Schedule 1 or such other value as is approved by the Council.
- 9.2 In the event the Improvements or any part of the Improvements at any time during the Term being partially destroyed or damaged by fire or other insurable extraneous peril then and so often as the same shall happen all moneys received in respect of such insurance shall be expended by the Organisation with all reasonable speed in repairing the damage sustained.
- 9.3 The Organisation shall during the Term at its own cost take out and keep in full force and effect at all times a public liability insurance policy for a sum of not less than the sum set out in Schedule 1 for any single event or such greater sum required by the Council from time to time and shall within 30 days of the execution of this Agreement or request for additional cover produce to the Council a copy of the policy or certificate of currency.

10 Nature of Licence/Public Use

- 10.1 The licence to use and occupy the Improvements and the licence to use the balance of the Land/Building in common which is granted by this Agreement is subject to a right of use of the Land by the public but subject to the following provisions of this clause.
- 10.2 It shall be lawful for any person to enter and for any reasonable period of time to remain as a spectator upon the Land at all times and any person so entering or remaining on the Land shall not so long as he/she conducts and behaves himself/herself in an orderly and seemly manner and refrains from hindering and obstructing the activities of the Organisation be deemed to be a trespasser provided however that this authority shall not be deemed to authorise any person to enter or be within or upon any buildings or structures situated on the Land without the previous consent of the Organisation or person duly authorised by the Organisation.
- 10.3 The right of public entry on the Land is subject in all respects to the right, and obligation, of the



Organisation to control the Improvements as licensee and occupier and the Organisation shall be entitled at all times to require compliance by the public with all legislation and by laws relating to the Improvements and the Land and its use and in particular the provisions of the Health and Safety in Employment Act 1992.

- 10.4 The Council shall at any time during the Term be entitled to undertake, or permit other organisations to undertake, another development or developments on the Land (excluding that part of the Land on which the Improvements are situated together with necessary curtilage and access) and the Organisation consents to any such development or developments, provided that the Council will use reasonable endeavours to ensure that as little interruption as possible is caused to the Organisation in its undertaking of the Permitted Use during the undertaking of such developments.

11 Permitted Use

- 11.1 The Organisation shall use and occupy the Improvements and use the Land in common with others for the Permitted Use and shall provide the Community Benefits in accordance with the Performance Measures provided for in clause 9, all as set out and described in Schedule 1.
- 11.2 If at any time the Council is of the opinion that the Improvements and the Land are not being used or are not being sufficiently used for the Permitted Use or are being used for activities other than on a not for profit basis the Council, after making such enquiries as it thinks fit and giving the Organisation the opportunity of explaining the use of the Improvements and the Land, if the Council is satisfied that the Improvements and the Land are not being used or not being sufficiently used for the Permitted Use or are being used for activities other than on a not for profit basis, may terminate this Agreement by notice in writing to the Organisation.
- 11.3 The Organisation shall not:
- (a) carry on, on the Improvements or the Land any noxious, noisome or offensive act, trade, business, occupation or any act, matter or thing which may cause annoyance, nuisance, grievance, damage or disturbance to the occupiers or owners of any adjoining land or any other licensee, occupier or user of any other part of the Land;
 - (b) bring or permit to be brought on to the Improvements or the Land any item of a flammable, volatile or explosive nature or any contaminant (as defined in section 2 of the Resource Management Act 1991) without first complying with the provisions of all laws then in force relating to the handling and storage or such materials and the requirements of the insurers of the Improvements;
 - (c) allow, carry on, on the Improvements or the Land any use or activity which may cause loss or damage to the Improvements or the Land or any adjoining land, or become an annoyance, nuisance or disturbance to the Council or any other user or occupier of the Land on any adjoining land;
 - (d) release into the environment, discharge, deposit, place or dispose of on or near the Land any contaminant referred to in clause 8.3(b) except in accordance with an approval given under



environmental health and safety legislation;

- (e) carry on any illegal or immoral activity; or
- (f) carry on any use which is not a permitted use under the District Plan.

12 Community Benefits and Performance Measures

12.1 The Organisation and the Council acknowledge and agree that they enter into this Agreement in order to provide through the undertaking of the Permitted Use, for the Term, the Community Benefits as set out and described in Schedule 1 and that the achievement of the Community Benefits are an essential term of this Agreement.

12.2 The provision of the Community Benefits shall be measured against the Performance Measures and the Performance Measures applicable to this Agreement are as set out and described in Schedule 1.

12.3 The Performance Measures shall be continuing obligations of the Organisation throughout the Term and the Organisation shall report to the Council annually against the Performance Measures within 3 months following the end of the financial year of the Organisation, as set out in Schedule 1, or at any other time reasonably requested by the Council. Such report shall include the provision of the annual financial statements of the Organisation (audited if required by law or the constituting document of the Organisation) and otherwise the report shall be in writing in a format reasonably required by the Council, but as an alternative may be provided, at the discretion of the Council, at a meeting or meetings held between representatives of the Council and the Organisation.

12.4 The achievement or non-achievement of the Performance Measures or any one or more of them may be taken into account by the Council in making decisions concerning:

- (a) whether the Community Benefits continue to be provided;
- (b) termination of this Agreement by the Council;
- (c) any extensions of this Agreement as provided by clause 2;

- (d) any funding sought by the Organisation from the Council; or
- (e) any variation to this Agreement sought by the Organisation.

12.5 Any failure by the Organisation to report to the Council in terms of clause 9.3 shall be a breach of this Agreement.

13 Legislation, Bylaws and Health and Safety

13.1 The Organisation shall at all times during the Term at its own cost comply with all legislation, bylaws, regulations or directions (statutory or otherwise) made or issued by any Authority including the Council as relate to the Land or the Improvements and the undertaking of the Permitted Use.

13.2 The Organisation shall at all times during the Term:

- (a) forthwith notify the Council in writing of any accident which takes place on the Improvements or the Land and of any actual or potential hazards which exist on the Improvements or the Land;

- (b) ensure that the Organisation has in place systematic checks to ascertain any actual or potential hazards which exist on the Improvements on the Land and immediately notify the Council in writing of such actual or potential hazards;
- (c) take immediately all practical steps to remove any actual or potential hazards where such are identified; and
- (d) indemnify the Council to the extent legally possible against all penalties, costs, damage, loss, injury or death resulting from any failure on the part of the Organisation to carry out the above obligations.

14 Indemnity

- 14.1 The Organisation shall indemnify and keep indemnified the Council from and against all claims, costs, damage, loss or penalties suffered or incurred by the Council directly or indirectly arising out of this Agreement, the undertaking of the Permitted Use or any use or activity on or about the Improvements or the Land whether on the part of the Organisation or the Organisation's officers members, employees, customers, contractors, invitees, licensees and any persons, including members of the public, for whom the organisation is responsible with respect to the undertaking of the Permitted Use.
- 14.2 In particular the Organisation shall fully recompense the Council for any charges or expenses incurred by the Council in making good any damage to the Land or the Improvements notwithstanding such items may be owned by the Organisation.

15 Assignment or Subletting

- 15.1 The Organisation shall not assign, charge or sub-licence this Agreement or part with possession of the Improvements or any part of the Land except as permitted by clause 12.2.
- 15.2 The Organisation may, during the Term, permit use of the Improvements by other community organisations and members of the public for uses and activities which are within the Permitted Use.

16 Consequences on Termination

- 16.1 On termination of this Agreement by effluxion of time or surrender the Organisation shall have the right to transfer the Improvements to any body or organisation approved by the Council having objects similar to the objects of the Organisation and which shall prohibit the distribution of its assets among its members and which body or organisation shall enter into a licence agreement with the Council for the use and enjoyment of the Improvements on the Land on such terms and conditions as determined by the Council.
- 16.2 The Organisation shall yield and deliver up to the Council the Improvements and to the extent applicable the Land in good clean and substantial condition, fair wear and tear or damage by fire earthquake tempest or other inevitable accident alone excepted.
- 16.3 On termination of this Agreement by effluxion of time or surrender, breach of conditions or otherwise the Improvements shall revert to the Council without any compensation whatsoever being payable to the Organisation by the Council.

17 Council's Right to Inspect and Undertake Work

17.1 Any person authorised by the Council may at all reasonable times enter upon the Improvements and the Land and view and inspect the Improvements and upon receipt by the Organisation of a notice in writing from an officer or agent of the Council of any defect or want of repair or maintenance of the Improvements or the Land requiring the Organisation within a reasonable time, to be specified in the notice, to repair or remedy the same the Organisation shall at the cost of the Organisation with all reasonable speed cause the defect to be remedied and/or the repair to be made to the satisfaction of the Council.

17.2 That if default shall be made by the Organisation in complying with any notice served by the Council pursuant to clause 14.1 the Council without prejudice to its other rights and remedies shall as its option be entitled by its representative/s together with workmen and professional or expert advisers with all necessary equipment and materials at all reasonable times to enter upon the Land and the Improvements to execute such works as may be specified in such notice and all moneys expended by the Council by reason of such default of the Organisation shall be payable by the Organisation to the Council upon demand together with interest at the rate charged by the Council's principal banker on overdraft until payment.

18 Alterations, Replacements or Construction of New Improvements

18.1 The Organisation shall not alter or replace Improvements or construct new Improvements without first obtaining the consent in writing of the Council.

19 Sale and Supply of Alcohol 2012

19.1 The Organisation shall be responsible for compliance with the provisions of the Sale and Supply of Alcohol Act 2012 and shall ensure that all necessary licences are obtained and conditions met in relation to any liquor contained, consumed or supplied on the Land or the Improvements

20 Council's Role as Statutory Authority

20.1 The Organisation acknowledges that the Council is the territorial authority for the area in which the Land is situated and that any power, right, obligation or duty of the Council under this Agreement shall be subject to compliance by the Council with the Local Government Act 2002, Resource Management Act 1991, Public Works Act 1981, Building Act 2004, Reserves Act 1977 and any other legislation regulating the conduct of the Council.

20.2 Any consent given by the Council for the purposes of this Agreement is in addition to and not in satisfaction of any consent that may be required from the Council for regulatory purposes.

21 Reserves Act 1977

21.1 If the Land is classified as reserve land under the Reserves Act 1977 this licence shall be subject to the applicable provisions of that Act.

22 Disputes and Mediation

22.1 The parties shall meet and discuss in good faith any dispute between them arising out of this



Agreement.

22.2 If the discussions referred to in clause 19.1 fail to resolve the relevant dispute, either party may (by written notice to the other party) require that the dispute be submitted for mediation by a single mediator appointed by the President of the Auckland Law Society and such appointee shall conduct the mediation at his/her discretion, including the determination of procedural rules and timetable.

22.3 Neither party may issue any legal proceedings (other than for urgent interlocutory relief), in respect of any such dispute, unless that party has first taken reasonable steps to comply with clauses 22.1.

23 Quiet Enjoyment - Conduct

23.1 The Organisation paying the Annual Licence Fee and observing all the covenants and agreements expressed and implied in this Agreement shall quietly hold and enjoy the rights of use and occupation conferred by this Agreement throughout the Term without any interruption by the Council or any person claiming under the Council.

23.2 The Organisation will conduct the Permitted Use on the Improvements and the Land in a quiet and orderly manner so as not to cause a nuisance or annoyance to the occupiers of any neighbouring properties or any other licensee, occupier or user of any other part of the Land and in particular the Organisation shall at all times during the Term comply with the conditions of noise control as set by any Authority including the Council.

24 Cancellation

24.1 The Council may (in addition to the Council's right to apply to the Court for an order for possession) cancel this Agreement by re-entering the Improvements and the Land at the time or at any time thereafter if the Organisation:

- (a) makes default for a period of 30 days in payment of any licence fee required to be paid pursuant to the terms of this Agreement; or
- (b) makes default for a period of 30 days in payment of any of the moneys agreed to be paid by it under or by virtue of any loan the Council may have made or shall make to the Organisation for the purposes of the Improvements or the undertaking of the Permitted Use; or
- (c) makes any default in performance of any other obligation whatsoever contained in this Agreement and such default continues for a period of 30 days; or
- (d) suffers or permits this Agreement and the rights and privileges granted by this Agreement or the Land or the Improvements to be seized under any proceedings for execution issued in pursuance of any judgment; or
- (e) passes any resolution to wind up; or
- (f) becomes insolvent or its affairs or assets are placed under any sort of management or receivership; or
- (g) ceases to undertake the Permitted Use on the Land;

and the Term shall terminate on such cancellation but without prejudice to the rights of either party against the other.

25 General

Goods and Services Tax (GST)

- 25.1 The Organisation shall pay to the Council as the Council shall direct the GST payable by the Council in respect of the Annual Licence Fee and other payments payable by the Organisation under this Agreement. The GST in respect of the Annual Licence Fee shall be payable on each occasion when any payment of the Annual Licence Fee falls due for payment and in respect of any other payments shall be payable upon demand.
- 25.2 If the Organisation shall make default in payment of the Annual Licence Fee or other moneys payable under this Agreement and the Council becomes liable to pay additional GST then the Organisation shall on demand pay to the Council the additional GST.

Suitability

- 25.3 No warranty or representation expressed or implied has been or is made by the Council that the Land is now suitable or will remain suitable or adequate for use by the Organisation or that any use of the Land by the Organisation will comply with the bylaws or ordinances of the requirements of any Authority.

Non-Waiver

- 25.4 The failure of either party to insist in any one or more instances upon the strict performance of any of the terms of this Agreement or the waiver by either party of any term or right under this Agreement or of any default by the other party shall not be deemed or construed as a waiver by such party of any such term right or default in the future.

Entire Agreement

- 25.5 This Agreement records the entire arrangement between the parties relating to the matters dealt with in this Agreement and supersedes all previous arrangements, whether written, oral or both, relating to such matters.

Amendment

- 25.6 This Agreement shall not be amended or varied except in writing signed by both parties or as otherwise provided in this Agreement.

26 Notices

- 26.1 All notices must be in writing and must be served by one of the following means:
- (a) In the case of a notice under s245 or s246 of the Property Law Act 2007 in the manner prescribed by s353 of that Act; and
 - (b) In all other cases, unless otherwise required by s352 to s261 of the Property Law Act 2007;

- (i) in the manner authorised by s354 to s361 of the Property Law Act 2007; or
- (ii) by personal delivery or by posting by registered or ordinary mail, or by facsimile, or by email.

26.2 In respect of the means of service specified in clause 23.1(b)(ii), a notice is deemed to have been served:

- (a) in the case of personal delivery, when received by the addressee;
- (b) in the case of posting by mail, on the second working day following the date of posting to the addressee's last known address in New Zealand;
- (c) in the case of facsimile transmission, when sent to the addressee's facsimile number; or
- (d) in the case of email, when acknowledged by the addressee by return email or otherwise in writing.

26.3 In the case of a notice to be served on the Organisation, if the Council is unaware of the Organisation's last known address in New Zealand or the Organisation's facsimile number or email address, any notice placed conspicuously on any part of the Land or the Improvements shall be deemed to have been served on the Organisation on the day on which it is affixed.

26.4 A notice shall be valid if given by any chief executive, director, general manager, solicitor or other authorised representative of the party giving the notice.

