

I hereby give notice of the following Ordinary meeting:

Meeting	Kaipara District Council
Date	Wednesday 28 March 2018
Time	9.00am
Venue	Northern Wairoa War Memorial Hall (Dargaville Town Hall), 37 Hokianga Road, Dargaville

Open Agenda

Membership

Chair: Mayor Jason Smith

Members: Deputy Mayor Peter Wethey
Councillor Anna Curnow
Councillor Victoria del la Varis-Woodcock
Councillor Julie Geange
Councillor Libby Jones
Councillor Karen Joyce-Paki
Councillor Jonathan Larsen
Councillor Andrew Wade

Linda Osborne
Administration Manager

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**The Ordinary meeting of Kaipara District Council
28 March 2018 in Dargaville**

1 Opening

1.1 Karakia

1.2 Present

1.3 Apologies

1.4 Confirmation of Agenda

The Committee to confirm the Agenda.

1.5 Conflict of Interest Declaration

Elected Members are reminded of the need to be vigilant to stand aside from decision-making when a conflict arises between their role as Councillors and any private or other external interest they might have. It is also considered best practice for those members to the Executive Team attending the meeting to also signal any conflicts that they may have with an item before Council.

1.6 Resolutions Register and Action Tracker

**Kaipara District Council
Resolutions Register at 20 March 2018**

Meeting Date	Item Number	Item Name	Resolution Number	Details	Assigned	Status	Comments	Due
13/02/2017	6.4	Establishment of Older Persons Committee	28	Will look at other ways of engaging with older members of the community.	GM GSD	In Progress	To be considered in second quarter of 2018	June 2018
04/04/2017	6.1	Baylys Beach Community Centre/Public Toilets Encumbrance	7	Recommends that the encumbrance registered on the title of 52 Seaview Road, Dargaville, permitting Council to develop public toilets, is removed	GM GSD	In Progress	Baylys Beach Community Centre Trust undertaking the registration	TBA
26/06/2017	7.2	Ruawai Stopbank Cycleway Memorandum of Understanding	17	Agrees in principle with the Memorandum of Understanding between Ruawai Promotions and Development Group Inc and Council to support this community led walking and cycling initiative, and delegates signing to the Chief Executive once the document has been converted to Council's Licence to Occupy Agreement format.	GM GSD (DL)	In Progress	Licence to Occupy has been finalised and Council officers are waiting for the signed copy to be returned.	June 2018
	7.3	Northlink (Formerly Rodney North Harbour Health Trust) Assignment of Lease	20	Approves the assignment of the lease from The Rodney North Harbour Health Trust Incorporated (now Northlink) to Rodney Health Charitable Trust Incorporated	GM R,F&IT (JB)	In Progress		March 2018
			21	Delegates to the Chief Executive responsibility for execution of the Deed of Assignment on Council's behalf.	GM R,F&IT (JB)	In Progress	Deed has been signed by with Northlink, waiting for signing by two Elected Members.	March 2018
	7.6	Kauri Coast Community Pool – Licence to Occupy and maintenance grant	34	Agrees to develop Terms of Reference for a joint Council/Trust Kauri Coast Community Pool Management Committee to investigate reducing operating costs, reviewing fee structure, seeking external funding for programmes, improving the range of programmes, improving dedicated times for the elderly and promoting the pool to achieve increased attendance	GM GSD (DL)	In Progress	Councill officers have met with the Trust and final copy is being drafted for signing.	June 2018
			35	Delegates the Chief Executive to negotiate a Licence to Occupy with the Kauri Coast Community Pool Trust on the standard terms and conditions	GM GSD (DL)	In Progress		June 2018
			37	Re-assesses its involvement in the Kauri Coast Community Pool after the 2017/2018 swimming season.	GM GSD (DL)	In Progress		June 2018

11/07/2017	1.7.2	Notice of Motion 2	4 & 5	1) That the Chief Executive develop a policy for the appointment of independent commissioners; and 2) That the policy include: a) the process for Council appointment to, and removal from the list of commissioners; and b) standardising of commissioner remuneration; and c) the requirement for Council approval of appointments of commissioners for resource consent hearings, and a procedure for appointment including: i) an alphabetical acceptance and refusal process to remove bias; and ii) a public register recording the process followed in point a); and iii) a process allowing applicants to refer disputes over appointments decisions to Council for resolution; and iv) mechanisms to allow qualified elected members to sit on hearing panels if Council decides to do so.	GM GSD (GM PPR)	In Progress	Terms of Reference for the Planning and Regulatory Working Group is under consideration by Councillors and included in the March 2018 Council agenda. The intention is that this Working Group review the policy.	June 2018
			6	3) That the Chief Executive work with a committee to be recommended by the Mayor in developing the policy and procedure	GM GSD	In Progress		June 2018
			7	4) That any related current delegations be amended to reflect policy	GM GSD	In Progress		June 2018
			8	5) That the policy be presented to Council for approval at 09 October 2017 meeting.	GM GSD	In Progress		June 2018
	7.3	Private Seal Extension Policy Options	48	3 Provides feedback and confirms its preferred option for private seal extensions to allow staff to formulate a policy for Council's consideration.	COO	In Progress	Revenue & Financing Policy revised to include targeted rate funding source for seal extensions (part of 2018/28 LTP consultation). Draft Policy is included in the March 2018 Council agenda.	June 2018
14/08/2017	6.7	Community Grants Policy Review and Recommendations	35	Creates a clear set of community activities they would like to support in the Long Term Plan 2018/2028	GM GSD	In Progress		June 2018
			36	Change the Committee's Terms of Reference to allow for delegation of decision-making on future Grants	GM GSD	Completed		
			39	Instructs the Chief Executive to create a separate budget for resource and building consent grants and adjust Forecast One accordingly.	GM GSD	Completed		
26/09/2017	6.6	Stopbank reinstatement - land known as Section 73 75 part 44 Block XV of the Tokatoka Survey District	21	Delegates responsibility to the interim Chief Executive to complete any associated works for the stopbank reinstatement of Raupo Drainage District flood protection based on feedback from community consultation and expert advice	COO (SP)	In Progress	Quotes to complete works now sought.	June 2018
			22	Notes that the works are to be funded by Raupo Drainage Targeted Rate.	COO (SP)	In Progress		June 2018
	6.8	Sale of Council Land : Section 1, SO 61790 , NA67C/989 (Mangawhai)	28	Declares that its property at Tomarata Road, Mangawhai described as Section 1, SO 61790 Certificate of Title NA67C/989 is surplus to its requirements	GM R,F&IT (JB)	Completed		

			29	Offers the land to all adjoining landowners at valuation for the purposes of s345(1)(a)(i) of the Local Government Act 1974	GM R,F&IT (JB)	Completed		
			30	Should the adjoining owners decline the offer to purchase the property, offer the land for sale generally to any other person(s)	GM R,F&IT (JB)	Completed		
			31	Delegates to the Chief Executive authority to negotiate terms and conditions and accept the best offer, provided that it is equal or greater than valuation.	GM R,F&IT (JB)	In Progress	No response to offer from adjoining landowner so has been listed with local agents	June 2018
14/11/2017	6.13	Northpower – Assignment of Lease	44	Approves the assignment of the grazing licence from Northpower to Highview Investments Limited	GM R,F&IT (JB)	Completed		
			45	Delegates to the Chief Executive responsibility for execution of the Deed or Assignment on Council's behalf.	GM R,F&IT (JB)	In Progress	Deed currently with Northpower and Highview for execution	May 2018
	6.14	Dargaville Arts Association Licence to Occupy Variation for Municipal Building, Dargaville	46	That this item, 'Dargaville Arts Association Licence to Occupy Variation for Municipal Building, Dargaville' lie on the table, to be brought back to Council with a review of all Licences to Occupy.	GM GSD (DL)	Completed		March 2018
11/12/2017	6.2	Forecast One 2017/2018	8	Approves the forecast as set out in the forecast sections in the above mentioned report and its attachments, and determines that no further action is required at this point in time	GM R,F&IT (RG)	Completed		
			9	Notes the revised forecast shows decreased operating revenues of \$0.4 million, reduced operating costs of \$0.5 million, increased capital funding of \$7.1 million and revision of the capital expenditure projects list	GM R,F&IT (RG)	Completed		
			10	Approves the revised capital expenditure schedules listed in Attachment 4 of the above mentioned report	GM R,F&IT (RG)	Completed		
			11	Approves the use of \$3.1 million of prior year surpluses and general reserves to reduce the district wide portion of the Mangawhai Community Wastewater Scheme debt	GM R,F&IT (RG)	Completed		
			12	Notes that the \$5.3 million of forestry asset sales will reduce the district wide portion of the Mangawhai Community Wastewater Scheme debt	GM R,F&IT (RG)	Completed		
			13	Instructs the Chief Executive to provide Council with a full briefing in February 2018 on all options on the use of proceeds from this specific asset sale	GM R,F&IT	In Progress	Agreed to prepare a Council paper in second quarter of 2018	July 2018
	6.4	Mangawhai Community Plan Final	17	That the item 'Mangawhai Community Plan Final' lie on the table until Council's January 2018 meeting, pending full financial detail on funding streams per project.	GM PPR (NR)	Completed	Adopted as a source document for LTP consultation document at Council's meeting on 28 February 2018	June 2018
	6.5	Mangawhai Museum Partial Surrender of Lease	20	Approves the Partial Surrender of the Lease by the Mangawhai Museum	GM R,F&IT (JB)	Completed		
			21	Approves the grant to the Mangawhai Museum of a non-exclusive licence to use the surrendered area for the use permitted in its lease	GM R,F&IT (JB)	In Progress	Working with Community Team to identify location of the Arts Building so this can be excluded from non-exclusive licence area.	May 2018
			22	Delegates to the Acting Chief Executive responsibility for the finalisation of the Deed of Partial Surrender of Lease	GM R,F&IT (JB)	In Progress	Once the above has been completed, the Deed of Partial Surrender can be finalised.	May 2018

25/01/2018	7.1	Contract 878 'Beach Road/Baylys Coast Road Watermain Construction 2017/2018' authorisation to award CON878	19	Approves an increase of the 2017/2018 Dargaville Water budget of \$270,000 to be debt funded with the repayment of the debt consulted on through the Long Term Plan	COO	Completed	Contract awarded	June 2018
			20	Approves the award of CON878 'Beach Road/Baylys Coast Road Watermain Construction, 2017/2018' to United Civil Construction Limited for the contract value of \$1,055,878.59 + GST	COO	Completed		
	7.4	Reserve Contributions (use of) Policy: Adoption of reviewed Policy	31	Approves the reviewed Reserve Contributions (use of) Policy as amended at the Reserve Contributions Committee's meeting on 18 January 2018 (as Attachment 2 of the above mentioned report) and at this Council meeting on 25 January 2018	GM RPP	Completed		
			32	Consults on the reviewed Policy as part of the draft Long Term Plan process	GM RPP	In Progress		June 18
			33	Prioritises the review of Reserves and Open Space Strategy (ROSS)	GM RPP	In Progress		Sept 18
	7.5	Kaipara District Council Raw Water Supply Funding Options	34	That this item 'Kaipara District Council Raw Water Supply Funding Options' lie on the table until more comprehensive funding options come before Council at a meeting in early February 2018	COO	Completed	Paper was brought to Council's February 2018 meeting	
	7.6	Recycling issues and costs	37	Approves the temporary stockpiling of the plastics that currently have no market for recycling at an estimated cost of \$2,500 + GST per year pending establishment of new markets	COO	Completed		
			38	Approves the additional costs to subsidise the transportation of the remaining plastic products that are currently able to be sent to market in Auckland for recycling without any resale value at an estimated cost of \$12,000 + GST per year	COO	Completed		
			39	Instructs the Chief Executive to monitor the situation and, if no new markets have been established within a two year period, to report back to Council with options	COO	In Progress		March 2020
28/02/2018	5.1	Significance and Engagement Policy – Draft	5	Adopts the Significance and Engagement Policy, circulated as Attachment 2 to the above mentioned report, with amendment: <input type="checkbox"/> Sentence 'Council will comply with sections 58c 58u of the Resource Management Act 1991 relating to Mana Whakahono a Rohe' be added to item 7.1 Engaging with the Maori (Supplementary Items Vol 1, p.18)	GM RPP (NR)	Completed		
	5.2	Treasury Policy – Adoption	8	Adopts the Treasury Policy, circulated as Attachment 1 to the above mentioned report	GM R,F&IT	Completed		
	5.3	Mangawhai Community Plan Final: Adoption	11	Adopts the Mangawhai Community Plan (circulated as Attachment 1 to the above-mentioned report) as a source document for the Consultation Document for the Long Term Plan 2018/2028, with the following amendments [list of amendments are in the minutes]	GM RPP (NR)	Completed		

5.4	Long Term Plan 2018/2028 : Approval of source documents for the preparation of the LTP	14	Approves the Revenue and Financing Policy for public consultation under the Local Government Act 2002 s82	GM GSD (MB)	Completed	
		15	Approves the Reserve Contributions (use of) Policy as amended at this Council meeting (28 February 2018), with following amendments [list of amendments are in the minutes]	GM GSD (MB)	Completed	
		16	Adopts as source documents for the Long Term Plan 2018/2028 Consultation Document as required by s93 of the Local Government Act 2002 as amended by the Local Government Amendment Act 2014, the following as circulated with the above mentioned report or tabled at this meeting (28 February 2018) [list of amendments are in the minutes]	GM GSD (MB)	Completed	
		17	Subject to Auditors' written approval with authority delegated to the Mayor and Acting Chief Executive to make any changes in response to Auditors' feedback, alongside minor amendments identified in the editing and final audit process, and following amendments made at this meeting (28 February 2018) [list of amendments are in the minutes]	GM GSD (MB)	Completed	
5.5	Long Term Plan 2018/2028 : Approval of Consultation Document – A Bright Future	20	Adopts the Consultation Document 2018/2028 (as tabled at this meeting 28 February 2018) for public engagement, subject to any minor amendments identified in the editing and final audit process, and following amendments (page numbers refer to the tabled document) [list of amendments are in the minutes]	GM GSD (BH)	Completed	
7.1	Licence to Occupy Review	24	Delegates to the Community Grants Committee the authority to review and recommend amendments to the Community Assistance Policy to provide clear policy guidance for Licences to Occupy, including amendments to the standard Licence to Occupy template	GM RPP (NR)	In Progress	LTO review is in progress
		26	Directs the Chief Executive to review the Rates Remission Policy to ensure there is consistency with the Community Assistance Policy	GM RPP (NR)	In Progress	
7.2	Dargaville Arts Association Licence to Occupy Variation for Municipal Building, Dargaville	29	Declines, consistent with the recommendation from the Community Grants Committee, the request by the Dargaville Arts Association for a variation to their Licence to Occupy, as per the report dated 16 October 2017	GM GSD (DL)	Completed	Council officers have met with the Trustees to decline the request and offer other options.
7.3	Kaipara District Council Raw Water Supply Funding Options	32	Determines that it will provide assistance to affected dwelling owners in line with Option A (owner fully pays) within the above mentioned report or previous report (Council agenda 25 January 2018 Item 7.5) which was left to lie on the table	COO	Completed	

7.4	Rural Connectivity Group (RCG) - Council Support	35	Confirms support to make Council land available where appropriate to use for the construction of infrastructure proposed through the Rural Broadband Initiative Phase 2 and Mobile Blackspot Fund project free of charge through a formal agreement	GM RPP (PH)	Completed	This has been noted by Council's Policy Team. Unconfirmed minutes of Council's February 2018 meeting will be sent to the Rural Connectivity Group for information.
		36	Waives all fees associated with any resource consent or building consent fees applied for under the Rural Broadband Initiative Phase 2 and Mobile Black Spot Fund initiatives	GM RPP (PH)	Completed	
		36	Provides appropriate support with engagement and uptake, and assists with community awareness of the project and, where appropriate, liaison with key stakeholders	GM RPP (PH)	Completed	
7.5	Road Stopping and Sale - Murray Road, Tangowahine	40	Approves the stopping of a 12.5ha parcel of unformed Murray Road in Tangowahine,(as identified in Attachment 1 to the above mentioned report) under s116 of the Public Works Act	GM R,F&IT (JB)	In Progress	
		41	Delegates to the Chief Executive responsibility for reaching agreement with the purchaser on the terms and conditions of the Sale and Purchase Agreement	GM R,F&IT (JB)	In Progress	
		42	Notes that the purchaser will meet all costs associated with the transaction	GM R,F&IT (JB)	Completed	

2 Deputations, Presentations and Petitions

2.1 Northland Transportation Alliance Quarterly Update (15 March 2018)

Peter Thomson

Northland Transportation Alliance Manager

ISSUE: Northland Transportation Alliance Quarterly Report

To: Kaipara District Council

From: Peter Thomson, Northland Transportation Alliance Manager

Date: 15 March 2018

- Attachments:**
1. Ministry of Transport “A preview of the draft GPS 2018 detail”
 2. Tūa Whenua Provincial Growth Fund – Government’s Overview
 3. Kaipara District Rooding Operations Report for February 2018
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1. Purpose

To provide a quarterly report to the Kaipara District Council on Northland Transportation Alliance operational and development issues, and including a Kaipara District Rooding Operations information report for February (Attachment 3).

Recommendation:

That the report *Northland Transportation Alliance Quarterly Report*, by the Northland Transportation Alliance Manager and dated 15 March 2018, be received.

2. Background

The Alliance is a collaborative initiative involving Far North, Kaipara, Whangarei District Councils, Northland Regional Council and New Zealand Transport Agency. Within the Alliance, a Shared Services Business Unit delivers rooding and transportation services to the four Northland Councils.

The Councils of Northland adopted the Northland Transport Collaboration Opportunities Business Case for the establishment of the *Northland Transportation Alliance and Shared Services Business Unit* in April/May 2016; and jointly entered a Memorandum of Understanding with NZTA to form the Alliance which commenced on 1 July 2016.

NTA governance is provided by the Alliance Leadership Group, being the four Council Chief Executives and senior System Manager Steve Mutton from NZTA. The Leadership Group has two primary objectives: to steer the broad direction of the Alliance to realise opportunities for innovation and collaboration; and to ensure the successful management of the Business Unit.

The Business Unit is comprised of 54 staff with 18 seconded from WDC, 17 from FNDC, 12 from KDC, and 5 from NRC. We are currently recruiting to fill four vacant positions within the business. Generally turnover of engineering and technical staff has been very low.

3. Update on Collaborative Activities

Establishment of the NTA has allowed new collaborative and innovative initiatives to be pursued that are more effective and efficient than the business as usual approach previously taken by council teams working in isolation.

3.1 Regional Land Transport Plan (RLTP)

The RLTP is recognised as a top priority for the Alliance. NTA staff are actively involved in the steering group and managing the project working group for the Northland RLTP 2015/2021 – Three Year Review. Specific progress against statutory requirements is separately reported to the Regional Transport Committee (RTC). The RLTP Review process has been made more challenging with the impending release of a new Government Policy Statement (GPS) for Transport, expected to be released by the end of March for public comment.

3.2 Asset Management Plans (AMPs)

AMPs are the key input from each Territorial Authority into the RLTP and Councils’ Long Term Plans. NTA staff have worked collaboratively together and with the Road Efficiency Group (REG) to address new challenges of the Business Case Approach (BCA) to funding and to incorporate the development of the One Network Road Classification (ONRC) which was recently developed by local government and NZTA as a joint initiative. The new AMPs have been produced with a similar format and standardised templates to meet the NZTA BCA and local government/audit requirements.

All final draft AMPs have now been submitted to NZTA and are awaiting feedback and ultimately decision making on funding following national moderation and assessment. AMPs are also subject to Audit review.

Asset Managers are working together on the following list of activities, and will be progressing over the next few months.

- **Maintenance Intervention Strategy (MIS)** – Developing a single MIS for the 3 districts to align with the AMP’s and new Maintenance & Renewals contracts to ensure we are consistent in our approach and that the objectives of the AMP’s and ONRC are achieved / delivered on the road networks.
- **AMP’s finalisation** – We are awaiting feedback from the councils’ LTP consultations, NZTA on the indicative programme funding allocation (following any moderation to the funding “bids”) and the new GPS. Following this final changes will be made to all AMPs.
- **Improvement Plans** – Developing dash board reporting for NZTA to track how we are progressing with our improvement planning for the next generation of AMP’s.
- **Forward Works Programming (FWP)** – Developing regional FWP processes and RAPT (review and prioritisation team) tours across the district road networks – this is a first.
- **AMP 2021-24** – We will explore the objective of a single AMP for Northland local roads (with necessary partitioning for each council). Over the next few months we will be investigating how this may work for each Council and how to meet audit/NZTA requirements.
- **Data Collection** – A highspeed data survey has been undertaken across all three local road networks to gather consistent and important road information for all sealed and unsealed roads. This will provide an excellent and improved data platform prior to the start of new road maintenance contracts in July. The combined scale of procurement has created significant cost efficiencies to carry out this work, and has made it much more affordable for each Council.
- **Data Quality** – We are currently implementing automated data quality auditing processes for all three Councils. Following this we will be reviewing our processes on collecting and storing data to ensure complete data consistency across the region. Again, economies of scale have been realised through the procurement of external services for this work.
- **Works Planning** – Over the next few months we will be considering our asset management processes, how we function and putting together a works programme to demonstrate how we intend to progress and how we will prioritise activities.

3.3 Transportation Procurement Strategy 2017-2021

The formation of the NTA has provided the opportunity for a combined regional approach to procurement, and resulted in the approval of a new Procurement Strategy for the Councils over the next four-year period. The Strategy meets NZTA requirements for the procurement of works and services they fund. Key aspects of the new Strategy are:

- A single regional procurement programme/plan for transportation works.
- The five NTA partner organisations work closely to understand each other’s procurement needs, and work collectively to have efficient delivery through suppliers.
- Procurement of five new local roads Maintenance and Renewal Contracts (2 in FNDC, 2 in WDC and 1 in KDC) for the Northland network, where contracts can be bid separately or combined.
- Coordination of the term of these new contracts with the NZTA’s existing state highways Network Outcome Contract, to enable a business case to be researched on the potential for a future one network approach for local roads and state highways at some time beyond mid-2022.
- Procurement of a new term contract for a primary professional services provider (consultant) based on a portion of the total annual professional services workload.
- The ability to form single pre-qualification registers for both physical works and professional services suppliers.
- Provision of in-house professional services to the three district councils and the regional council by the NTA’s Shared Services Business Unit.

3.4 New Maintenance & Renewal Contracts from July 2018

The NTA, on behalf of Kaipara, Far North and Whangarei District Councils, is leading the process to develop an integrated regional or ‘one-network for local roads’ approach to the delivery of maintenance and renewals activities for the district local road networks across Northland.

Maintenance and renewal works account for approximately 60% of the region’s local road transportation expenditure (approximately \$50 million per annum). Maintenance and renewals in Northland has been traditionally delivered through ten separate maintenance and reseal contracts, which end at 30 June 2018.

The new maintenance and renewals contracts will commence from 1 July 2018. They comprise the following five contracts:

- Whangarei - North Road Maintenance & Renewals
- Whangarei - South Road Maintenance & Renewals
- Far North - North Road Maintenance & Renewals
- Far North - South Road Maintenance & Renewals
- Kaipara - Road Maintenance & Renewals

Each contract has an approximate value between \$7M and \$12M per year for terms of 4+2+1+1 (up to 8) years.

These contracts are the result of the three Northland local authorities adopting a new regionally coordinated Procurement Strategy, with a key objective to ensure the delivery of the transportation programme provides quality and value for money. The NTA provides the ability to collaboratively procure five contracts for the Northland network that will provide alignment, shared learnings and attracts more competition in the market than in the past.

The Whangarei and Far North District Councils have both created two contracts to provide an opportunity to establish more than one major roading contractor within their district.

The procurement timeline for the contracts are set out as follows:

Steps in Request for Tenders (RFT) process:	Date:
RFT Issued to market	11 December 2017
RFT briefing to tenderers	18 December 2017
RFT Tenderer Interactive Meetings	30 - 31 January 2018
Tender Submissions Closed:	5 March 2018
Recommendations to Councils/ Award of Contracts	April 2018
Contracts Commence	01 July 2018

3.5 Opportunities for SME’s

Through the Councils’ new Transportation Procurement Strategy, we have provided new opportunities for SME (small medium enterprise) contractors to be involved in the Maintenance & Renewal contracts by requiring that a minimum of 30% of the contract work value must be sub-contracted.

We will also provide the opportunity for local SME contractors to participate for the balance of other physical works (the remaining 40% of the district roading programmes) through the establishment of a pre-qualification register of approved suppliers. Where appropriate we will utilise the direct appointment and closed contest selection methods to carry out smaller value works. We will use the regional register to select the appropriate companies to be invited to tender for these works. This will allow opportunities for the local SME’s to tender for the work and will reduce the costs and time to both Council and the suppliers from open tendering small value works.

3.6 NTA Service Delivery Model Project

The success of the NTA delivering on the Alliance vision and objectives is dependent on the ability of the organisation to re-align its business operations to deliver services to the four councils on a regional scale. This success requires consideration of a combination of factors including activities and functions, roles and responsibilities, geography, processes and systems, resources and skills, structures, and technologies. In effect, it is the way the NTA develops up its strategic direction, prioritises and sets itself up to deliver on its objectives, otherwise referred to as our Service Delivery Model.

The NTA has commenced a project to develop and implement a new service delivery model that establishes better regional integration, and is best fit for delivering services to the participating Councils and achieving benefits sought by the establishment of the NTA (as outlined in the original adopted 2016 Business Case, Schedule 1 of the NTA MoU). In summary, the key benefits sought are:

- i. **More engaged and capable workforce delivering superior asset management** – Ensuring availability of high quality internal and external staff within the region to deliver robust decision making (supported by specialisation where needed), and provide resilience to succession issues over time.
- ii. **Improved transport/customer outcomes, enabling investment and social opportunities** - Achieving better outcomes for the regional economy and residents through improved

decision making within our organisations and more cohesive, joined-up thinking between organisations.

- iii. **Improved regional strategy, planning and procurement** - Improved regional thinking and reduced duplication of planning effort. Gain potential procurement efficiencies for the organisations and the delivery efficiencies for service providers.
- iv. **Transport infrastructure is more affordable** - Improving the viability of transport outcomes to match funding abilities by reducing the costs of provision and taking a consistent approach to levels of service and interventions.

The programme to identify the preferred model and implement it through the business is expected to be largely completed by mid-2018, to coincide and align with the commencement of the new Maintenance and Renewal contracts, and the 2018-2021 transport funding cycle through the RLTP and National Land Transport Fund.

3.7 Speed Management Review

The Ministry of Transport recently introduced the new *Land Transport Rule: Setting of Speed Limits 2017*. The Rule sets out the roles and responsibilities of the NZTA and Councils for reviewing and setting speed limits.

The Rule establishes a new speed setting mechanism that is focussed on assisting Councils to set safe and appropriate speed limits, in particular in areas where there are high-benefit opportunities. It is intended to improve the practice for managing speed and to have a more consistent approach to speed management that ensures communities and stakeholders are able to contribute to decisions that will help make travelling by road safer and more efficient.

NZTA has also introduced a complementary *Speed Management Guide*, a national framework that helps Councils make informed, accurate and consistent speed management decisions in their communities. It is designed to help Councils determine the objective road risk and work with communities to develop speed management approaches to address that risk and meet their needs.

The review of speed limits is therefore a common project to the three district Councils. There are significant advantages in coordinating the work to progress these reviews, community engagement, and public consultation. The NTA is initiating a project that will efficiently engage resources, develop shared expertise and benefit each of the District Speed Reviews as they are undertaken.

3.8 Dust Control and Mitigation on Unsealed Roads

This is a challenging and major issue for Northland and other district councils around New Zealand that have significant heavy vehicle route lengths of unsealed roads. NTA staff are actively involved within national working groups to share knowledge and try to develop policy and technical solutions that can reduce the impacts of dust on resident's and improve road safety. This includes improving regional technical expertise with dust suppressants or dust coat seals, unsealed road maintenance methods, the Dust Risk Matrix from NZTA's General Circular 16/04, business case assessments for subsidised seal extension applications, future land use planning and policies, and working with the public, heavy transport operators, forest owners and other stakeholders to provide best practice solutions where possible.

3.9 State Highway Liaison Meetings

The NZTA in conjunction with the NTA have offered to establish informal meetings with each Council’s elected representatives to provide information on state highway activity within the relevant district (or region). The purpose of the meetings is to provide a regular forum for exchange of information and discussion and for all parties to develop a greater understanding of each organisation’s key issues, concerns, views, and also to establish more effective dialogue and relationships. The meetings are proposed at a quarterly interval, or six monthly frequency. An initial meeting has been held with WDC reps, and the next round of SH Liaison meetings is still being established, as desired by the Councils.

4. Progress on 2017/2018 District Roading and Regional Transport Programmes

The most significant part of the NTA work is to deliver each Council’s subsidised road or transport annual programme. The figures below show at a high/summary level the expenditure during the financial year against the value of the total programme. The final figure shows a combined expenditure for all four of the councils’ programmes.

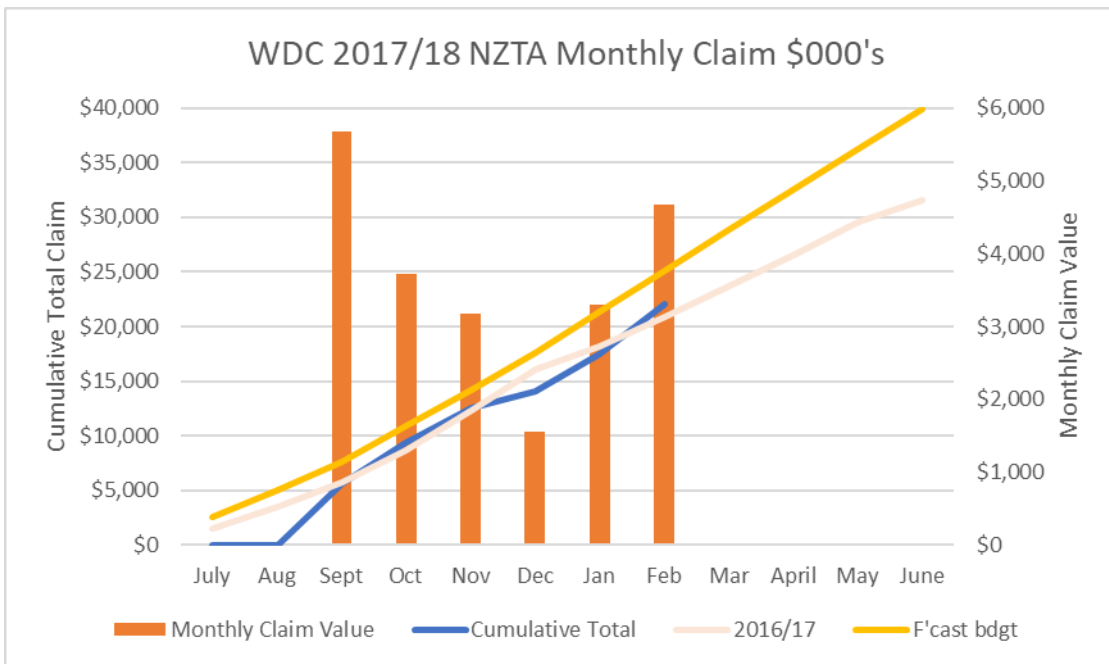


Fig. 1 Whangarei District Council Subsidised Roading Programme - Expenditure to end Feb 2018

Based on current expenditure WDC is on track to meet forecasted expenditure of \$40m. Two major risk areas being:

- LED lights and the possibility of delay in supply of the fittings from Italy. This is an extensive supply problem being experienced by many councils across NZ. Funding carryover provision and extension of the 85% financial assistance rate are currently being reviewed by NZTA.
- The provision of Cycleway intersection controls by a KiwiRail nominated subcontractor for the completion of stages 1&2 of the Kamo Shared Path.

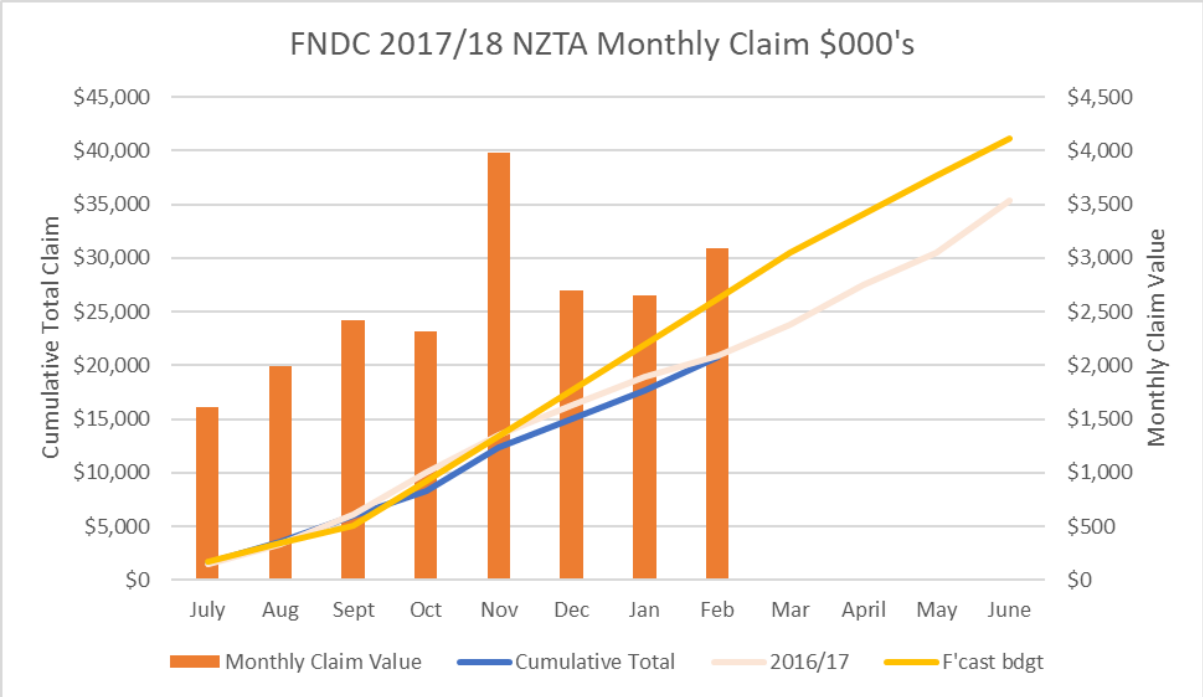


Fig. 2 Far North District Council Subsidised Roding Programme - Expenditure to end Feb 2018

Based on current expenditure FNDC is on track to meet forecasted expenditure of \$42.6m. Major risk areas are identified as:

- LED lights and the possibility of delay in supply of the fittings from Italy. This is the same issue as for WDC. Funding carryover provision and extension of the 85% financial assistance rate are currently being reviewed by NZTA.
- Current Forward Works Program for the Sealing and Rehab Work not being completed due to inclement weather.
- Tender packages for resilience work not being awarded and physical work not being completed by June 30, funding for this will be able to be carried forward.

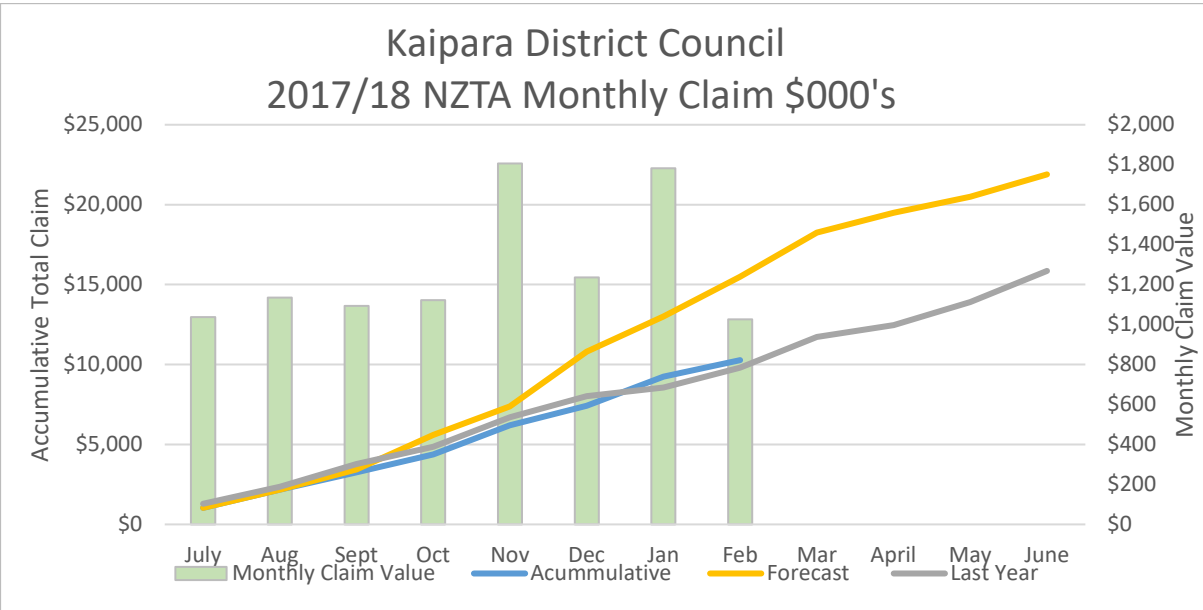


Fig. 3 Kaipara District Council Subsidised Roding Programme - Expenditure to end Feb 2018

Based on current expenditure KDC is on track to meet forecasted expenditure of \$22m. Three areas of comment being:

- Reseal programme completion – We are looking to appoint an additional reseal contractor to help catch up on the current programme to ensure delivery.
- LED lights – Currently we have a saving of around \$300,000 which we are proposing to use on the procurement of v-category lights.
- Emergency Slips – We are currently on track to complete the contract however we may not use the entire funds due to pricing coming in under estimate.

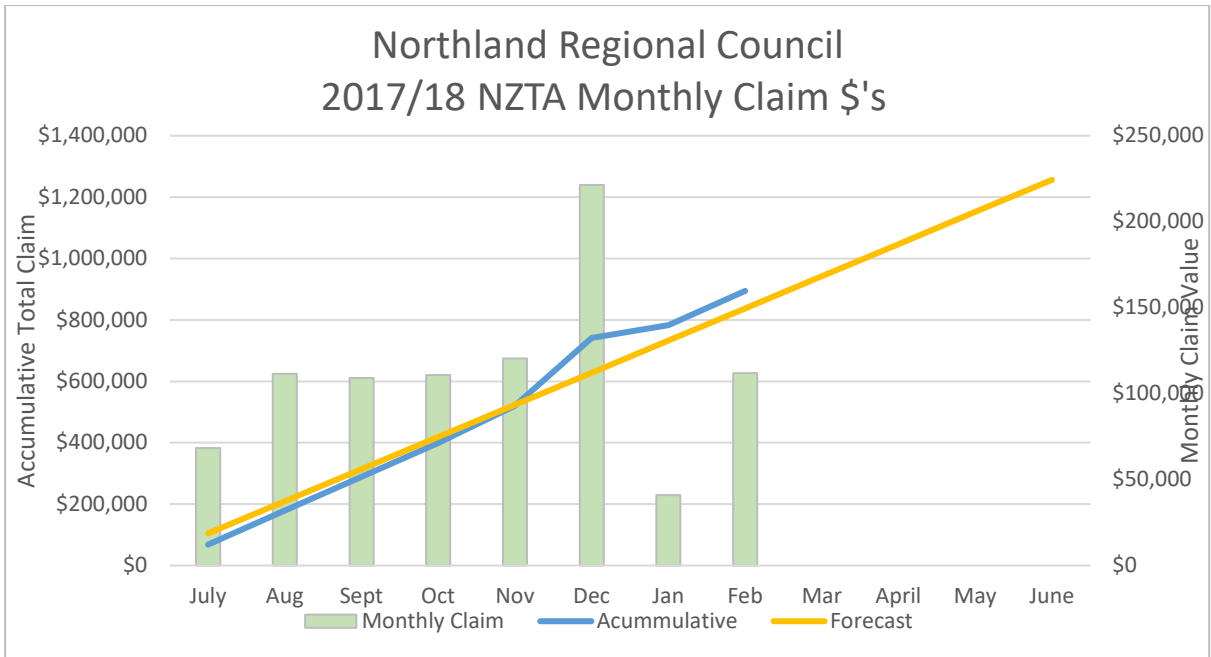


Fig. 4 Northland Regional Council Subsidised Transport Programme - Expenditure to end Feb 2018

Based on current expenditure NRC is on track to meet forecasted expenditure of \$1.3m.

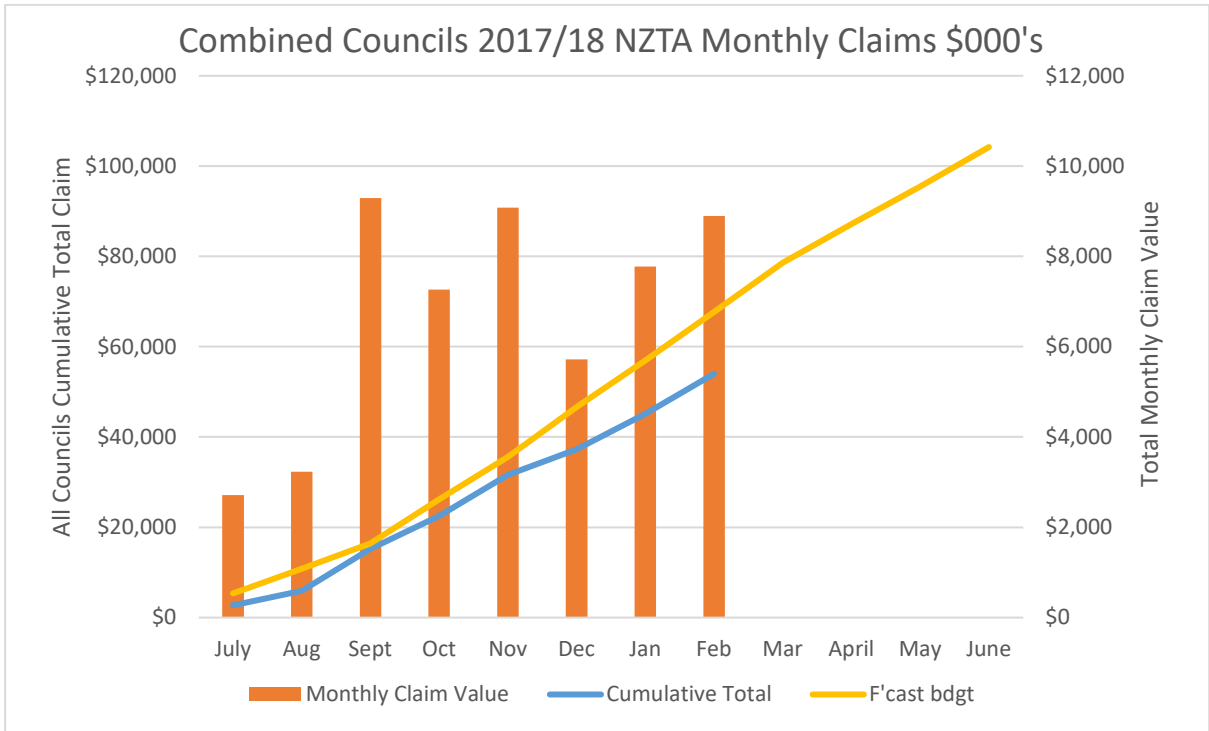


Fig. 5 Consolidated Subsidised Programme for all Northland Councils - Expenditure to end Feb 2018

Based on current projections total combined Council expenditure is expected to meet the total forecast budget of \$104m by the end of the financial year, with risks and exceptions noted above.

5. NTA 2017/2018 Annual Business Plan

Key Result Area 1 - Maintaining Business as Usual: Very good progress is being made towards a regional approach to collaborative service delivery without disruption to normal council services.

Key Result Area 2 – Service Delivery Model: The project to establish a new service delivery model is being advanced as quickly as possible. This will provide a better framework about how the NTA will organise itself to achieve its purpose, service the Councils, and enable better regional integration.

Key Result Area 3 – Developing People: The NTA has a clear focus to further develop a high performing team with greater capacity and capability. The NTA has maintained good staff retention, and continues to have very good recruitment results to better deliver our services.

Key Result Area 4 - Contributing and Staying Relevant: NTA staff contribute to the wider industry and sector through active involvement in inter-regional and national initiatives, in particular REG Leadership Group, REG regional workshops for guidance on AMP development, REAAA Low Volume Roads workshops, Road Controlling Authorities Forum’s Special Interest Group in Low Volume Roads and the Dust Working Sub-Group, and RIMS (Road Information Management Systems group).

6. New/Future Challenges

6.1 Draft GPS 2018/19 - 2027/28

The Government Policy Statement on Land Transport (GPS) sets out the government’s priorities for expenditure from the National Land Transport Fund over the next 10 years. It sets out how funding is allocated between activities such as road safety policing, state highways, local roads and public transport.

As part of developing the new Government’s GPS for 2018/19 – 2027/28 (GPS2018) a draft of the document will be released in March for people to review and provide feedback. The Government’s vision for transformation is considerable and some early detail of what is likely to be in the engagement draft of the GPS has been released in a Ministry of Transport document “*A preview of the draft GPS 2018 detail*”, and is attached as Attachment 1.

The new GPS may present new challenges/opportunities for Northland councils, may require alterations to the RLTP, LTPs and the NTA work programme.

6.2 Tūa Whenua Provincial Growth Fund (PGF)

A key component of the Government coalition agreement between Labour and New Zealand First was the establishment of a regional development fund. The new \$1 billion per annum Tūa Whenua Provincial Growth Fund was officially launched in Gisborne on 23 February by Regional Economic Development Minister Shane Jones. The PGF aims to enhance economic development opportunities, create sustainable jobs, contribute to community well-being, lift the productivity potential of regions, and help meet New Zealand’s climate change targets. The Government’s Overview document is attached in Attachment 2.

All regions are eligible for funding. At the PGF launch the Minister announced provision of \$17.5 million to help create jobs, address infrastructure deficits, diversify the regional economy and enhance the tourism opportunities that exist in Northland. The first regional funding packages announced support the regions the Government deems most neglected in the recent past: in Tai Tokerau/Northland, Tairāwhiti-East Coast, Hawke’s Bay and Manawatū-Whanganui, and the West Coast of the South Island.

The NTA Manager is part of a Steering Group established by the CE’s Forum to oversee and guide funding applications from the four Northland Councils. In particular, NTA staff are involved in the development of applications for roading, transportation, and walking/cycling project funding or at an early stage, Expressions of Interest.

The government is expected to review PGF applications as they are received, and may announce further funding packages for approved projects in April.

influence how the results should be delivered to ensure the best transport solutions for New Zealand are achieved. The following themes are likely to be included in the draft GPS:

- a mode neutral approach to transport planning and investment decisions
- incorporating technology and innovation into the design and delivery of land transport investment
- integrating land use and transport planning and delivery.

This document represents an early and important step towards a new approach

This Government’s vision for transformation is considerable and fully reflecting its vision will be a longer-term process involving further engagement with the sector later in the year.

As the details of that process develop, we will provide further information.

Timeline for GPS 2018

The timeline to release GPS 2018 is as follows:

- March 2018 - draft GPS 2018 released for engagement for around a month
- April/May 2018 - following engagement, feedback will be considered and revisions made
- May 2018 - in line with the Land Transport Management Act 2003, consultation with the New Zealand Transport Agency Board will occur
- June 2018 – final GPS 2018 will be released.

ATTACHMENT 2: Government Overview

Provincial Growth Fund

Priorities

The Provincial Growth Fund will lift productivity potential in the provinces. Its priorities are to enhance economic development opportunities, create sustainable jobs, enable Māori to reach their full potential, boost social inclusion and participation, build resilient communities, and help meet New Zealand's climate change targets.

Investment tiers

The Fund has **three** investment tiers which will deliver these priorities:



Regional projects and capability

Supporting initiatives for economic development, feasibility studies and capability building.



Sector Investment (Including the One Billion Trees programme)

Investing in initiatives targeted at priority and/or high value economic opportunities.



Enabling Infrastructure projects

Investing in regional infrastructure projects that will lift productivity and grow jobs.

Oversight

The Fund will be overseen by a core group of Regional Economic Development Ministers. The group will monitor the Fund's performance and discuss regional opportunities. To support the Fund's implementation two new groups will be established - a Regional Economic Development Unit in the Ministry of Business, Innovation and Employment, and an Independent Advisory Panel. The Unit will be responsible for

leading the Fund's design, its administration and monitoring its operation in consultation with other government agencies.

The Panel will provide independent advice on sector projects and the balance of the portfolio of investments.

The type of project and scale of investment will determine how funding is approved - whether senior government officials or Ministers.

Criteria for all tiers

Projects will be assessed against criteria organised around four themes:

- **Link to Fund and government outcomes** - The project should lift the productivity potential of a region or regions, and contribute to other Fund objectives. This includes jobs, community benefits, and improved use of Māori assets, sustainability of natural assets, and mitigating and adapting to climate change.
- **Additionality** - The project needs to add value by building on what is there already and not duplicating existing efforts. The project also needs to generate clear public benefit.
- **Connected to regional stakeholders and frameworks** - Projects should fit in with agreed regional priorities and need to be discussed with relevant local stakeholders.
- **Governance, risk management and project execution** - Projects will need to be supported by good project processes and those involved should have the capacity and capability to deliver the project. Projects need to be sustainable in the longer term beyond the Fund's life.

Surge regions

All provinces are eligible for funding (outside the three main cities). However, these regions have been identified as needing early investment:



How to apply

Projects will be assessed to ensure investment fits with their scale and risk profile. The overall package of investments will be tracked to ensure strategic fit. Individual projects need to support and build on one another.

There are no application rounds for the Fund. Go to www.mbie.govt.nz for more information or email PGF@mbie.govt.nz for details on how to apply and what the criteria will be for your application.

ATTACHMENT 3: Kaipara District Roding Operations February 2018 Report

1 NTA Overview

1.1 Health and Safety

There have been no incidents reported for February.

1.2 General

Based on current expenditure and expectations the Roding team are on track to meet forecasted expenditure of \$22m. Further comments are below.

2 Road Safety Northland

2.1 Health and Safety

No health and safety issues have been reported.

2.2 Road Toll

The road toll for the year stands at one after a death on 2 February from a crash on 6 January. The passenger was killed when a vehicle left the road on SH12 in Turiwai. The vehicle hit a ditch and the passenger's seatbelt broke.

3 OPEX – Maintenance

3.1 General

Due to February's hot temperatures and a lack of pavement moisture, grading is not normally achievable in February but with an average of 159mm of rainfall across the district for the month (100mm more than normal), a weeks' worth of grading was achieved. This saw 55.5km or 5% of the unsealed network graded.

3.2 February Financials

WC	Activities /Programmes	2017/18 Claim Submitted to date	2017/18 NZTA Budget	2017/18 Current Progress %	Remaining Actuals vs NZTA
Local road maintenance - Local Roads					
111	Sealed pavement maintenance	\$996,048	\$1,565,840	63.61%	\$569,792
112	Unsealed pavement maintenance	\$1,467,776	\$2,454,000	59.81%	\$986,224
113	Routine drainage maintenance	\$421,414	\$521,457	80.81%	\$100,043
114	Structures maintenance	\$98,131	\$265,850	36.91%	\$167,719
121	Environmental maintenance	\$317,409	\$516,516	61.45%	\$199,107
122	Traffic services maintenance	\$396,243	\$746,425	53.09%	\$350,182
131	Level crossing warning devices	\$4,516	\$10,225	44.17%	\$5,709
151	Network and asset management	\$780,986	\$1,462,175	53.41%	\$681,189
	Grand Total	\$4,482,523	\$7,542,488	59.43%	\$3,059,965

Operational expenditure is tracking well against forecast with some minor adjustments to be made through Forecast 2.

3.3 Maintenance contract 682

A number of minor contract management concerns were raised with the contractors during February. These were immediately addressed with corrective plans provided resulting in Broadspectrum achieving a full KPI bonus payment for the month.

4 CAPEX - Capital projects

4.1 Health, safety and quality

There have been no reported health and safety issues regarding any contracts.

4.2 General

Reseal programme completion – An additional reseal contractor is to be appointed to help catch up on the current programme to ensure delivery on time.

LED lights – Currently there is a saving of around \$300,000. It is proposed to use the savings on the procurement of v-category lights.

Emergency slips – On track to complete the programme of slips with savings due to pricing coming in under estimate, leaving a surplus of funds.

4.3 Financial performance measures

WC	Activities /Programmes	2017/18 Claim Submitted to date	2017/18 NZTA Budget	2017/18 Current Progress %	Remaining Actuals vs NZTA
Emergency works and Preventive Maintenance		\$806,986	\$2,919,200	27.64%	\$2,112,214
Local road maintenance - Local Roads					
211	Unsealed road metalling	\$1,239,638	\$2,396,055	51.74%	\$1,156,417
212	Sealed road resurfacing	\$820,815	\$2,400,000	34.20%	\$1,579,185
213	Drainage renewals	\$250,250	\$409,852	61.06%	\$159,602
214	Sealed road pavement rehabilitation	\$764,019	\$950,000	80.42%	\$185,981
215	Structures component replacements	\$132,431	\$436,267	30.36%	\$303,836
222	Traffic services renewals	\$98,162	\$189,572	51.78%	\$91,410
Subtotal		\$3,305,315	\$6,781,746	48.73%	\$3,476,431
Road safety promotion					
432	Road Safety Promotion 2015-18-Medium Strategic fit	\$88,817	\$181,005	49.07%	\$92,188
Subtotal		\$88,817	\$181,005	49.07%	\$92,188
Local road improvements					
324	LED Streetlight Upgrade-Construction	\$2,655	\$1,200,000	0.22%	\$1,197,345
341	Minor improvements 2015-18-Local Roads	\$1,564,292	\$3,220,369	48.57%	\$1,656,077
Subtotal		\$1,566,947	\$4,420,369	35.45%	\$2,853,422
Grand Total		\$5,768,065	\$14,302,320	40.33%	\$8,534,255

The district wide average rainfall of 159mm had an impact on all ongoing projects. A contingency plan has been put into place with the appointment of an additional reseal contractor to be appointed to help catch up on the current programme and the selection of a panel of contractors to undertake selected projects.

4.4 Progress on capital projects

Project Name	Status PCC = Practical completion	Physical Works Complete (%)	Actual Cost vs Contract Price (%)	Physical Works Completion Due	Contract Value
Minor Improvements 2016/2017					
837 Baldrock RP 500-520 slips	Final claim not yet processed	99%	-	Completed	\$200,496
Minor Improvements 2017/2018					
835 Kaikohe Bridge 228 Replacement	Awarded to The Rintoul Group			June 2018	\$490,623
839 Pukehuia RP9,650 slip	In progress. Variation to include new slip	65%		Apr 2018	\$167,831
885 Garbolino Slip RP765-823	Designs in progress. Deferred to 2018/2019				
873 Tara Rd Footpath	Awarded BRS – works just started	5%	-	May 2018	-
884 Bickerstaffe slip RP5570	Awarded to Hubands	-	-	May 2018	-
889 LED Street lighting install	P/W started	-	-	June 2018	618,117
896 Bee Bush/Arapohue/Hoyle Int	Out for pricing through the panel				
Paparoa-Oakleigh Cnr easing	Waiting on tech specs	-	-	-	-
Opanake RP4660 site benching	Completed under Con 682	100%		-	-
Mangawhai Town plan improvement	Opus to revise documents	-	-	-	-
School Zones	Otamatea to progress this year balance next year	-	-	-	-
Doctors Hill	P/W under Con 682	-	-	-	-
Paparoa Pram Crossing	Completed under Con 682	100%	-	-	-
Seal Extensions 2017/2018					
870 Waihue Rd	In progress	95%		Mar 2018	\$933,031
Emergency Works					
876 Mangawhai slips	In Progress	60%	-	Mar 2018	\$1.2M
882 Wintle Street	Design in progress	-	-	-	-
883 Kaiwaka-Mangawhai slip	Awarded to TRGL	-	-	May 2018	\$45,990
884 Gorge Road	Awarded to Huband			May 2018	
893 Wairere/Girls High School Rd	Tender evaluation in progress	-	-	May 2018	-

Project Name	Status <small>PCC = Practical completion</small>	Physical Works Complete (%)	Actual Cost vs Contract Price (%)	Physical Works Completion Due	Contract Value
Unsubsidised Road Infrastructure 2017/2018					
834 Settlement Rd	In progress with site clearance	-	-	Apr 2018	\$749,995
Heavy Metalling 2017/2018					
2017/18 Heavy Metalling Round (un Contract 682)	In progress	51.74%	-	Jun 2018	\$1.98m
Resurfacing 2013/2018					
725 Reseals 2013/18	In Progress	34.2%	-	Apr 2018	\$1.164m
Bridges and Structures 2017/2018					
857 Bridge Structures & Components	In progress	70%	-	Apr 2018	\$185,639

5 Asset Management

5.1 Asset Management Plan

NZTA are assessing all RCA (Council) bids this week for reporting to the April NZTA Board with funding recommendations for all draft funding, out to industry in April.

High speed data collection for sealed and unsealed roads completed. Data verification underway.

Consideration being given to a project to complete a 100% condition assessment of all footpaths in the District using GPS, photos and a small scooter.

5.2 Financial Budgets

WC	Activities /Programmes	2017/18 Claim Submitted to date	2017/18 NZTA Budget	2017/18 Current Progress %	Remaining Actuals vs NZTA
Investment management (incl. Transport Planning)					
3	Activity Management Plan/ONRC transition plan-AMP improvements	\$25,043	\$50,000	50.09%	\$24,957
	Grand Total	\$25,043	\$50,000	50.09%	\$24,957

3 Minutes

3.1 Confirmation of Council minutes 23 February 2018

Administration Manager 1601.22

Recommended

That the unconfirmed minutes of the meeting of Kaipara District Council held 23 February 2018 be confirmed as a true and correct record.

**The first meeting of Kaipara District Council
following the Mayoral By-election 2018
Swearing in the Mayor**

Minutes

Meeting	Kaipara District Council
Date	Friday 23 February 2018
Time	Meeting commenced at 9.02am Meeting concluded at 9.15am
Venue	Northern Wairoa War Memorial Hall (Dargaville Town Hall), 37 Hokianga Road, Dargaville
Status	Unconfirmed

Membership

Chair: Mayor Jason Smith

Members: Deputy Mayor Peter Wethey
Councillor Anna Curnow
Councillor Victoria del la Varis-Woodcock
Councillor Julie Geange
Councillor Libby Jones
Councillor Karen Joyce-Paki
Councillor Jonathan Larsen
Councillor Andrew Wade

**Shelley Paniora
Executive Assistant**

09 439 3123

spaniora@kaipara.govt.nz

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Unconfirmed

**Minutes of the first meeting of Kaipara District Council
following the Mayoral By-election 2018
9.00am Friday 23 February 2018, Dargaville**

1 Opening

[Secretarial Note: Pursuant to clause 14 of schedule 7 of the Local Government Act 2002, Deputy Mayor Wethey chaired this meeting until Mayor Smith was sworn in by the Acting Chief Executive. Mayor Jason Smith assumed the Chair thereafter.]

1.1 Mihi

Executive Assistant to Chief Executive opened the meeting with a karakia. Operations Engineer welcomed the new Mayor-Elect with a mihi.

1.2 Council Waiata

Staff sang the Kaipara District Council Waiata.

1.3 Present

Mayor Jason Smith, Deputy Mayor Peter Wethey and Councillors Anna Curnow, Victoria del la Varis-Woodcock, Julie Geange, Libby Jones, Karen Joyce-Paki and Jonathan Larsen

Name	Designation	Item(s)
Peter Tynan	Acting Chief Executive	All
Curt Martin	Chief Operating Officer and General Manager Infrastructure	All
Fran Mikulicic	General Manager Regulatory, Planning and Policy	All
Hannah Gillespie	General Manager People and Capability	All
Robert Nelson	Acting General Manager Risk, IT and Finance	All
Shelley Paniora	Executive Assistant to CE	All
Brian Armstrong	Operations Engineer	All
Ben Hope	External Public Relations Officer	All
Linda Osborne	Administration Manager	All
Lisa Hong	Administration Assistant	All (Minute-taker)

Other members of the public and Council staff were also present.

1.4 Apologies

Councillor Andrew Wade was absent without apologies.

2 Declaration of Results of Mayoral By-election 2018

Declaration of result by Deputy Mayor

Deputy Mayor Wethey declared the Electoral Officer's results of the 2018 Mayoral By-election for the Kaipara district and welcomed the new Mayor-Elect.

3 Statutory Declaration by Mayor-Elect to Acting Chief Executive

Acting Chief Executive 1301.01/2018E

Declaration by Mayor-Elect

Mayor-Elect Smith was sworn in by the Acting Chief Executive as the Principal Administrative Officer pursuant to clause 14 of schedule 7 of the Local Government Act 2002, by making a verbal and written declaration as below:

I, Jason Smith, declare that I will faithfully and impartially, and according to the best of my skill and judgement, execute and perform, in the best interests of the Kaipara district, the powers, authorities, and duties vested in or imposed upon me as Mayor of the Kaipara District Council by virtue of the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, or any other Act.

After being sworn in by the Acting Chief Executive, Mayor Smith assumed the Chair.

Moved Larsen/Curnow

That Kaipara District Council receives the declaration of the results of the Kaipara District Council Mayoral By-election 2018, as notified by public notice on 21 February 2018.

Carried

Closure

The meeting closed at 9.15am.

Confirmed

Chair

**Kaipara District Council
Dargaville**

3.2 Confirmation of Council minutes 28 February 2018

Administration Manager 1601.22

Recommended

That the unconfirmed minutes of the meeting of Kaipara District Council held 28 February 2018 be confirmed as a true and correct record.

Kaipara District Council

Minutes

Meeting	Kaipara District Council
Date	Wednesday 28 February 2018
Time	Meeting commenced at 9.03am Meeting concluded at 2.17pm
Venue	Ruawai-Tokatoka War Memorial Hall, Ruawai Wharf Road, Ruawai
Status	Unconfirmed

Membership

Chair: Mayor Jason Smith

Members: Deputy Mayor Peter Wethey
Councillor Anna Curnow
Councillor Victoria del la Varis-Woodcock
Councillor Julie Geange
Councillor Libby Jones
Councillor Karen Joyce-Paki
Councillor Jonathan Larsen
Councillor Andrew Wade

Linda Osborne
Administration Manager

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**Minutes of Ordinary meeting, Kaipara District Council
28 February 2018, Dargaville**

1 Opening
1.1 Karakia

Councillor Joyce-Paki opened the meeting with a karakia.

1.2 Present

Mayor Jason Smith (Chair), Deputy Mayor Peter Wethey and Councillors Anna Curnow, Victoria del la Varis-Woodcock, Julie Geange, Libby Jones, Karen Joyce-Paki, Jonathan Larsen and Andrew Wade

Name	Designation	Item(s)
Peter Tynan	Acting Chief Executive	All
Curt Martin	Chief Operating Officer and General Manager Infrastructure	All
Fran Mikulicic	General Manager Regulatory, Planning and Policy	All
Robert Nelson	Acting General Manager Risk, IT and Finance	All
Michaela Borich	Project Manager and Business Analyst	5.1—5.4
Ben Hope	Public Affairs Officer	All
Darlene Lang	Key Relationships Manager Community	7.1, 7.2
Paula Hansen	Policy Analyst	All
John Burt	Property and Commercial Advisor	7.5, 8.2
James Bews-Hair	Governance and Procedural Advisor (in lieu of General Manager Governance, Strategy and Democracy)	All
Lisa Hong	Administration Assistant	All (Minute-taker)

Adjournments

Reason	Start time	Finish time
Tea break	10.48am	10.58am
Lunch break	1.12pm	1.33pm

1.3 Apologies

With leave from the Mayor, Councillor del la Varis-Woodcock left the meeting at 12.45pm.

With leave from the Mayor, Councillor Joyce-Paki left the meeting at 1.08pm.

With leave from the Mayor, Councillors Jones and Wade left the meeting at 1.12pm.

[Secretarial Note: Councillors del la Varis-Woodcock and Joyce-Paki were present for items 1, 3, 4 and 5.1—5.4 of the meeting in their entirety, and present for the discussion but not voting of item 5.5. Councillors Jones and Wade were present for sections 1, 3, 4 and 5 in their entirety.]

1.4 Confirmation of Agenda

The Committee confirmed the Agenda.

[Secretarial Note: Item 2.1, presentation 'Ultra Fast Broadband rollout in Kaipara district' was taken out of order at the Chair's discretion, commencing at 1.33pm, to facilitate the travel arrangements of the presenter.]

Moved Curnow/Wade

That items 7.1 and 7.2 to be taken out of order, between sections 4 and 5.

Carried

1.5 Conflict of Interest Declaration

Name	Conflict
Councillor Curnow	<p>Item 7.2 Dargaville Arts Association Licence to Occupy Variation for Municipal Buildings, Dargaville</p> <p>Councillor Curnow is a member of the Dargaville Community Development Board. This organisation is a potential tenant for the Dargaville Arts Association should the variation to allow subletting be approved by Council.</p>

1.6 Resolution Register and Action Tracker

Moved Curnow/del la Varis-Woodcock

That Kaipara District Council receives the Resolution Register dated 21 February 2018 as circulated.

Carried

2 Deputations, Presentations and Petitions

2.1 Ultra Fast Broadband rollout in Kaipara district

Gerard Linstrom, Stakeholder Community Manager, Chorus

On behalf of Chorus, Gerard Linstrom spoke in the public forum regarding the Ultra Fast Broadband (UFB) rollout in the Kaipara district and tabled the PowerPoint presentation.

3 Minutes

3.1 Confirmation of Council minutes 25 January 2018

Administration Manager 1601.22

Amendment

Item	Amendment
Item 1.2 Present	The reference to 'Governance Services Manager' to be changed to 'Democratic Services Manager'.

Moved Jones/Geange

That the unconfirmed minutes of the meeting of Kaipara District Council held 25 January 2018 be confirmed as a true and correct record, with following amendment:

- *Correction under section 1.2 Present: reference to 'Governance Services Manager' to be changed to 'Democratic Services Manager'.*

Carried

3.2 Committee minutes (Confirmed) January and February 2018

Administration Manager 1601

Moved Curnow/Geange

That Kaipara District Council receives the confirmed minutes of the following Kaipara District Council Committee meetings, for information:

- 1 *Reserve Contributions Committee meeting held 03 November 2017; and*
- 2 *Community Grants Committee meeting held 14 November 2017; and*
- 3 *Mangawhai Community Park Governance Committee meeting held 27 November 2017; and*
- 4 *Audit, Risk and Finance Committee meeting held 01 December 2017; and*
- 5 *Taharoa Domain Governance Committee meeting held 11 December 2017.*

Carried

3.3 Northland Regional Council Regional Transport Committee minutes 06 December 2017

Moved Geange/del la Varis-Woodcock

That Kaipara District Council receives the unconfirmed minutes of the Northland Regional Council's Regional Transport Committee's meeting held 06 December 2017, for information.

Carried

4 Performance Reporting

4.1 Chief Executive's Report January 2018

Chief Executive: 2002.02.18/February

Moved Wethey/Curnow

That Kaipara District Council receives the Chief Executive's Report for the month of January 2018.

Carried

4.2 Quarterly Performance Measures: Second Quarter Ending 31 December 2017

Administration Manager 2002.02.18/February

Moved Geange/Jones

That Kaipara District Council receives the Administration Manager's revised tabled report 'Quarterly Performance Measures: Second Quarter Ending 31 December 2017', for information.

Carried

[Secretarial Note: At the direction of the Mayor, items 7.1 and 7.2 were moved to this part of the meeting to facilitate a member of the public present, who is a stakeholder to these items as a member of the Dargaville Arts Association.]

The meeting adjourned at 10.48am.

The meeting recommenced at 10.58am.

5 Long Term Plan

[Secretarial Note: The papers in this section were circulated under a separate cover.]

5.1 Significance and Engagement Policy – Draft

Policy Analyst 2304.09

Moved Geange/Curnow

That Kaipara District Council:

- 1 *Receives the Policy Analyst's report 'Significance and Engagement Policy - Draft' dated 13 February 2018; 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 Significance and Engagement Policy, circulated as Attachment 2 to the above-mentioned report, with amendment:*
 - *Sentence 'Council will comply with sections 58c-58u of the Resource Management Act 1991 relating to Mana Whakahono a Rohe' be added to item 7.1 Engaging with the Maori (Supplementary Items Vol 1, p.18).*

Carried

5.2 Treasury Policy – Adoption

Financial Services Manager 2304.01

Moved Curnow/Wethey

That Kaipara District Council:

- 1 *Receives the Financial Services Manager's report 'Treasury Policy – Adoption' dated 15 February 2018; 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 Treasury Policy, circulated as Attachment 1 to the above-mentioned report.*

Carried

5.3 Mangawhai Community Plan Final: Adoption

Policy Analyst 3802.04

[Secretarial Note: 'Funding options for the first three years' were tabled at the meeting, to replace 'Options for funding' table on page 31 of the Mangawhai Community Plan (Supplementary Items Vol.1, p.94).]

Moved Wethey/Curnow

That Kaipara District Council:

- 1 *Receives the Policy Analyst's report 'Mangawhai Community Plan Final: Adoption' dated 12 February 2018; 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 Mangawhai Community Plan (circulated as Attachment 1 to the above-mentioned report) as a source document for the Consultation Document for the Long Term Plan 2018/2028, with the following amendments:*
 - *Replace 'Options for funding' table (Supplementary Items Vol.1, p.94) with 'Funding options for the first three years' tabled at this meeting (28 February 2018), with narrative from the Consultation Document (Item 5.5, Attachment 1 of the agenda 28 February 2018), and with 'per unit of demand' added to headings for Development Contributions; and*
 - *'Sources of Information' to be reduced to list of document names only (Supplementary Items Vol.1, p.95); and*
 - *Minor formatting changes.*

Carried

5.4 Long Term Plan 2018/2028 : Approval of source documents for the preparation of the LTP

Project Manager **2302.22**

[Secretarial Note: Amended version of the Reserve Contributions (use of) Policy was tabled at the meeting.]

Moved **del la Varis-Woodcock/Curnow**

That Kaipara District Council:

- 1 *Receives the Project Manager's report 'Long Term Plan 2018/2028 : Approval of source documents for the preparation of the LTP' dated 20 February 2018; 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 Revenue and Financing Policy for public consultation under the Local Government Act 2002 s82; and*
- 4 *Approves the Reserve Contributions (use of) Policy as amended at this Council meeting (28 February 2018), with following amendments:*
 - *Addition of catchment maps as attachments;*
 - *Changes to the flow chart (with formatting changes to be added later); and*

- 5 Adopts as source documents for the Long Term Plan 2018/2028 Consultation Document as required by s93 of the Local Government Act 2002 as amended by the Local Government Amendment Act 2014, the following as circulated with the above-mentioned report or tabled at this meeting (28 February 2018):
- Significant Forecasting Assumptions;
 - Nine Activity Profiles financials;
 - Eight Asset Management Plans for Roads and Footpaths, Wastewater, Water Supply, Solid Waste, Stormwater, Community Activity, Raupo Land Drainage and Northern Area Land Drainage;
 - Development Contributions Policy;
 - Infrastructure Strategy;
 - Financial Strategy;
 - Revenue and Financing Policy and analysis;
 - Funding Impact Statement (Rating Tools);
 - Prospective Statements;
 - Group Funding Impact Statements; and
- 6 Subject to Auditors' written approval with authority delegated to the Mayor and Acting Chief Executive to make any changes in response to Auditors' feedback, alongside minor amendments identified in the editing and final audit process, and following amendments made at this meeting (28 February 2018):
- Asset Management Plan for the Provision of Roads and Footpaths – the 'Organisation structure' was removed (Supplementary Items Vol.3, p.19);
 - Financial Impact Statement – date changed from May 2018 to May 2019 (Supplementary Items Vol.5, p.195)
 - Revenue and Financing Policy – Forestry Targeted Rate was added to list of Targeted Rates (Supplementary Items Vol.5, p.165)
 - Financial Strategy, Rating structure – in the second sentence 'Rating valuation' to be changed to 'Rating revaluation' and third sentence amended to 'Within residential some areas, lower valued properties in particular, saw substantial rises in value, and as a consequence larger than average increase in liability for rates' (Supplementary Items Vol.1, p.127).

Carried

5.5 Long Term Plan 2018/2028 : Approval of Consultation Document – A Bright Future

Project Manager 2302.22

[Secretarial Note: New version of the Consultation Document, Feedback Form and new text for the Reserve Contributions section were tabled at the meeting. 'Funding options for the first three years', as tabled for item 5.3, will also replace the 'Mangawhai Community Plan Options' section of the Consultation Document. Councillors del la Varis-Woodcock and Joyce-Paki were

present for most of the discussion of this item, however left the meeting before the motion was put to vote.]

Moved Wade/del la Varis-Woodcock

That Kaipara District Council:

- 1 *Receives the Project Manager's report 'Long Term Plan 2018/2028 : Approval of Consultation Document – A Bright Future' dated 20 February 2018; 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 Consultation Document 2018/2028 (as tabled at this meeting 28 February 2018) for public engagement, subject to any minor amendments identified in the editing and final audit process, and following amendments (page numbers refer to the tabled document):*
 - *P.17 – Forestry target funding to be amended with addition of 'exotic forestry landowners';*
 - *P.5 – Private seal extension removed from concurrent consultation list;*
 - *P.33 – '...including potentially increasing debt levels currently projected \$27.8 million' to be added;*
 - *P.21 – Netball photograph to be added;*
 - *P.24 – correction: \$100,000 CAPEX (not operating expenses);*
 - *P.26 – 'It is estimated a comprehensive review would cost up to \$4.3 million over five years' to be removed;*
 - *P.26 – 'Do you think there is a need for re-zoning land for future growth? Where do you think these areas may be?' to be added;*
 - *P.26 – The review section (with bullet points) to be moved to the 'What do you think?' section;*
 - *Heading 'Impact on LTP budgets' be added to all relevant sections for consistency;*
 - *P.38 – 'District Leadership' heading to be amended to 'District Leadership, Finance and Internal Services';*
 - *P.9 – 'Te Iwi o Te Roroa' be included under the ethnicity infographic;*
 - *P.16 – 'Funding options for the first three years', as tabled for item 5.3, to replace the 'Mangawhai Community Plan Options' table, with the addition of 'units of demand' to headings for Development Contributions;*
 - *P.4 – Councillor name and title corrections;*
 - *P.20 – Reserve Contribution section to be replaced by the new version tabled at the meeting.*

Carried

Councillor del la Varis-Woodcock left the meeting at 12.45pm.

Councillor Joyce-Paki left the meeting at 1.08pm.

Councillors Jones and Wade left the meeting at 1.12pm.

The meeting adjourned at 1.12pm.

The meeting recommenced at 1.33pm.

[Secretarial Note: Item 2.1, presentation 'Ultra Fast Broadband (UFB) rollout in Kaipara district' was taken out of order at the Chair's discretion to facilitate the travel arrangements of the presenter, commencing at 1.33pm.]

6 Information Papers

6.1 General Bylaw Review

Regulatory Manager and Policy Planner 3204.02

Moved Larsen/Geange

That Kaipara District Council receives the Regulatory Manager's and Policy Planner's report 'General Bylaws Review' dated 16 February 2018.

Carried

7 Decision Papers

[Secretarial Note: At the Mayor's discretion, items 7.1 and 7.2 were taken out of order, between sections 4 and 5, to facilitate a member of the public present, who is a stakeholder to these items as a member of the Dargaville Arts Association.]

7.1 Licence to Occupy Review

Policy Analyst 5101

Moved Wade/Joyce-Paki

That Kaipara District Council:

- 1 *Receives the Policy Analyst's report 'Licence to Occupy Review' dated 12 February 2018 and its attachments; 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 *Delegates to the Community Grants Committee the authority to review and recommend amendments to the Community Assistance Policy to provide clear policy guidance for Licences to Occupy, including amendments to the standard Licence to Occupy template; and*
- 4 *Notes the Community Grants Committee's recommendation that Council declines the current request by the Dargaville Arts Association for a variation to their Licence to Occupy, as per the report 'Dargaville Arts Association Licence to Occupy Variation for Municipal Building, Dargaville' that was included in Kaipara District Council's Ordinary meeting agenda on 14 November 2017; and*
- 5 *Directs the Chief Executive to review the Rates Remission Policy to ensure there is consistency with the Community Assistance Policy.*

Carried

7.2 Dargaville Arts Association Licence to Occupy Variation for Municipal Building, Dargaville

Key Relationships Manager Community 5105.09

[Secretarial Note: Councillor Curnow declared conflict of interest for this item and did not participate in the discussion nor vote for this item.]

Moved Geange/Wade

That Kaipara District Council:

- 1 *Notes the Parks and Community Manager's report 'Dargaville Arts Association Licence to Occupy Variation for Municipal Building, Dargaville' dated 16 October 2017 and included in the agenda for Kaipara District Council's Ordinary meeting on 14 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 *Declines, consistent with the recommendation from the Community Grants Committee, the request by the Dargaville Arts Association for a variation to their Licence to Occupy, as per the report dated 16 October 2017.*

Carried

7.3 Kaipara District Council Raw Water Supply Funding Options

[Secretarial Note: At the Mayor's discretion, this item was taken out of order, commencing at 1.49pm.]

General Manager Regulatory, Planning and Policy 4817.0

Moved Larsen/Curnow

That Kaipara District Council:

- 1 *Receives the General Manger Regulatory, Planning and Policy's report 'Kaipara District Council Raw Water Supply Funding Options' dated 20 February 2018;*
- 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 *Determines that it will provide assistance to affected dwelling owners in line with Option A (owner fully pays) within the above-mentioned report or previous report (Council agenda 25 January 2018 Item 7.5) which was left to lie on the table.*

Carried

7.4 Rural Connectivity Group (RCG) - Council Support

Moved Geange/Wethey

That Kaipara District Council:

- 1 *Receives the Policy Planner's report 'Rural Connectivity Group (RCG) - Council Support' dated 16 February 2018; 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 *Confirms support to make Council land available where appropriate to use for the construction of infrastructure proposed through the Rural Broadband Initiative Phase 2 and Mobile Blackspot Fund project free of charge through a formal agreement; and*
- 4 *Waives all fees associated with any resource consent or building consent fees applied for under the Rural Broadband Initiative Phase 2 and Mobile Black Spot Fund initiatives; and*
- 5 *Provides appropriate support with engagement and uptake, and assists with community awareness of the project and, where appropriate, liaison with key stakeholders.*

Carried

7.5 Road Stopping and Sale - Murray Road, Tangowahine**Property and Commercial Advisor 5105.12**

[Secretarial Note: A map of the relevant area was tabled at the meeting.]

Moved Geange/Larsen*That Kaipara District Council:*

- 1 *Receives the Property and Commercial Advisor's report 'Road Stopping and Sale - Murray Road, Tangowahine' dated 14 February 2018 and the tabled map of the area; 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 stopping of a 12.5ha parcel of unformed Murray Road in Tangowahine, (as identified in Attachment 1 to the above-mentioned report) under s116 of the Public Works Act; and*
- 4 *Delegates to the Chief Executive responsibility for reaching agreement with the purchaser on the terms and conditions of the Sale and Purchase Agreement; and*
- 5 *Notes that the purchaser will meet all costs associated with the transaction.*

Carried

8 Public Excluded Council items 28 February 2018

Meeting went into Public Excluded session at 2.05pm.

Moved Wethey/Curnow

That the public be excluded from the following part of the proceedings of this meeting namely:

- *Confirmation of Public Excluded Council minutes 25 January 2018; and*
- *Lease of Office Unit: Unit 5, The Hub, 6 Molesworth Drive, Mangawhai, first right of refusal.*

The general subject matter of each matter to be considered while the public is excluded, the reasons for passing this resolution in relation to each matter and the specific grounds under s48(1) of the Local Government Official Information and Meetings Act, 1987 for the passing of this resolution are as follows:

General subject of each matter to be considered:	Reason for passing this Resolution	Ground(s) under Section 48(1) for the passing this resolution:
<p><i>Confirmation of Public Excluded Council minutes 25 January 2018</i></p>	<p><i>Section 7(2)(i) enables any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).</i></p>	<p><i>Section 48(1)(a) That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.</i></p>
<p><i>Lease of office unit : Unit 5, The Hub, 6 Molesworth Drive, Mangawhai. First right of refusal.</i></p>	<p><i>S7(2)(i) enable any local authority holding the information to carry on without prejudice or disadvantage negotiations (Including commercial and industrial negotiations</i></p>	<p><i>S48(1) (a) That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.</i></p>

Carried

9 Open meeting Council minutes 28 February 2018

The meeting came back into Open session at 2.09pm.

Moved Geange/Larsen

That the public be re-admitted to the meeting and resolutions made whilst in Public Excluded be confirmed in Open Meeting.

Carried

9.1 Confirmation of Public Excluded Council minutes 25 January 2018

Democratic Services Manager 1601.22

Moved Geange/Wethey

That the Public Excluded Minutes of the Council meeting held 25 January 2018 be confirmed as a true and correct record.

Carried

9.2 Lease of Office Unit: Unit 5, The Hub, 6 Molesworth Drive, Mangawhai, first right of refusal

Property and Commercial Advisor 5103.0/2131.05

Moved Larsen/Geange

That Kaipara District Council:

- 1 *Receives the Property and Commercial Advisors report 'Lease of Office Unit: Unit 5, The Hub Mangawhai, first right of refusal' dated 14 February 2018; 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 entering into a lease of Unit 5, The Hub, 6 Molesworth Drive, Mangawhai for a period of up to 44 months from 03 March 2018 and delegates to the Chief Executive responsibility for the negotiation of final lease terms.*

Carried



Closure


The meeting closed at 2.17 pm.

Confirmed

Chair

**Kaipara District Council
Dargaville**

Unconfirmed

 KAIPARA DISTRICT <small>Te Kaitiaki Take Kōwhiri</small>	Title of Policy	Reserve Contributions (use of) Policy		
	Sponsor	Commissioner Winder	Adopted by	Council
	Author	J McPherson	Date originally adopted	16 December 2014
	Type of Policy	xx	Last review date	28/02/2018
	File Reference	2304.17	Next review date	16/12/2020

Document Control			
Version	Date	Author(s)	Comments
1 st Commenced	16/12/2014	J McPherson	
1.0	27/11/2017	P Hansen Policy Analyst	Amended through review by Reserve Contributions Committee
2.0	25/01/2018	P Hansen Policy Analyst	Amended Policy Adopted by Council for Consultation?

1. Background

1.1 Financial contributions

Financial contributions are a type of levy applied to offset the effects of growth. Council has a Financial Contributions Chapter in its District Plan. This outlines how much can be imposed on land developers when a resource (land use or subdivision) consent is approved. The District Plan relies on the provisions of the Resource Management Act to define how financial contributions can be spent. **Reserve contributions** are a subset of financial contributions.

Section 108(10)(a) of the Resource Management Act 1991 (the Act) allows Council to require financial contributions for reserves, where necessary, to achieve one or more of the following purposes:

- a) Creating open space (including recreation areas, visual buffers and amenity areas) through reserve contributions.
- b) Adding capacity to or otherwise enhancing existing open spaces (including recreation areas, visual buffers and amenity areas) through reserve contributions.
- c) Giving public access to coastal areas, reserves, bush areas or areas of special character through reserve contributions.

1.2 Reserves contributions

Council may require a financial contribution in cash or land towards the establishment and/or upgrading of reserves and public open space areas as a condition of land use consent or subdivision consent.

In the Kaipara District Plan section 22.6.6 details the purpose of reserve contributions:

“By requiring developments to pay their fair and reasonable share of the costs of purchasing land for reserves or upgrading existing reserves.

New developments generate an increase in demand for, and usage of, reserves, open space and public recreation facilities. All new developments will be required to contribute towards the costs of acquiring new, or upgrading existing reserves, open space or facilities, in accordance with Council’s Reserves and Open Space Strategy.

Financial contributions for reserves will only be used for the purchase and development of new reserves or for the improvement and development of existing ones. The maintenance of reserves and recreational facilities is funded through rates.”

In section 22.10.6 of the District Plan describes what purposes a reserve contribution will be put:

Any **reserve contribution** required as a condition of land use consent or subdivision consent may be in the form of:

- a) Land to be set aside and vested in Council for reserve or public open space purposes; or
- b) A cash contribution to Council for it to carry out works relating to developing or upgrading reserves or public open spaces in the district.

In addition under Section 108 of the Act, Council can require as a resource consent condition works on any reserve or public open space. Such works may include but are not limited to:

- a) Fencing;
- b) Landscaping including grassing and tree planting;
- c) Provision of play equipment and other recreational facilities (including tables/chairs); and
- d) Provision of footpaths and walking tracks.

When the contributions are taken as land vested in Council;

- a) There must be a demonstrable current or foreseen future shortage of open space in a particular area; and
- b) The land must be suitable for the intended purpose.

2. Objectives of this Policy

The objectives of this Policy are:

- a) For Council or a committee of Council to define the priorities it has for the use of reserve contributions;
- b) To use these priorities to determine projects of greatest benefit to the community; and
- c) To allow community input and participation through a discretionary contestable process.

3. Definitions

Reserve contributions: a mechanism in the District Plan that allows for the collection of levies from developers, so that Council can develop or upgrade reserves and other public open spaces.

Open space: recreational areas, visual buffers and amenity areas (as described in the Act).

Local: the district has been divided up into four catchments described as Dargaville and Surrounds; Maungaturoto, Paparua, Tinopai and Surrounds; Kaiwaka and Surrounds; Mangawhai and Surrounds. The catchment areas are depicted in Appendix A.

4. Existing parks and reserves

For information on the existing parks and reserves refer to the Reserves and Open Space Strategy.

5. Eligibility criteria

5.1 Criteria for eligibility for use of reserves contributions

When assessing proposals for the use of reserve contributions, Council will have regard to the following criteria:

- a) Creating public open spaces (including recreation areas, visual buffers and amenity areas).
- b) Adding capacity to or otherwise enhancing existing public open spaces (including recreation areas, visual buffers and amenity areas). This can include:
 - bringing existing reserves up to a minimum standard for public use e.g. supplying public toilets in recreation reserves;
 - landscaping; and
 - providing equipment e.g. seats, barbecues, playgrounds.
- c) Giving public access to coastal areas, reserves, bush areas or areas of special character. This is typically through:
 - the development of walking tracks; and
 - the purchase of land that connects two public areas otherwise not accessible to the public.
- d) Within each catchment, consideration will be given to the amount of funds collected in the locality of a proposed project.
- e) Consideration will be given to projects that add amenity to the parks and reserves that are lacking in amenities.

All allocations will be judged against their fit with these criteria. The funds will not be used for normal asset management (maintenance, repairs and renewals).

6. Distribution of reserve contributions

Council will generally apply funds in the locality in which they are generated, and may apply up to 20% of the funds in other parts of the district.

7. Public contestable funding round

A public contestable funding round will be held on an annual basis for catchments where sufficient funds have accumulated to make the process worthwhile. Where there are sufficient funds Council will typically aim to distribute them within three years of collection.

During each round projects initiated by Council, and community groups within the catchment will be considered by the Reserve Contributions Committee. The Reserve Contributions Committee will then make recommendations to the full Council for approval.

All decisions on whether and how to distribute the funds will be at the sole discretion of Council and are final.

a) Contestable fund distribution

There is a need for a high level of transparency and accountability for the spending of reserves contributions. To enable this standard to be met, accountability arrangements will be documented in a formal Contract between the community organisation receiving support and Council. The Agreement will be appropriate to reflect the nature and level of support given.

Funding will be implemented through a Contract which will outline:

- The project for which the funding was provided for;
- The conditions attached to the funding;
- 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.

b) Timing of applications

The timing of reserve contribution grants will be matched with the planning and budgeting cycles of the Council. In the first year of operation of this Policy Council will call for applications in February and release decisions by the end of May. In subsequent years, Council will call for applications in June, and release decisions by the end of October. Should there be sufficient reserve contributions collected during the year Council may consider opening up a second funding round.

Decisions on reserve contributions distribution will be recommended to Council by the Reserve Contributions Committee, who has been given delegated authority from Council to make recommendations on applications. Council will then make the final decision. All grants entered into during the year will be reported in the Annual Report for that year.

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

c) General assessment criteria

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

d) Consistency with the Reserve Contributions (use of) Policy

Any application will need to be consistent with the eligibility criteria of section 5 of the Reserve Contributions (use of) Policy.

e) Not-for-profit

With the exclusion of any Council application, Council assistance will only be provided to legally constituted not-for-profit entities, and there should be a volunteer component to any non-Council applications.

f) 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.

g) Central government funding

Community organisations that can receive funding from central government will be considered for grants, however no central government agency may apply for funding.

h) Health and safety

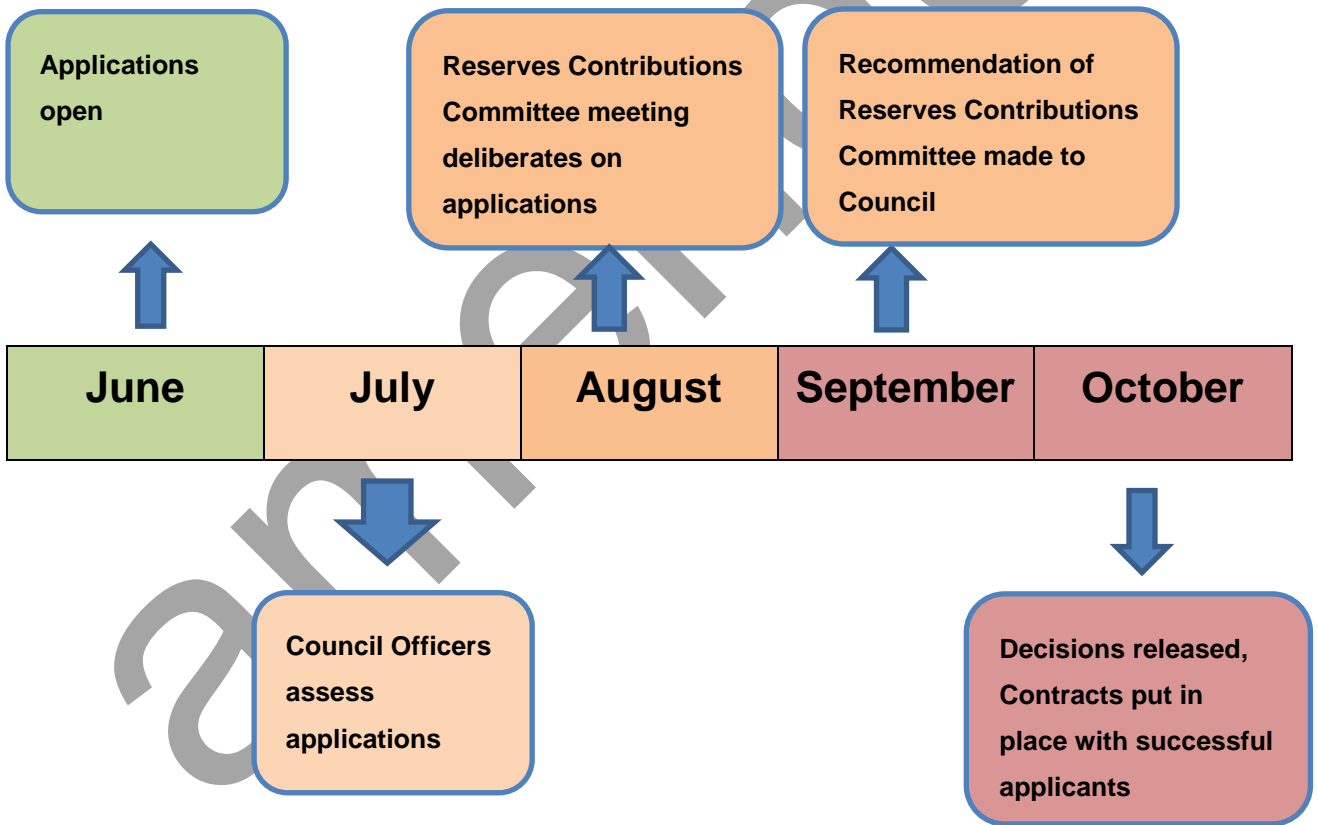
Applicants must comply with all health and safety legislative requirements.

i) Accountability requirements

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

- The purpose and conditions of the assistance; and
- Accountability requirements, as determined by the level of assistance required.

Contestable Application Process



Attached to this policy are the catchment maps relating to funding catchment areas.

4 Performance Reporting

4.1 Chief Executive's Report February 2018

Acting Chief Executive 2002.02.18/February

Recommended

That Kaipara District Council receives the Chief Executive's Report for the month of February 2018.



Chief Executive's Report

For the month of February 2018

Part One

- a) Chief Executive's overview**
- b) Activities report**
- c) Contract acceptances**
- d) Looking forward**

Part Two

Financial Report to 28 February 2018

Part One

a) Chief Executive Overview – February/March

The past two months have been extremely busy for Council across all departments. Below is an update on current key issues/topics.

Long Term Plan

By the time Council receives this report, the consultation period will be in its final week. The public “drop in” sessions have had modest but worthwhile attendance. A number of service requests have come from these. The next phase will be hearings on submissions before direction seeking and decision-making Council meetings in May.

Kaihu and Maungaturoto raw water users

We continue to work with Kaihu residents on solutions going forward with funding options as approved by Council. The assessments are now complete for Maungaturoto residents and insanitary notices issued for those businesses and residential dwellings using the raw water for domestic/drinking purposes. A meeting is to be held with those impacted to discuss the remediation options. Our primary concern remains the health and welfare of these residents.

Raupo stopbank and Baylys Beach sandbags

The Raupo stopbank onsite geotechnical report has been presented. We have sought quotes to complete the required remediation works from a number of parties. Once we have costs we can present these to stakeholders. We are concerned that we are entering the winter season where these works will become more difficult. A Council decision regarding this is likely to be needed in April/May.

Work continues on the options for the Baylys Beach entrance, which requires a co-ordinated approach between Roading and Waters. A report will be included in Council papers.

Provisional Growth Fund










We continue to seek additional funding for the region in line with the criteria issued for the fund. Long term we will need to consider how we engage the community, to work with other interested groups to create a funnel of applications. A verbal update will be provided at the meeting on progress to date.

Chicken farm application

Submissions have closed and appointment of the joint Commissioners panel will follow with a hearing to follow thereafter.

Customer Service statistics

We are now able to collate statistics on activity levels in Customer Services. For the seven weeks of operation since inception, we have received 10,835 contacts, made up of 4,311 telephone calls, 3,695 walk-ups to reception and 2,829 emails. It is clear we need to urgently fix a range of issues including our level of resource, improve our processes and move faster toward digital servicing if we are to lift key service metrics.

All of Council - Key Performance Indicators (all \$ in 000's)								
	Indicators	What is being tracked	MTD Target	Actual	YTD Target	YTD Actual		Comment
1	Debt Level	Net Bank debt tracked on a year to date basis	N/A	N/A	June 2018 \$57,712	Jan 2018 \$39,282		Debt levels will track up over the next few months
2	Resident survey satisfaction	Overall performance as measured by Key Research Group	N/A	N/A	Increasing trend	Jan 2018 62%		Result down 8% on previous quarter
3	Surplus or deficit	Surplus/(Deficit) before loan payments and depreciation	N/A	N/A	Jan 2018 (\$611)	Jan 2018 \$12,237		As reported in January 2018 financial report
4	Employee engagement	Overall perception	N/A	N/A	69%	Pulse Survey Feb 2018 63%		Completed. Trending upwards
5	Legislative compliance	LGOIMA and LIMs responded to in statutory deadlines	N/A	68 received	N/A	439 received, 100%		All LIMs and current LGOIMAs responded to within deadlines
6	Building accreditation maintained and compliance with RMA	Blended result from resource and building consent along with BCA audits	Feb 2018 100%	Feb 2018 91%	Feb 2018 100%	Feb 2018 94%		
7	Activity profile performance metrics achieved	Tracking of performance measure to quarterly and annual targets	N/A	N/A	80%	78%		Next report due April/May
8	Capital works spend on track	Capital works spend within 5% + - of budget	N/A	N/A	\$10,453	\$7,608		Month and year to date capital works tracking behind. Unspent funds can be applied to reduce debt until required
9	Roading Capital Spend	Capital Works Spend			NZTA 14,302,320	5,768,065		% of total year spend 40.33

b) Activities Report

1 Community Activities for February

- Licence to Occupy review is well underway;
- Collating responses from the recent Glinks Gully Community AGM;
- Meetings held with the Tinopai Activity Zone Project Committee. This is a community-led project with support from Council. They have been set actions with regards to engaging with the community on their project;
- Facilitation of a temporary ice rink to be set up in Dargaville and Maungaturoto and working with local community groups;
- Attended Kaiwaka Can, Progressive Paparoa and Maungaturoto Residents meetings;
- Planning underway for further street tree planting in Kaiwaka, letters have been sent to residents;
- The Sport NZ Rural Travel Fund has opened and will close on 30 March 2018. Advertising is in the Lifestyler, Mangawhai Focus, Council's website and Facebook page; and
- Meeting held with Kaiwaka Community Hall Committee and Tangiteroria Sports Complex Committee to discuss funding options.

2 Parks and Reserves

- Ruawai toilet dispersal field has been cleared and upgraded with planting to be done when the weather allows;
- A UV disinfection system has been installed to the drinking water system at Lake Waikare;
- Drinking water quality testing at the Lakes is continuing;
- Easter weekend is now fully booked at both camp grounds in the Taharoa Domain;
- Downer is due to commence on the new Parks Maintenance Contract 860 on 01 March 2018;
- New wastewater resource consent has been granted by NRC for Pahi camp ground toilets and facilities; some alterations to the system will be required for compliance with the new consent which is being discussed with the camp committee; and
- Independent bi-annual playground audit has been received and we are currently looking through this to identify any major issues.

3 Roads and footpaths

Based on current expenditure and expectations the Roothing Team is on track to meet forecasted expenditure of \$22 million.

Generally, due to February's hot temperatures and a lack of pavement moisture, grading is not normally achievable, however with an average of 159mm of rainfall across the district for the month (100mm more than normal); a week's worth of grading was achieved. This saw 56kms or 5% of the unsealed network graded.

The rainfall did however adversely impact progress on the capital works projects with some projects' completion dates now later than initially anticipated.

An additional reseal contractor is to be appointed to help catch up on the current programme to ensure delivery on time. The emergency slips programme is on track with savings due to pricing coming in under estimate, leaving a modest surplus of funds.

4 Solid Waste

Operations were business as usual for the month, with the exception of recycling issues. Kaipara Refuse has encountered some difficulty selling glass with restrictions now placed on when and what colour glass can be sold. This issue has been resolved for the moment but is at risk of resurfacing.

The Bickerstaffe Road closed landfill capping design and specification has been submitted to Council for review and it is expected that the design will be finalised and the physical works contract tendered shortly.

The Hakaru closed landfill consent documentation is well underway with onsite Iwi consultation and the supporting ecological study completed. It is expected that the consent application will be ready for submission to the Northland Regional Council by the end of March 2018.

5 Four Waters

Fortunately, Cyclone Gita's path did not include the Kaipara district and we did not get the deluge and devastation which was experienced down south.

February was a relatively quiet month with routine activities focused on hydrant painting, flushing and repairing. All water quality samples were taken on time with no transgressions observed.

Bottled water deliveries to properties in Kaihu on the raw water line with Insanitary Building Notices are continuing.

For the Mangawhai wastewater scheme, inflow for the month of February totalled 18,062m³, compared with 12,172m³ for the corresponding month last year. The inflow was adversely affected by severe weather events. The plant returned to single CASS tank operation early February, and the plant is continuing to operate within resource consent limits. Due to persistent inclement weather in the month, irrigation application was substantially down. The irrigation expansion is underway and progressing well on the farm.

The tender for the construction of Quail Way stormwater improvements in Mangawhai has closed and is currently under evaluation.

6 Planning and Regulatory – February 2018

Planning	February 2018				
	Received		% On Time	Average Working Days	YTD % On Time
	2017	2018			
Resource Consent Applications	29	45 ↑	83%	18.8	91%
224 Applications	8	10 ↑	100%	1.1	100%
Service Requests	159	205 ↑	98%		98%
<ul style="list-style-type: none"> 13 additional lots, 7 in the Otamatea area and 6 elsewhere. Workloads continue to be high within the resource consents team with pressure on staff. The customer service/frontline component of the planners' role in particular is time-consuming with enquiries via service requests increasing by 28% on the same period in 2017. The public notification of the application by Tegel Foods Ltd has also created significant workload in terms of administration and ongoing enquiries. 					
Building	February 2018				
	Received		% On Time	Average Working Days	YTD % On Time
	2017	2018			
Building Consent Applications	50	56 ↑	91%	15.83	97%
CCC Applications			100%	0	99%
Service Requests	117	163 ↑	96%		96%
<ul style="list-style-type: none"> Four building consents were issued at 21 days, and one on day 26. This delay was solely due to processors workload issues. The combined value of building consent projects total \$11,825,646. 					

Regulatory	February 2018				
	Received		% On Time	Average Working Days	YTD % On Time
	2017	2018			
Alcohol Applications	7	15 ↑		20.25	
Food Control Audits and Inspections	67	28 ↓	100%		79%
Service Requests	155	243 ↑	96%		97%
<ul style="list-style-type: none"> Food Control Audits were back on target for the month. There were four dog attacks reported of which one incurred an infringement, two had insufficient evidence and one is leading to prosecution. There were 113 bylaw investigations carried out, two enforcement actions were taken and 111 investigations were resolved informally. 					
BCA Accreditation	February 2018				
	Due	Completed		YTD % Completed	
		YTD	February		
BCA Audits	1	19	1	95%	
Competency Assessments	1		1	100%	
BCA Training	0		0	100%	
<ul style="list-style-type: none"> Audits on target with BCM, QAM, SBO, TLBC now auditing. 					
Policy					
<ul style="list-style-type: none"> Three EOI's for Provincial Growth Fund are being prepared – Kaihu Raw Water storage, Dargaville Museum Redevelopment and Dargaville Digital Community Hub. Bylaws Review and Development underway. PC4 Fire Rule appeal received. This will incur significant staff and legal costs to respond. 					

7 LIMs Overview

A Land Information Memorandum (LIM) is a property information report compiled by Council. This is typically obtained by a potential buyer when looking to purchase a property and must be issued within 10 working days of receipt. In February, all 54 LIM applications were processed on time, taking an average of 8 working days.

8 Councillor queries

For the period 01 to 28 February, there were 42 Councillor queries received. Of these, 36 have been answered with further follow-up required on the remainder.

9 LGOIMA Overview – 01 February to 28 February

Below is a list of requests received for information under the Local Government Official Information and Meeting Act 1987. Information requested as a LGOIMA must be answered in 20 working days from the day of receipt. All requests were processed within statutory timeframes.

Name	Subject
Clive Boonham	Further information relating to vehicle crossings
Sam La Hood	Resource consent for broiler operation at Arapohue
Ritchies Transport	Grading schedule for Pouto Road
Carol Donovan	Tegel Chicken Resource Consent
Mina Henare	G Serjeant - Wetland Clearance Conservation Area
Carol Donovan	Tegel Farm Hatchery planning consent
Natalie Bird	Council staff list and structure
Thomas Mead - Media works	Stockpiles of tyres
Taxpayers Union	Entertainment, gifts and catering expenses
Clive Boonham	Advice on using MELA to fund MCP
John Wilson	Code of conduct re Wastewater Bylaw Officer
Whakapirau Residents and Ratepayers	Beach access
Housing New Zealand	Dog and Noise complaints – 84 Montgomery Avenue
Clive Boonham	By-election results and iteration

10 People and Capability

FTE end of February 2018: 106.84

Rolling turnover rate for 12 months to 28 February 2018: 20% showing a declining trend.

Staff Numbers	Forecast 1	February 2018
FTE Approved	120.4	126.04
Vacancies	12.25	19.2
FTE Active	108.15	106.84

11 Health and Safety

Health and Safety

Lag indicators (Reactive)

Staff OHS Events Table

Incident type	Events for month
Near Miss	3
Property Damage	0
Pain and Discomfort	1
Occupational Illness	0
First Aid Case	1
Medical Treatment Injury	0
Lost time Injury	0
Notifiable Event	0

Contract Worker OHS Events Table

Incident type	Events for month
Near Miss	6
Property Damage	3
Occupational Illness	0
First Aid Case	3
Medical Treatment Injury	1*
Lost time Injury	0
Notifiable Event	0

*Runner jumped off running board and twisted ankle (solid waste kerbside collections)

Lead Indicators (Proactive)

OHS Training Table

Training type	Number Trained
Staff Inductions	4
Advanced Driver Training	4

- KDC Health and Safety Committee meeting held on 20 February 2018;
- Asbestos containing material removed from road reserve Mountain Road, Kaiwaka;
- Ergonomics risk assessment developed and disseminated;
- KDC preferred contractors at 81% SiteWise (OHS pre-qualification) score.

12 Contract Acceptances

Contract Number	Name	Commentary
835	Kaikohe Road Bridge Replacement No. 228_11415	Awarded to The Rintoul Group for the tender price of \$490,622.52. The tender price is within approved budget.
873	Tara Road Footpath	Awarded to Broadspectrum for the tender price of \$371,580. The tender price is within approved budget.
881	LED Streetlighting Luminaire Supply	Awarded to Techlight Ltd for the tender price of \$228,600. The tender price is within approved budget.
884	Bickerstaffe Road and Gorge Road slip repairs	Awarded to Huband Contractors Ltd for the tender price of \$414,766.35. The tender price is within approved budget.
889	KDC P CAT LED Lighting Installation	Awarded to McKay Ltd for the tender price of \$618,116.92. The tender price is within approved budget.

13 Looking Ahead

April

26 Thursday Ordinary Council meeting 9.00am to be confirmed

May

02 Wednesday Proposed LTP Briefing 9.00am Mangawhai – to be confirmed
 09 Wednesday Proposed LTP Briefing 9.00am Paparua – to be confirmed
 10 Thursday Taharoa Domain Governance 2.00pm Northern Wairoa War Memorial Hall
 17 Thursday Raupo Drainage Board 10.00am Raupo Drainage Board Office, Ruawai
 17 Thursday Proposed LTP Briefing 9.00am Northern Wairoa War Memorial Hall
 21 Monday Mangawhai Community Park 10.00am Council office, Mangawhai
 23 Wednesday Ordinary Council meeting 9.00am Northern Wairoa War Memorial Hall

June

06 Wednesday Harding Park/Pou Tu Te Rangi 2.00pm Lighthouse Function Centre, Dargaville
 13 Wednesday Audit, Risk and Finance 10.00am Mangawhai Club, Mangawhai
 26 Tuesday Ordinary Council meeting 9.00am Northern Wairoa War Memorial Hall

Part Two

February 2018 Financial Report

Whole of Council Overview

Key Indicators for February are set out in the tables below.

	Year to Date February 2018			Indicator	Full Year	
	Actual \$000's	Budget \$000's	Variance \$000's		Budget \$000's	Forecast \$000's
Total Rates	22,908	22,280	627	●	33,421	33,437 ↑
Operating Subsidies and Grants	3,201	3,930	(729)	●	5,895	4,712 ↓
Activity Revenue and Other Income	4,685	3,441	1,244	●	5,100	5,905 ↑
Total Operating Income	30,794	29,652	1,143	●	44,416	44,054 ↓
Employee Benefits	6,670	6,305	(365)	●	9,458	9,970 ↑
Contractors	5,336	7,239	1,903	●	10,835	9,260 ↓
Professional Services	3,109	2,986	(123)	●	4,479	4,598 ↑
Repairs and Maintenance	2,057	2,059	2	●	3,088	3,504 ↑
Finance Costs	1,821	2,111	290	●	3,167	3,079 ↓
Other Operating Costs	3,398	3,469	72	●	4,940	5,075 ↑
Total Operating Costs	22,391	24,170	1,779	●	35,966	35,485 ↓
Operating Surplus / (Deficit) before Depreciation	8,403	5,482	2,922	●	8,449	8,569 ↑
Capital Subsidies	3,106	3,419	(313)	●	8,287	8,798 ↑
Contributions	2,946	792	2,154	●	1,188	2,499 ↑
Other Capital revenue	5,390	150	5,240	●	150	5,420 ↑
Total Capital Revenue	11,442	4,361	7,081	●	9,625	16,716 ↑
Capital Expenditure	7,608	10,453	2,845	●	20,128	22,422 ↑
Total Capital Expenditure	7,608	10,453	2,845	●	20,128	22,422 ↑
Subtotal Capital	3,834	(6,093)	9,927	●	(10,504)	(5,706) ↑
Surplus / (Deficit) before Loan Payments and Depreciation	12,237	(611)	12,848	●	(2,054)	2,863 ↑

KEY

- Favourable
- Unfavourable within 10% of Budget
- Unfavourable over 10% of Budget

Public Debt and Requirements			
	Jun-17	Feb-18	Jun-18
	\$000's	\$000's	\$000's
Debt			
Debt	62,127	42,000	58,295
Cash in bank (overnight deposits)	- 11,874	- 2,718	- 583
Net debt	<u>50,253</u>	<u>39,282</u>	<u>57,712</u>
Reserves (future obligations)			
General reserve funds committed	5,157		-
Targeted rates, council created and restricted reserves credit balances	14,884		13,360
Total	<u>20,041</u>		<u>13,360</u>
Debt Requirements			
Debt	62,127		58,295
Future obligations	20,041		13,360
Gross Debt	<u>82,168</u>		<u>71,655</u>
Less cash in bank	- 11,874		- 583
Net Debt	<u>70,294</u>		<u>71,072</u>

Statement of Operating and Capital Performance

Rates Revenue: Rates including penalties totalling \$5,000 were remitted during February in accordance with Council policy e.g. Uniform Annual General Charges (UAGC's) and Uniform Annual Charges (UAC's) for contiguous properties. Late payment penalties of \$116,000 were imposed in February for non-payment of instalment three.

Targeted rates continue ahead of budget for the year to date February due to higher water billings mainly in Dargaville. However monthly charges are reducing so the year to date difference is decreasing.

In addition penalties are ahead of budget for the year to date, however these will come closer to budget at year end when statute barred and abandoned land penalties are written back.

Operating Subsidies and Grants: Roading subsidies are below budget due to the lower contractor spend.

Activity Revenue and Other Income: User fees and charges are on budget for the February month and remain ahead of budget for the year to date February mainly due to continued high levels of activity within regulatory. Bookings for Kai Iwi Lakes camp ground continue to be strong after the Christmas peak. Activity revenue for the year to date includes \$129,000 of use of money interest from IRD and another income gain of \$405,000. This is part of the final receipts of an historic GST claim made in 2014.

Operating Costs: Overall costs are below budget for the month.

Contractor costs are below budget for the month of February and year to date. This mainly relates to the roading programme changes formalised in Forecast One. Costs in regulatory are also below budget but offset by higher professional services costs.

Repairs and maintenance costs on budget for the month and year to date February. There are higher costs within community activities for ground maintenance. Also extra works undertaken within the waters activities, especially stormwater due to the wet winter and water supply in Dargaville has been offset by lower costs in district leadership now the forestry blocks have been sold.

Finance costs remain below budget due to lower than planned debt levels.

Other operating costs are ahead of budget for the month and below budget for the year to date February. The month's result is due to lower roading recoveries charged to capital works. This is a timing difference and will correct when the works accelerate.

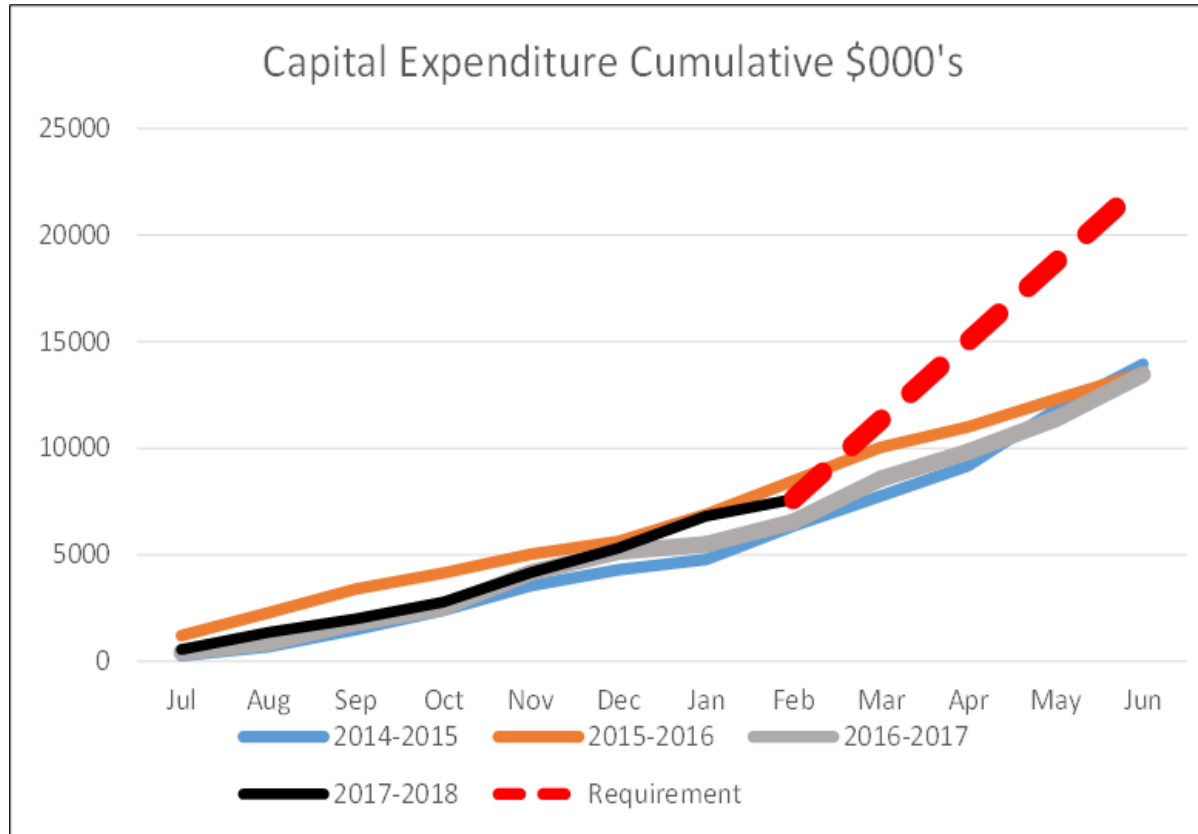
Capital Revenue:

Development contributions for the year to date stand at \$1,439,000. Of this \$1,217,000 is for the MCWWS and the balance roading. The total annual budget was \$648,000.

Financial contributions for the year to date are \$1,508,000 compared to the whole year budget of \$540,000.

Capital Expenditure:

Capital expenditure was \$0.8 million for the month and now is \$7.6 million for the year to date compared to the budget to the end of February of \$10.4 million and managers' own Forecast One total of \$13.9 million. The amount spent in February is the third lowest monthly spend in the current financial year at a time when capital works should be at peak summer activity levels. Activity managers continue to advise that much of the work is let and contractors have commenced or about to start works. The graph below shows the steep line of expenditure required to meet budget. The average monthly spend now stands at \$3.7 million to meet the amended budget value. The amended value includes \$2.3 million of capex carried over the previous year which is also scheduled to be completed before June 2018. Forecast Two to be completed in March/April will confirm the amount of work likely to be completed which could be as much as \$5 - \$6 million below the amended budget.

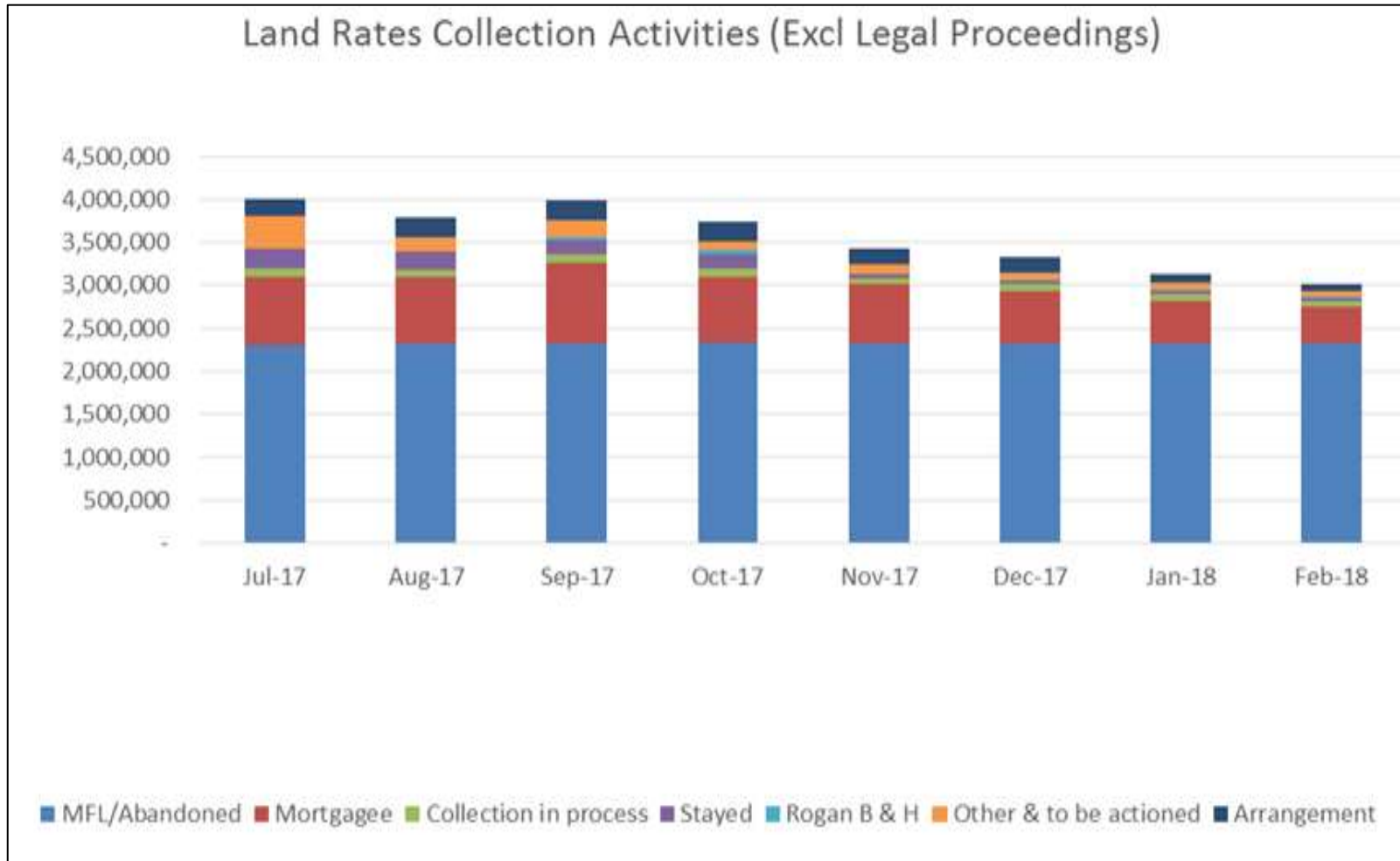


Public Debt

The public debt position at 28 February 2018 is \$42.0 million and the net debt position (debt less cash) is \$39.3 million.

Debtors

Land rates arrears over \$200 (prior years) at 28 February 2018 are \$1.1 million excluding \$2.2 million arrears for Maori Freehold and Abandoned Land. At 31 January 2018 the arrears were \$1.3 million. The graph below (left) represents land rates arrears collection activities with the exception of current legal proceedings of \$0.4 million.



For the period ended:		This Month				Year To Date				Whole Year	Whole Year
		Actual \$'000	Budget \$'000	Variance \$'000	%	Actual \$'000	Budget \$'000	Variance \$'000	%	Annual Plan Budget \$'000	Forecast One \$'000
28 February 2018											
Statement of Operating and Capital Performance											
Whole of Council											
Operating Revenues											
	Rates (General)	1,776	1,774	2	0.1%	14,225	14,194	31	0.2%	21,291	21,324
	Rates (Targeted)	891	948	-57	-6.0%	7,798	7,587	211	2.8%	11,380	11,363
	Rates (Penalties)	99	63	36	57.8%	885	500	385	77.0%	750	750
	User Fees and Charges	381	376	5	1.4%	3,540	3,015	525	17.4%	4,460	4,668
	Other Revenue	10	28	-18	-63.7%	776	226	551	244.0%	339	805
	Subsidies and Grants - Operational	287	491	-204	-41.5%	3,201	3,930	-729	-18.5%	5,895	4,712
	Investments and Other Income	20	25	-5	-19.9%	369	201	168	83.4%	302	433
	Total Operating Revenues	3,465	3,706	-241	-6.5%	30,794	29,652	1,143	3.9%	44,416	44,054
Operating Costs (excl. Depreciation)											
	Contractors	665	903	238	26.4%	5,336	7,239	1,903	26.3%	10,835	9,260
	Professional Services	358	373	15	4.0%	3,109	2,986	-123	-4.1%	4,479	4,598
	Repairs and Maintenance	252	257	5	2.1%	2,057	2,059	2	0.1%	3,088	3,504
	Other Operating Costs	396	333	-63	-18.8%	3,398	3,469	72	2.1%	4,939	5,075
	Employee Benefits	829	788	-41	-5.1%	6,670	6,305	-365	-5.8%	9,458	9,970
	Finance costs	193	264	71	26.9%	1,821	2,111	290	13.8%	3,167	3,079
	Total Operating Costs (excl. Depreciation)	2,692	2,919	226	7.8%	22,391	24,170	1,779	7.4%	35,965	35,485
	Operating Surplus/(Deficit) (before Depreciation)	773	787	-14	-1.8%	8,403	5,482	2,922	53.3%	8,450	8,569
Capital Funding											
	Subsidies and Grants - Capital	359	400	-41	-10.2%	3,106	3,419	-313	-9.1%	8,287	8,798
	Development Contributions	135	54	81	150.3%	1,439	432	1,007	233.1%	648	1,252
	Financial Contributions	75	45	30	67.8%	1,508	360	1,148	318.8%	540	1,247
	Rates (Capital)	0	0	0	0.0%	0	0	0	0.0%	0	0
	Sale of Assets	7	0	7	0.0%	5,390	150	5,240	3493.0%	150	5,420
	Total Capital Funding	577	499	78	15.5%	11,442	4,361	7,081	162.4%	9,625	16,716
	Total Capital Funding and Operating Surplus	1,349	1,286	63	4.9%	19,846	9,843	10,003	101.6%	18,075	25,285
Capital Payments											
	Capital Expenditure	800	1,236	435	35.2%	7,608	10,453	2,845	27.2%	20,128	22,422
	Total Capital Payments	800	1,236	435	35.2%	7,608	10,453	2,845	27.2%	20,128	22,422
Funding Surplus/(Deficit) - prior to reserve allocations and before Depreciation, Provisions and Operating Funds											
		549	51	498	984%	12,237	-611	12,848	-2103%	-2,053	2,863
Non Cash Accounts											
	Depreciation	814	814	0	0.0%	6,514	6,514	0	0.0%	9,771	9,732
	Provisions	0	8	8	100.0%	0	62	62	100.0%	92	69
	Vested Assets	0	0	0	0.0%	0	0	0	0.0%	0	0
	Total Memo Accounts	814	822	-8	-0.9%	6,514	6,576	-62	-0.9%	9,864	9,801

5 Information

5.1 WiFi Strategy for Kaipara DISTRICT – ‘Where to with WiFi?’

Policy Planner **2111.18**

Recommended

That Kaipara District Council receives the Policy Planners’ report “WiFi Strategy for Kaipara district – ‘Where to with WiFi?’” dated 15 March 2018, the PowerPoint presentation circulated with the report and the information contained therein.

File number: 2111.18**Approved for agenda** **Report to:** Council**Meeting date:** 28 March 2018**Subject:** WiFi Strategy for Kaipara District – ‘Where to with WiFi?’**Date of report:** 15 March 2018**From:** Paula Hansen, Policy Planner**Report purpose** **Decision** **Information****Assessment of significance** **Significant** **Non-significant**

Summary

Council has a role to play in ensuring that Kaipara’s communities are digitally included. There is potentially for adverse social, economic, educational and health issues to result if communities are digitally excluded. The presentation (**Attachment 1**) provides an overview of what Kaipara District Council currently does, regional initiatives and central government (national) direction. The presentation also suggests a way forward to help address any potential inequities between communities within the Kaipara district.

Recommendation

That Kaipara District Council receives the Policy Planners’ report “WiFi Strategy for Kaipara District – ‘Where to with WiFi?’” dated 15 March 2018, the PowerPoint presentation circulated with the report and the information contained therein.

Reason for the report

To support a staff presentation on ‘Where to with WiFi?’ outlining the end for a WiFi strategy to ensure Kaipara’s communities are digitally inclusive.

Background

Central government has a goal of becoming a leading digital nation. Therefore all central government departments are slowly becoming digitised and it is expected that contact and interaction will be through digital media.

To support this goal central government has provided funding to put infrastructure in place, known as the Ultra Fast Broadband (UFB) and Rural Broadband Initiative (RBI) and Rural Black Spot (RBS) initiatives. At a regional level this includes the establishment of the Northland Digital Enablement Plan (NDEP), which was used to initially support the rollout of RBI phase two project.

The NDEP is looking towards 100% connectivity for the Northland region. This is about having everyone within the region able to connect to the digital network. It also considers the next step of enabling people to connect. This is about addressing issues such as affordability and skills to connect.

Once the infrastructure is in place, it is expected that people should then be able to use the networks. Council has a role to play in ensuring that its communities are not digitally deprived.

Issues

Digitally deprived communities are at risk of falling behind. In cases where high deprivation is present this will become more apparent and the gap between high and low deprivation areas are likely to increase, with the likely result of communities becoming disengaged. Therefore it is important that Kaipara's communities do not become digitally deprived.

As central government departments become digitised, those who need to use their services need to have access to the technology e.g. computers, smart phones, tablets and they need to know how to use the technology e.g. how to switch on, navigate sites, know what are safe sites what are not. They also need to be able to afford the connection to the digital world.

Council is also becoming increasingly digitised and as a means for Council to encourage connection and engagement through digital format, Council needs to consider how it can support Kaipara's communities to do this. This about ensuring Kaipara's communities are digitally inclusive and minimise inequities between communities.

Attachments

- Presentation to Council – Where to with WiFi?



**Kaipara District –
Where to with WiFi?**



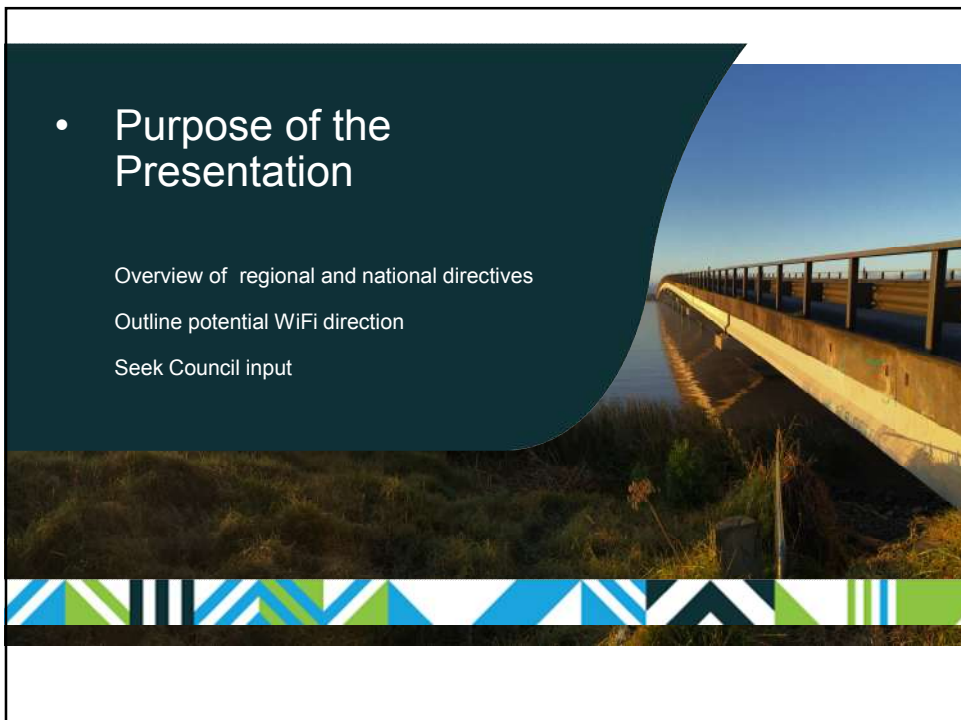
**KAIPARA
DISTRICT**
Kaipara te Orahoua - The Ocean, The Harbour




**DUNSTANVILLE
LIBRARY**
COMMUNITY RESOURCE
71




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- **Purpose of the Presentation**
 - Overview of regional and national directives
 - Outline potential WiFi direction
 - Seek Council input



**KAIPARA
DISTRICT**
Kaipara te Orahoua - The Ocean, The Harbour



A decorative border with geometric patterns in blue, green, and white is located at the bottom of the slide.

CURRENT KDC POLICIES - PROJECTS

Objectives of Dargaville Library internet and computer use Policy

- Internet and computers support information, learning and recreation needs;
- Service is accessible and equitable, and supports positive use;
- Ensure acceptable standards of use and behaviour;
- Users are aware of potential risks.

Free WiFi

- Dargaville Library (part of APNK) – subject to terms, conditions and filters;
- Maungaturoto, Kaiwaka and Mangawhai libraries (through Vodafone contract) no terms, conditions and filters.



CURRENT KDC POLICIES - PROJECTS

Spark Jump

- Partnership between Dargaville Library, Spark and 20/20;
- Access for families with school-age children;
- \$10 for 30GB (prepay system);
- Includes free training and free modem;
- Training and modem delivered through Te Roroa Learning Assistance in Dargaville and Maungaturoto;
- Can connect anywhere Spark network coverage is;
- Can monitor if modem is being used or not.

Other Free WiFi locations

- Around Spark telephone boxes;
- Some local cafes.



REGIONAL / NATIONAL INITIATIVES

Northland Digital Enablement Plan

- Initially written to support roll out of RBI2;
- Required support from all Northland councils;
- DEP – is currently being revised.

National

- Goal – to be a leading digital nation;
- Signature to Digital 7 Charter (was Digital 5 Charter);
- *ICT Strategy* to achieve the Government's aim of an ICT-enabled transformation of public services to New Zealanders.

Kaipara District Council

- Where to with WiFi within our communities?
- Council needs to identify key towns for free WiFi.



WHY KDC SHOULD TAKE NOTICE

Want to avoid communities becoming digitally deprived

Low adoption in digital uptake commonly results in:

- Low levels of local business competitiveness;
- Difficulty in attracting and sustaining new business investments;
- Knowledge gaps and understanding citizen's needs – the 'Digital Divide';
- Negative social, economical, educational, cultural and health flow-on effects.


Councils have a role to play:

- **Improve community access to the internet;**
- **Expand digital skills training opportunities;**
- **Supporting businesses to increase digital knowledge and online business opportunities.**



MARAЕ PROJECTS


- National E-Marae projects providing internet to those living near Marae. (Te Uri o Hau seeking funding)
- Ka Hao Māori Digital Fund aims to create high value jobs and opportunities that advance Māori in digital technologies. Fund's priorities:
 - Improving digital skills and pathways for Māori in digital technologies;
 - Growing digital technologies businesses;
 - Enhancing new Māori language and culture initiatives through digital technologies.



KDC FRAMEWORK

Strategy	Planning	Governance	Resources needed	Funding sources
What is Council's objective? Need an overall direction. Council's Officers need a mandate to undertake projects.	Who should be involved? How could support be given to initiatives? Costs? Timeframes?	Who is responsible? Who will champion? Is it supported by elected members and senior management, with resources made available.	Funding Expertise Time Community buy-in	RGD Partnerships with providers Other

A clear commitment and direction from Council means we are in a better position should outside funding become available.



COUNCILS OBJECTIVES AND OUTCOMES

WiFi Strategy – proposed direction

Vision: To have digitally well-connected communities with the appropriate resources and skills to use technology.

Objective 1 : To proactively develop a free-to-use WiFi network in the Kaipara District.

Objective 2 : To actively support the use and uptake of WiFi and digital technology within the Kaipara district.

Outcomes:

- Partnerships and relationships with Mana Whenua, Maori enterprises and key stakeholders to provide equitable solutions;
- Community needs met by providing access to the internet and computers through a WiFi network;
- WiFi service is accessible and equitable, and supports positive use;
- Local communities and visitors have the ability and means to connect;
- Community computer hubs are created at key locations;
- Individuals within the Kaipara district have the choice to be digital included.



WHAT COUNCIL COULD DO

Potential action points within a strategy framework:

- Investigate potential partnerships;
- Identify any barriers for delivery of free WiFi, and seek solutions;
- Consider options/conditions for free WiFi;
- Set the principles and framework for WiFi decisions by Council;
- Provide a platform on Council's website for digital promotion;
- Investigate how Council can support individuals in rural areas;
- Work with communities on solutions that will meet their needs;
- Identify and consider sites to provide computer hubs within communities;
- Be an active member of the Northland Digital Enablement Group.



POTENTIAL ISSUES

- Managing peoples expectations – things do not happen overnight;
- Procurement process to provide WiFi – hardware and services, will need to identify locations first, then through procurement process will identify the cost;
- Identifying suitable placement of hardware – close to backhaul and power supply;
- Connection challenges and providing WiFi to our future communities.

Question: how far does Council wish to go?



WHAT'S NEXT?

- Council Officers draft a strategy supported by current initiatives and Council direction;
- Select a Councillor Champion to assist with strategy development.

THANK YOU

Please email your feedback to Paula Hansen at policy@Kaipara.govt.nz



6 Decision

6.1 Private Seal Extension Policy 2018: Adoption for Community Engagement

Roading Manager 4101.01

Recommended

That Kaipara District Council:

- 1 *Receives the Roding Manager's report 'Private Seal Extension Policy 2018: Adoption for Community Engagement' dated 14 March 2018; 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 draft 'Kaipara District Private Seal Extension Policy 2018', circulated as Attachment 1 to the above-mentioned report, and seeks community feedback on the draft policy.*

File number: 4101.01

Approved for agenda
Report to: Council

Meeting date: 28 March 2018

Subject: **Private Seal Extension Policy 2018: Adoption for Community Engagement**
Date of report: 14 March 2018

From: Henri Van Zyl, Rooding Manager

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

Summary

Council has an operational guidelines on Private Seal Extensions that was adopted under a Commissioner-led Council. With a return to democracy, Council felt that it was appropriate to review the guidelines in response to public demand and interest in the sealing of unsealed Council roads.

At its July 2017 meeting, Council considered the current guidelines and asked that staff formulate a new policy. **Attachment 1** is a draft 'Kaipara District Private Seal Extension Policy 2018' (policy) for Council's consideration. It is recommended that Council seeks community feedback on the draft policy before making a final decision.

The draft policy sets out that applications for private seal extension that meet the criteria are considered on a first come, first served, basis. Any private seal extension project will also need to be formally considered as part of an Annual Plan or Long Term Plan planning cycle to ensure that these projects can be considered as part of the wider roading programme. Any works done will be subject to the Council's usual procurement process. Council may contribute up to 20% of the costs of any private seal extension project depending on whether it assesses there to be a wider community benefit to sealing the road and subject to the Council's funding. Council will fund the maintenance of the road after the seal extension is completed.

Recommendation

That Kaipara District Council:

- 1 *Receives the Rooding Manager's report 'Private Seal Extension Policy 2018: Adoption for Community Engagement' dated 14 March 2018; 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 draft 'Kaipara District Private Seal Extension Policy 2018', circulated as Attachment 1 of the above-mentioned report, and seeks community feedback on the draft policy.*

Reason for the recommendation

The draft Kaipara District Private Seal Extension Policy 2018 has been developed after feedback from Council.

Reason for the report

To present a draft Private Seal Extension Policy.

Background

Kaipara District Council manages a large roading network (1,574 km) of which 72% or 1,126 km is unsealed and 448 km is sealed.

Without subsidy from the NZ Transport Agency (NZTA), Council does not generally undertake new seal extension work. The exception for this is where development and/or financial contributions are available from development in that area to fund new sealed roads.

In response to being approached by local residents requesting Council to seal their respective roads ('private' seal extension), Council considered the current guidelines at its July 2017 meeting and provided feedback and direction asking that staff formulate a new policy based on this feedback. It is recommended that Council seeks community feedback on the draft Kaipara District Private Seal Extension Policy 2018 (policy).

Issues

Council needs to balance:

- it's financial constraints, being that it cannot afford to seal every road; and
- community demands for road sealing and the community's willingness to pay for it; and
- where appropriate, Council's contribution to the road sealing.

Factors to consider

Community views

Roading is Council's single largest spend and one of the largest areas of public interest. Turnout at public meetings has highlighted just how much interest road users and the public have regarding this activity.

There is a clear desire by many in the community who are serviced by unsealed roads to have their road sealed. The community expects Council to have a clear policy on how some or all of a community could achieve a private seal extension. It is recommended that Council seeks community feedback on the draft policy prior to finalising the policy.

Policy implications

The draft Kaipara District Private Seal Extension Policy 2018 has been developed to be consistent with Council's other roading policies including the Roading Policy 2002.

Financial implications

There are no significant immediate financial implications associated with this report. If the Policy becomes operational there may be financial implications in the future if Council makes changes to the roading budget in anticipation of undertaking additional road sealing (whether 100% community funded or with some Council contribution).

These potential implications would need to be considered through a relevant planning process (Annual Plan or Long Term Plan).

Legal/delegation implications

Having a policy would be considered best practice in a local government environment. The Policy has been developed with input from Council's solicitors.

The Policy is a non-statutory policy so there is no requirement on Council to prepare it, consult on it or have it follow a set format. It is recommended in terms of Council's Significance and Engagement Policy that it seeks community feedback on the draft policy.

Community Feedback Process

It is recommended that Council releases the draft policy for a period of one month with the opportunity to provide feedback to Council in writing.

Options

The options are:

Option A: Council adopts the draft Kaipara District Private Seal Extension Policy 2018 and sees community feedback.

The policy anticipates different scenarios for achieving a private seal extension. At a minimum, the community must fund at least 50% of the costs up front, with the remainder funded through a targeted rate. Council may contribute up to 20% of the costs where it considers that the sealing would be of wider benefit to the community.

Option B: Council amends the draft Kaipara District Private Seal Extension Policy 2018 and seeks community feedback.

Council may consider that the draft policy still needs further refinement and adopts the Policy with amendments.

Option C: Retain the existing guidelines.

Council may consider that, having considered alternatives, the existing guidelines are meeting requirements, and decides to retain the existing guidelines.

Assessment of options

Option A: The draft policy provides an explicit process for the administration of private seal extensions and does not have immediate financial implications for Council. The policy anticipates different scenarios while trying to balance administrative complexity. Under the draft policy, there is a reasonably high threshold for the community to meet in order to progress a seal extension project. The draft policy will require administrative resource by Council.

Option B: This option allows Council to make further refinements to the draft policy if there are areas that it considers need changing.

Depending on the scope of changes, there may need to be a delay in releasing the draft policy to the community for feedback while the changes are prepared.

Option C: This option requires no further work by Council or the community.

The current guidelines are dated and due for review as it was adopted under a Commissioner-led Council.

Assessment of significance

The issues in this report are considered to be of high public interest, and therefore of medium significance, but are not significant in terms of the Council's Significance and Engagement Policy.

The issues do not trigger the financial thresholds in the Significance and Engagement Policy, which are:

- It does not involve \$3,000,000 or more budgeted expenditure;
- It does not involve \$300,000 or more unbudgeted expenditure;
- The decision will not impact by increasing individual rate assessments by 10% or more; and
- It is not seen as a high risk activity or a contract for procurement.

It is recommended that Council seeks community feedback on the draft policy before finalising the policy.

Recommended option


The recommended option is **Option A**.

Next step

Council officers commence the community engagement process.

Attachments

- Draft Kaipara District Private Seal Extension Policy 2018

	Title of Policy	Kaipara District Private Seal Extension Policy 2018		
	Sponsor	GM Infrastructure, Curt Martin	Adopted by	
	Author	Roading Manager	Date adopted	
	Type of Policy	Draft	Last review date	
	File Reference	4101.01	Next review date	

Document Control			
Version	Date	Author(s)	Comments
1 st Commenced	December 2017	Roading Manager	Draft

1 Background

Generally the NZ Transport Agency (NZTA) does not subsidise seal extensions but does subsidise the ongoing maintenance of a sealed road. This means new seal extension work is generally not undertaken unless:

- (a) roads are sealed by developers as part of their development;
- (b) at times by Council, when funded via development and/or financial contributions;
- (c) the sealing is privately funded and arranged by local ratepayers and/or residents.

There are several components to a seal extension; base course strengthening, stabilisation and sealing. A second seal coat is also required two to three years after the initial sealing to waterproof the seal extension. Currently the cost of seal extension is approximately \$500,000 - \$600,000 plus GST per kilometre¹. The average cost to reseal a road (provide a second seal) is \$28,000 + GST per kilometre. Resealing is required every 12-15 years to maintain the road.

Occasionally Council is approached by local ratepayers and/or residents wanting to have particular roads sealed. Using local ratepayers' and/or residents' funding can provide a good outcome for those seeking to have a road sealed. Council's policy for private seal extension projects, including criteria and process, is set out below.

This Policy should be read in conjunction with Council's Roading Policy.

The policy covers the following:

- 1 Background 1
- 2 Objectives 1
- 3 Definitions 2
- 4 Policy 2
- 5 Criteria 3
- 6 Process 3
- 7 Targeted rate funding mechanism 4

2 Objectives

The objectives of this Policy are:

- a) To set out, in a clear and transparent manner, Council's criteria for private seal extension projects; and

¹ Plus ongoing maintenance

- b) To ensure consistency, fairness and equity in Council's approach to applications for private seal extension projects.

3 Definitions

Contributing Property or Properties	means properties for which the owners (or ratepayer, if different) are willing to contribute upfront to the cost of a private seal extension project.
Proximate Properties	means properties that will or may benefit from the private seal extension project, as determined by Council, and excludes a contributing property or properties.
Costs of the Private Seal Extension Project	means the cost of the sealing and second seal.
Council	means Kaipara District Council.
Maintenance	means all further costs associated with a road's condition following completion of the sealing but excludes the second seal.
Ratepayer	means landowners or occupiers who pay rates.
Road	has the same meaning as set out in the Local Government Act 1974 and shall, where the context requires, include a street.
Sealing	means the base course strengthening, stabilisation and water-resistant top layer of a road, covering the metal pavement layers that make up the road structure.
Second Seal	means the second sealing layer required to be applied 1-3 years after sealing.

4 Policy

- 4.1 Council may undertake one, or more, private seal extension project that meets the criteria below in any financial year.
- 4.2 Council will consider applications for consistency with the criteria of this policy on a first come, first served basis.
- 4.3 Any application that meets the criteria will need to be considered through a formal planning process, being an Annual Plan or Long Term Plan (as applicable). This is to ensure that any potential private seal extensions are considered at Council's sole discretion as part of Council's wider roading programme, and whether the project can be accommodated within Council's financial parameters.

4.4 If a project is approved by Council, Council will undertake the procurement as outlined in its Procurement Policy.

4.5 In some instances, Council may in its discretion contribute up to 20% of the costs of the private seal extension project. The matters Council will consider will include:

- i. Whether any funding is available through Council and how this cost will be met; and
- ii. An assessment of the physical characteristics of the road (refer to Schedule 1 to this policy) to consider its total score that is required for Council to consider funding part of the cost.

Total Score	Council contribution
<10	0%
10 to 20	10%
21 to 30	15%
>30	20%

4.6 Subject to a formal planning process, Council will fund the maintenance (including a reseal every 12-15 years) of the road once it has been sealed.

5 Criteria

5.1 The minimum length of a road to be sealed shall be 100m.

5.2 Applications must:

- i. Accurately describe the location and length of road to be sealed;
- ii. Show (by letter signed by each person or persons making the commitment):
 - (a) that a contributing property or properties are willing to fund upfront 100% of the costs of the private seal extension project; or
 - (b) where the community is not able to fund 100% of the costs of the private seal extension project upfront, that:
 - a. a contributing property or properties are willing to fund upfront at least 50% of the costs of the private seal extension project, and the balance by way of a targeted rate; and
 - b. that at least 75% of the proximate properties are willing to fund the balance upfront or by way of a targeted rate; and

5.3 Comply with the process requirements set out below.

6 Process

6.1 Applications must be submitted to the General Manager Infrastructure not later than 01 October in the year before the financial year in which the applicant seeks that the sealing be undertaken. Unsuccessful applications in any year will not be carried over and a fresh application needs to be submitted.

6.2 Council will assess the applications in the order received.

- 6.3 Council will assess the application for accuracy, including as to the length of road sought to be sealed. It will then advise the applicant of the estimated cost of the private seal extension project and its determination of the proximate properties, the applicant has 21 working days from receipt of the advice to return a signed copy of the advice to Council, accepting the advice and requesting that the project be submitted for consideration as part of Council's planning process. At that point the application is provisionally accepted.
- 6.4 Inaccurate applications will be returned to the applicant for correction. Such correction is required to be submitted to Council within 10 working days of the date of return to the applicant to keep the application's place in the queue.
- 6.5 For applications where a contributing property or Properties are willing to fund upfront 100% of the costs of the private seal extension project:
- i. The project will then be considered through the relevant planning process. If successful, notice of progression of the project will be given to the applicant. This notice will advise if Council has decided to exercise the discretion outlined in paragraph 4.5, above.
 - ii. Payment from the contributing property or properties is required to be made to Council in cleared funds within 30 working days of Council giving notice of progress to the applicant.
 - iii. The application is considered accepted when Council has received the funds under 6.5(ii).
- 6.6 For applications where the community is not able to fund 100% of the costs of the private seal extension project upfront:
- i. Payment from the contributing property or properties of at least 50% of the costs of the private seal extension project is required to be made to Council in cleared funds within 30 working days of Council giving notice of provisional acceptance to the applicant.
 - ii. The project will then be considered through the relevant planning and rate setting processes. The application is considered successful if the planning and rate setting processes successfully provide for the private seal extension project. If successful, notice of progression of the project will be given to the applicant. This notice will advise if Council has decided to exercise the discretion outlined in paragraph 4.5, above. If unsuccessful, the funds paid under 6.6(i) will be refunded to the persons who made the payment to Council.

7 Targeted rate funding mechanism

- 7.1 Any targeted rates required to fund the balance of the project costs will be subject to detailed consideration through the relevant planning process, which is likely to include public consultation, and therefore there is no guarantee that a targeted rate will be set to contribute to the costs of a private seal extension project.

Schedule 1

Assessment criteria and scoring for the physical characteristic of an unsealed road

Traffic Movements (AADT)	Score	Dwellings/km (<100m from road)	Score	Amenities ⁱ	Score
1-50	2	1-2	1	1-2	1
51-100	4	3-4	2	3-5	2
101-200	6	5-10	3	6-10	3
201-500	8	11-15	4	>10	4
>500	10	16-20	5		
		>20	6		
Score		Score		Score	
Average Gradient ⁱⁱ (%)		Incidents ⁱⁱⁱ		HCV ^{iv}	
<1	1	1	1	1-5	2
1-5	2	2-3	2	6-10	4
5.1-8	3	4-5	3	11-15	6
8.1-12.5	4	6-10	4	16-20	8
>12.5	5	>10	5	>20	10
Score		Score		Score	
Total Score ^v		Total Score		Total Score	

ⁱ *Amenities* refers to amenities less than 100m from the road where dust may be a nuisance factor include:

- A community hall, marae, place of worship, beach access or reserve; or
- A place of work (dairy shed or commercial premises); or
- Road forms part of a school bus route; or
- Orchard or food crops.

ⁱⁱ *Gradient* is used in this assessment as proxy for the maintenance cost of the unsealed road.

ⁱⁱⁱ *Incidents* refers to the documented number of serious safety incidents or accidents that have occurred on the unsealed road in the previous five years.

^{iv} *HCV* is recorded as movements of a vehicle with a gross vehicle mass of greater than 3.5 tonne vehicle/axis.

^v *Total score* is the sum of the scores of the six factors in the table.

The weightings for vehicle movements and heavy vehicles have been increased in the assessment to reflect usage and potential damage to the unsealed road which impact on the level of routine maintenance required. Any spurious or unreliable traffic data should be validated.

Commercial activities, tourism and associated events will be reflected in the scores assigned to Traffic Movements and Amenities.

6.2 Baylys Beach Access, Beach Erosion Assessment Report update

Roading Operations Engineer 4102

Recommended

That Kaipara District Council:

- 1 *Receives the Roding Operations Engineer's report 'Baylys Beach Access, Beach Erosion Assessment Report update' dated 13 March 2018; 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 *Endorses the proposal to engage with the community to seek feedback on the options identified in the draft GHD report appended as Attachment 1 to the above-mentioned report, to allow all relevant views and options to be identified and then considered before a decision is made.*

File number: 4102. **Approved for agenda**
Report to: Council
Meeting date: **28 March 2018**
Subject: **Baylys Beach Access, Beach Erosion Assessment Report update**
Date of report: 13 March 2018
From: Bernard Petersen, Roading Operations Engineer
Report purpose **Decision** **Information**
Assessment of significance **Significant** **Non-significant**

Summary

Kaipara District Council's (KDC) Roading team commissioned GHD to undertake an assessment of the existing Baylys Beach access and the surrounding site (**Attachment 1** 'Baylys Beach Access, Beach Erosion Assessment – Draft' February 2018). In concurrence KDC's Waters and Waste team commissioned Opus to complete a report which looks at the upstream stormwater reticulation network including its impact on the Baylys Beach entrance (**Attachment 2** Baylys Beach Access, Erosion Analysis' 09 March 2018). GHD incorporated the findings from the Opus report to provide a complete assessment of options for consideration, regarding the existing beach access and its future.

A number of key issues were identified to be considered in this report including assessment of the existing sand hill revetment (sandbag wall), identification of potential remedial options, identification of a 'do minimum' maintenance-based option, and identification of a rehabilitation concept option if required. The GHD report remains as a final draft awaiting the opportunity to seek input from the community before completing with final recommendations.

Recommendation

That Kaipara District Council:

- 1 *Receives the Roading Operations Engineer's report 'Baylys Beach Access, Beach Erosion Assessment Report update' dated 13 March 2018; 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 *Endorses the proposal to engage with the community to seek feedback on the options identified in the draft GHD report appended as Attachment 1 to the above-mentioned report, to allow all relevant views and options to be identified and then considered before a decision is made.*

Reason for the recommendation

To ensure Council is informed of the options currently put forward for the Baylys Beach Access and the proposal to seek community feedback.

Reason for the report

To provide Council with an update on the draft Baylys Beach Access report to gain an understanding of the decision process to date.

Background

Baylys Beach is located approximately 13km west of Dargaville within the Kaipara district. The beach faces onto the west coast which is a high-energy environment and subject to the impacts of storm and rain events.

Seaview Road provides access onto the beach from the local roading network. This access, although not unique, is the only Council maintained two-wheel drive access point to the beach over the wider area.

In June 2015, Council supported a community-initiated project to install the existing revetment, a 90m length of woven geotextile sandbags along the northern side of the beach access. These bags had been pre-treated with a product to extend the UV life and, in addition, a light hessian cloth was placed over the bags to provide further protection.

Council at the time agreed to the installation of this revetment to provide stabilisation to the existing sand embankment with the bags supporting the toe, the aim being to reduce maintenance costs associated with the beach access. This revetment would also support the community's wish to address the concerns raised by residents of properties above the embankment with regards to erosion risk for the existing dwellings.

The bags have unfortunately degraded over a relatively short period of time and are generally in poor condition. A number of the bags are undermined and have rotated. The bag material condition is poor with perhaps 30% of the bags failing with holes or splits. It is not understood yet the full impact the installation of these bags has had on maintaining vehicle access onto Baylys Beach however, this revetment now forms part of the accessway so all options have been explored.

Issues

GHD was commissioned to view the site and report on their observations and conclusions without reference to previous reports. This approach has advantages such as a fresh approach, but disadvantages such as learning from previous mistakes and borrowing from previous research.

The report remains in a draft stage and remains silent upon KDC criteria, objectives, local interests, etcetera and what may be important to Council in this instance. The report rather focuses on a range of issues and potential solutions that look forward more than 50 years. Council will need to take the lead on community engagement.

The existing revetment is failing and starting to look unsightly with a number of complaints received to date. The longer that Council takes to reach a decision the more likely the existing revetment will fail further and continue to remain visually unappealing. There is also a risk of bags becoming unstable and toppling. Current signage is in place warning of this potential hazard.

Baylys Beach is a hotspot for tourism within the Kaipara district. Both tourists and locals alike enjoy the all year round two-wheel drive access onto Baylys Beach and the greater Ripiro Beach area. Providing

a resilient access point is important and something that without frequent maintenance is difficult to achieve presently.

The draft GHD report explores a number of issues that we face in maintaining access onto this beach and need to be aware of with future design including issues with geology, beach profile, storm intensity, sea storms, El Nino and La Nina cycles, sea level rise and future coastal erosion trends.

Options considered in the report (refer Section 6) include:

- i. Do nothing (i.e. leave the existing bags in place and delay decision to undertake any works);
- ii. Remove the existing sandbags, with and without a vegetated dune planting programme;
- iii. Beach nourishment;
- iv. Undertake attenuation within the upstream catchment to reduce flows and reduce erosion potential;
- v. Revetment wall at base where the existing sandbag wall has been installed;
- vi. Beach nourishment and beach scraping, sand recycling and groundwater defences; and
- vii. Wave attenuation devices.

The report also raises the difficult 'defend or retreat' question which is likely to become more prominent in the future if and when the climate change predictions, including sea level rise, eventuate.

We currently do not have a full understanding of the potential impacts from having the revetment structure in place. Although maintenance trends can be reviewed, a number of other key factors result in increases and decreases in work needed each year. A privately-owned bridge, at the entrance to the beach is also at risk of damages through the change in environmental impacts.

The combined GHD and Opus report provides for a holistic view of upstream catchment impacts and respective costs analysis. As this was not part of the initial GHD briefing the Opus report was combined which provided investigation extending well outside of the road reserve.

This report is in draft and before GHD is prepared to make a final recommendation, they request feedback from Kaipara District Council. GHD's coastal engineer who has completed this report has offered to workshop options with Council staff.

Factors to consider

Community views

All year round two-wheel drive access onto Baylys Beach and the greater Ripiro Beach is enjoyed by locals and tourists alike. A number of local residents also rely on the many beach entrances including the Baylys Beach entrance to gain year round access to existing dwellings.

A number of residents also have a vested interest in the future of revetment integrity on the northern embankment, which was also intended to minimise the effects of coastline erosion on existing dwellings. These residents and many more also gain access to their properties by traversing a private bridge at the beach entrance which is in poor condition, and at risk of further damages through both introduced and natural environmental changes.

Due to Council's initial involvement with the installation of the existing revetment, it is likely that the community would expect Council to continue supporting the stability of the northern embankment.

Policy implications

Currently, no budgets have been provided for any major remedial works of the revetment and beach entrance. High level estimates for the options identified in the draft GHD report range from \$50,000 to \$870,000. There is also a relatively high level of interest from the local community. In consideration of Council's Significance and Engagement Policy, it is recommended that Council proceeds with community engagement to allow all relevant views and options to be identified and then considered before a decision is made.

Financial implications

There are potentially significant financial implications for Council to consider which are outlined in the report from GHD. Rough order costs range from \$50,000 to \$870,000 with ongoing future cost considerations. Once the preferred option has been identified, any financial implications and associated funding options can be assessed for Council's consideration.

Options

Option A: Council endorses the proposal to engage with the community to seek feedback on the options identified in the draft GHD report to allow all relevant views and options to be identified and then considered before a decision is made.

Option B: Council resolves to proceed with the identification of the preferred option without first engaging with the community to seek feedback on the options identified in the draft GHD report.

Assessment of options

Option A: Provides the community the option to provide input in identifying the preferred solution. This is considered important if effective community engagement is to proceed to ensure Council understands fully all aspects of the report and the community's views before making a decision on the preferred option.

Option B: Would exclude the community as part of the decision-making process and may not comply with Council's Significance and Engagement Policy.

Recommended option

The recommended option is **Option A**.

Next step

Proceed with community engagement.

Attachments

- Attachment 1 - GHD report 'Baylys Beach Access, Beach Erosion Assessment – Draft' dated February 2018; and the information therein.
- Attachment 2 - Opus report 'Baylys Beach Access, Erosion Analysis,' dated 09 March 2018; and the information therein.



Kaipara District Council

Baylys Beach Access

Beach Erosion Assessment Report

March 2018

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- Appendix A – Photos from 2012
- Appendix B – Photos from site visits
- Appendix C – Resource consents
- Appendix D – Opus Report and Memo

1. Introduction

1.1 Purpose of this report

Kaipara District Council (KDC) has commissioned GHD to undertake an assessment of the existing beach access at Baylys Beach and its surrounding site.

There are a number of issues to be considered at the site including:

1. Assessment of the existing sand hill revetment/sandbag wall
2. Identification of potential remedial options for discussion with KDC
3. Identification of a 'do minimum' maintenance based option, and
4. Identification of a rehabilitation concept option if required.

1.2 Description of existing situation

Seaview Road connects the township of Baylys Beach with access onto the beach as shown in Figure 1 below.



Figure 1 Baylys Beach

Seaview Road and beach access

The key issue relating to the brief from KDC to GHD is the condition of the True Right Bank of the Chases Gorge Stream (as shown in Figure 4 below - LINZ Topo 1:50,000 map).



Figure 2 Where Seaview Road meets the coast (Google image 2012)

Note: Same sign on hill from 2012 and 2017



Figure 3 Where Seaview Road meets the coast (site visit August 2017 photo)



Figure 4 Site plan as copied from LINZ Topo Map 1:50,000 series

As shown in Figure 3 above, revetment protection has been placed on the True Right Bank. This is now in poor condition and the bank has failed. This Figure 3 photo can be compared to the Figure 2 photo taken approximately 5 years earlier.

A further series of comparison can be seen at the end of Appendix 2 between early August and early September 2017.

This report looks at the issues and a series of potential remedial options.

1.3 Revised Scope

Since the original GHD report was presented to Council in November 2017, a meeting was held in Kaipara DC offices in Whangarei. The KDC team advised that the Opus report on Baylys Beach stormwater issues was due shortly.

GHD were asked to review the Opus report and include the findings of the Opus report as GHD sees fit for the purpose of the Beach Access Report. Also and as part of this work, the author has made contact with Warren Bird of Opus to discuss his findings that are pertinent to this report.

This report now includes a review of the Opus work. The “Stormwater Management Plan – Baylys Beach” Opus July 2015 and their subsequent memo “Baylys Beach – Erosion Analysis March 2018 is attached as Appendix D.

1.4 Scope and limitations

This report has been prepared by GHD for KDC and may only be used and relied on by KDC for the purpose agreed between GHD and the KDC as set out in this report.

GHD otherwise disclaims responsibility to any person other than KDC arising in connection with this report. GHD also excludes implied warranties and conditions, to the extent legally permissible.

The services undertaken by GHD in connection with preparing this report were limited to those specifically detailed in the report and are subject to the scope limitations set out in the report.

The opinions, conclusions and any recommendations in this report are based on conditions encountered and information reviewed at the date of preparation of the report. GHD has no responsibility or obligation to update this report to account for events or changes occurring subsequent to the date that the report was prepared.

The opinions, conclusions and any recommendations in this report are based on assumptions made by GHD described in this report. GHD disclaims liability arising from any of the assumptions being incorrect.

1.5 Assumptions

This section has been left intentionally blank for this draft report.

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2. Existing environment

2.1 Site background

Baylys Beach is located approximately 13 km west of Dargaville within the Kaipara District. The beach faces onto the west coast. This is a high-energy environment and subject to the impacts of storm and rain events originating mostly from the Tasman Sea.

Seaview Road provides access onto the beach from the local roading network. This access, although not unique, is one of the few two wheel drive access points to the beach over the wider area.

2.2 Geology

The geology of the area is described as sand, sandstone, mudstone and lignite from the Karioitahi Group, with weakly cemented and partly consolidated sand in fixed parabolic dunes capped by clay rich sandy soils.

The geological context is important as the description gives an indication of the likely long-term stability of the seaward cliffs.

Further, the description also gives a strong indication of the likely soil permeability in intense rainfall events. Once the top layer is saturated, we could expect high runoff occurring as near sheet flow as the top layer become saturated because of their lower permeability caused by sand with a (high) clay rich content.

2.3 Chases Gorge Stream Catchment

The Chases George Stream Catchment falls from the local high point in the area of ~115 m AMSL. The catchment area is approximately 249 Ha.

From a TP108 analysis, we could expect flows from various return events as set out in the following table.

Table 1 Storm event flows as derived from TP108, without climate change

Data	Average Recurrence Interval (ARI) Event			
	2 year	5 year	10 year	100 year
Rainfall (mm)	66	85	100	163
Chases Gorge catchment flows (m ³ /s)	6.8	9.8	12.4	24.2

Table 2 Storm event flows as derived from TP108, with climate change

Data	Average Recurrence Interval (ARI) Event with Climate Change			
	2 year	5 year	10 year	100 year
Rainfall (mm)	73.4	95.1	113.2	191.2
Chases Gorge catchment flows (m ³ /s)	12.40	17.16	21.20	38.94

As can be seen from the above table the expected flows are substantial. The above table takes little or no attenuation included within the existing ponded area within the catchment.

However, if climate change to 2090 is taken into consideration there will be an expected increase in expected runoff.

When the stream is flowing, it will have the ability to scour and erode bed levels around the bridge and downstream where the stream invert is the sandy beach material.

This project has not considered a formal stream and beach erosion assessment. Such assessment will be important to allow development and evaluation of the management options.

2.3.1 Opus Report review comments

The following is a summary of the key issues included in the Opus report as they relate to the beach erosion.

- Catchment Area to the beach. From Opus plan their catchments are F, A, B & C or (185 & 8 & 92 & 2 =) 287 ha. This compares with 249 Ha used in the GHD analysis above.
- There are two catchments D and E that also discharge to the beach but further to the south and beyond the area of interest.
- Opus have used the rational analysis. The non-dimensional “C” runoff factor is 0.3 and 0.5 for rural and urban land respectively.
- No ‘in catchment’ attenuation has been allowed for.
- Opus has designed for levels of service set out in the KDC engineering standards namely 5 year for rural and residential and 10-year event for rural culverts and industrial land.
- A summary of Opus identified flows from their drawing C200 is set out in the following table:

Catchment	Q ₅ (m ³ /s)	Q ₁₀₀ (m ³ /s)	Comment
F	3	7.1	
A		1.0	
B		3.4	
C			
Total to Beach		11.5	

Based upon a discussion with Warren Bird, he advised that the Q₅ flows to the beach were in the order of 4 m³/s. If attenuation were to be provided to reduce the flows to minimal sediment transport, then the flows would need to be below ~0.5 m³/s. The attenuation to achieve this flow reduction from 4 to 0.5 m³/s would be very significant and was not considered further by Opus.

Opus have identified a range of other works to protect overland flows from the rural catchment that are now directed down Sunset Drive. This work has been costed at \$300,000. The works includes a swale drain construction within rural land to keep overland flow from the urban area. This flow diversion once in place will increase flows from the northern branch of Chases George catchment.

2.3.2 GHD commentary on the Opus Report findings

GHD have arrived at a different conclusion to the value of attenuation within the Chases George catchment. However, GHD acknowledge that until the detention / attenuation can be quantified, then the perceived value of the flow attenuation on the runoff from this catchment cannot be quantified. This work would require survey (perhaps including drone survey) and hydrodynamic/hydraulic modelling to quantify the benefits.

Site observations

A site inspection was carried out on 2 August 2017 by the author, Tony Miller and Iftikar Rahim of GHD. Mark Bell from KDC met on site and gave some background to the construction of the sand bag wall.

2.3.3 Description of the existing revetment wall

The construction of existing revetment was completed in June-July 2015. The wall is approximately 90 m long. The outer extent of the wall terminates just short of a harder natural sandstone spur. At the landward side, the wall terminates some 25 m short of the Seaview Road private bridge.

The revetment wall consists of bags one high but mostly two high bags and at the base layer two bags deep. At our site visit, we did not observe whether the bags had been placed on a good quality geotextile to separate the bags from the dune behind. Further investigation will be required to establish this.

The manufacturer of the bags is not known by the author at this stage. The bags appear to be one tonne bulk bags. This is a woven geotextile material with a plastic liner.

According to the explanation provided by Mark Bell, the supplier had the bags pre-treated with a product to extend the UV life of the bags. In addition, a light hessian type cloth/netting was provided to provide additional UV protection to the bags as seen in Figure 5 below.



Figure 5 Photo of wall not long after initial construction complete (~2015)

The bags as observed in August 2017, are in poor condition. A number of the bags are undermined and have rotated. The bag material condition is poor with perhaps 30% of total bags with a hole and some of the bags had multiple holes or had split open.

A consent application for the excavation of sand from the fore dune and beach location and to place a sand bag area for the construction of the wall was sought from the Northland Regional Council. The original consent was granted on 12 September 2000 with an expiry date of 30 June 2034. Subsequently there have been variations to the original consent, which were granted under delegated authority on 28 May 2002 and 9th July 2015.

A copy of the consents are attached as **Appendix C**.

Gary Treadgold from the Regional Council advised that over the first winter following installation, the bags appeared to have performed well. However, the latest sand levels and their drop relative to recent winters have caused a significant undermining of the bags. This in conjunction with bag material degradation has led to the current failures.

2.3.4 Site photos

A series of photographs has been taken to record the condition of the wall at the inspection date. These photos are attached as **Appendix A**.

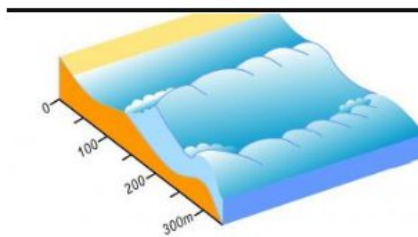
There are approximately 90 bags in a row. Some of these are two or three bags deep/or high.

A count of sand bags that have failed show that 60 out of 90 have bags that have moved in some manner. There are further bags that have holes or substantial rips in them.

2.4 Coastal processes

A range of coastal processes are at play in this environment. The following provides a brief commentary on these processes and the importance on how any final solution may take these into consideration.

The beach is a dissipative type beach with a high energy and wide surf approaching from the west. Refer **Figure 6** below or to NIWA website:¹



Dissipative

Dissipative beaches are characterised as being high energy beaches with a wide surf zone (300-500 m) including two to three shore normal bars and troughs, and a low-sloping and wide beach face consisting of fine sand.

Figure 6 Beach types (Source NIWA)

2.4.1 Beach profile

The level of the beach will change on a cyclic basis. There are a number of expected cycles such as:

- Annual cycles where there is a build-up of the beach profile during the calmer summer months to degradation during the stormier winter months
- Longer cycles such as the IPO² where there is a change between the predominance of El Nino and La Nina events. This predominance would be felt with the higher prevalence of westerly and south westerly winds, and

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- Long-term cycles of longshore drift patterns.

During summer, there will be a build-up of sand levels on the beach where the wash is stronger than the swash. During winter and following significant onshore winds and storms, there will be a reduction in beach level as the inshore beach is washed off shore to behind the breaker line.

The annual cycle on this beach is expected to be ± 600 mm based upon initial observation and anecdotal evidence from discussions with a few locals.

From a discussion with Gary Treadgold from Northland Regional Council (NRC), he advises that there is a long-term cycle of beach levels. One of the predominate sources of sand is the Waikato River some 100 km to the south. This sand has a long shore drift with a cycle of some 200 years. The current cycle at Baylys is the lowest the beach has been in recent living memory. As such, there is a potential for this long-term cycle to replenish sand levels but may be some decades away.

The expected total fluctuations in the sand level at the beach may be much larger than this and may vary by some meters. Further investigation will be required to establish the likely total variations upon which a sound design can be based upon.

From the site visit, the erosion at the base of the sand hill toe suggested that beach levels are approximately 600 mm lower than when the google 2012 photographs were taken and from discussions with Mark Bell of KDC. The height of the sand when the bags were installed is not known by the author at this stage. It is expected that the bags would have been installed with an embedment depth. From our reading of the resource consent there was a requirement to embed the bags by 500 mm and we were advised this was carried out.

However, and based upon the 2017 site visit, there was no apparent embedment of the bags and the assumption is that the beach level has recently dropped, exposing the base of the bags.

This was also confirmed by Gary Treadgold from NRC. Further inshore within the confines of the streambed, the bed level is between 400 and 800 mm below recent levels from analysis of photographs between 2012 and 2017.

The relevance of this is:

- Steeper bed gradient from the private bridge servicing 73-97 Seaview Drive to the coast. The steeper gradient results in faster flows leading to deeper scour of the fine sand particles, and
- The drop in beach level over winter and following large sea storms will have a similar effect.

2.4.2 More intense storms

Because of changing climate, there is anecdotal evidence of an increase in frequency and severity of significant storm events. The science on this issue is not conclusive and further research into the frequency of storms in the Tasman and higher latitude events needs more work. In the tropics for example, the total number of storms per annum has remained relatively constant; however, the number of Category 4 and 5 tropical cyclones has increased over recent years.

This increase in frequency of intense storms would relate to both wind and rain events of which both have an impact upon sand levels at the toe of the existing coastal dunes.

The relevance of this for Baylys Beach is that:

- There would be an increase in energy for more sand to be removed from the beach in the annual cyclic processes

- More intense rain events. Runoff from these higher intensity rain events will have potential to scour and remove sand from the mouth of the Gorge Creek leading to a drop in the sand level adjacent to the existing bag wall, and
- Over the 2017 winter period, there has been a significant increase in total rain. This has led to more erosion and a drop in bed level of the stream downstream of the private bridge. The science behind the long-term trend and one wet year is not evidence of a long-term trend. However, the effects of increased runoff and the effects it has on the beach are demonstrated by this previous winter.
- This change in beach profile can be observed in two series of photographs attached to the end of Appendix B. Here photographs are taken approximately one month apart. The second series of photos taken on 10 September following significant rain show:
 - Scour and widening of the stream immediately downstream of the existing bridge, however the depth may not have got much deeper,
 - The widening of the stream continues down to the end of the bag wall,
 - The elevation of sand at the lower end of the wall has built up relative to the previous month by a couple of 100 mm.

2.4.3 Sea storms

This section provides the reader with the effect of a storm on the level of the sea. If the storm were to occur during a king tide or high tide, the effects on the land will be pronounced.

- Inverted barometric effect (IBE), where as a result of low pressure systems approach the coast, the level of the sea is drawn higher inversely proportional to the drop in pressure below 1023 mbar
- Storm surge and storm tide. Inverted barometric effect in combination with wave set up and wave run-up act in parallel to raise the wave height reaching the coast, and
- Timing of the storm relative to high tide or whether the storm were to occur during a king tide.

2.4.4 Global cycles

The Interdecadal Pacific Oscillation has a rough 20-year cycle. Depending whether the cycle is positive or negative, there is a corresponding predominance of El Nino or La Nina cycles. We are currently in an El Nino phase with a predominance of westerly and south-westerly winds.

Baylys Beach faces west and this predominance has led to more energy from wind and waves from the general westerly direction and subsequent lower beach levels. This in turn will lead to higher energy waves reaching the foreshore during higher parts of the tidal cycle.

2.4.5 Sea level rise

Based upon published evidence there has been a rise in the level of the sea over recent times. The extent over 1990 levels are modest.

Based upon published MfE³ guidance for local government there is a 500 – 800 mm sea level rise projection by 1990⁴.

More recent unpublished guidance suggest a far more significant increase in sea level rise. We understand this most recent advice to government has not yet been released.

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³ MfE – Ministry for the Environment

⁴ Preparing for coastal change, A guide for local government. MfE 2008

2.4.6 Future coastal erosion trends

Coastal erosion is occurring and will occur in the future. Based upon the above we expect the rates of coastal erosion to increase significantly in the future.

This coast consists of weak sandstone and siltstone and sand materials and as such not able to withstand the effects of foreshore wave attack.

This is the setting upon which the commentary around the balance of the report is set.

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3. Defend or retreat

The following discussion looks at a variety of management approaches.

MfE has numerous advice for Councils on whether to invest in infrastructure and coastal projection in order to defend from the advances of coastal erosion.

This is a very significant issue and an issue that less well-off Councils need to grapple with. Bayllys Beach is no exception. KDC will need to assess a range of issues such as:

- The value of the asset being protected
- Life of the works
- What happens at the end of the design life of the adopted structure
- What will it look like in the year 2100 and what action should be taken now to lessen the impact, or
- Do nothing.

3.1 KDC obligations and responsibilities

KDC has a responsibility to maintain access from the roading network to the beach. The Council receives a partial subsidy from NZTA to maintain this access.

The obligation for KDC to protect private property is much less formal. This has been undertaken in the past on a case by case basis. In future, KDC will not have the financial resources to undertake all repairs of slips and erosion and will have to prioritise.

Protection of private property from erosion and the effects of sea level rise and climate change will become more of a private funding problem.

This is a big topic and this report will not address this further.

3.2 Looking forward

If we look forward from 2017, we can expect a range of scenarios that need to be discussed in order to consider what decisions KDC needs to take at Bayllys Beach and other coastal areas.

3.2.1 If nothing had been done prior to the installation of the existing one tonne bulk bags

This is important to look at this hypothetical scenario in relation to the alternative of doing nothing in 2015.

With this scenario, it is expected that some further toe erosion would occur leading to further slip failures below 97 Seaview Drive. Eventually the residential property(ies) above would have had to be abandoned and/or demolished. The cost to protect this coastline and to allow these existing coastal houses to remain will escalate; however, this is expected to remain a cost for the individual house owners.

In terms of the access to the beach, we expect the roadway (as observed in 2017) was constructed mostly of sand with some aggregate closer to the inland end. The waterway had scoured a channel beside the road and appeared relative stable at low flow.

During high flow, the channel will not be stable and will tend to meander. This will cause scour of the adjacent banks and subsequent loss of both the true right bank support beneath the houses, as well as erosion of the roadway.

Similar erosion will occur during storm surge events during high and king tide events combined with a significant onshore wind. Waves will propagate up the channel to the bridge with considerable force. The narrowing waterway may even cause a bore with little reduction in velocity. Once the wave reaches the top end, the wave will reverse direction and flow out with similar velocity and cause further erosion on the way out.

Thus, the channel does not have sufficient strength and resilience during storm conditions to remain stable.

Following storm events there will be erosion of the roadway and maintenance of the embankment will be required to replace eroded material and to re-establish a driveable roadway again.

Because of changing climate, we would expect maintenance effort to re-establish the road to be of a similar frequency for the first half of this century (to 2050). We do expect there to be more significant storms and following these events the effort required to re-establish the road will require more effort.

For the second half of this century and as the level of the sea is predicted to rise the coastal erosion rate will increase and again more effort would be required to maintain a sand access road.

3.2.2 Change in conditions following the installation of the existing, one tonne bulk bags

Because of the decision to place the one tonne bags, the apparent width of the channel between the true right bank (or northern bank) and the roadway on the true left bank (to the south) has decreased comparing 2012 and August 2017 photographs.

The result of this decrease in width has been to:

- Increase the velocity when there is a rain storm and runoff is significant, and
- Maintain or increase the velocity of waves propagating up and down the channel during sea storm events (at high tide).

The resulting impact is:

- Reduced erosion on the true right (north bank) as the bags do their work, and
- Higher erosion on the true left (south bank).

A number of options are presented below which include bags with a manufacturers stated design life of 20 – 25 years. Whether this design life can be realised without substantial maintenance is unknown.

The existing bags had a life, which we understand is significantly shorter than expected life of the existing one tonne bags.

A full bag solution will buy a number of years; however, there will be a number of consequence such as:

- Accelerated erosion of the south bank
- Deterioration and the need to repair and replace the new wall, and
- As sea level rise takes effect, these interim measures would be insufficient and more extensive measures will be needed to maintain and enhance the chosen engineered intervention.

(Post Draft Report Note: Since writing of the draft report and this final edition, a series of additional photographs has been taken on the 10 September following significant rain in the

previous month. The later series of photographs show a much-widened channel as compared by a month earlier. This erosion and removal of sand as the stream tends to meander will remove material from both banks and transport this seaward. We expect some of this sand to return during quieter sea states over the summer period.)

3.2.3 Sea level rise to the year 2090 (in 73 years' time)

The predicted rise in sea level has the potential to meet or exceed the 0.8 m advice given by MfE in 2008 based upon more recent evidence coming out of the IPCC⁵ #5 advice on global sea level predictions.

Sea level rise on its own does not increase the rate of erosion. However, it is the raised level of the sea in combination with higher energy waves that have the highest impact.

In the author's opinion, there will be serious coastal erosion as sea level rise increases. The extent and rate of erosion will vary and is dependent upon the geology or the degree of engineered solutions installed to protect the coast and coastal property.

The KDC at some stage will need to make a call on what areas of the coastline to protect and which areas to retreat from as their expected future budget for coastal protection will be finite. The key question raised in this report is whether KDC will be prepared to consider whether to consider coastal as a viable for this section of their coast in 2017.

3.3 Maintenance & Levels of Service

This is a dynamic environment with high wave energies and stormwater runoff. This case is competing with a land use (in this case a roadway) that cannot be engineered in any way cost effectively or economically to provide a consistent level of service for its intended use.

Maintenance costs to deliver a consistent level of service will only increase as the projected intensity of rainfall increases. NIWA has just released a report on anticipated climate change that could be of use for this site as it covers the entire Auckland Region. This report might provide some insights to the west coast north of Kaipara. (*Auckland Region climate change projections and impacts: Summary Report Revised January 2018*⁶)

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4. Design standards and design criteria

The report would usually cover the design standards to be adopted for the project.

The author remains silent on this topic for the purposes of this initial report.

4.1 Design assumptions

Catchment areas were derived from a site visit and an initial desktop study.

Wave heights and onshore waves have not been derived at this stage, although these would be required prior to detailed design.

The above methodology is considered appropriate for the level of detail required in this study.

Catchment areas and flow estimates have been derived to determine the likely magnitude of expected runoff generated from this catchment. It is expected that the peak flow in the stream at the coast will be less than the peak runoff as there is attenuation likely to occur in the two dune lakes.

The predicted flows to the coast can be refined through further investigations such as stormwater modelling and detailed options design for additional attenuation at a later or subsequent stage.

4.2 KDC criteria

GHD has been asked to view the site and report on their observations and conclusions without reference to previous reports. This approach has advantages such as a fresh approach, but disadvantages such as learning from previous mistakes and from previous research.

This approach has limitations and does not address published and non-published KDC own criteria in relation to their coastal objectives and policies.

This report does not address the political and self interest groups that are all likely to have their own opinions. The report does not address the individual property owners on the coast immediately above the existing coastal revetment bag wall.

The report in this draft stage remains silent upon KDC criteria, objectives, local interests etc. and what may be important to Council in this instance. The report rather focuses on a range of issues and potential solutions that look forward more than 50 years.

Coastal management options discussed will require further investigation and research to establish KDC short and longer-term goals. This report should open the debate for some serious issues to be discussed.

5. Immediate issues for KDC

There are some immediate issues that need to be addressed as follows:

- Whether to leave, repair, remove or completely replace the existing sand bag wall,
- As part of our GHD inspection, we identified significant scour of the abutments of the private bridge on Seaview Road extension. The abutments are undermined. Although the bridge is private, we recommend KDC take immediate action to make contact with the owners of that bridge such that repairs can be undertaken, and
- Maintain access to the beach. The discussion below looks at a range of options. Some of the more structural options will restrict the flow of water down the existing channel. As such, these will raise the scour potential and lead to more frequent road closures and more regular maintenance requirements.

5.1 Opus Report issues raised for KDC

Following review of the Opus report, they have identified a further range of works to protect property in the Sunset Drive catchment. The consequences of the proposed swale, will be to divert flows to the north and into the Chases George catchment. The Opus report has identified this work package as a lower priority with a suggested timeframe in the 2020/21 financial years.

Opus have also identified additional works in the Cynthia Place Upstream Diversion Drain. These works are outside the scope for the GHD works, however these works will need to be funded which has an impact upon community affordability. Opus has assigned a higher priority with these works scheduled in the 2017/18 financial year based upon their 2015 report findings.

5.1.1 GHD commentary on the Opus recommendations

Opus do not discuss a number of issues associated with the above works including:

- Consultation including community and iwi consultation
- Consenting requirements for the diversion drains, whether the proposed works have the support of the Regional Council.
- The houses and properties at risk and because of the works, what is the costs and benefits of that work. (I.e. how many habitable floor levels will be raised beyond 50 or 100-year floods)?

6. Options considered

GHD have identified a long list of options. These could include:

- Do nothing (i.e. leave the existing bags in place and delay decision to undertake any works)
- Remove the existing bags, with and without a vegetated dune planting programme
- Beach nourishment
- Undertake attenuation within the upstream catchment to reduce flows and reduce erosion potential
- Revetment wall at base where the existing bag wall has been installed
- Beach nourishment and beach scraping, sand recycling and groundwater defences, and
- Wave attenuation devices.

This long list of options has been considered by GHD based upon a range of considerations and the long list shortened to a list that is likely to be feasible based upon engineering judgement of the author and reviewer.

The shortened list has been set out below in detail as follows.

6.1 Option 1: Do nothing

Do nothing; this option would involve acceptance of a poor solution has been developed and installed along the north back of the Chases Gorge Creek. The following comments are pertinent to the discussion:

- This option is unsightly. The bags are currently failing and presumably from UV degradation of the bulk bags together with undermining and overtopping
- Over time, it would be expected that the bag fabric would degrade further and disintegrate. The bags can be expected to undermine further with more failures and more bag rotations
- Wave attack will further demolish the wall and eventually begin to erode the toe of the bank these bags were intended to protect, and
- If the current beach level were to remain at its current level or drop further then we can expect higher energy waves reaching the coast during future king tide and storm events. As a result, waves will propagate up the channel and cause further undermining of the bags, rotational failures, washouts on the access to the beach and further undermining of the private bridge abutments, and undermining the access to the toilets and toilet block.

In respect of road maintenance to the beach, we would expect that between major sea storms and major rain events that the beach access will remain relatively stable. However, following larger rain events the stream will meander and carve out each bank. The true right will be partially protected by the existing bags whilst they hold themselves together, however scour and widening of the true left will occur (reference September 2017 photos in Appendix 2).

6.2 Option 2: Remove existing bulk bags

This option would be a brave move and set a precedent for this Council. If adopted this option has the potential to hit local and national media and as such its adoption although brave needs to be handled with care.

The option would involve removal of all bulk bags and pushing the sand up to support the toe of the embankment above. The sand would provide little support and can be expected to wash out to sea over time. The resulting stormwater channel for the Chases Gorge Creek would widen and begin to meander.

This would be the most natural of the options presented. This option perhaps provides the lower maintenance requirements for the vehicle access as the water within the creek is less confined, has less energy and hence less ability to carry sand out to the open beach.

This option has the highest impact upon private property with the expected demolition of houses over time as coastal erosion eats away at the coastline.

This option has not been properly costed however for the purposes of this estimate we recommend KDC allow \$50,000 for planting and passive maintenance of the slope above the true right stream. This planting programme would assist with retaining the sand but only up to a modest storm event.

6.3 Option 2a: Flood attenuation in the upstream catchment

This is a combination of Option 2 above in conjunction with flood attenuation measures to be carried out in the catchment above. Flood attenuation is discussed again later in the report.

The advantage of flood attenuation is to reduce the intensity of the peak flood flows and gradually allowing the dammed floodwaters to flow out over time. In this way, the peak runoff and associated peak velocities would be attenuated leading to less sand lost from the section where the existing bags have been placed.

The damming of the catchment has a number of benefits including reduction of scour in this section of Chases Gorge Creek. Depending upon the level of attenuation provided the costs could range from \$30,000 for some smaller rock and gabion dams to provide limited attenuation to over \$0.75M for a more serious 5 - 7 m high dam.

There are at least two potential sites where more modest attenuation dams can be constructed at 1200 and 2200 m from the mouth where existing ponds/wetlands are located.

For the purposes of this report, we consider a budget allowance of \$300,000 (GST exclusive) would provide attenuation for the more frequent storms up to a 6 month to 2-year event with more limited attenuation above these levels.

In terms of effect on the roadway maintenance, this option would have a modest to significant effect up to the level of attenuation provided in the dams upstream. For these modest rain storm events the dam outlet would control out flow and as such the flows in the Gorge Creek would have insufficient energy to remove large quantities of sand as has happened in the August to September 2017 period. This in turn would reduce road access maintenance.

6.4 Option 3: Partial removal and replacement of the existing wall

We have considered a range of products for the replacement of the failed bulk bags.

Cirtex is a company in the geofabric industry. Their sea revetment product "SoftRock" has an outer bag with a 1000 gsm/m² weight. The SoftRock bags in comparison to the existing 2015 bags are made from substantially heavier material. Their recommended design life is 20 years and as such, the Council if it chose this product would need to make a similar choice of replacement in say 2040 to 2050.

Geofabrics is another company in the geofabric industry. Their product is a large bag 2.4 m long by 1.8 m wide by 650 mm high. The bag is much more stable than the 2015 upright bulk

bags. The Geofabrics product name is Elcorock. They no longer offer the single bag solution and only offer the double bag vandal resistant alternative. The outer layer is a coarse weave and has the ability to trap sand particles and thus reduce UV penetration to the inner bag.

The representative from Geofabrics advised the bag would have an expected design life of 25 years although we have not yet seen written evidence of this.

The product is stacked as per the diagram below and a number of NZ and world wide applications have been carried out. The solution shown is a single layer solution although double bag width solutions have also be used at other installations where it deemed necessary to resist the coastal forces.

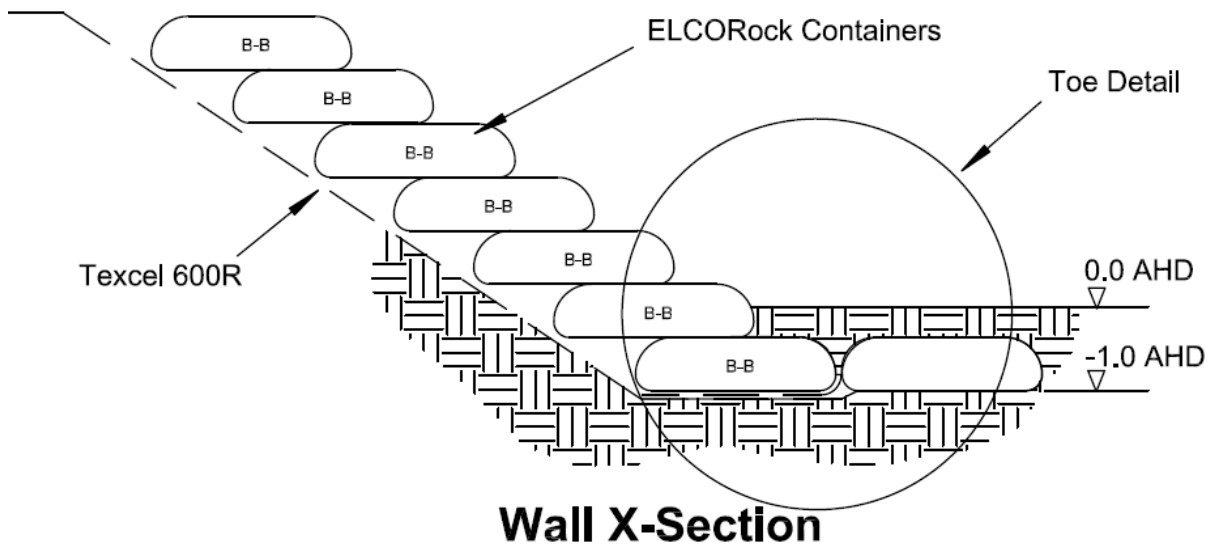


Figure 7 Geofabrics diagram showing a typical installation

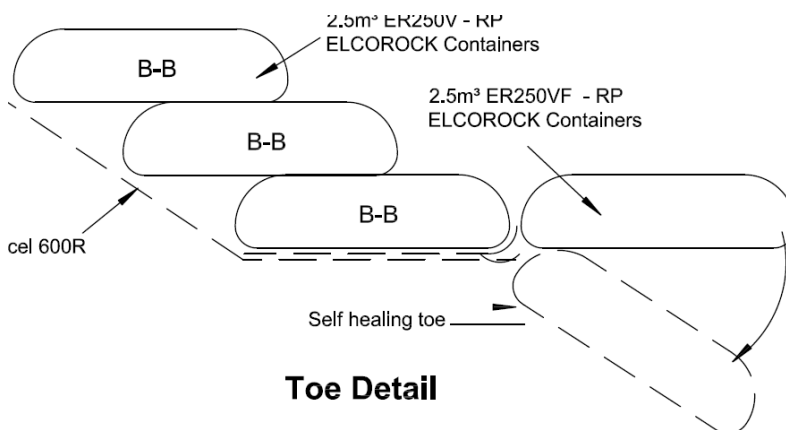


Figure 8 Geofabrics diagram showing a toe detail installation

The toe detail shown in Figure 8 above allows a hinged mechanism to function in event of toe scour.

For the purposes of this Option 3 we have allowed to partially remove the seaward 50 m of bulk bags and replace with Ecorock bags up to a finished height of ~2.4 m above August low flow channel. The base of the bags has a tentative level approx. 1 m below the existing stream bed

level. However, before this design is adopted, further investigation as to the cyclic levels of sand would need to be established

This tentative design would require 6-bag high wall with a seventh toe support to be buried out in front of the wall and in line with the diagram above. The indicative embedment depth has been assessed at 1 m below the 2017 sand level, or 1.5 m below the 2012 sand level.

This option would require approximately 145 bags over a 50 m length.

Rough order cost for a limited 50 m replacement wall to 2.4 m above current streambed.

More modest partial replacement options can also be considered where by more limited maintenance of the existing bag wall at strategic sections of the failed wall.

Further geotech and coastal geomorphology investigations would be required to establish an adequate founding depth.

This option would provide good toe protection for the existing slope above the new protection. At some time in the future further bags would be required above the top bag to increase that protection.

This option would allow the wave energy of waves propagating up the channel to reflect off the bag surface and cause erosion of the roadway and embankment on the opposite bank. The narrowing channel could form a bore during king tide and storm surge events in the narrowing channel and cause more or substantial erosion further up the channel up to the bridge from rain events.

This option would have a detrimental effect on the access road to the beach unless this option was carried out in conjunction with option 2A above or in conjunction with revetment protection to the roadway.

6.5 Option 4: Partial removal and replacement of the existing wall over full 90 m

Based upon a pro rata basis the estimated cost for this option would be \$600,000 (GST exclusive).

At the top end and up to the bridge and following detailed design, the recommendation may be for a further extension for the remaining 25 m.

As stated above, the proposed wall as set out in Options 3 and 4 above will cause a narrowing of the channel leading to higher stream velocities and faster propagation of waves up the channel from breaking waves during king tide and storm surge events.

A potential outcome is for further work on the south bank to replicate part or all on the north side remedial works.

As for Option 3 above, we would expect a higher level of maintenance of the beach access road unless other remedial works (ref Option 2A) and or revetment for the beach access road.

6.6 Option 5: Beach replenishment

Although a viable option in some circumstances we consider progressing this option high risk as with a high-energy coastline, all beach replenishment could be lost in one storm.

This option has not been considered further for this site.

6.7 Option 6: Offshore breakwater

Another consideration may be for an offshore breakwater opposite the entry to the beach.

For the purposes of this discussion, we have considered the following:

• Location:	in 1 m of water at low tide
• Length	80 m and parallel with shore
• Height	4 m and almost level with high tide
• Volume	6,500 m ³ (10,000 t of rock supplied in two 5,000 t barge loads)
• Rock size	600 mm to 2.0 m. (Actual rock grading would be confirmed following detailed design and consideration of the off shore wave energy)
• Source of rock	Talley's Quarry in Takaka
• P&G	\$50,000
• Cost ex quarry	\$500,000 (based upon similar costs to a Wellington project)
• Cost to supply by barge	Say \$250,000
• Placing and other costs	\$70,000
Budget estimate	\$870,000 (GST exclusive)

This option would provide an offshore breakwater and subsequent to construction, there would be an expected build-up of sand on the leeward side of the breakwater. The stream gradient would be reduced and could be used in conjunction with Option 2A.

6.8 Review following Opus Work

Following review of the Opus report findings we have reflected upon whether any of the above recommendations would have an effect upon the discussions and conclusions set out for this report.

The Opus report together with the discussion with Warren Bird (of Opus) has identified in their opinion the in catchment attenuation within the northern Catchment F would have little impact on flows unless the attenuation storage was significant. In Mr Bird's opinion, the attenuated flow would need to be less than 0.5 m³/s or less than 0.5 m/s to achieve a substantive reduction in sediment transport. They also consider that as the potential land for attenuation is in private ownership then the cost of land to achieve the desired outcome would outweigh the benefits. Their opinion is subjective.

GHD have arrived at a different conclusion as follows:

- GHD would recommend undertaking:
 - Hydrology and hydraulic modelling of the catchment to understand the flows to the beach with and without intervention works

- Obtain land access and walk over to identify potential attenuation sites on private land to the immediate north of Baylys beach
- Preliminary design of low impact dams. Possibility two gabion dams 1 – 2.5 m high.
- Test the benefits for regular storm events (i.e. 1 month, six month and one year rain events) and assess pre and post, what is the likely volume of scour.
- Undertake an alternative design of the Seaview Road extension to the beach using riprap as a basecourse for the access road.

Then test the hypothesis of whether there is a significant reduction in likely road maintenance with and without new attenuation in place.

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7. Options discussion / Summary

Option 1 – Do nothing

Do nothing has some reputable considerations for Council. A decision to do nothing and review in 1 – 2 or 5 years could be made with little impact apart from visual impacts of the existing cloth bags in their degrading states.

Beach access maintenance will be required at a similar frequency to now. Without flow attenuation in dams upstream we can expect sand build up or new gravel access to be required following each rain or king tide sea storm events.

Option 2 – Removal and vegetate

This option to completely remove the existing bags and focus on a limiting planting programme does have merit and we recommend KDC gives this option further consideration.

This option would need to be managed from a political perspective and begin the debate of managed retreat.

The expected beach access maintenance relative to other options can be expected to be reduced with this option. The difference is perhaps minor and after major sea storms during high tide or king tides and following significant rain events, then major replacement of the beach access roadway can be expected.

Option 2a - Catchment management

This option discusses design and installation of multiple attenuation basis within the catchment. The benefit is the reduction in peak flow and reduced loss of sand to the beach. This option would make a good partner with Option 2 although could be used with all options.

In terms of road maintenance, this option will have a significant reduction in the quantity of sand lost from the confined channel downstream of the bridge to the beach from events up to the frequency of significant attenuation provided in the dams.

We expect from casual inspection of the topography in the catchment it would be possible to contain flows up to the 6 month to one year event within the 2 or 3 potential dam sites. Thus the frequency and severity of maintenance for the road would be reduced for these rain storm events.

This option would have no impact upon a sea storm event and following a sea storm damage repair would be similar to other options.

Option 3 & 4 - Partial removal of existing and build a new wall from recognised industry supplier

Replacement of the existing wall with a recognised revetment sandbag product does have merit for protection of the north bank but comes at a price of increased maintenance of the access road and access to the stairs at the public toilets.

Without undertaking this option in conjunction with Option 2A, the runoff velocities will cause additional scour of the channel downstream of the bridge. As such road maintenance for these two options will increase from rain storm events.

For major sea storm events during high tides, the wave flow in the channel will be confined. Wave propagation up the channel will result in higher velocities leading to scour of the road and north bank embankments. Unless protection of the road embankment is made then these options will result in an increased frequency and cost of road repair.

Option 5 Beach or sand replenishment

This option not recommended for a high-energy beach where all replenishment could be lost in one storm event.

Option 6 Offshore breakwater

This option could source rock from Takaka by barge and construct a breakwater that would be partially submerged during king tide and storm events. Andersite rock is seen as more desirable than a manufactured concrete revetment product even though the latter would provide similar technical advantages.

This has a high visual impact but offers some advantages such as safer boating, higher sand levels, reduced beach erosion from rain events. It is expected that this option would require a substantive effort through the consulting and consent phase.

In terms of road maintenance, this option has good protection of the road from sea storm events and with maintenance of the off shore breakwater, the protection can be maintained for 50 years or more.

Unless this option is carried out in conjunction with 2A then there will be road maintenance required after rain events and similar maintenance if the rain event exceeds the capacity of the upstream attenuation provided in the catchment.

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8. Accuracy and costing

A rough order cost estimate table is provided for comparison purposes below.

Table 3 Options rough order cost estimate

Options	Cost (\$'000) excluding GST & contingency
Option 1	Future costs
Option 2	\$50
Option 2A	\$100 -300
Option 3	\$330
Option 4	\$600
Option 5	Not costed
Option 6	\$870

The design considered for the options has been made upon engineering judgement with concept design only.

The costing for the project should be considered indicative at this stage and useful for comparison of options only. Further work on preliminary and detailed design will be required to refine the design, and the associated engineers estimate.

No contingency has been provided in any of the estimates. Each estimate excludes GST.

As set out in the discussion in chapter 7 above, a number of solutions are recommended to be carried out with Option 2A. As such the final sum should include the sum of the recommended options.

9. Recommended

Minimum work package before an informed decision can be made

GHD recommend that further investigation and preliminary is undertaken to reliably inform decision makers on the costs, impacts, consentability of the following options:

- Potential for attenuation to have a material effect on the amount of sand being currently lost to the open beach,
- Design of a riprap and aggregate road from the end of Seaview Road seal end to the open beach,
- Preliminary design of the Sunset Open Swale as proposed by Opus
- Preliminary design of the Cynthia Place diversion Drain as proposed by Opus.

We would recommend that the standard of preliminary design would need to:

- Include survey of the catchment or part thereof. This could include a drone survey.
- Simple hydraulic model to understand benefits of potential attenuation,
- Consultation with the affected landowners for the attenuation dams and swales. This would include potential easements but ownership remaining private,
- Consultation with iwi and interested residents / stakeholders
- Carrying out a planning scoping package of work to understand the likelihood of gaining resource consent for the proposed work,
- Understand if a building consent would be required for the dam, or adjusting the dam to a level such that building consent would not be required. (i.e. less than 3 m in height and less than 20,000 m³ impoundment volume).
- Undertake a preliminary cost for the chosen/recommended options
- Understand the benefits for each of the options including the residual risk to various properties not protected.

Once this package has been undertaken then an informed decision can be made as a way forward by the Council.

9.1 Business Case

Start the discussion now on the business case to invest in any protection options vs what is being protected. This then turns into a discussion with the community on the level of service provided vs cost to provide this service vs risk to private and public assets.

A mechanism to enable this would be I would recommend that the multi-criteria analysis (MCA) needs to include criteria developed by the community that captures what is important to them (This does not need to be a big exercise - but we would recommend including the community early before decision are made so they see a transparent process). It would also needs to include cost and needs to take out ownership. I would suggest it includes all assets at risk in this discussion including public and private - and it potentially needs to include NZTA in this discussion.

9.2 Managed Retreat

The original GHD scope was to assess the condition of the sand bag revetment wall. A work package to build the existing wall was carried out some two years ago. This work has failed through a poor selection of materials and poor design.

GHD do not recommend reinstatement of the wall and would encourage KDC to arrive at a similar conclusion. The costs for a properly designed wall made from modern synthetic materials are significant and perhaps more than \$600k. If these are to be built the expected life is 20 years \pm 5 years. A wall out of permanent materials (rock riprap) is likely to be significantly more expensive.

GHD recommend KDC consider a plan of managed retreat option for the true right bank (and northern embankment) with little intervention. However, this will not solve continued beach access.

A second option to make the beach road more resilient needs further detailing and investigation. Hence and at this stage, we recommend a design for the road using permanent materials (rock riprap) together with ongoing maintenance be used to manage beach access.

Once this design work has been undertaken, then the combined work can again be presented to Council.

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Appendices

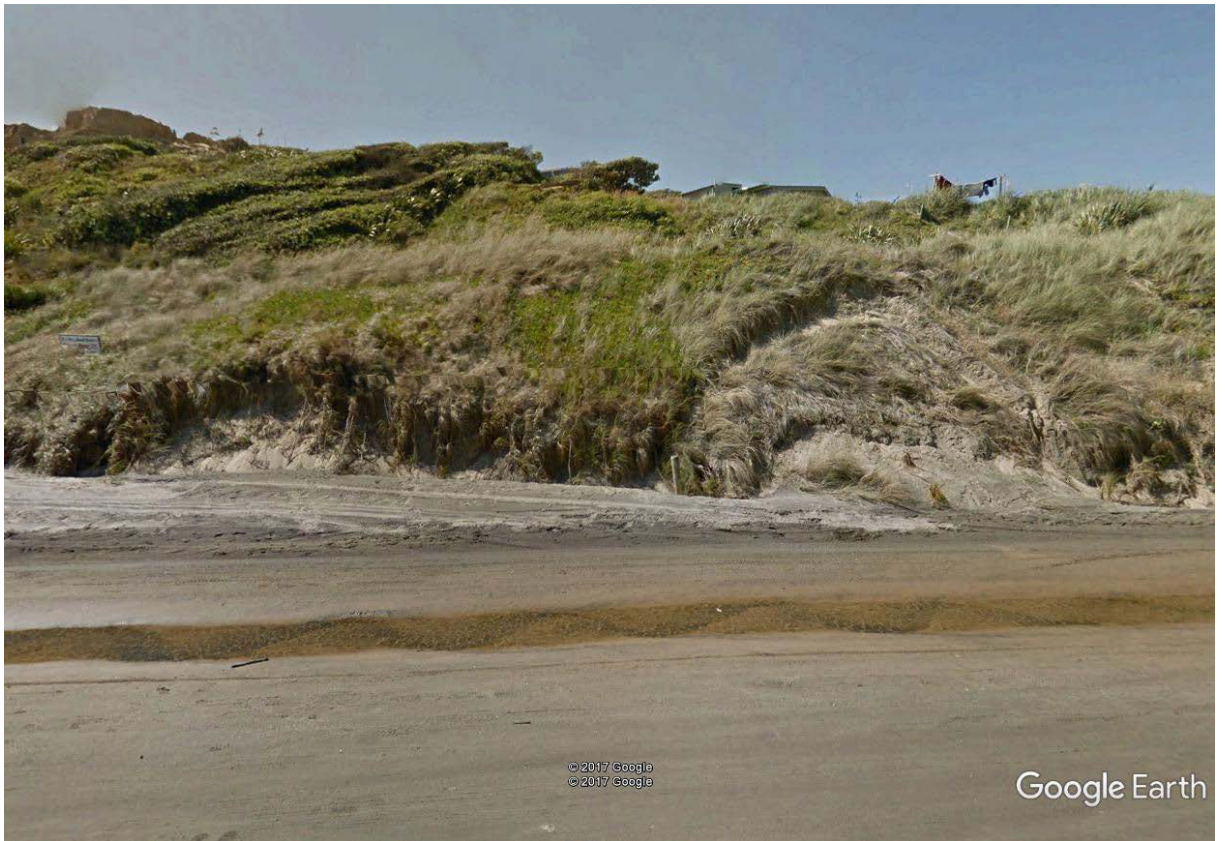
Appendix A – Photos from 2012

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Pre wall construction



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Appendix B – Photos from site visits

Early August 2017 and

July 2015 during wall construction

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Photos from 2017 early August Site Visit

Photos taken approximately every 5 m showing existing state of wall at state of wall and failures



~0 to 9m ~7 – 17m ~13 – 21m ~19-26m ~23-30m



~25 to 35m ~32 – 40m ~36 – 43m ~40-49m ~45-55m



~52 to 63m ~58 – 67m ~63 – 73m ~67-77m ~64-74m



~76 to 84m ~75 – 84m



Appendix C – Resource consents

Copy of NRC Resource Consent Application document and
Consent as granted

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FILE: 008964
01 to 02
Change to Conditions

Document Date: 09.07.2015

Resource Consent

Pursuant to the Resource Management Act 1991, the Northland Regional Council (hereinafter called "the Council") does hereby grant a Resource Consent to:

KAIPARA DISTRICT COUNCIL, PRIVATE BAG 1001, DARGAVILLE 0340

To carry out the following activities at Baylys Beach on Pt Lot 1 DP 20714, Lots 1, 2 & 4 DP 71221, Pt Lot 1 39303 & and Road Reserve Blk XIII Kaihu SD, Map Reference P07:776-832:

- AUT.008964.01.03** To excavate sand from a foredune and beach location.
- AUT.008964.02.03** To place a sand bag protection structure adjacent to the Chases Gorge Stream for the purpose of stream and bank protection works at Seaview Road, Baylys Beach.

Subject to the following conditions:

- 1 The Consent Holder shall ensure that the works are carried out generally in accordance with the (**attached**) Transfield Services Plans entitled:
 - (a) "Baylys Beach Sand Bag Works – Proposed Alignment", Sheet 1 (of 1), dated 10/6/2015.
 - (b) "Baylys Beach Sand Bag Works – Proposed Sand Collection Area G", undated aerial photo.
- 1A Excavation of sand from the beach shall be limited to the area identified as "Area G" in Condition 1, unless the prior written approval of the Northland Regional Council's Monitoring Manager is obtained for the removal of sand from other areas of the beach.
- 1B All excavation of sand from the beach shall be limited to unvegetated areas located landward of the line of and above the level of Mean High Water Springs, and shall not result in the creation of holes or depressions or the undermining of sand dunes or cliffs.

Advice Note: *The removal of sand is to be undertaken by evenly scraping a shallow depth of sand from the authorised are.*
- 1C The sand bag protection works shall be faired into the adjacent slope in a manner such that ensures end-effects arising from erosive stream flows do not occur.

- 2 The area located on the slope above sand bag works shall beplanted with suitable dune vegetation species within three months, of the completion of earthworks on this site. Fencing shall The amount of sand required to carry out the sand bag construction activities is 1600 m³ be constructed and maintained so as to prevent vehicle and pedestrian access over this site.
- 3 ✱ The Consent Holder shall notify the Regional Council in writing of the date sand excavation is intended to commence, at least one week beforehand. ✱
- 4 Refuelling and servicing of machinery shall not be carried out in or near the bed of the stream or on the beach.
- 5 The Council may, in accordance with Section 128 of the Resource Management Act 1991, serve notice on the Consent Holder of its intention to review the conditions of this consent. Such notice may be served, three months after the commencement of the consent, and thereafter at six monthly intervals. The review may be initiated for any one or more of the following purposes:
- (a) To deal with any adverse effects on the environment that may arise from the exercise of the consent and which it is appropriate to deal with at a later stage, or to deal with any such effects following **assessment** of the results of the monitoring of the consent and/or as a result of the Regional Council's monitoring of the state of the environment in the area.
 - (b) To require the adoption of the best practicable option to remove or reduce any adverse effect on the environment.
 - (c) To provide for compliance with rules in any regional plan that has been made operative since the commencement of the consent.
 - (d) To deal with any inadequacies or inconsistencies the Regional Council considers there to be in the conditions of the consent, following the establishment of the activity the subject of the consent.
 - (e) To deal with any material inaccuracies that may in future be found in the information made available with the application. (Notice may be served at any time for this reason.)

The Consent Holder shall meet all reasonable costs of any such review.

EXPIRY DATE: 30 JUNE 2034

The original resource consents (NLD 00 8964) dated 12 September 2000 were authorised by Allan Richards, Acting Consents Manager. A change of consent conditions (NLD 02 8964 (01)) was granted on 28 May 2002 by DL Roke, Consents Manager. A further change to consent conditions 1 and 2 is granted this Ninth day of July 2015 under delegated authority from the Council by:

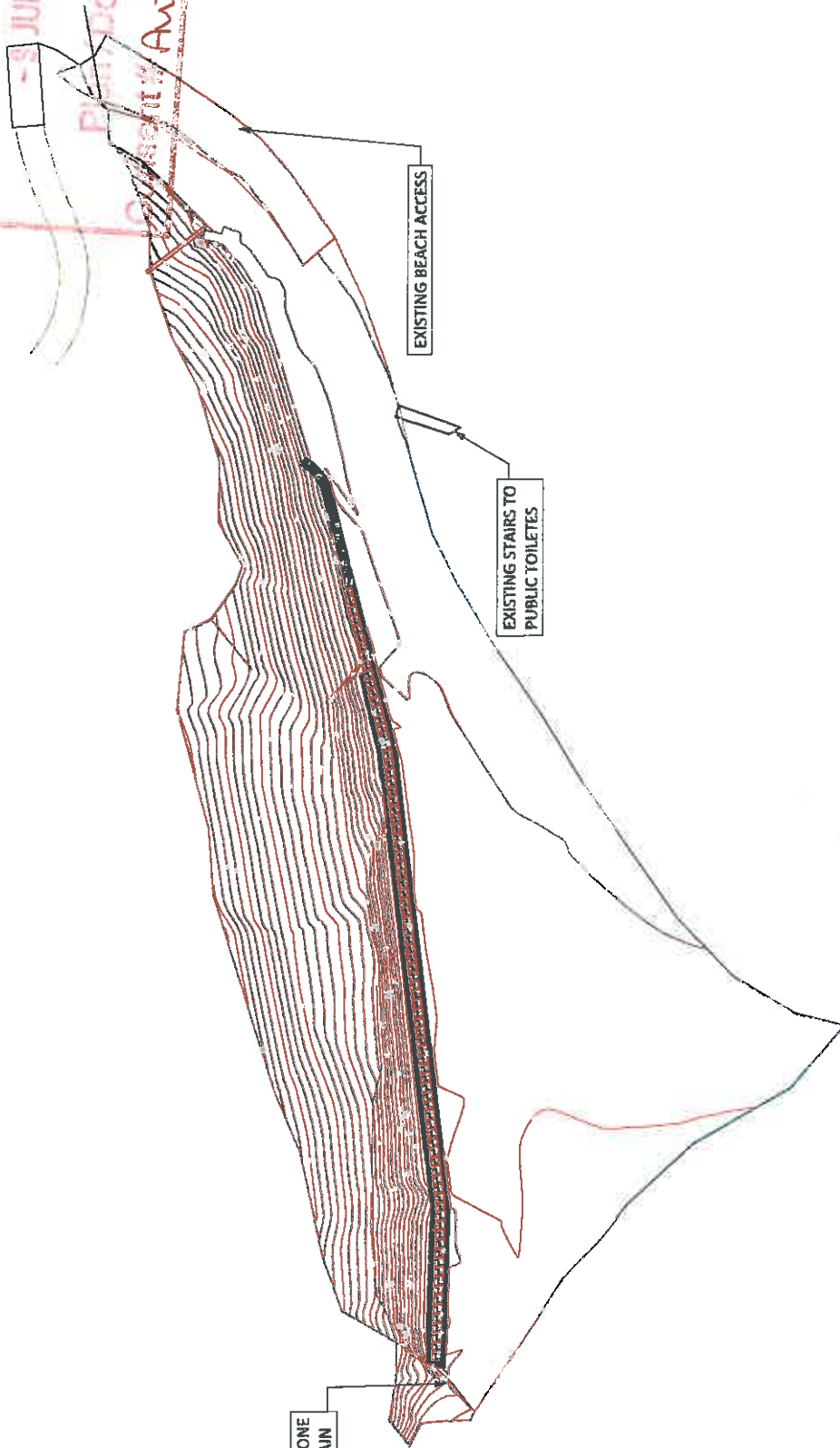


Allan Richards
Consents Programme Manager – Coastal and Works

The date of commencement of these consents is 12 September 2000.



Northland Regional Council
APPROVED
 13 JUL 2015
 Permit # ANT-008964



SCALE: 1:500

DATE:	10/06/2015
DRAWN:	
NOTES:	

BAYLYS BEACH SAND BAG WORKS PROPOSED ALIGNMENT

TRANSFIELD SERVICES
 32 Te Waiiti Place, P.O. Box 48,
 Raunanga, Whangarei, 0110
 Phone (09) 470 4400, Fax (09) 470 4401

JOB NUMBER

Sheet Number: 1
 Total Sheets: 1

BAYLYS BEACH SAND BAG WALL WORKS

PROPOSED SAND COLLECTION AREA G
DISTANCES REFERENCED TO EXISTING ROCK GOYNE AT
TERMINATION POINT OF PROPOSED BAG WALL

BAYLYS BEACH

AREA G

APPROX 500m

APPROX 200m

PROPOSED SAND BAG WALL AREA

APPROVED
A/R
Plant Document
Consent # A/T-05-016

TRANSFIELD SERVICES

Appendix D – Opus Report and Memo

Including:

Stormwater management Plan – Baylys Beach July 2015

Baylys Beach – Erosion Analysis – Opus Memo March 2018

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GHD

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Document Status

Revision	Author	Reviewer		Approved for Issue		
		Name	Signature	Name	Signature	Date
Draft	Tony Miller	Craig Dengate				21/08/17
Final	Tony Miller	Iftikar Rahim		Iftikar Rahim		13/3/18

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Memorandum

To	Matthew Smith, Stormwater Engineer, Kaipara District Council
Copy	Douglas Wehing, Donnick Mugutso
From	Eros Foschieri, Team Leader – 3 Waters, WSP Opus International Consultants
Office	Whangarei Office
Date	9 March 2018
File	1-13580.00
Subject	Baylys Beach – Erosion Analysis

1. Background information

An overview assessment of the stormwater reticulation network for the Bayly's Beach township was undertaken by Opus in July 2015 (as per attached report, 24 July 2015, Appendix A). The study approach comprised 6 modules (detailed in Section 2.2 of the report) with the aim to develop a capital works programme that monetarily quantifies and prioritises the recommended proposed works.

Part of the work included the analyses of the stormwater network and overland flow paths. The assessment was undertaken using a spreadsheet-based approach. The Rational Formula was used to estimate peak flows, and the capacity (existing and required) of the network was analysed using Manning's equation. Critical nodes included areas where previous problems have been reported (none known for Bayly's Beach), key system junctions, risk areas and significant changes in topography.

Overland flow paths (OLFP) and extent of flooding were also analysed by Manning's equation. In order to assess the flow paths accurately, survey information is generally required. For Bayly's Beach catchment no survey was available, however given the steep topography of the area, the information available (internet mapping augmented by site observation) was sufficient to determine most catchment boundaries with reasonable confidence and determine the location and direction of the flow paths. The extent of flooding was based on assumed overland flow path cross sections estimated from site observations, web-based tools and engineering judgement.

2. Scope of work

WSP Opus were engaged by Kaipara District Council (KDC) to undertake a catchment and scour analysis at Bayly's Beach and find feasible solution(s) to minimise/mitigate observed erosion of Seaview Road immediately upstream of the beach. The overarching aim of this project is to protect Seaview Road.

Due to the limited time available, this interim analysis has been based on the information and methods contained in the previous report as outlined in the following sections.

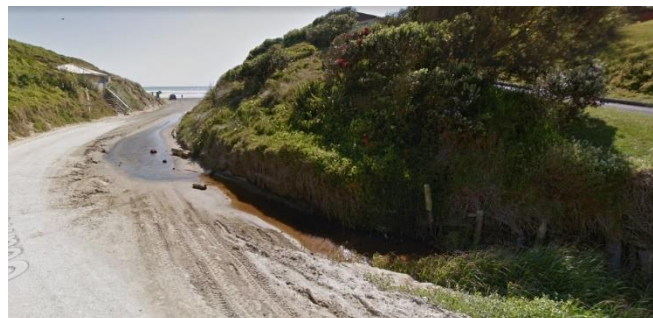


Figure 1 - Bottom end of Seaview Road (Bayly's Beach)

3. Site investigations

A drone survey was carried out by WSP-Opus on February 2018 to obtain topographic data from which cross-sections of the channel could be extracted. The survey information and relevant cross sections have been provided in Appendix B – Drawings.

4. Catchment Analysis

Because the focus of the present study is on stream erosion, WSP-Opus have undertaken a catchment analysis for the 2 year rainfall event. The analysis was based on:

- rainfall intensity obtained from NIWA HIRDS v3 database;
- no factoring for climate change effect;
- The peak discharge and flow velocities at each cross-section were estimated using the rational formula and Manning's equation respectively.
- the peak discharge and velocities were undertaken at Section F (bridge location) and Section C (bottom end of Seaview Road) as indicated on the attached drawings.

Refer to the below table showing the results.

Table 1 - Peak discharge (2yr ARI event) and Velocities

	Cross-section F – Bridge	Cross-section C
Peak Discharge	4.52 m ³ /s	
Flow Velocity	2.19 ~ 2.73 m/s	2.08 m/s

5. Scour Analysis

The average stream velocities derived above were compared against erosive values listed in standard references on the subject (e.g. Fortier and Scobey, 1926; Stormwater Treatment Standard for State Highway Infrastructure (NZTA, 2010); Hydraulic Energy Management: Inlet and Outlet Design for Treatment Devices (Auckland Council TR2013/018); and Brisbane City Council (2003). One example of these is reproduced as Table 2 below

These references show that sandy particles are prone to erode at a flow velocity greater than 0.5 m/s. The 2 year flow velocities shown above, which represent flows in a relatively frequent rainfall event, exceed this threshold at both Cross-section C and Cross-section F, demonstrating that the channel is likely to erode.

Table 2 - Max Velocities for erosion control

Material	Maximum velocities for erosion control in unlined channels ^a (m s ⁻¹)
Fine sand, colloidal	0.5
Sandy loam, noncolloidal	0.5
Silt loam and Alluvial silt, noncolloidal	0.6
Ordinary firm loam	0.8
Volcanic ash	0.8
Stiff clay and Alluvial silt, colloidal	1.1
Shales and hardpans	1.8
Fine gravel	0.8
Graded loam to cobbles, noncolloidal	1.1
Graded silt to cobbles, colloidal	1.2
Coarse gravel	1.2
Cobbles and Shingles	1.5
Tussock type grasses ^b	0.5–1.3
Couch, carpet and sward-forming grasses ^b	1.4–2.0
Kikuyu grass ^b	1.9–2.5

a) From Stormwater Treatment Standard for State Highway Infrastructure (NZTA, 2010) and Brisbane City Council (2003).

b) Range presented as values are dependent on vegetation health and cover, and soil erodibility (Brisbane City Council, 2003).

6. Conclusion and Recommendations

Our provisional analysis confirms that scour of the sandy channel is likely to occur during a 2-year ARI event, thus confirming the observations that prompted this study.

Other morphological characteristics, not covered by this study, such as bend scour and liquefaction, may also contribute to scour at the site.

We recommend this analysis could be extended to look at a range of small frequent storms (e.g. 6 month ARI) to obtain a better picture of erosion risk. For future analysis, it would be helpful to refine the hydrological assessment through extended survey, land cover and imperviousness estimates. Once comprehensive topographic coverage is available it will be possible to carry out a rain-on-grid analysis, which will be a quick and versatile tool for future analyses, including consideration of peak-flow attenuation.

In this context however, we note that any detention device capable of bringing flow velocities down below the 0.5m/s erosion threshold is likely to be so large as to be uneconomic.

The simplified analysis conducted here indicates that stream scour *is likely* at the subject site, and we recommend that future efforts should be directed into providing suitable armouring to the road structure to withstand storm flows.

Appendix A



Kaipara District Council

Stormwater Management Plan Baylys Beach



Kaipara District Council

Stormwater Management Plan Baylys Beach

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Appendix B	Stormwater Network Assessment
Appendix C	NIWA HIRDS V3 Rainfall Intensity Tables & Intensity Duration Frequency Graph
Appendix D	10 Year Capital Works Programme

1 Executive Summary

An overview assessment of the stormwater reticulation network for the Baylys Beach township has been undertaken. The capacity of existing stormwater pipelines, inlets and channels has been undertaken for the 5 year and 100 year ARI storm events. The outcome of this assessment is generally positive with most of the infrastructure assessed having sufficient capacity to convey the design flow from the contributing catchments.

The majority of residential properties have been built clear of the existing gullies and are therefore not at risk of flooding associated with rainfall. A total of 8 properties within the township have however been identified, 3 of which are yet to be developed.

Three properties along Cynthia Place are downstream of an existing overland flow path and would therefore be at risk of frequent flooding. A further three properties within the recent Sunset West subdivision are also downstream of an overland flow path. The recommended measure to mitigate the risk is an upstream diversion channel for each of these areas. The physical works costs of constructing both these channels is estimated to be a total of \$500,000. This cost is indicative only as there is insufficient information to estimate the earthworks volumes accurately.

The last two properties are located along Seaview Road, adjacent to Baylys Beach. These two properties are downstream of an existing 1,200mm diameter culvert which has been assessed to convey the 100 year flow sufficiently. There is however a risk of blockage as the channel that discharges to this culvert is highly vegetated. Regular maintenance of this channel is recommended.

The proposed remedial works have been prioritised with consideration of the required works identified within the Dargaville township. This has been done to achieve the best stormwater outcomes with the limited funding available.

The following works are recommended for Baylys Beach:

Table 1 Recommended works and outline costs for Baylys Beach

Baylys Beach - Catchment ID	Project Description	Priority	Estimated Cost (\$)
B	Sunset Drive Upstream Diversion Drain	Medium	\$ 200,000.00
D	Cynthia Place Upstream Diversion Drain	Medium	\$ 300,000.00

As noted in the body of this report, there were significant gaps in the available data; these gaps required a number of inferences, assumptions and engineering judgements to be made in order to make a meaningful assessment of the Baylys Beach stormwater network. These inferences should be re-assessed prior to (or in the course of) design for any planned upgrading works.

2 Introduction

Opus International Consultants (Opus) has been engaged by Kaipara District Council (KDC) to review and update the Duffill Watts & King 2003 Stormwater Development Plan for Dargaville. The commission also extends to the preparation of a Stormwater Management Plan for Baylys Beach.

Kaipara District Council's (KDC) drivers are to deliver on stormwater targets set by KDC and Northland Regional Council (NRC), as well as ensuring best social and environmental outcomes for the local residents in an economically efficient approach.

The overall objective of the project is to identify priority stormwater works that will populate the ten year capital works programme for inclusion into Council's Long Term Plan (LTP). This report considers only flooding associated with the local catchments and reticulation. Coastal flooding is outside the scope of this report.

2.1 Site Location and Description

Baylys Beach is a small seaside community located, on the Tasman Sea, 13km west of Dargaville. The stormwater system consists of a series of pipes and open channels, both natural and engineered that discharge to the coast. Potential stormwater issues within the Baylys beach area are localised flooding due to inadequate pipe capacity and/or outfall erosion, stormwater quality issues and potential contamination due to on-site wastewater systems. Baylys Beach will see on-going development and KDC will need to ensure its infrastructure is adequate to support this growth.

2.2 Study Approach and Methodology

The study approach was outlined in Opus' proposal dated 27 February 2015, and comprises a similar albeit simplified version of the Dargaville stormwater assessment being carried out in parallel. The scope of works comprises six modules, which are described below.

2.2.1 Stage I Data Gathering & Review

Stage I involved collating relevant information necessary to conduct the study (e.g. previous reports, reticulation network and topographic information). An initial site inspection was undertaken on 19 March 2015 for familiarisation, during which further system performance and flood history information was obtained through interviews with KDC staff. The adequacy of the available information was then assessed and gaps identified.

2.2.2 Stage II Catchment Analysis

Boundaries of the topographic sub-catchments have been defined, as appropriate to large events i.e. 10 to 100 year Average Recurrence Interval storms (ARI), rather than pipe system catchments as flow resulting from these events are generally far in excess of the existing pipe system and any serious flooding problems are expected to relate to operation of overland flow paths. Notwithstanding this, Baylys Beach comprises several clearly defined gullies, so that the pipe system catchments are expected to align fairly close to the topographic catchments.

The catchment boundary delineations were subsequently based on our site walkover and our interpretation of available 10m contours, web-based tools, and further informed by the Council GIS reticulation layout.

The output from the catchment analysis is the preparation of a plan indicatively illustrating sub-catchment boundaries, potential overland flow paths and critical stormwater assets and features.

2.2.3 Stage III Analysis of Stormwater Network and Overland Flow Paths

KDC has requested that no hydraulic modelling be undertaken in assessing the stormwater network. Furthermore due to the lack of pipe gradient and other critical information the detail of the analysis is limited. An assessment focusing on the key nodes, pipelines and culverts in the network has therefore been undertaken, i.e. those assets with a diameter 450mm and greater.

This assessment has been undertaken using a spreadsheet-based approach. The Rational formula has been used to estimate peak flows and the capacity (existing and required) of the network has been analysed using the Manning's equation. Critical nodes are areas where previous problems have been reported (none known for Baylys), key system junctions, risk areas and significant changes in topography.

Overland Flow paths (OLFP) and extent of flooding has also been analysed by Manning's equation. In order to assess flow paths accurately survey information is generally required. For the Baylys beach township neither is available, however given the steep topography of the area, the information available is sufficient to determine most catchment boundaries with reasonable confidence and determine the location and direction of the flow paths.

The extent of flooding has been based on assumed overland flow path cross sections estimated from site observations, web-based tools and engineering judgement.

2.2.4 Stage IV Identification of Stormwater Issues

The outcome of Stage IV is the identification of stormwater issues relating to network and overland flow path capacities. Properties at risk of flood are also identified in this stage however the limitations of the above assessment must be considered when interpreting this information as it is not possible to predict actual flood levels and freeboards without detailed hydraulic modelling.

The issues identified will be given a qualitative rating in terms of their risk (i.e. considering both probability and consequence), using rating of High, Medium and Low.

2.2.5 Stage V Options and Feasibility

Conceptual options have been developed to address the issues identified during Stage IV, and associated rough order costs determined for each option. In developing the options we have taken into account the acceptable levels of service with consideration of limited funding capabilities of the community and statutory requirements. We have considered options not only for pipe upgrades (that can be of a considerable cost) but options that may include;

- Creating storage /detention areas to reduce peak flows downstream
- Improvement and protection of overland flow paths
- Diversion of flow to adjacent sub-catchments
- Operational solutions and
- Non-structural or policy options

We have prepared indicative cost estimates to quantify a short list of conceptual options developed in this module. These estimates are principally for the purpose of comparing between options, it

should be noted that they may not necessarily be suitable for budget-setting due to the rough order nature of these estimates. We have further undertaken a qualitative assessment of any associated effects and outcomes of each option – e.g. environmental, health and safety, level of service.

2.2.6 Stage VI Management Plan Module

The last stage of the project was to develop a capital works programme that monetarily quantifies and prioritises the recommended proposed works. Furthermore we have included the costs of undertaking enabling works and identified further investigations required to address the stormwater issues identified. This staged approach will enable Council to upgrade the deficient areas of the stormwater network to meet KDC's Engineering Standards in a cost efficient and affordable way.

2.3 Summary of Key Assumptions

Given the limited information available at the time of this project it has been necessary to make a number of simplifying assumptions, which inevitably impact on the level of detail of the analysis. The analysis methodology described above seeks to achieve practical outcomes with the available information in a simplified approach that is easily replicable by Council.

Principal assumptions include the following:

- In the absence of pipe invert levels, pipe gradients have been assumed to follow the gradient of the ground surface. This assumption is generally valid over long distances, but means that it is not practicable to assess every length of pipe individually. Instead our analysis focuses on key nodes.
- In the absence of surveyed cross sections or detailed contours to define flow path and channel geometry, approximate flow depths and widths have been assumed. Critical flow paths i.e. those that affect buildings will be verified on-site using tape measurements if deemed necessary.
- Based on our assessment of the contributing catchment size, pipe diameters and position in the network, we have determined key pipes requiring analysis will have a diameter of 450mm or greater (some smaller diameter pipes have also be analysed if they were considered to be critical). These systems will typically be assessed at two or three locations along their length.
- Culverts (i.e. discrete pipes crossing under roads) have been assessed only if significant effects in the form of upstream flooding or severance of major arterial routes are anticipated in a storm with a return period of 10 years or greater.
- Condition of pipelines and the primary system has been assumed to be good and well maintained i.e. a maximum blockage factor of 50% has been incorporated in analysis.
- General inlet capacity and spacing (street catchpits) is satisfactory requiring no assessment and the primary system is assumed to collect the entire catchment contributing. Where a significant inlet such as a 'scruffy dome' is critical and could result in downstream flooding due to blockage this has been assessed.
- Since the topography in Baylys' Beach is relatively steep, tidal tailwater influences are not expected to significantly influence pipe flow capacities.

3 Background Study

Kaipara District Council’s 2011 Engineering Standards, herein referred to as the Engineering Standards, mention that a draft SWMP for Baylys Beach was completed in September 2009. However this plan has not been obtainable. We have however been provided with the consent documents submitted for the development of the Sunset West (previously known as Sundance Subdivision). Review outcomes of these documents are detailed in the following section.

3.1 Sundance Properties Baylys Beach Development 2005

Review of the consent documents submitted for the development of the Sunset West Subdivision has been undertaken. A summary of the key findings from this review follows:

- Stormwater disposal for the residential properties is achieved by on-site infiltration.
- Potential overland flow issues associated with the 100 year ARI event have been recognised.
- The developer proposes to divert overland flow along the road reserve and within the swales either side. No calculation of the capacity of the overland flow path has been submitted however.
- Runoff is expected to be minimal due to the sandy soils within the catchment.
- An attenuation pond and diversion channel were proposed to mitigate the increased additional runoff generated in a 5 year storm event.

3.2 Data Review

The following GIS and LiDAR data was provided by KDC:

- Dargaville BaylysSW lines
- Dargaville BaylysSW points
- Aerial photograph

The “Dargaville & Baylys SW lines” file, provided in .DAT format, is a compilation of culverts, open channels and pipelines that form the stormwater network. The culverts, open channels and pipelines appear to be accurately defined as confirmed by inspection of aerial photographs. The diameter of pipelines and culverts has been provided however this information is not comprehensive.

Open channels are simply identified in the GIS data, no dimensions, grade or other information is provided. The “Dargaville Baylys SW Points” file provided in .DAT format, represents the inlets (catchpits) and stormwater manholes in Baylys Beach. There is no lid levels provided with the exception of the recent development of Sunset West. Furthermore there is little to no invert or depth information provided.

LiDAR topographic information is limited to publicly available 10m contours.

Aerial imagery dated 2009, has been provided by Council for the Baylys Beach Township. These aerials are good quality and superimpose onto the stormwater reticulation (i.e. surface features such as catchpits and manholes) with reasonable accuracy. Further aerial imagery has been obtained from the Council GIS system to cover the larger catchments.

3.3 Data Gaps

As expected, significant gaps exist in the available data, which will continue to govern the study approach. These gaps include:

- Lack of pipe invert levels
- Missing pipe sizes
- Lack of virtually any open drain data. Open drains and water courses form an integral part of the stormwater system and
- Lack of detailed contour information.

As noted previously, without this data it is not possible to carry out a detailed hydraulic analysis. Accordingly, for this current study these data gaps will be filled by inferences and assumptions informed by engineering judgement.

This reduces the accuracy of the analysis undertaken, however is expected to be sufficient for illustrating an overview of the stormwater network and overland flows. This does not forgo collating additional data and undertaking further analysis as this is strongly recommended before undertaking capital expenditure in any area.

3.4 Site Visits

Site visits were undertaken on Thursday 19 March 2015 and Wednesday 1 July 2015. The following observations were made;

- Baylys Beach is built around several deeply-incised gullies that combine and break out to the beach through gaps in the coastal cliffs. Fortunately virtually no development has occurred in the gully floors.
- These gullies serve both the township and very large rural areas upstream of the township.
- The steep topography is subject to erosion if exposed to uncontrolled stormwater discharges. This was noted at the outlet of the Cynthia Place pipeline, where the rip rap basin had washed out. This has since been reinstated. This is typical of what may be expected in such steep, high-energy environments. Of the pipe outfalls observed, energy dissipation measures appeared to be limited to rip-rap aprons.
- Most residential areas are served by piped stormwater reticulation and roads served by open channels.
- A recent subdivision (Sunset West) has been recently developed.
- The tidal boundary condition is unlikely to constrain system capacity unduly owing to the steep topography.
- While tidal erosion may be a concern generally along this section of coastline, most of the stormwater discharge points are sufficiently located upstream to not be subjected to direct wave action.
- Flooding relating to rainfall is uncommon (interview with KDC staff).
- The intersection of Kelly and Bayly Street has been re-contoured and new grated manholes and culverts installed.
- A naturally formed pond and overland flow path exists upstream of 6 Cynthia Place.
- The existing 1200mm diameter culvert under the intersection of Bayly Street and Seaview Road is approximately 3m in depth from road level to invert.



Figure 1 - Cynthia Pl stormwater outfall showing recent erosion repairs



Figure 2 - Cynthia Pl (2) stormwater outfall showing recent erosion repairs



Figure 3 Natural Pond U/S of 6 Cynthia Place



Figure 4 Recent Works at Kelly & Bayly St.

4 Catchment Analysis

4.1 Catchment Areas

The boundaries of the reticulation catchment are different to the boundaries for the overland flow catchments. The catchment plan appended illustrates the topographic catchments (noting that this is difficult to define precisely with contour data limited to 10m contour intervals).

A plan depicting sub-catchment boundaries and flow paths is appended. As this is only a desktop study the plan should not be used to assess the flood risk to individual properties.

4.2 Catchment Characterisation

The Baylys Beach Township is delineated into 6 sub-catchments as tabulated below. The land-use consists of low-density residential areas typically at the bottom of the catchment and large rural land at the top of the catchment.

Table 2 Catchment Characteristics

Catchment ID	Primary Land-Use	Secondary Land-Use	Area (Ha)	Q ₁₀₀ (m ³ /s)
A	Residential	-	8.09	1.07
B	Rural	Residential	92.37	3.37
C	Residential	-	1.89	11.89
D	Rural	Residential	30.17	2.24
E	Rural	-	217.63	7.71
F	Rural	Residential	185.16	7.1

4.2.1 Catchment A

The catchment is located within the centre of the township and consists mostly of low-density residential housing. The catchment drains east to west to a steep and well-defined gully. The overland flow is limited to the gully and given its depth, puts no existing properties at risk of flooding. The gully is culverted under the intersection of Seaview Road and Bayly Street via a 1,200mm diameter culvert.

4.2.2 Catchment B

This is a very large catchment consisting of approximately 92 hectares of rural and agricultural land. The catchment drains to a well-defined gully that discharges to Baylys Beach. The original gully has been preserved along Seaview Road however just upstream there are existing residential properties and the recent development of the Sunset West subdivision. At the time of this report the existing land has been earthworked and the lots sub-divided however the majority of residential properties are yet to be built upon. The original channel that flowed through the catchment has been piped under Sunset West and Seaview Road via a 750 - 900mm diameter culvert. Given the post-development topography of the subdivision, some lots just east of Tua Tua Place may be at risk of flooding in a 100 year ARI event.

The natural gully is again culverted downstream via a 900mm diameter culvert under the intersection of Seaview Road and Bayly Street.

4.2.3 Catchment C

This is the smallest and lowest section of the overall catchment. This catchment mostly consists of low-density residential housing. Flow from the gullies of catchments A, B and F discharge to this point and follow Seaview Road to the beach. The existing residential properties of 61 and 65 Seaview Road may be at risk of flooding should the upstream 1,200mm diameter culvert block. This is highly likely given the dense vegetation within the channel.

4.2.4 Catchment D

The catchment mostly consists of a large rural and agricultural area at the top of the catchment and low density residential housing at the bottom. The overland flow path follows Cynthia Place to the outfall where some evidence of scour was noted. Residential properties of 14-22 Cynthia Place have been identified as potentially being at risk of flooding as these properties are located within the overland flow path.

4.2.5 Catchment E

This is the single largest catchment with approximately 218 hectares of rural and agricultural land. The runoff from this catchment is conveyed to the beach in a well-defined gully. The three existing residential properties constructed along the beach front are sufficiently above the flood level in a 100 year rainfall event however may still be prone to coastal flooding. This has not been addressed in this report.

4.2.6 Catchment F

The catchment is mostly rural and runoff is conveyed to the beach in a well-defined natural gully. Stormwater flows are conveyed alongside Seaview Road, discharging to the beach. There is little to no development within this catchment.

4.3 Catchment & Overland Flow Path Analysis

The current Engineering Standards require that overland flow paths be capable of conveying runoff generated in the 100 year storm with 100mm of freeboard when the flow within the primary system is exceeded or the system is blocked. See extract below. We have therefore determined the runoff from the 100 year storm event and used available data (LiDAR where available and web-based tools) to assume typical cross sections and determine the extent/spread of flooding anticipated.

6.2.2 Primary & Secondary flowpaths

c: Secondary flowpaths shall be designed for an AEP of 1% (100 year ARI) for all land uses, with an additional freeboard of 100mm. Secondary or overland flow paths shall be provided to give protection to surrounding building and service when flow exceeds the primary flow and/or the primary system becomes blocked.

Runoff has been calculated for the 100 year storm event using the Rational Formula and rainfall intensities from HIRDS V3 including a 17% adjustment for climate change. The Rational formula has also been used to estimate flows for the primary system and the reader is referred to Section 5 for a detailed methodology of this.

It is important to note that no consideration of storage within the catchment is allowed for in the Rational equation. This limitation of the study results in conservative estimation of the peak runoffs, as most sub-catchments in Baylys Beach are large rural catchments with potential for ample storage.

The extent of flooding has been estimated using Manning's equation for open channel flow assuming typical cross sections informed by web based tools and engineering judgement. Channel gradients are based on lid levels and Manning's roughnesses based on those tabulated within the New Zealand Building Code Clause E1 Surface Water 2011, herein referred to as the NZBC.

Example of typical assumptions made include 3% cross fall from the crown of the road, 150mm kerb heights, where applicable.

Given the conceptual nature of this assessment, this method has been determined to be appropriate. Furthermore the extent of the flow paths is generally contained within the road reserve and only impacts existing structures in limited areas. Where this occurs KDC is encouraged to undertake topographic survey to confirm the flood risks to these sites accurately prior to capital expenditure. At the time of preparation of this report the following properties have been identified as potentially being at risk of flooding in a 100 year ARI event;

- 14, 16 & 22 Cynthia Place
- 61 & 65 Seaview Road
- 25, 27 & 29 Sunset Drive

Please see Appendix A for a plan depicting the extent of overland flow and flood prone areas.

5 Stormwater Network Analysis

5.1 Condition of Stormwater Network

Little to no information has been provided regarding the age or condition of the stormwater network within Baylys Beach. The condition of the network has been assumed to be in moderately good condition and has not been considered in the assessment.

5.2 Stormwater Network Assessment

5.2.1 Review of Design Parameters

As noted in Section 2.2.3 a simplified approach has been undertaken in assessing the existing stormwater network due to the limited information and the directive that no hydraulic modelling be undertaken. The assessment approach adopted consists of two main components;

- Estimation of the design flow for a given return period of a storm event (as specified in the Engineering Standards) using the Rational formula.
- Assessment of the capacity of the network at key nodes for the same return period and storm event. For simplicity and repeatability, the assessment mostly follows the procedures set out in the NZBC.

The parameters of the methods are described below;

Design Storm Average Recurrence Interval (ARI)

The Average Recurrence Intervals are classified by land-use type in the Engineering Standards. These values have been adopted for each sub-catchment and are reproduced below. The land-use in the Baylys Beach township is predominantly rural or residential.

Table 6.2 of the KDC Eng. Standards: Design Periods for Primary Design Flow of Stormwater Systems

Table 3 Land-use Type & Design AEP reproduced from the KDC Engineering Standards 2011.

Land-Use	Design AEP	Design ARI
Rural & Residential	20%	5 year
Industrial	10%	10 year
Commercial	5%	20 year
Rural Road Culvert	10%	10 year

Manning's Roughness 'n'

Calculation of the primary system and overland flow paths has been assessed using the Manning's equation. The Manning's Roughness' used are those tabulated within the Engineering Standards (Table 6.1) and the NZBC (Table 3).

Tailwater Condition

The effects of tailwater have little influence on network capacity in Baylys Beach. This is due to the steep topography and location of infrastructure within the catchment. A free outlet condition has therefore been assumed in the assessment.

Rainfall Intensity (mm/hr)

A comparison of the NIWA HIRDS V3 rainfall intensities of Dargaville and Baylys Beach suggests that the rainfall intensity at Baylys Beach is slightly lower than that in Dargaville for all storm events.

The intensities available from HIRDS have been adjusted for climate change, see below, and an Intensity Duration Frequency (IDF) graph for the 5, 10 and 100 year ARI storm event has been prepared. See Appendix C for IDF graph.

5.2.2 Climate Change Adjustment

The increase in peak runoff due to the effects of climate change have been included in the analysis by incorporating a 2.1°C temperature rise, equivalent to a 17% increase in rainfall intensities.¹

5.2.3 Estimation of Design Flow

The Rational formula has been used to estimate the runoff flows for the ARI storm event specified for each land-use type. For simplicity and repeatability the assessment has been predominantly undertaken following the methods and values specified within the NZBC.

$$Q = \frac{CIA}{360} \quad \text{Rational Equation}$$

C - Coefficient of Permeability from Table 1 NZBC

The Maximum Probable Development (MPD) scenario has been assumed to be sufficiently close to the current development in Baylys Beach. Given the extent of these catchments it is unlikely that development in the upper rural/agricultural catchments in the next 5 to 10 years would be significant enough to increase runoff. A runoff coefficient of 0.5 has been conservatively assumed for the township, representing the low-density residential areas in the lower parts of the catchment and 0.3 for the larger rural areas in the upper parts of the catchment.

I - Rainfall Intensity (mm/hr)

Rainfall intensity is dependent on the time of concentration which has been estimated for each of the catchments based on the topography of the land and the methods stipulated within the NZBC. The IDF graph in Appendix C has been used to determine the intensity for a given return period and duration (Time of Concentration).

¹ *Climate Change Effects and Impacts: A Guidance Manual for Local Government in New Zealand published by the Ministry for the Environment, May 2008.*

A = Catchment Area in Hectares

Area bounded by the drainage catchment.

5.2.4 Assessment of Network Capacity

Stormwater Pipelines – Manning’s equation for open channel flow using Figure 3 of the NZBC has been used to assess the capacity of existing pipelines. Only pipes 450mm in diameter & greater have been assessed. In the absence of invert information and lid levels, Lidar contours have been used to estimate the gradient of the pipelines. There is little information known regarding the condition of the stormwater network.

Culverts – Given the steep topography of the land and the location of infrastructure within the catchment it has been assumed that all culverts are headwater controlled. Culvert capacities have been assessed using Figure 6 of the NZBC, for a 10 year ARI storm event.

Inlets – Assessment of significant inlets has been undertaken only. These are inlets such as ‘Scruffy Domes’ or similar that would result in flooding should they block. Typical street cesspits have not been assessed. Assessment of inlets has been undertaken using the orifice and broad-crested weir equations below;

$$Q_w = C_w P D^{1.5} \quad \text{Broad Crested Weir Equation}$$

Q_w Weir Discharge (m³/sec)

C_w Typical Coefficient of Discharge of a Weir 1.66

P Perimeter of the weir (m)

D Depth of flow/Head (m)

$$Q_o = C_d A \sqrt{2gH} \quad \text{Orifice Equation}$$

Q_o Orifice Discharge (m³/sec)

C_d Typical Coefficient of Discharge of an Orifice 0.6

A Area of Orifice (m²)

g Gravity (9.81 m/s²)

H Depth of flow/Head (m)

5.2.5 Outcome of Network Assessment**Catchment A**

The capacity of a 525mm diameter trunk pipeline that begins at the holiday park and runs under Kelly Street has been assessed for the 5 year storm and appears to be sufficient for the design flow.

The natural gully downstream is culverted via a 1,200mm diameter pipeline under the intersection of Seaview Road and Bayly Street. This culvert has been assessed under Catchment C.

Catchment B

Catchment B is a large rural catchment that discharges along a distinct overland flow path. The overland flow path has been culverted and developed over previously with the development of Seaview Road and residential properties of 29-33 Seaview Road. There has been further upstream development across this overland flow path with the recent development of the Sunset West subdivision.

The development has two separate reticulation networks; one that serves Sunset Drive from Seaview Road to Tuatua Place and another that serves Pipi Place to the western end of Sunset Drive. The assessment of the network serving Pipi Place to the end of Sunset Drive is discussed under catchment F. The land has been earth-worked for the subdivision removing the open channel shown in Figure 5. This flow path has been recently piped via a 750mm diameter trunk main of the network serving Seaview Road to Tuatua Place.

The rural catchment upstream of the Sunset West subdivision is approximately 79 hectares and has an equivalent flow of 1.98m³/sec in a 5 year and 3.63m³/sec in a 100 year ARI events.

A review of the consent application and reports submitted for the subdivision has been undertaken. The consent documents mention a proposed stormwater pond to attenuate the net increase in impervious area and a cut off channel to divert the additional runoff, such that the post development runoff is less than the pre-development runoff in a 5 year ARI event. The documents suggest that the remaining flow generated is conveyed along Sunset Drive and down a walkway between the lots of 29 and 31 Sunset Drive. No formal pond structure was observed on-site; furthermore it is unlikely that the flow generated will follow this path as the road and swales either side of this do not have capacity to convey the 100 year storm flows.

The capacity of the existing 750mm diameter pipeline is only 1.8m³/sec. In order to convey both the 5 year and 100 year ARI storm events the pipeline is required to be 1,050mm in diameter. Please note that our estimation of the design flows is based on the Rational Formula which does not account for storage.



Figure 5 Original Overland Flow Path prior to the development of the Sunset West Subdivision

Catchment C

This is the point of convergence of the flow from catchments A, B and F. The reticulation network consists of an open channel adjacent to Seaview Road, which is culverted under the intersection of Seaview Road & Bayly Street via a 1,200mm culvert and again downstream at Chases Terrace via a concrete bridge structure.

The 1,200mm pipeline and bridge structure have been assessed as culverts and therefore are required to pass at least the 10 year storm ARI. Both the 1,200mm diameter culvert and bridge structure appear to have sufficient capacity to discharge the 10 year and 100 year storm events without overtopping. Assessment of the inlet capacity of the 1,200mm diameter culvert has identified that the headwater depth is sufficient to discharge the 100 year flow of 4.79m³/sec. However the risk of blockage is high and will consequentially result in overland flow posing a risk of flooding to the downstream properties of 61 & 65 Seaview Road.

Catchment D

The stormwater network follows the natural topography from Moeatoa Lane and down towards the beach along Cynthia Place. The pipeline serving the catchment ranges from 450mm to 750mm in diameter. The gradient of this pipeline has been assumed using the 10m contours available. The outcome of this assessment is that this pipeline has sufficient capacity to convey the 5 year ARI storm.

Catchments E

This is largely a rural/agricultural catchment with a deep and well-defined gully. There is little development with only some residential properties scattered throughout the catchment. There is no reticulation to assess.

Catchments F

A stormwater network serving the recently developed catchment between Pipi Place to the western end of Sunset West discharges to the natural gully within Catchment F via a 450mm diameter outlet. This is the most significant network within the catchment and has been found to have sufficient capacity for the 5 year ARI event. The remaining catchment is largely rural with a deep and well-defined gully that discharges to Seaview Road.

Refer to Appendix B for a table summarising the outcome of the reticulation assessment.

6 Options and Feasibility

6.1 Catchment A

No stormwater issues have been identified nor any remedial works required.

6.2 Catchment B

It is evident from aerial photographs provided by KDC dated 2004 (See Figure 5) that prior to the development of the Sunset West subdivision, runoff from the catchment discharged across what is now Sunset Drive, to Seaview Road and the natural open channel downstream. The catchment is a very large rural catchment and has been estimated to generate approximately 3.63m³/sec of runoff in a 100 year ARI event. This runoff has been estimated using the Rational Formula which is ideally used for urban catchments as it does not account for storage provided within the catchment.

This overland flow path has since been earth-worked and levelled as part of the development of the Sunset West subdivision. Review of the consent documents suggests construction of an attenuation pond and a cut off drain to mitigate runoff, however no formal pond structure was observed on-site. Furthermore the pond was only proposed to be sized for the additional impervious runoff in a 5 year ARI event and does not resolve flooding in a 100 year ARI event. Runoff in excess of the 5 year storm is said to be conveyed and contained within Sunset Drive to the small walkway down to the intersection of Seaview Road and Kelly Street. However the capacity of the Sunset Drive and swales either side is insufficient to convey the entire 100 year flow rate of 3.63m³/sec.

6.2.1 Option 1 - Pipe Upgrade

The trunk pipeline laid by the developer at the time is 750mm in diameter which is undersized for both the 5 and 100 year flows of 1.98 and 3.63m³/sec respectively. To prevent flooding of these future buildings in a 100 year storm, the existing pipeline would need to be upgraded to 1,050mm in diameter. Given that this pipeline has been recently installed and the significant cost of laying a new pipeline, this option is not preferred.

6.2.2 Option 2 – Diversion Drain

We recommend that flow from the upstream catchment be diverted via an open channel directing it to the natural gully within catchment F. From the available LiDAR information it is apparent that we cross a catchment boundary i.e. a ridge near Tuatua Place. Levels will need to be confirmed by topographical survey to ensure that we can achieve an approximate grade of 0.5 to 1% fall east to west without significant excavation.

Note this option may be subject to ecological assessment as this could result in a significant decrease in base flow in the downstream channel/stream.

6.2.3 Option 3 – Land Acquisition

A further option would be to designate a drainage reserve across the properties that would be affected by this overland flow, removing the potential of housing being developed on these lots. This would be a significant cost, and is not favoured while other options are available.

6.2.4 Option 4 – Creating Storage Upstream

As noted above one of the limitations of this assessment is the disregard of storage within the catchment resulting in an overestimation of runoff generated. This option looks at providing sufficient storage upstream to attenuate flows in the 5 year and 100 year storm events such that the 750mm diameter pipeline is sufficient to convey these flows. The outcome of this option is likely to be a dry detention pond just upstream of the development or where the topography is more accommodating allowing for the reduction in excavation and therefore costs savings. This option was previously proposed by the developer however was never constructed.

6.3 Catchment C

Assessment of the primary drainage system has determined that the existing 1,200mm diameter culvert has sufficient capacity to convey the design flow of 4.79m³/sec in a 100 year storm. There is risk of overland flow occurring should the inlet ever block putting the downstream properties of 61 & 65 Seaview Road at risk of flooding. Regular maintenance of this channel is crucial, no options are otherwise recommended.

6.4 Catchment D

The overland flow generated from this catchment flows along Cynthia Place to the beach outlet at the end of the cul-de-sac. The majority of the flow is confined to the road edge however there is a small sub-catchment contributing to overland flow path D1. Approximately 0.88m³/sec is generated in a 100 year storm putting the properties of 14, 16 & 22 Cynthia Place at risk of flooding. The probability of habitable floor flooding has not been established. The stormwater GIS layer suggests that this overland flow path may be piped, however little information is known about this. Further site investigation is required prior to implementation of the following options.

6.4.1 Option 1 Stormwater Pipeline

In order to convey the 100 year design flow of 0.88m³/sec a 750mm diameter pipeline is required. This pipeline is proposed to have an inlet structure adjacent to the natural pond and follow the driveway of 3 Ripiro Road to the road, connecting to an existing manhole. The downstream pipeline is not sized for the 100 year event, nor is it sized for the additional runoff in a 5 year storm of 0.59 m³/sec and will therefore surcharge at the point of connection, requiring upgrading of the downstream pipeline along Cynthia Place. This option is not considered cost effective and is therefore not preferred. Invert levels of existing downstream manholes will also need to be confirmed.

6.4.2 Option 2 Diversion Channel

This option involves creating a diversion channel similar to that proposed for the Sunset West subdivision from catchment D to catchment E. This option is preferred however may involve significant excavation to achieve the required fall to the outlet. The extent of excavation is difficult to determine on-site and with only limited contour information.

6.5 Catchment E

No stormwater issues have been identified nor any remedial works required.

6.6 Catchment F

No stormwater issues have been identified nor any remedial works required.

7 Recommendations

Assessment of the overland flow paths and stormwater network within Baylys Beach has identified two areas of concern that could result in flooding of residential properties in a 100 year ARI event. The probability of habitable floor flooding has not been established. These are;

1. Overland flow across Sunset West
2. Overland flow across Cynthia Place

A comparison of physical works costs has been undertaken on three options proposed for mitigating overland flow across Sunset West. From this assessment we have determined that a diversion drain away from these properties is likely the most practical and cost effective option. We therefore recommend that this option be progressed for design and implementation.

There is an existing overland flow path and pond upstream of the properties of 16 -22 Cynthia Place. A diversion drain is again recommended to prevent flooding of the downstream properties.

8 Stormwater Treatment

Runoff generated from surfaces such as roads and certain roofs have long been identified as sources of contaminants such as sediments and heavy metals that can have adverse effect on the downstream coastal receiving environment if not addressed. Stormwater treatment is not currently a requirement of the Engineering Standards and no stormwater treatment devices within Baylys Beach exist. Future imposition of stormwater treatment measures should be in response to actual or anticipated environmental effects. We would make the observation that low population density, low growth rate, the lack of estuarine receiving environment and a high-energy coastline are factors indicating that stormwater treatment is probably less critical in Baylys Beach than elsewhere.

9 Capital Works & Rough Order Costs

A suggested capital works programme for Baylys Beach has been prepared taking consideration of similar works identified within Dargaville. This is to ensure that KDC obtains the best outcomes with the limited funding available. Summary of the cost estimates is shown in Table :

Table 4 Recommended stormwater works and outline costs

Baylys Beach – Catchment ID	Project Description	Priority	Estimated Cost (\$)
B	Sunset Drive Upstream Diversion Drain	Medium	\$ 200,000
D	Cynthia Place Upstream Diversion Drain	Medium	\$ 300,000

Estimation of the typical costs associated with undertaking the proposed recommendations made in Section 7 have been undertaken and the works prioritised over the next 10 years. Costing of projects has been based on historic projects of a similar nature. A 20% allowance has been included for establishment and other associated project costs, 20% for further investigations, design and construction supervision and an overall contingency of 20%.

Please see Appendix D for a suggested 10 year capital works programme. Please note that these costs are rough approximations of the physicals works only because the proposed options for Baylys Beach involve significant excavations which cannot be estimated confidently with the current lack of contour information. Land purchase costs should be added.

It is strongly recommended that further investigations and analysis is undertaken to confirm the scope of works prior to any commitment on capital spend.

10 Conclusions

Critical areas of the stormwater network within the township have been assessed for the 5 year ARI event stipulated within the KDC engineering standards for residential catchments. The general outcome of this assessment appears positive with most pipelines having sufficient capacity to convey the design storm runoff for the current and near future development scenarios. Runoff generated in storm events larger than the 5 year ARI, are generally conveyed within the well-defined gullies and/or along the road reserve minimising the properties at risk of flooding.

Assessment of the overland flow paths and the stormwater network has identified two areas of concern relating to overland flow paths. These 'problem areas' include the recently constructed 750mm diameter pipeline along Sunset West and the flow path upstream of 16 Cynthia Place.

The following properties have been identified as being at potential risk of flooding in association with these areas;

Sunset West Overland Flow Path

- 25, 27 & 29 Sunset Drive

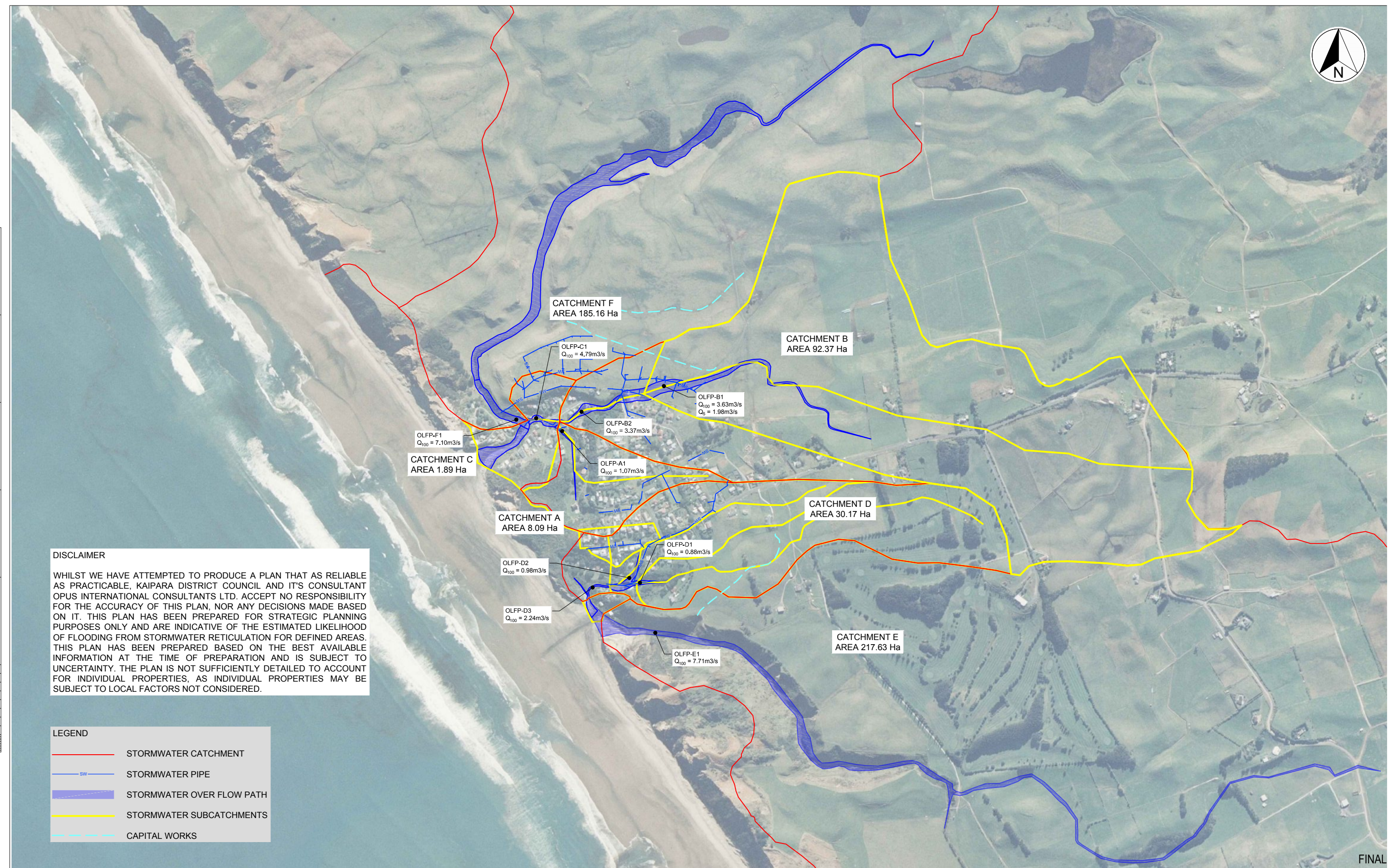
Cynthia Place Overland Flow Path

- 14, 16 & 22 Cynthia Place

Conceptual options have been proposed that would mitigate the risk of flooding to these properties. A cost analysis has been undertaken to determine the best options to be taken forward for design and implementation. The estimated costs of implementing the recommended options have been included within a proposed 10 year capital works programme and the works prioritised with respect to other works required in Dargaville. The estimated cost of mitigating the proposed works is \$500,000.00. It is strongly recommended that further investigations and analysis is undertaken to confirm the scope of works prior to any commitment on capital spend.

Appendix A

Catchment Boundaries and Overland Flow Paths

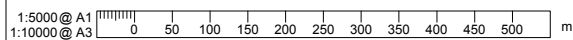


DISCLAIMER

WHILST WE HAVE ATTEMPTED TO PRODUCE A PLAN THAT AS RELIABLE AS PRACTICABLE, KAIPARA DISTRICT COUNCIL AND ITS CONSULTANT OPUS INTERNATIONAL CONSULTANTS LTD. ACCEPT NO RESPONSIBILITY FOR THE ACCURACY OF THIS PLAN, NOR ANY DECISIONS MADE BASED ON IT. THIS PLAN HAS BEEN PREPARED FOR STRATEGIC PLANNING PURPOSES ONLY AND ARE INDICATIVE OF THE ESTIMATED LIKELIHOOD OF FLOODING FROM STORMWATER RETICULATION FOR DEFINED AREAS. THIS PLAN HAS BEEN PREPARED BASED ON THE BEST AVAILABLE INFORMATION AT THE TIME OF PREPARATION AND IS SUBJECT TO UNCERTAINTY. THE PLAN IS NOT SUFFICIENTLY DETAILED TO ACCOUNT FOR INDIVIDUAL PROPERTIES, AS INDIVIDUAL PROPERTIES MAY BE SUBJECT TO LOCAL FACTORS NOT CONSIDERED.

LEGEND

- STORMWATER CATCHMENT
- SW STORMWATER PIPE
- STORMWATER OVER FLOW PATH
- STORMWATER SUBCATCHMENTS
- - - CAPITAL WORKS



Revision	Amendment	Approved	Revision Date
01	ISSUED FOR FINAL REPORT	WB	17/07/15



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Drawn	Designed	Approved	Revision Date
M.A.	M.A.	W. BIRD	17/07/2015
Project No.	Scale	Drawing No.	Sheet No.
1-13546.00	1:10,000 (A3)	1-13546.00_C200	1
Revision			

Project
KAIPARA DISTRICT COUNCIL
BAYLEYS BEACH
STORMWATER MANAGEMENT PLAN

Sheet
BAYLEYS BEACH
100-YEAR FLOWPATHS & FLOOD PRONE AREAS

Project No. 1-13546.00
Scale 1:10,000 (A3)
Drawing No. 1-13546.00_C200
Sheet No. 1
Revision R0

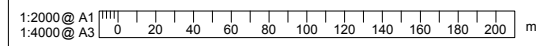
FINAL



LEGEND

- STORMWATER CATCHMENT
- SW STORMWATER PIPE
- STORMWATER OVER FLOW PATH
- STORMWATER SUBCATCHMENTS
- - - CAPITAL WORKS

1:2000 @ A1
1:4000 @ A3



Revision	Amendment	Approved	Revision Date
01	ISSUED FOR FINAL REPORT	WB	17/07/15



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Drawn	Designed	Approved	Revision Date
M.A.	M.A.	W. BIRD	17/07/2015
Project No.	Scale	Drawing No.	
1-13546.00	1:4,000 (A3)	1-13546.00_C200	

Project	
KAIPARA DISTRICT COUNCIL BAYLYS BEACH STORMWATER MANAGEMENT PLAN	
Sheet	
BAYLYS BEACH SW NETWORK ASSESSMENT	
Sheet No.	Revision
2	R0

FINAL

Appendix B

Stormwater Network Assessment

Baylys Beach Stormwater Network Assessment Summary

Asset ID	Location	Asset type	Sub Catchment ID	ARI (Years)	Qdesign (m3/s)	Ex. Pipe Dia (mm)	Qcap (m3/s)	% Undersized	Headwater depth (m)	Action
20101201172141	Kelly St. (Holiday Park)	Pipeline	A1	5	0.34	450	0.3	88	-	Do Nothing.
20101201155117	Kelly - Upper Bayly St.	Pipeline	A2	5	0.5	600	0.45	90	-	Do Nothing.
20090504090008	Sunset Drive	Pipeline	B1	100	3.63	750	1.8	50	-	Diversion Channel.
20101130154001	Parallel to Seaview Rd.	Pipeline	B2	5	0.36	375	0.35	97	-	Do Nothing.
20101130153123	Perpendicular to Seaview Rd.	Pipeline	B2	100	3.63	900	4	110	-	Do Nothing.
20101130165734	Perpendicular to Bayly St.	Culvert	B	100	3.37	900	4	119	-	Do Nothing.
20101130132650	Seaview Rd to Beach	Pipeline	C1	10	4.79	1200	4.5	94	3	Do Nothing.
-	Seaview Rd/Chases Tce Inters.	Bridge	C2	100	11.55	2x4m bridge	20	173	1.5	Do Nothing.
20101201155917	Parallel to Coates Ave	Pipeline	D1	5	0.15	450	0.3	200	-	Do Nothing.
20101201162911	Parallel to Ripiro Rd	Pipeline	D2	5	0.28	450	0.3	107	-	Do Nothing.
20101210164026	Parallel to Cynthia Place	Pipeline	D3	5	0.59	600-750	0.6	102	-	Do Nothing.
20090501153044	Sunset Drive cul-de-sac	Pipeline	F1	5	0.35	450	0.35	100	-	Do Nothing.

Appendix C
**NIWA HIRDS V3 Rainfall Intensity Tables &
Intensity Duration Frequency Graph**

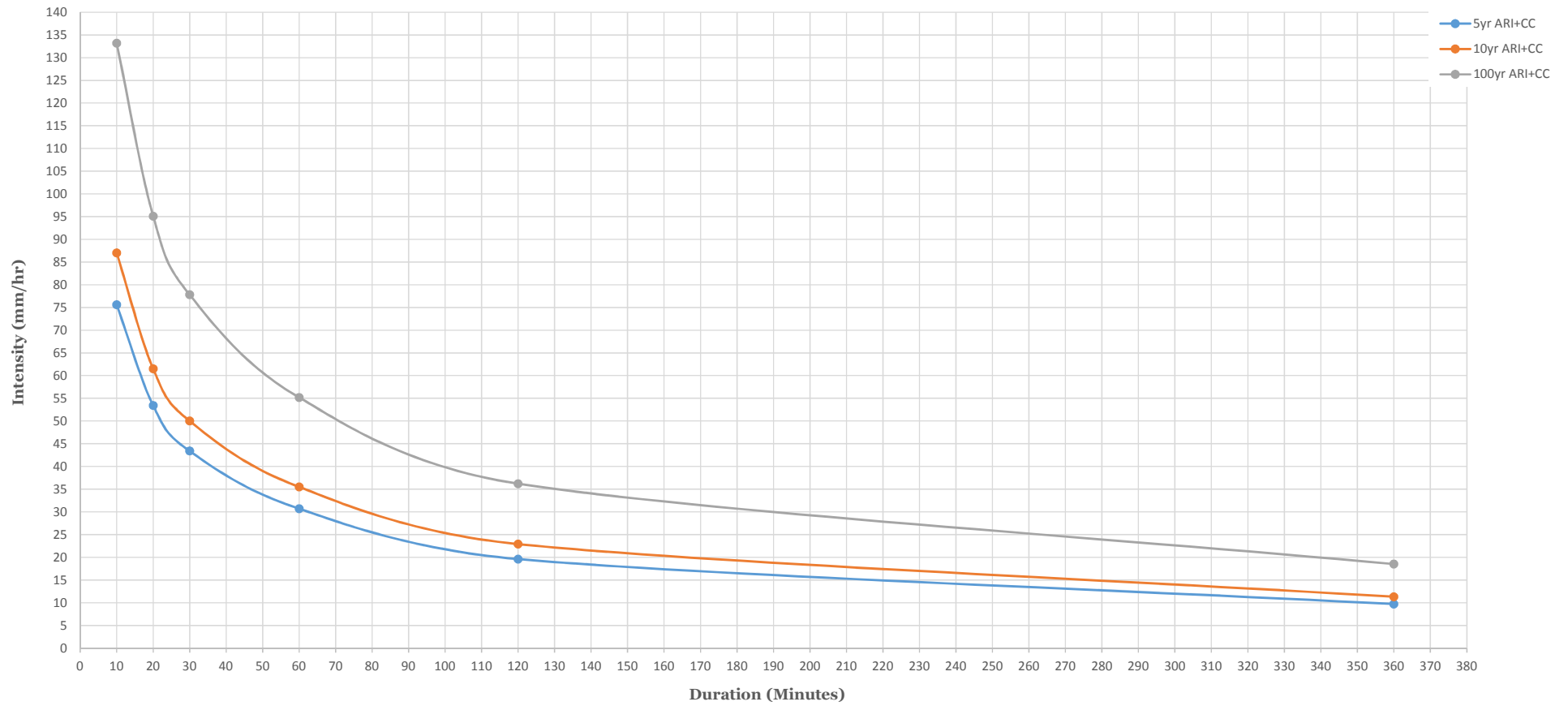
Rainfall Intensities (mm/h)											
Duration											
ARI (y)	aep	10m	20m	30m	60m	2h	6h	12h	24h	48h	72h
1.58	0.633	49.2	34.8	28.4	20.2	12.9	6.4	4.1	2.6	1.5	1.1
2	0.5	52.8	37.2	30.6	21.7	13.8	6.8	4.4	2.8	1.7	1.2
5	0.2	64.8	45.9	37.6	26.7	17.2	8.6	5.5	3.6	2.1	1.6
10	0.1	74.4	52.8	43.2	30.7	19.9	9.9	6.4	4.2	2.5	1.8
20	0.05	84.6	60.3	49.2	35	22.8	11.5	7.5	4.8	2.9	2.1
30	0.033	91.2	65.1	53.2	37.8	24.6	12.5	8.1	5.3	3.1	2.3
40	0.025	96.6	68.4	56.2	39.9	26	13.2	8.6	5.6	3.3	2.5
50	0.02	100.8	71.4	58.6	41.6	27.1	13.8	9	5.9	3.5	2.6
60	0.017	103.8	73.8	60.6	43	28.1	14.3	9.4	6.1	3.6	2.7
80	0.012	109.8	78	63.8	45.4	29.7	15.2	9.9	6.5	3.9	2.9
100	0.01	114	81.3	66.6	47.3	31	15.9	10.4	6.8	4.1	3

Intensity-Duration-Frequency results produced on Monday 4th of May 2015, Niwa HIRDS V3.

Rainfall Intensities (mm/hr) with Climate Change Projected temperature change: 2.1° C											
Duration											
ARI (y)	aep	10m	20m	30m	60m	2h	6h	12h	24h	48h	72h
1.58	0.633	57.6	40.5	32.6	23	14.6	7	4.5	2.8	1.7	1.2
2	0.5	61.8	43.2	35.2	24.8	15.7	7.6	4.8	3.1	1.8	1.3
5	0.2	75.6	53.4	43.4	30.7	19.6	9.7	6.2	4	2.3	1.7
10	0.1	87	61.5	50	35.5	22.9	11.3	7.3	4.7	2.8	2.1
20	0.05	99	70.5	57.2	40.7	26.4	13.2	8.6	5.6	3.3	2.4
30	0.033	106.8	75.9	62.2	44.2	28.8	14.5	9.5	6.2	3.7	2.7
40	0.025	112.8	79.8	65.6	46.6	30.4	15.4	10.1	6.5	3.9	2.9
50	0.02	117.6	83.4	68.4	48.6	31.7	16.1	10.5	6.9	4.1	3
60	0.017	121.2	86.1	70.8	50.2	32.8	16.7	10.9	7.1	4.3	3.1
80	0.012	128.4	91.2	74.6	53	34.7	17.7	11.6	7.6	4.5	3.3
100	0.01	133.2	95.1	77.8	55.2	36.2	18.5	12.1	8	4.7	3.5

Intensity-Duration-Frequency results produced on Monday 4th of May 2015, Niwa HIRDS V3.

Baylys Beach Intensity Duration Frequency Graph



Appendix D

10 Year Capital Works Programme

10 Year Capital Works Programme & Rough Order Costing													
Catchment	Project Description	Priority	Estimated Cost (\$)	2015/16	2016/17	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23	2023/24	2024/25
Baylys Beach													
B	Sunset Drive Upstream Diversion Drain	Medium	\$ 200,000						\$ 200,000				
D	Cynthia Place Upstream Diversion Drain	Medium	\$ 300,000			\$ 300,000							
Dargaville													
B	Liverpool St. 750mm Pipeline Upgrade	Low	\$ 420,000								\$ 420,000		
C	Bassett St. 750mm Pipeline Upgrade	Medium	\$ 620,000							\$ 620,000			
L	Station Rd East K&C Improvements	Medium	\$ 30,000						\$ 30,000				
O	57-67 Ranfurly St. K&C Improvements	High	\$ 125,000			\$ 125,000							
O	Ranfurly St. 450mm Pipeline Upgrade & Diversion	Medium	\$ 1,050,000				\$ 520,000	\$ 530,000					
O	Awakino Rd 675mm Pipeline Upgrade	High	\$ 635,000	\$ 320,000	\$ 315,000								
O	Awakino Rd K&C Improvements	High	\$ 320,000	\$ 160,000	\$ 160,000								
X	Clyde St. Channel Secondary Inlet	Low	\$ 15,000									\$ 15,000	
Total Cost			\$ 3,715,000	\$ 480,000	\$ 475,000	\$ 425,000	\$ 520,000	\$ 530,000	\$ 230,000	\$ 620,000	\$ 420,000	\$ 15,000	\$ -



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Appendix B

6.3 Proposed Plan Change 4 (Fire Safety) Appeal to the Environment Court

Policy Analyst 3807.09.04.11

Recommended

That Kaipara District Council:

- 1 *Receives the Policy Analyst's report 'Proposed Plan Change 4 (Fire Safety) – Appeal to the Environment Court' dated 13 March 2018; 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 *Delegates decision-making on the appeal for Proposed Plan Change 4 to the Kaipara District Plan to the General Manager Regulatory, Planning and Policy.*

File number: 3807.09.04.11

Approved for agenda

Report to: Council

Meeting date: 28 March 2018

Subject: Proposed Plan Change 4 (Fire Safety) Appeal to the Environment Court

Date of report: 13 March 2018

From: Natalie Robinson/Policy Analyst

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

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

Summary

Proposed Plan Change 4 (**PC4**) was notified on 14 October 2016. PC4 proposed amendments to the 'fire safety' rules in the Kaipara District Plan (**KDP**), and the addition of a new Issue, Objective, Outcome and new Policies and Other Methods. There were 29 submissions and 59 further submissions received on PC4, and a hearing was held on 15 and 16 August 2017 in Mangawhai.

A Hearing Panel with delegated authority pursuant to s34 of the Resource Management Act 1991 (**RMA**) comprised of Independent Hearing Commissioners (Alan Watson (Chair), Burnette Macnicol and Mark Farnsworth) presided over the Hearing and their Decision on PC4 was publicly notified on 20 December 2017. The appeal period ran until 22 February 2018 and one appeal has been received, lodged by Fire and Emergency New Zealand (**FENZ**) (**Attachment 1**). At the time of writing this Report, 38 parties have joined the appeal, pursuant to s274 of the RMA.

The appeal opposes the majority of the decision on PC4, and this is discussed further in the Report. This Report provides Council with a summary of the decision, a copy of the Appeal and a brief explanation of the Environment Court process. This Report also seeks that the decision-making on the PC4 appeal be delegated. This will ensure Council's efficient and timely involvement in Court processes, and the ability to meet Court-mandated timeframes throughout the appeal process.

Recommendation

That Kaipara District Council:

- 1 *Receives the Policy Analyst's report 'Proposed Plan Change 4 (Fire Safety) – Appeal to the Environment Court' dated 13 March 2018; 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 *Delegates decision-making on the appeal for Proposed Plan Change 4 to the Kaipara District Plan to the General Manager Regulatory, Planning and Policy.*

Reason for the recommendation

Delegating decision-making on appeals will allow the Kaipara District Council Mayor and Councillors to

focus on other Council matters, allow the process to stay within budget, and facilitate the timely resolution of the appeal. It will ensure that Council does not breach any timeframes that are set by the Court.

Background

Proposed Plan Change 4 was notified on 14 October 2017, and proposed an amendment to the Fire Safety Rules in the Kaipara District Plan. In summary, the Section 32 evaluation report (**s32 report**) proposed the addition of a new policy framework to mitigate the effects of fire (by the insertion of a new Issue, Objective, Outcome and new Policies and Other Methods) and the removal of land use rules which have caused a large degree of community frustration since the KDP was made operative in November 2013.

The s32 report proposed removing the requirement for buildings to comply with the New Zealand Fire Fighting Service's Code of Practice and providing an Advice Note regarding compliance, and retaining reference to the Code as a matter to be considered at the time of subdivision consent.

The Commissioners' Decision went further than the s32 report and the subsequent s42A hearing report in some regards, including a complete deletion of reference to the Code of Practice in the KDP (including removing the reference from subdivision provisions), and removing the rule requiring buildings to be set back 20m from a variety of vegetation in all zones. The Commissioners also amended the Advice Notes and the commentary that supports the proposed policy framework. The Commissioners Decision reflected the majority of submissions, which called for the complete removal of reference to the Code of Practice.

The appeal lodged by FENZ, who is the statutory successor of the New Zealand Fire Fighting Service, almost entirely opposes the decision. It opposes the removal of references to the Code in both the land use and subdivision rules, and suggests the commentary that supports the policy framework be amended to reflect the suggestions in FENZ's original submission on PC4. FENZ states the reason for their appeal is that the proposed provisions are not the most appropriate, and that they are not the most appropriate way to achieve Objective 2.4.15, do not give effect to higher order documents and the RMA, and do not enable people and communities to provide for their health and safety.

Table 1 (below) shows the progression from proposed changes to the KDP, the decision of the Commissioners and the provisions that FENZ is appealing.

Table 1

Proposed Plan Change (s32 report)	Decision of Commissioners	FENZ appeal
Other provisions		
<ul style="list-style-type: none"> Proposed new Issue. 	<ul style="list-style-type: none"> Amended proposed new Issue. 	<ul style="list-style-type: none"> Deletion of decision Issue commentary, replaced with commentary from s42A report.
<ul style="list-style-type: none"> Proposed new Objective. 	<ul style="list-style-type: none"> Amended proposed new Objective. 	

Proposed Plan Change (s32 report)	Decision of Commissioners	FENZ appeal
<ul style="list-style-type: none"> Proposed three new Policies. 	<ul style="list-style-type: none"> Amended proposed three new Policies. 	<ul style="list-style-type: none"> Deletion of decisions commentary for three new Policies, replaced with commentary from FENZ submission.
<ul style="list-style-type: none"> Proposed four new Other Methods. 	<ul style="list-style-type: none"> Amended proposed four new Other Methods. 	<ul style="list-style-type: none"> Delete decision Other Methods, replace with wording from FENZ submission.
<ul style="list-style-type: none"> Proposed new Outcome. 	<ul style="list-style-type: none"> Amended proposed new Outcome. 	<ul style="list-style-type: none"> Delete Outcome, replace with wording from the FENZ submission.
Land Use Rules (Fire Safety) Rural (12.10.26; 15A.10.25; 15B.10.25) and Urban (13.10.26; 14.10.26)		
<ul style="list-style-type: none"> Proposed deleting the requirement that buildings meet the requirements in NZ 9231: 1971 'Model Bylaw for Fire Prevention'. 	<ul style="list-style-type: none"> Accepted deleting requirement that building meet the requirements in NZ 9231: 1971 'Model Bylaw for Fire Prevention'. 	
<ul style="list-style-type: none"> Proposed deleting the requirement that water supply for buildings comply with the Code of Practice; Proposed new Advice Note. 	<ul style="list-style-type: none"> Accepted deleting the requirement that water supply for buildings comply with the Code of Practice; Amended Advice Notes. 	<ul style="list-style-type: none"> Seeks retaining the requirement that water supply for buildings comply with the Code of Practice; Opposes 'Guidance Notes' (interpreted as Advice Notes).
<ul style="list-style-type: none"> Proposed deleting clause (d) of the Rules requiring new buildings to be located 20m away from naturally occurring or deliberately planted areas of scrub or shrubland, woodlot and forest in the <u>urban zones</u> (13.10.26; 14.10.26); Proposed new Advice Note. 	<ul style="list-style-type: none"> Deleted clause (d) requiring new buildings to be located 20m away from naturally occurring or deliberately planted areas of scrub or shrubland, woodlot and forest in <u>all zones</u> (12.10.26; 13.10.26; 14.10.26; 15A.10.25; 15B.10.25); Amended Advice Notes for all Fire Safety Rules. 	<ul style="list-style-type: none"> Seeks retaining requirement for new buildings to be located at least 20m away from naturally occurring or deliberately planted area of scrub or shrubland, woodlot or forest from the Rural Land Use Rules (12.10.26; 15A.10.25 and 15B.10.25); Opposes 'Guidance Notes' (this is interpreted as meaning Advice Notes).

Proposed Plan Change (s32 report)	Decision of Commissioners	FENZ appeal
<ul style="list-style-type: none"> Proposed retaining clause (d) of the Rules requiring new buildings to be located 20m away from naturally occurring or deliberately planted areas of scrub or shrubland, woodlot and forest in the <u>rural zones</u> (12.10.26; 15A.10.25; 15B.10.25) 		
Land Use Rules (Other)		
<ul style="list-style-type: none"> Proposed deleting reference to the Code of Practice in Rule 15A.10.3b(c). 	<ul style="list-style-type: none"> Deleted reference to the Code of Practice in Rule 15A.10.3b(c). 	<ul style="list-style-type: none"> Retain reference to the Code of Practice in Rule 15A.10.3b(c).
Subdivision Rules		
<ul style="list-style-type: none"> Proposed retaining reference to the Code of Practice as a matter to be considered at the time of subdivision in Rules 12.15.4; 13.14.4; 14.13.13 and 15B.14.4. 	<ul style="list-style-type: none"> Deleted reference to the Code of Practice as a matter to be considered at the time of subdivision in Rules 12.15.4; 13.14.4; 14.13.13; and 15B.14.4. 	<ul style="list-style-type: none"> Seeks retaining the reference to the Code of Practice in the subdivision rules (12.15.4; 13.14.4; 14.13.14 and 15B.14.4).

Issues

An appeal on a proposed plan change halts progress with regards to the proposal, and the appeal must be resolved before the proposal can proceed. The matter may be referred to mediation. Mediation can often resolve appeals, in which case the Court will issue a Consent Order. Council representatives at mediation are required to have the authority to settle, and therefore this Report seeks this authority be delegated to a Council officer.

However, the matter may fail at mediation or Council may choose to proceed straight to a hearing. If the appeal proceeds to a hearing, then the Court will hear the proposed plan change *de novo*.

Regardless of the method in which the appeal is resolved, PC4 will be required to be presented to Council in order to make any changes to the KDP operative.

It is appropriate that Council delegates responsibility and authority for this matter, in order to progress the appeal. The Court often issues directions which contain timeframes i.e. replies to memorandum within five (5) working days, and this requires Council to act efficiently. By delegating authority, for instance to the General Manager Regulatory, Planning and Policy (GMRPP), this will allow Court directions to be met and Council to attempt to reach agreement with the appellant, and any s274 parties should they join the appeal. The GMRPP will be supported by legal support from Brookfields, and technical planning support.

Factors to consider

Community views

PC4 was subject to a robust and full process through following the First Schedule of the RMA, which defines the process all plan changes must follow. This includes public notification and the ability for members of the public to submit. There were a large number of submissions, which demonstrates community interest and awareness in the matter. Their views have been heard and considered by the Commissioners through the hearing and decision process.

The appeal process under the RMA allows submitters on the proposed plan change to join the appeal as s274 parties ('interested parties'). FENZ was required to serve a copy of their appeal, including advice on how to join as a s274 party, on all submitters. At the time of writing this report, there have been 38 s274 notices filed, however the closing date for these is 15 March 2018. Council officers will update this figure, if required, verbally at the 28 March 2018 Council meeting.

Policy implications

The First Schedule of the RMA has achieved public process, including submissions, a hearing and the availability of a right of appeal to the Environment Court. The outcome of the appeal, whether by agreement between the parties (consent order) or a decision of the Court, will impact directly on the District Plan.

It is not considered this decision and delegation will create a binding precedent. The delegated authority will apply only in respect of the appeal on PC4.

Financial implications

The appeal process can be a costly one. The total cost will vary, depending on whether the appeal resolves at mediation or a hearing is required. There will be legal costs involved, but the scale will vary depending on the length or complexity of the proceeding. Council will also need to consider engaging expert witnesses to defend our position, and this will increase the financial impact of the appeal. It is anticipated that these costs will be met by existing budgets.

Legal/delegation implications

This Report seeks the delegated authority to the General Manager Regulatory, Planning and Policy (GMRPP) to enter into mediation and to represent Kaipara District Council throughout the appeal process.

Options

Option A: Delegate decision-making on the appeal on Proposed Plan Change 4 to the General Manager Regulatory, Planning and Policy.

Option B: Delegate decision-making to a Councillor, Committee of Council or Working Group.

Assessment of options

Option B is not recommended, as it will not allow for a timely and efficient resolution of the appeal, as mediation would need to be attended by either the Councillor, Committee or Working Group, in order to enable resolution at the mediation.

The most appropriate, efficient and effective Option is to delegate decision-making to the GMRPP. This will allow the GMRPP to enter into mediation with FENZ and any s274 parties, and if the matter progresses to hearing, attend the hearing.

Assessment of significance

It is not considered that this will trigger Council's Significance and Engagement Policy.

Recommended option

The recommended option is **Option A**.

Next step

Council officers, led by the GMRPP will engage legal counsel and consider the engagement of expert witnesses, to enter into mediation. If the matter fails to enter into mediation, a Hearing will be required.

Attachments

- **Attachment 1:** Fire and Emergency New Zealand (FENZ) Appeal on Proposed Plan Change 4 to the Operative Kaipara District Plan (22 February 2018)

**Before the Environment Court
At Auckland
ENV-2018-AKL**

Under the Resource Management Act 1991 (RMA)
In the matter of an appeal under clause 14 of the First Schedule of the RMA
Between **Fire and Emergency New Zealand**
Appellant
And **Kaipara District Council**
Respondent

**Notice of appeal against decision on Kaipara District Council's Proposed Plan
Change Number 4, Fire Safety Rules (Land Use) to the Kaipara District Plan**

Date: 22 February 2018



50-64 Customhouse Quay, Wellington 6011
PO Box 2791, Wellington 6140
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Solicitor on the record Kerry Anderson kerry.anderson@dlapiper.com Tel + +64 4 474 3255
Contact solicitor Emma Crayton-Brownemma.crayton-brown@dlapiper.com Tel + +64 4 918 3042

Notice of appeal against decision on Kaipara District Council's Proposed Plan Change Number 4 to the Kaipara District Plan 22.02.18.docx

To: The Registrar
Environment Court
Auckland

FIRE AND EMERGENCY NEW ZEALAND (Fire and Emergency) appeals against the Hearing Panel's decision of 6 December 2017 on Kaipara District Council (**Council**)'s Proposed Plan Change Number 4, Fire Safety Rules (Land Use) to the Kaipara District Plan (**Plan Change 4**).

The appellant

- 1 Fire and Emergency is a submitter on Plan Change 4. Its submission (PC4.28) and further submission (FSPC4.56) were made as the New Zealand Fire Service Commission (**Commission**). The Commission became Fire and Emergency under the Fire and Emergency New Zealand Act 2017 (**FENZ Act**) on 1 July 2017.¹ Fire and Emergency is the same legal body as the former Commission, which was constituted under section 4 of the Fire Service Act 1975 (**FS Act**).
- 2 Fire and Emergency is the successor of that original submitter and is therefore the person who holds the right of appeal under clause 14 of the First Schedule to the RMA.
- 3 Fire and Emergency's submission was principally concerned with the provision of firefighting water supplies and firefighting access in new developments to enable it to operate effectively and efficiently in an emergency.
- 4 In order to achieve this, and of particular relevance to this appeal, Fire and Emergency made the following submissions:
 - 4.1 It opposed the proposed deletion of the permitted activity performance standard for a new building requiring water supply for firefighting and access to this supply to comply with the New Zealand Fire Service Firefighting Water

¹ The FENZ Act has staged commencement dates, with some provisions commencing on the day of Royal Assent on 11 May 2017, and others commencing on 1 July 2017, and 1 July 2018.

Supplies Code of Practice SNZ PAS 4509:2008 (**Code of Practice**) in the Land Use Rules for the Rural and 2 Maori Purposes Zones (**Rural Land Use Rules**) and in the Residential and Business (Commercial and Industrial) Zones (**Urban Land Use Rules**).

- 4.2 It opposed the proposed deletion of the permitted activity performance standard for the construction of a dwelling in the Maori Purposes: Maori Land Zone requiring water supplies to all dwellings to be adequate for firefighting purposes in accordance with the Code where a public supply is not available.
- 4.3 It supported the proposed retention of the requirement for all developments to have water supplies that are adequate for firefighting purposes (including reference to the Code of Practice as a Performance Standard) in the Subdivision Rules for the Rural, Residential, Business (Commercial and Industrial), and Maori Purposes: Treaty Settlement Land Zones.
- 4.4 It supported proposed advice notes that recommended the installation of sprinklers.
- 4.5 It supported the deletion of permitted activity standards and a related note in Rules 13.10.26 and 14.10.26 relating to a 20m setback of buildings from vegetation because the rules apply to urban environments.

The decision appealed

- 5 The Hearing for Plan Change 4 took place on 15 and 16 August 2017. The Hearing Panel comprised of Mr Alan Watson, Ms Burnette Macnicol and Mr Mark Farnsworth.
- 6 Fire and Emergency understands that Mr Farnsworth has previously been involved with plan change hearings involving issues such as those

which PC4 is concerned with. In particular, Mr Farnsworth chaired the Hearing Panel that considered the Proposed Gisborne Regional Freshwater Plan. During that process, he declared that there was the potential for a perception of a conflict of interest to arise with regard to the submission of the (then) New Zealand Fire Service due to his long history of involvement in rural fire matters, including a period where he was the chair of Northland's Rural Fire Coordinating Committee and as a Principal Rural Fire Officer. He indicated that he would stand aside from making any recommendation on that submission accordingly. Mr Farnsworth did not declare a similar conflict in relation to PC4 or any submissions in relation to it.

7 The Hearing Panel made its decision on PC4 on 6 December 2017 (**Decision**). The Hearing Panel notified its Decision in the Northern Advocate on 20 December 2017. Fire and Emergency received notice of the Decision on 20 December 2017. It now appeals that Decision.

8 Fire and Emergency is not a trade competitor for the purposes of section 308D of the RMA.

Parts of the Decision appealed

9 Fire and Emergency appeals the following parts of the Decision:

Land Use Rules

9.1 The decision to remove references to the Code of Practice in the permitted activity performance standards for a new building in the Urban Land Use Rules (13.10.26 and 14.10.26) and the Rural Land Use Rules (12.10.26, 15A.10.25 and 15B.10.25).

9.2 The decision to remove the reference to the Code of Practice in the permitted activity performance standard for the construction of a dwelling in the Maori Purposes: Maori Land Zone (Rule 15A.10.3b(c)).

- 9.3 The decision to remove the permitted activity performance standard requiring a building to be located at least 20m away from naturally occurring or deliberately planted area of scrub or shrubland, woodlot or forest from the Rural Land Use Rules (12.10.26, 15A.10.25 and 15B.10.25).

Subdivision Rules

- 9.4 The decision to remove references to the Code of Practice in the Subdivision Rules for the Rural, Residential, Business (Commercial and Industrial), and Maori Purposes: Treaty Settlement Land Zones (Rules 12.15.4, 13.14.4, 14.13.4 and 15B.14.4).

New provisions

- 9.5 The decision to add a new Issue 2.3.14 to Chapter 2, and in particular, the commentary that follows the issue.
- 9.6 The decision to add new Policies 2.5.17(a)-(c) and to provide a commentary to that Policy.
- 9.7 The decision to add new Methods 2.6.2.5-2.6.2.7.
- 9.8 The decision to include Guidance Notes.

Other provisions

- 9.9 The decision to amend Outcome 2.7.13.

Reasons for appeal

- 10 The reasons for the appeal are that the proposed provisions are not the most appropriate provisions. In particular, they are not the most appropriate way to achieve Objective 2.4.15, they do not give effect to higher order documents and/or the RMA, they do not enable people and

communities to provide for their health and safety, and they are premised on a flawed section 32AA assessment.

11 In addition:

Land Use Rules

11.1 The Panel has misinterpreted and unduly constrained the power to make permitted activity rules in a plan and failed to comply with section 32AA(1)(b). For example, by:

11.1.1 determining that it is inappropriate to have recourse to another party (Fire and Emergency) or document (the Code of Practice) outside of the District Plan in the case of a permitted activity; and

11.1.2 acknowledging that other District Plans make reference to the Code of Practice and noting that the Whanganui District Plan provides a good example of this, but failing to explain under section 32(1)(b)(iii) why the Council is unable to follow a similar approach to these other districts in its District Plan.

11.2 The Panel's section 32AA evaluation fails to properly assess the benefits and costs of retaining references to the Code of Practice in the District Plan, particularly in the Land Use Rules. The Panel has:

11.2.1 insufficient evidence to support its conclusion that retaining references to the Code of Practice is too costly a solution to an event that has a very low probability of occurrence;

11.2.2 attributed undue weight to Fire and Emergency response times from fire stations within the Kaipara district to incidents, particularly in respect of

structural fire events, and the suggestion that any water stored onsite may not be used by Fire and Emergency by the time it arrives at the site concerned;

11.2.3 failed to give due consideration to the importance of suppressing fires to prevent their spread to other structures and vegetation; and

11.2.4 taken into account irrelevant considerations, such as how any water storage solutions adopted will be monitored, and any insurance implications that might result from a fire event where stored water was either absent or could not be accessed.

11.3 The Panel decision to remove the requirement that a building be setback at least 20m from vegetation to reduce the likelihood of the spread of fire from the Rural Land Use Rules is inconsistent with Part 2 of the RMA, namely sections 5(2)(c) , 6(h), 31(1)(a) and (b) and the natural hazard provisions of the Regional Policy Statement for Northland **(RPS)**.

11.4 In the Decision, the Panel fails to properly explain its decision to remove the 20m setback requirement from the Rural Land Use Rules (which was not proposed in Plan Change 4) as required by section 32(1)(b)(iii) of the RMA. In its section 32 report, the Council stated that this provision related more to wild fire situations in rural areas rather than urban issues. The Decision states that deletion of this provision from the Urban Land Use Rules is necessary because requiring such a significant setback from buildings is inappropriate and unreasonable in an urban area. The Decision states that this provision should also be deleted from the Rural Land Use Rules "...for similar reasons to the corresponding urban rule", without any further explanation or justification.

Subdivision Rules

- 11.5 The Panel's decision to remove references to the Code in the Subdivision Rules for the Residential and Business (Commercial and Industrial) and Maori Land: Treaty Settlement Land Zones is inconsistent with Part 2 of the RMA, namely sections 5(2)(c), 6(h), 31(1)(a) and (b) and RPS Policy 7.1.1, which requires subdivision to be managed to minimise the risks from natural hazards.

New provisions

- 11.6 The Decision includes the addition of several new provisions in the District Plan which provide for collaboration between the Council and Fire and Emergency on a settlement-by-settlement basis to:

11.6.1 assess the need for dedicated community-based water storage and/or the provision of mobile water storage (Issue 2.3.14);

11.6.2 determine the approach to be taken for the provision of water for firefighting purposes (Policy 2.5.17(b); and

11.6.3 investigate the provision of additional water supply and establish the desirability of providing community water tanks or volunteer fire brigades with mobile tankers or portable dams.

- 11.7 The inclusion of such vague provisions in a district plan is inappropriate and impractical. It is indicative of the Panel's failure to properly examine the most appropriate way to achieve the objectives of Plan Change 4 and identify other reasonably practicable options to this end under section 32(1) of the RMA. The evidential and RMA basis for imposing these provisions is unclear. If the Council and Fire and

Emergency do collaborate in the manner envisaged by these provisions, their long-term inclusion in the District Plan will become redundant.

- 11.8 The 'non-statutory' table and the balance of the Guidance Notes are equally ambiguous and inappropriate in RMA terms, and contain inaccuracies.

Relief sought

12 The following relief is sought by Fire and Emergency:

- 12.1 References to the Code of Practice in the permitted activity performance standards for a new building in the Urban Land Use Rules (13.10.26 and 14.10.26) and the Rural Land Use Rules (12.10.26, 15A.10.25 and 15B.10.25) are retained.
- 12.2 The reference to the Code in the permitted activity performance standard for the construction of a dwelling in the Maori Purposes: Maori Land Zone (Rule 15A.10.3b(c)) is retained.
- 12.3 The permitted activity performance standard requiring a building to be located at least 20m away from naturally occurring or deliberately planted area of scrub or shrubland, woodlot or forest in the Rural Land Use Rules (12.10.26, 15A.10.25 and 15B.10.25) is retained.
- 12.4 References to the Code of Practice in the Subdivision Rules for the Rural, Residential, Business (Commercial and Industrial) and Maori Purposes: Treaty Settlement Land Zones (Rules 12.15.4, 13.14.4, 14.13.4 and 15B.14.4) are retained.
- 12.5 The commentary to Issue 2.3.14 is deleted from Chapter 2 and replaced with commentary proposed in the section 42A report.

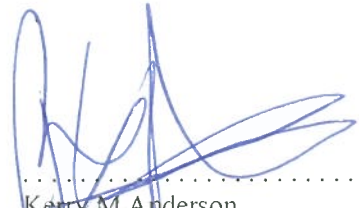
- 12.6 Policies 2.5.17(a)-(c) and associated commentary are deleted from Section 2.5 and replaced with the wording set out in the Fire and Emergency submission.
- 12.7 Methods 2.6.2.5-2.6.2.7 are deleted from Other Methods and replaced with the wording set out in the Fire and Emergency submission.
- 12.8 The Guidance Notes and associated table are deleted in their entirety.
- 12.9 Outcome 2.7.13 is deleted and replaced with the wording set out in the Fire and Emergency submission.
- 12.10 Such further or other relief, or consequential or other amendments to these or other provisions, considered appropriate and necessary to address Fire and Emergency's concerns.
- 12.11 Cost of this appeal.

Documents attached

- 13 Fire and Emergency attaches the following documents to this notice:
 - 13.1 Appendix A - a copy of its submission and further submission on the Proposed Plan.
 - 13.2 Appendix B - a copy of the relevant decision.
 - 13.3 Appendix C - a list of the names and addresses of persons to be served with a copy of this notice.

14 For those listed in Annexure C, who are served with a copy of this notice of appeal, a copy of the submissions and decision are not attached. If you would like to obtain a copy of these documents please contact the appellant on the details listed below.

Date: 22 February 2018



.....
Kerry M Anderson
Counsel for Fire and Emergency
New Zealand

This document is filed by Kerry Anderson of DLA Piper New Zealand, solicitor for Fire and Emergency New Zealand.

The address for service on Fire and Emergency New Zealand is at:

DLA Piper New Zealand
50-64 Customhouse Quay
Wellington 6140

Documents for service on Fire and Emergency New Zealand may be:

- left at the above address for service, or
- posted to the solicitor at PO Box 2791, Wellington 6140, or
- transmitted to the solicitor by fax on +64 4 472 7429.

Please direct enquiries to:

Kerry Anderson
Tel +64 4 474 3255
Fax +64 4 472 7429
Email kerry.anderson@dlapiper.co.nz

Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must,—

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (*see* form 38).

How to obtain copies of documents relating to appeal

The copy of this notice served on you does not attach a copy of the appellant's submission and (*or or*) the decision (*or* part of the decision) appealed. These documents may be obtained, on request, from the appellant.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.

Appendix A - submissions on the Proposed Plan

Online Submission

PC4: Fire Safety Rules (Land Use)

Submitter

Company Name: New Zealand Fire Service

Title: Mr

First Name: Jaiman

Last Name: Patel

If others make a similar submission, I will consider presenting a joint case with them

Could I gain an advantage in trade competition with this submission?: No

I am directly affected by an effect of the subject matter of the submission that: (a) adversely affects the environment; and (b) does not relate to trade competition or the effect of the trading competition: No

The body of this submission have been uploaded from a file and the content of that file is in the following page(s)

Form 5

Submission on publicly notified proposal for policy statement or plan, change or variation

Clause 6 of Schedule 1, Resource Management Act 1991

To: Kaipara District Council (the Council)
Name of submitter: New Zealand Fire Service Commission (the Commission)
This is a submission on: Plan Change 4 – Fire Safety Rules (Land Use) (PC4)

The Commission could not gain an advantage in trade competition through this submission.

The specific provision of PC4 that this submission relates to are:

PC4 in its entirety.

The Commission's submission is:

The Commission is the governing body that controls the New Zealand Fire Service (NZFS). The Commission is also the National Rural Fire Authority (NRFA). The Fire Service Act 1975 (FSA) and the Forest and Rural Fires Act 1977 establish the governance, management and operational arrangements for these organisations. The NZFS trains for and responds to structural fires and other emergencies whereas the NRFA supports local Rural Fire Authorities (RFA) in training for, and responding to rural wildfires.

It is a matter of prime importance for the Commission to take an active and co-ordinating role in the promotion of fire safety in New Zealand, through reducing the incidence of fire and the attendant risk to life and property; and through seeking unity and completeness of fire safety law and practice as set out in section 20 of the FSA. The Commission is required to provide the New Zealand Government with a Statement of Intent (SOI) that sets out how the Commission will achieve its statutory responsibilities.¹ The SOI outlines the overall outcomes the Commission seeks to achieve, including the promotion of fire safety, fire prevention activities, extinguishing fires in a timely manner and other emergency responses.

It is essential that the NZFS is able to meet its responsibility of providing efficient and effective emergency services to all New Zealanders, in order to avoid, remedy or mitigate the adverse effects of fire and other emergencies. To do so the Commission requires, amongst other matters adequate water supply for firefighting activities and adequate access to properties for fire appliances to ensure that the NZFS can respond to emergencies.

The Commission's main areas of concern are the provision of firefighting water supplies and the provision of firefighting access in new developments to enable the New Zealand Fire Service (NZFS) to operate effectively and efficiently in an emergency. In order to achieve this, the Commission seeks compliance with the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008 (Code of Practice). The Code of Practice is a non-mandatory New Zealand Standard that sets out standards for water supply and access design which meet the

¹ New Zealand Fire Service Commission Statement of Intent, 2014 – 2018, Presented to the House of Representatives pursuant to Section 149 of the Crown Entities Act 2004.

operational requirements of the NZFS for both reticulated and non-reticulated areas. The requirements for firefighting water in the Code of Practice are based on building risk. The Commission seeks provisions in plans throughout New Zealand that require sufficient water for firefighting and also appropriate firefighting access onto properties so that fire appliances and other vehicles can access and respond to emergencies.

The Code of Practice provides a number of options for adequate water supply and details a number of minimum standards for different situations including:

- Firefighting water storage requirements;
- Standards regarding accessibility to firefighting water; and
- Standards regarding the location of the firefighting water in relation to the fire hazard (building or vegetation etc.).

The Code of Practice provides flexibility in the methods for providing water supplies that can include tank water, swimming pools or permanent rivers and ponds.

PC4 seeks to change the regulatory regime that applies to the provision of firefighting water supply in Kaipara District in a manner that has the potential to impact on the efficiency and effectiveness of the NZFS. It is considered that the elements of the approach set out in PC4 may compromise the ability of the Commission to meet its statutory obligations by deleting the requirement for land use developments to comply with the Code of Practice.

As a result, PC4, fails to achieve the sustainable management purpose of the Resource Management Act 1991 (RMA) by compromising the ability of people and communities to provide for their health and safety. Furthermore, PC4 does not appropriately provide for the management of the potential adverse effects of fire on people, property and the environment and does not appropriately give effect to the Regional Policy Statement for Northland (2016) (RPS), including Policy 7.1.1 that requires:

“Subdivision, use and development of land will be managed to minimise the risks from natural hazards by:

- (a) Seeking to use the best available information, including formal risk management techniques in areas potentially affected by natural hazards;*
- (b) Minimising any increase in vulnerability due to residual risk;*
- (c) Aligning with emergency management approaches (especially risk reduction);*
- (d) Ensuring that natural hazard risk to vehicular access routes and building platforms for proposed new lots is considered when assessing subdivision proposals; and*
- (e) Exercising a degree of caution that reflects the level of uncertainty as to the likelihood or consequences of a natural hazard event.”*

The Commission is also concerned that PC4 does not have sufficient regard to the Fire and Emergency New Zealand Bill, including unified fire services, the mandatory requirement to prepare a Code of Practice, the main functions and objectives of Fire and Emergency New Zealand and the likely mandatory requirement to comply with the Code of Practice.

The Commission considers that PC4 does not represent the most appropriate means of exercising the Council’s functions, having regard to the efficiency and effectiveness of other available means (including improved implementation and administration of the status quo – Operative District Plan

provisions) and therefore is not appropriate in terms of section 32 of the RMA. On this basis, the Commission is concerned that the requirements of section 32 have not been met and records this concern here as required by section 32A.

Appendix A to this submission sets out the Commission's submission in detail, including amendments sought by the Commission to specific provisions of PC4 and the reasons for the relief sought.

The NZFS Commission seeks the following decision from the local authority:

Amend PC4 to achieve the relief sought in Appendix A including any further of consequential amendments that may be necessary to address the matters raised in this submission.

The Commission wishes to be heard in support of its submission.

If others make a similar submission, the Commission will consider presenting a joint case with them at the hearing.

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.....

(Signature of person authorised to sign on behalf of the Commission)

Date: 25 November 2016

Appendix A: New Zealand Fire Service Commission Submission on Proposed Plan Change 4 to the Kaipara District Plan

The following table sets out the decisions sought by the Commission, including specific amendments to the provisions of Proposed Plan Change 4. These amendments are shown in red.

Proposed Plan Change Provision	Support/ Oppose	Submission	Decision Sought
Chapter 2 - District Wide Resource Management Issues, 2.3 Significant Issues for the Sustainable Management and Development of the District, new Issue 2.3.14	Support in part	<p>At a high level the Commission supports the recognition of the potential adverse effects of fire as a significant resource management issue for the District. However, the Commission considers that proposed new Issue 2.3.14:</p> <ul style="list-style-type: none"> • is not consistent with the purpose of district plans set out in section 72 of the RMA, nor does it directly relate to the functions of the Council under the RMA as set out in section 31, rather the explanatory text relates to some of the functions of the NZFS that are performed in accordance with the FSA; • is inconsistent with the level of detail, specificity and manner of expression in all other issues in section 2.3 of the District Plan; • inappropriately confines the issue to a consideration of fires in buildings and structures and does not consider the potential effects of fire spread; • fails to recognise the importance of swift access to firefighting water at the time a fire crew arrives at the site of a fire; • inappropriately and disproportionately elevates the confined matter of emergency management responses to fire alongside matters of national and regional significance identified in section 6 of the RMA and Part 2 of the RPS; and • the 'issue' of enabling people and communities in the District to provide for their health and safety through the management of the potential adverse effects of fire on the environment, including the recognition of the role of infrastructure, is better and more appropriately addressed more generically through Issue 2.3.7 and Issue 2.3.8. 	Delete proposed Issue 2.3.14 in its entirety.

Proposed Plan Change Provision	Support/ Oppose	Submission	Decision Sought
Chapter 2 - District Wide Resource Management Issues, 2.4 District Wide Objectives, new Objective 2.4.15	Support in part	<p>The Commission generally supports proposed Objective 2.4.15 subject to expanding the proposed Objective to addressing fire safety measures in generally, as opposed to confining the objective to fires in buildings and structures as proposed. Such an approach:</p> <ul style="list-style-type: none"> • reflects the new and merged Fire and Emergency New Zealand organisation, including its likely legislative purpose set out in the Fire and Emergency New Zealand Bill; • recognises the risk of all fires; • aligns with the Commission’s statutory responsibility under the FSA; • better gives effect to Policy 7.1.1 of the RPS, which does not distinguish or confine emergency management approach and risk reduction to buildings and structures; • is the most appropriate way to achieve the sustainable management purpose of the Act in accordance with section 32(1)(a), that is the appropriate statutory test for an objective. 	<p>Amend proposed Objective 2.4.15 as follows: “2.4.15 To encourage and promote fire safety measures for buildings and structures to minimise fire risk to life, property and the environment.”</p>
Chapter 2 - District Wide Resource Management Issues, 2.5 District Wide Policies, new Policies 2.5.17(a), (b) and (c)	Support in part	<p>The Commission generally supports proposed Policies 2.5.17(a), (b) and (c) to the extent that the proposed Policies generally seek to achieve firefighting water supplies and fire risk reduction across the District. However, the proposed Policies, and associated explanatory text, fail to consider the importance of access for fire appliances to that water supply in a manner that is consistent with the Code of Practice (and the subsequent rules that implement these proposed Policies). Further, the Commission considers that the explanatory text that accompanies the proposed Policies:</p> <ul style="list-style-type: none"> • fails to recognise that the Code of Practice as one of the primary fire risk reduction tools used by the NZFS; • fails to recognise the broader adverse effects of fire by only addressing the risk of fire spread. <p>The Commission seek limited amendments to the Policies and accompanying explanatory text to:</p>	<p>Amend proposed Policies 2.5.17 (a), (b) and (c) as follows: “2.5.17(a) To ensure new reticulated sites within the Reticulated Services Boundary are provided with an adequate supply of water for fire fighting, and access to that water supply, for the reasonably anticipated land use; 2.5.17(b) To promote ensure in non-reticulated areas that there is an adequate alternative supply of water for fire fighting purposes, and access to that water supply, for the reasonably anticipated land use; 2.5.17(c) To encourage education on fire hazard and on fire risk reduction</p>

Proposed Plan Change Provision	Support/ Oppose	Submission	Decision Sought
		<ul style="list-style-type: none"> • better give effect to Policy 7.1.1 of the RPS; • is the most appropriate way to achieve proposed Objective 2.4.15 (including as amended by this submission); • better enable the Commission to meet its statutory obligations; • reflect the respect accorded to New Zealand Standards by the Environment Court as set out in <i>McIntyre v Christchurch City Council</i> [1996] NZRMA 286; and • achieve the purpose of the RMA by enabling people and communities to provide for the health and safety and by enabling the appropriate mitigation of natural hazards and management of the adverse effects of fire on people, communities, property and the environment. 	<p>measures.</p> <p><i>The District Plan includes can promote measures at land use and subdivision stages to avoid or minimise the potential adverse effects of fire on people, property and the environment. assist in minimising fire risk spread for the community. <u>The New Zealand Fire Service Firefighting Supplies Code of Practice SNZ PAS 4509:2008 is a New Zealand Standard that specifies what constitutes an adequate water supply, and access to it, for firefighting purposes.</u> However, provisions in a District Plan are not the only method of minimising fire risk. The Building Code contains measures that are applied at the time a building consent is lodged. Council or the community for areas where there is no reticulated water supply can provided static supplies for fire fighting purposes in the fore of tanks situated at strategic locations that can service a wider area.</i></p>
<p>Chapter 2 - District Wide Resource Management, 2.6 Methods, 2.6.2 Other Methods, new Methods 2.6.2.5, 2.6.2.6, 2.6.2.7 and 2.6.2.8</p>	<p>Support in part</p>	<p>The Commission does not oppose the proposed 'Other Methods' 2.6.2.5, 2.6.2.6, 2.6.2.7 and 2.6.2.8 and comments as follows:</p> <ul style="list-style-type: none"> • the detail, specificity and form of the proposed Other Methods is inconsistent with the form and content of Section 2.6 of the District Plan; • the proposed Plan Change does not include a parallel District Plan Method in Section 6.1 of the District Plan to address the approach taken in the District Plan to addressing the adverse effects of fire and implementing proposed Policies 2.5.17(a), (b) and (c); • the investigation of the potential use of communal water supplies, as set out in proposed Other Method 2.6.2.5, in a manner that achieves compliance with the Code of Practice is acknowledged; 	<p>Amend proposed new Other Methods 2.6.2.5, 2.6.2.6, 2.6.2.7 as follows:</p> <p>"2.6.2.5 Investigate the provision of additional water supply for fire fighting purposes <u>consistent with New Zealand Fire Service Firefighting Supplies Code of Practice SNZ PAS 4509:2008</u> in non-reticulated residential areas where there is a fire service (e.g. Mangawhai, Kaiwaka and Te Kopuru) e.g. Community water tanks or providing volunteer fire</p>

Proposed Plan Change Provision	Support/ Oppose	Submission	Decision Sought
		<ul style="list-style-type: none"> implementing the Building Code, as set out in proposed Other Method 2.6.2.6 is a statutory obligation on the Council and not necessary in the context of the Council's functions under the RMA; sprinkler systems are considered to be one of the most efficient means of fighting structural fires and therefore the Commission supports the promotion of the installation of sprinkler systems (consistent with the advice in the Code of Practice), however, sprinkler systems require a building consent and therefore should be promoted when a building is designed rather than as an advice note to a building consent; and support for the NZFS's education initiatives is acknowledged and appreciated. 	<p>brigades with mobile tankers or portable;</p> <p>2.6.2.6 Implementation of the Building Code at the time of building consents;</p> <p>2.6.2.7 Promote the installation of Sprinkler Systems by including an Advice Note on <u>resource consents</u> and/or all Building Consents; ..."</p>
Chapter 2 - District Wide Resource Management Issues, 2.7 Outcomes, new Outcome 2.7.13	Support in part	<p>The Commission supports proposed Outcome 2.7.13 subject to limited amendments because the Outcome is consistent with:</p> <ul style="list-style-type: none"> the Commission's statutory obligations; the Objective and Policies of Proposed Plan Change 4 as amended by this submission; Policy 7.1.1 of the RPS; and the sustainable management purpose of the RMA. 	<p>Amend proposed Outcome 2.7.13 as follows:</p> <p>"2.7.13 A community where the risks to life, <u>property</u> and the surrounding environment from fire <u>is are</u> minimised."</p>
Rule 12.10.26 (Rural), Rule 15A.10.25 (Maori Purposes: Maori Land and Maori Purposes) and Rule 15B.10.25 (Treaty Settlement Land Zones)	Support in part	<p>The Commission opposes the proposed deletion of the requirement for a new building to comply with the Code of Practice in Rules 12.10.26, 15A.10.25 and 15B.10.25 because such a deletion:</p> <ul style="list-style-type: none"> does not accord appropriate respect for the Code of Practice as a New Zealand Standard as set out in <i>McIntyre v Christchurch City Council</i> [1996] NZRMA 286; is not consistent with the importance afforded to firefighting water by section 14(3)(e) of the RMA; is not the most appropriate way to achieve proposed Objective 2.4.15 (including as amended by this submission); does not appropriately implement proposed Policies 2.5.17(a), (b) and (c) (including as amended by this submission); does not give effect to Policy 7.1.1 of the RPS; 	<p>Retain Clause (b) in the Operative Plan Rules 12.10.26, 15A.10.25 and 15B.10.25, do not delete Clause (b) as proposed.</p> <p>Delete Clause (c) in Rules 12.10.26, 15A.10.25 and 15B.10.25 as proposed.</p> <p>Include Advice Note 2 in Rules 12.10.26, 15A.10.25 and 15B.10.25 as proposed.</p>

Proposed Plan Change Provision	Support/ Oppose	Submission	Decision Sought
		<ul style="list-style-type: none"> • does not enable the Commission to meet its statutory obligations; • does not appropriately mitigate natural hazards and the adverse effects of fire on people, communities, property and the environment; and • does not enable people and communities to provide for their health and safety and therefore does not achieve the purpose of the RMA. <p>Further, the Commission considers that the Section 32 Evaluation Report fails to appropriately consider and give appropriate weight to the following matters:</p> <ul style="list-style-type: none"> • Policy 7.1.1 of the RPS that requires subdivision, use and development of land to be managed to minimise the risks of natural hazards by, amongst other matters, <i>“aligning with emergency management approaches (especially risk reduction)”</i>; • the provisions of the Fire and Emergency New Zealand Bill that was introduced in Parliament in June 2016 and includes a requirement to prepare a Code of Practice and is likely to require mandatory compliance with the Code of Practice through the Bill’s offence provisions (Department of Internal Affairs regulatory impact statement ‘Fire Service Review: Detailed Policy Design’ 7 April 2016, paragraph 41.1); • the inherent flexibility included in the Code of Practice that means that compliance can be achieved by a number of means rather than just the 45,000 litre static water supply set out in Part 1 of the Section 32 Evaluation Report; • the full range of solutions and approaches taken in other jurisdictions, to the extent that the Section 32 Evaluation Report in Sub-Section 2.3 fails to consider those district plans that include provisions that are similar to the Operative Kaipara District Plan, for example the recent decisions made by the Independent Hearings Panel on the Christchurch Replacement District Plan (a district that includes remote areas on Banks Peninsula); • the costs of providing sprinklers in a manner that is consistent with the evaluation of costs of other methods that may achieve compliance with the Code of Practice; and 	

Proposed Plan Change Provision	Support/ Oppose	Submission	Decision Sought
		<ul style="list-style-type: none"> the extent to which the “community frustration” mentioned in Part 1 of the Section 32 Evaluation Report is a result of incorrect implementation of the Operative District Plan (by apply a rigid 45,000 litre static water supply standard, rather than the full ambit of solutions available to achieved compliance with the Code of Practice), such that the proposed Plan Change is not necessary to address the “community frustration” and achieve the outcome sought. <p>The Commission therefore seeks the retention of the requirement to comply with the Code of Practice in Rules 12.10.26, 15A.10.25 and 15B.10.25, and welcomes the opportunity to continue to work with the Council to ‘streamline’ the implementation of these Rules in a manner that enables a full consideration to the various approaches that may be deployed to achieve compliance with the Code of Practice, including the installation of sprinklers.</p> <p>Further, the Commission supports the proposed deletion of the clause in the Rules that requires compliance with NZS 9231:1971 on the basis that the Standard no longer exists.</p> <p>The Commission also supports the proposed Advice Note that recommends the installation of sprinklers on the basis that sprinkler systems are considered to be one of the most efficient means of fighting structural fires such an Advice Note is consistent with advice included in the Code of Practice. That said, the Commission considers that the Advice Note alone does not achieve the purpose of the RMA on the basis that advice notes do not have statutory weight.</p>	
Rule 13.10.26 (Residential), Rule 14.10.26 (Commercial and Industrial)	Support in part	<p>For the reasons set out above, the Commission:</p> <ul style="list-style-type: none"> opposes the proposed deletion of the requirement for a new building to comply with the Code of Practice in Rules 13.10.26 and 14.10.26; supports the proposed deletion of the clause in the Rules that requires compliance with NZS 9231:1971; and supports the proposed Advice Note that recommends the installation of sprinklers. <p>The Commission also acknowledges the rationale given by the Council for the proposed deletion of Clause (d) and Note 1, which relate to the</p>	<p>Retain Clause (b) in the Operative Plan Rules 13.10.26 and 14.10.26, do not delete Clause (b) as proposed.</p> <p>Delete Clause (c) in Rules 13.10.26 and 14.10.26 as proposed.</p> <p>Include Advice Note 1 in Rules 13.10.25 and 14.10.25 as proposed.</p>

Proposed Plan Change Provision	Support/ Oppose	Submission	Decision Sought
		proximity of vegetation to buildings and does not oppose their deletion given that the rules apply in urban environments.	
Rule 15A.10.3b(c)	Oppose	For the reasons set out above, the Commission opposes the proposed deletion of the requirement for a new dwelling to comply with the Code of Practice in Rule 15A.10.3b(c).	Retain reference to the Code of Practice as it is currently included in Operative Plan Rule 15A.10.3b(c).
Performance Standards - Rule 12.15.4 (Rural), Rule 13.14.4 (Residential), Rule 14.13.4 (Commercial and Industrial), Rule 15B.14.4 (Maori Purposes: Treaty Settlement Zones).	Support	<p>The Commission supports the proposed retention of the requirement for all developments to have water supplies that are adequate for firefighting purposes, including reference to the Code of Practice as a Performance Standard in Rules 12.15.4, 13.14.4, 4.13.4 and 15B.14.4. The retention of these Performance Standards:</p> <ul style="list-style-type: none"> • is consistent with the importance afforded to firefighting water by section 14(3)(e) of the RMA; • is the most appropriate way to achieve proposed Objective 2.4.15 (including as amended by this submission); • appropriately implements proposed Policies 2.5.17(a), (b) and (c) (including as amended by this submission); • gives effect to Policy 7.1.1 of the RPS; • enables the Commission to meet its statutory obligations; • appropriately mitigate natural hazards and the adverse effects of fire on people, communities, property and the environment; and • achieves the purpose of the RMA by enabling people and communities to provide for their health and safety. 	Retain the Operative Plan Performance Standards in Rules 12.15.4, 13.14.4, 4.13.4 and 15B.14.4 as proposed.
References to the Kaipara District Council Engineering Standards 2011	Support	The Commission supports the proposed retention of references to the Kaipara District Council Engineering Standards throughout the District Plan to the extent that these Standards, in turn, require reticulated water supplies to be in accordance with the Code of Practice. The Commission's support is for the reasons set out above (in relation to subdivision performance standards).	Retain references to the Kaipara District Council Engineering Standards 2011 throughout the District Plan.

Further Submission in support of, or in opposition to,
submissions on the Proposed Kaipara District Plan Change 4

Clause 8 of Schedule 1, Resource Management Act 1991

FORM 6 Resource Management (Forms, Fees and Procedures)

1. Further Submitter Details:	
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2. Interest in the submission
<p>The New Zealand Fire Service Commission (the Commission) is a party who has an interest in the Proposed Kaipara District Plan Change 4 that is greater than the interest the general public has. This is for the following reasons:</p> <ul style="list-style-type: none"> ▪ The Commission’s role includes promoting fire safety and fire prevention, and extinguishing fires. The Proposed Kaipara District Plan provides an opportunity to better facilitate these activities, by including appropriate objectives, policies and rules which will enable people and communities to provide for their social and economic wellbeing, and for their health and safety with regard to fire safety, fire prevention and fire extinction. It is also directly affected by some of the submissions made, particularly those that will result in a reduced ability to effectively fight fires. ▪ It is essential that the Commission is able to meet its responsibility of providing an efficient and effective emergency service to all New Zealanders, so as to avoid, remedy or mitigate the adverse effects of fire and other emergencies (as required by the Fire Service Act 1975). ▪ The Commission is the governing body that controls the New Zealand Fire Service (NZFS) and the National Rural Fire Authority (NRFA).

- The Fire Service Act 1975 and the Forest and Rural Fires Act 1977, establish the governance management, and operational arrangements for protecting life and property from fire in New Zealand.

3. Request to be heard in support of further submission

The Commission **does** wish to be heard in support of its further submission.

If others make a similar submission, the Commission will consider presenting a joint case with them at a hearing.

Appendix 1 to this submission sets out the detail of the further submission of the Commission.

4. Signature of person authorised to sign on behalf of the further submitter



_____ Date: 3rd April 2017

Jaiman Patel

If others make a similar submission I will consider presenting a joint case.

SCHEDULE

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Appendix 1 – Further Submission of the Commission

Submitter	Specific Submission Number	Subject	Summary	Support / Oppose	Explanation for Support/Oppose	Allow / Disallow Submission (in whole or in part)
PC4.9 Clive Boonham	PC4.9.1	Role of Code in the District Plan	Incorporation of Fire Safety Rules based on NZFS Code of Practice was illconceived and done without consideration of the legal situation; whether contents of code were lawful; ramifications on amenity values of district; cost to individuals to comply with the Code.	Support in part	The NZFS supports the withdrawal of Proposed Plan Change 4, due to the current plan already providing reference to the NZFS Code of Practice (the Code). The NZFS opposes the request to remove the Code in its entirety within the District Plan. It is essential that the NZFS is able to meet its responsibility of providing efficient and effective emergency services to all New Zealanders, in order to avoid, remedy or mitigate the adverse effects of fire and other emergencies. The production of the Code of Practice is a mandatory requirement under the Fire Service Act and has been Gazetted by the National Commander.	Allow in part
	PC4.9.2	Amenity	If allowed to continue it will turn Mangawhai, as an example, into a tank town denuded of all vegetation and trees - an example being the area on the causeway on Molesworth Street opposite the Museum.	Oppose	The New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008 (Code of Practice) requires water to be accessible for firefighting via a connection point, but does not state the connection point has to be directly on any tank provided for firefighting purposes. This enables flexibility in the location of tanks, if tanks are installed for firefighting purposes.	Disallow submission
	PC4.9.3	Costs to Comply	Rules were side-stepped to allow smaller tanks and modified requirements in respect of access and special couplings but only on obtaining resource consents at great cost (Evaluation shows that 177 consents have been granted with no indication of how many applicants installed the standard 45,000 litre tanks).	Oppose in Part	The Code of Practice allows applicants to submit their own alternative methods of obtaining a sufficient water supply. The NZFS then reviews alternative proposals on a case by case basis to confirm if they will meet the firefighting needs. This flexibility is enabled through Section 4.4. of the Code of Practice. Depending on circumstances examples of alternatives may include smaller tanks, swimming pools or permanent ponds or streams. The Code of Practice does not rigidly require the installation of 45,000 litre tanks as the submitter suggests.	Disallow in part
	PC4.9.4	Legislation	Some of the changes are welcome but other simply perpetuate the confusion that surrounds the NZFS Code of Practice and whether it is legally applicable to the RMA and the Building Act.	Oppose in Part	The supply of water to a building, as opposed to within a building, is not provided for under the Building Act or Building Code which have a different purposes. The implementation of the Code of Practice within the District Plan is consistent with the purpose of the RMA.	Disallow in part
	PC4.9.13	Rural and Maori Purpose Zone Rules	Rural and Maori Purpose Zones have retained access for fire service vehicles and the 20 metre vegetation rule for vegetation and trees including scrublands. This will prevent rural dwellers from beautifying the gardens immediately adjacent to their house. Who is to distinguish what is garden and what is scrub or shrubland. The 20 metre setback is inappropriate for NZ conditions and seems to be taken out of a Code of Practice for Victoria, Australia. How many houses have been destroyed by wildfires that have resulted from rose beds, fruit trees and ornamental shrubs surrounding houses. Is the KDC going to appoint an inspector of rural gardens to ensure there is not vegetation within 20 metres of a house?	Oppose	This is a legitimate issue, as recent experience of the Port Hills Fires out of Christchurch demonstrates. The NZFS accepts that there is a distinction between typical ornamental garden planting and larger scale, contiguous vegetation growing in close proximity to buildings. The NZFS's concern relates to the latter type of vegetation, particularly where it predominately comprises species that are not of low combustibility or that provide for rapid fire spread (such as, for example, tea tree species). A more nuanced plan provision could be developed to cater for this distinction.	Disallow submission

Submitter	Specific Submission Number	Subject	Summary	Support / Oppose	Explanation for Support/Oppose	Allow / Disallow Submission (in whole or in part)
	PC4.9.17	Role of Code in the District Plan	The Code of Practice is not a statutory document and it is not mandatory for Council to include it in rules in the District Plan. There is no interface between the Code of Practice in the Fire Service Act with other legislation which is relevant to local authorities such as the RMA and Building Act. The Code of Practice is simply a set of standards for water mains and has no relevance to any other matters relating to firefighting and does not impose any requirements in respect of the RMA or Building Act.	Oppose	The implementation of the Code of Practice is an appropriate means of avoiding, remedying and mitigating potentially significant adverse effects. There have been many cases where the Environment Court has imposed conditions requiring firefighting water supply on consents, for example <i>Puwerā Maori Ancestral Land Unincorporated Group v Whangarei DC [2016] NZEnvC 94</i> ; and <i>Sustainable Ventures Ltd v Tasman District Council [2015 NZEnvC 174]</i> . This confirms that implementing the Code of Practice through the Resource Management Act is appropriate. The scope of the Code of Practice is not statutorily limited to mains supply adequacy as the submitter suggests.	Disallow submission
	PC4.9.18	Legislation	Section 30 of the Fire Services Act deals with: Use of water in mains for fire protection, fire fighting, and hazardous substances emergency protection. Note that s30 deals solely with water mains and water mains only. The duties of the National Commander in respect of water mains are set out in s30(2), and under s30(3) the National Commander is obliged to publish a Code of Practice specifying standards for water supply volume and pressure for water mains. The Code of Practice cannot include other matters such as access for fire trucks, hard-stands and turning circles for fire trucks, other forms of water supply that are not water mains, special couplings or restrictions on vegetation around houses. The Code of Practice as drafted goes way beyond the limitations imposed by section 30(3).	Oppose	The NZFS disagrees the Code of Practice is beyond the limitations of section 30. Section 30(2) enables NZFS to check the adequacy of water supply concerning any property the Fire Service is under obligation to protect, this is not limited to reticulated properties. This includes the testing of water mains, but does not specifically exclude alternative and/or onsite water supply methods.	Disallow submission
	PC4.9.19	Legislation	Under s21(6) of the Fire Service Act states that 'the Minister shall not approve any code of practice or standard...which has the effect of requiring any building to achieve performance criteria additional to or more restrictive than specified in the Building Act 2004 or in the Building Code'. The Code of Practice can have no application to the issue of building consents. The National Commander does not have the statutory power to include such matters under section 30(3).	Neutral	The supply of water to a building, as opposed to within a building, is not provided for under the Building Act or Building Code which have a different purpose. The Code of Practice does not require more restrictive or additional criteria as the Building Act does not address the supply of water to a building. The NZFS agrees this is consistent with section 21(6) of the Fire Service Act, although that addresses different matters to a Code of Practice confirmed under section 30.	Acknowledge Submission
	PC4.9.20	Role of Code in the District Plan	The Foreword to the Code tends to embellish the powers that the NZFS derives from the Code of Practice. For instance, it states that the Code will form the basis of a partnership between the Fire Service and territorial authorities. The Evaluation appears to accept this: '...Council is supportive of the intent of NZFS's document that it forms the basis of a partnership between NZFS and territorial authorities and be used by territorial authorities in rules regulating subdivisions in the District Plan. Council and NZFS would then achieve a common objective in respect of providing water supplies for firefighting purposes to facilitate fire safe communities'. To be blunt, there is no such statutory partnership and there is no mandate for such matters to be included in the Code of Practice.	Oppose	The Fire and Emergency New Zealand (FENZ) Bill has passed its second reading and is currently in the House of the Whole Committee. Whilst there has been no confirmation of an enactment date, it is likely to be later in 2017. As it is currently written FENZ will be required to develop a Code of Practice in consultation with local authorities (s63(2)) which is then subject to approval by the Minister. This further emphasises the intent for the Commission and local authorities to work together to provide for the safety and wellbeing of communities. The current Code of Practice has been embedded into consents through first instance decisions on district plans and Environment Court caselaw, for example <i>Puwerā Maori Ancestral Land Unincorporated Group v Whangarei DC [2016] NZEnvC 94</i> ; and <i>Sustainable Ventures Ltd v Tasman District Council [2015] NZEnvC 174</i> . This confirms that implementing the Code of Practice through the Resource Management Act is appropriate.	Disallow submission

Submitter	Specific Submission Number	Subject	Summary	Support / Oppose	Explanation for Support/Oppose	Allow / Disallow Submission (in whole or in part)
	PC4.9.21	Legislation	Under s21 of the Fire Services Act the Fire Service Commission's role is to seek to achieve co-ordination with territorial authorities along with all other authorities, departments and professions in respect of fire safety. The functions of the Commission in promoting fire safety are set out in s21(2). They relate to the dissemination of knowledge, education, and publicity about fire safety, campaigns and research and do not relate to setting obligatory guidelines or standards that relate to the supply of water for fire fighting or the issue of consents under the RMA or in respect of subdivisions.	Oppose in Part	The NZFS disagrees this is the only role under s21. In addition to the identified matters, section 21(2)(g) states that the functions of the commission shall include "seeking continuously new ways to reduce the incidence of fire and the risk to life from fire". Having adequate water on site is essential to reduce the risk to life from fire. The focus on section 21 of the Fire Service Act also omits other important functions, such as the National Commander's obligations under section 17O to: make provision in every fire district for the prevention, suppression and extinction of fire and the safety of persons endangered by fire; and to make provision for cooperation between the NZFS and local authorities.	Disallow in part
	PC4.9.22	Legislation	While it is accepted practice that it (the Code of Practice) is reviewed every five years, that practice had not been followed. The last review was in 2008. In fact there is no statutory basis for the review of the Code.	Oppose in Part	The Fire and Emergency New Zealand (FENZ) Bill has passed its second reading and is currently in the House of the Whole Committee. Whilst there has been no confirmation of an enactment date, it is considered likely to be later in 2017. As it is currently written FENZ will be required to develop a Code of Practice in consultation with local authorities (s63(2)) which is then subject to approval by the Minister. As currently drafted there will be three yearly reviews of the Code. Clause 31A of Schedule 1 to the FENZ bill confirms the provisions of the current Code of Practice will continue to apply until a new Code of Practice is developed. Any replacement code of practice developed following enactment of the FENZ bill will take time to develop. Given the length of time likely to pass until a new Code of Practice is developed and approved, the current Code of Practice, as included within the Operative District Plan is still the most appropriate means of providing water for firefighting purposes.	Disallow in part
	PC4.9.23	Legislation	Under the RMA, a reference to the Code in the District Plan is treated as a reference to the Code in force at the time. If the Code is replaced or amended then there has to be a costly Plan amendment	Oppose in Part	The superseding of documents and replacement with an updated version is a risk to all documents referenced in District Plans but is not a valid reason for the document to not be included within a Plan. If a new Code of Practice is developed, the existing Code can remain as the relevant document until such time as the Plan is reviewed.	Disallow in part
	PC4.9.24	Costs to Comply	KDC has spent a fortune in ratepayers' money on trying to come to terms with this issue and work out what the Code actually says, how it applies, and what its legal obligations are in respect of the Code. Unless the matter is put to bed once and for all it is going to cost the KDC many millions of dollars on an ongoing basis to keep up to date with the vagaries of the NZFS, with absolutely no benefit to the community.	Neutral	The NZFS disagrees the implementation of the Code of Practice has no benefit to the community. The NZFS has also worked collaboratively with KDC as part of the previous plan change processes to develop material explaining the operation and effect of the Code of Practice: this material still has value as an aid to understanding of the Code of Practice	Acknowledge Submission

Submitter	Specific Submission Number	Subject	Summary	Support / Oppose	Explanation for Support/Oppose	Allow / Disallow Submission (in whole or in part)
	PC4.9.25	Miscellaneous	The Evaluation notes the different approaches of local authorities throughout the country to this issue. It is ludicrous that each council in the country should be faced with dealing with such a complex issue separately, at huge expense for each individually. It is totally unreasonable that small councils such as the KDC should be burdened with such complicated problems. The whole question of fire safety and the powers of the NZFS should not be a matter for each individual council but a national issue which is the responsibility of central government in association with the NZFS.	Neutral	The Commission agrees that a national approach to water for firefighting is the most appropriate method of management to what is a consistent resource management issue across the country. The Code of Practice provides consistent regulations to be applied across the country. In the absence of an existing central government requirement, the NZFS considers implementation of the Code of Practice through District Plans throughout the country to be the most appropriate means of a consistent approach.	Acknowledge Submission
	PC4.9.26	Miscellaneous	Examining other sources of water for fighting fires in a non-reticulated area (such as community tanks and portable dams) is also an issue for the whole of the country, not just Kaipara. It seems absurd that Kaipara and other councils should be separately researching these matters at huge individual cost. This is clearly the role of the NZFS under the Fire Service Act.	Oppose in Part	The NZFS Code of Practice provides flexibility to enable consideration of community tanks or water sources as a means of compliance. The Commission has developed the code to provide a consistent framework across New Zealand for providing water for firefighting purposes and regularly works with local authorities and property owners to develop compliance options.	Allow in part
PC4.16 Grant and Fiona Douglas	PC4.16.1	Oppose Plan Change	We object to the Plan Change 4 of the Fire Safety Rules	Oppose	The District Plan is an ideal document to give effect to the NZFS Code of Practice (the Code). It is essential that the NZFS is able to meet its responsibility of providing efficient and effective emergency services to all New Zealanders, in order to avoid, remedy or mitigate the adverse effects of fire and other emergencies. The Commission's main areas of concern are the provision of firefighting water supplies and the provision of firefighting access in new developments to enable the New Zealand Fire Service (NZFS) to operate effectively and efficiently in an emergency. In order to achieve this, the Commission seeks compliance with the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008 (Code of Practice).	Disallow submission
	PC4.16.11	Miscellaneous	The location of fire service appliances within a certain radius from a town like Mangawhai should remove the draconian tank requirements by virtue of the fact that they are within proximity to attend a fire at an early stage.	Oppose	Fire appliances carry a limited amount of water and therefore cannot be the sole water sources to fight a fire. In addition if a fire is not contained there is a risk of fire spread to neighbouring properties, inadequate provision of water on site increases and compounds the risk.	Disallow submission
	PC4.16.12	Role of Code in the District Plan	The Code of Practice is too prescriptive in their handling of NZFS Water Supplies Code of Practice, given it is not a legal requirement but of an advisory nature and therefore any reference to making any of the statements mandatory in the District Plan should be removed.	Oppose	The incorporation of the Code of Practice in full is preferred by NZFS as this provides flexibility for landowners as to the best means of providing water for firefighting purposes. There have been many cases where the Environment Court has imposed conditions requiring firefighting water supply on consents, for example Puwera Maori Ancestral Land Unincorporated Group v Whangarei DC [2016] NZEnvC 94; and Sustainable Ventures Ltd v Tasman District Council [2015 NZEnvC 174]. This confirms that implementing the Code of Practice through the Resource Management Act is appropriate.	Disallow submission

Submitter	Specific Submission Number	Subject	Summary	Support / Oppose	Explanation for Support/Oppose	Allow / Disallow Submission (in whole or in part)
PC4.5 Graham Drury	PC4.5.1	Oppose Plan Change	That the Proposed Plan Change 4 be withdrawn in its entirety and that it be replaced with a new Plan Change which makes no reference in the District Plan to Fire Safety Rules and the NZFS Code of Practice.	Oppose in Part	The NZFS supports the withdrawal of Proposed Plan Change 4, due to the current plan already providing reference to the NZFS Code of Practice (the Code). The NZFS opposes the request to remove the Code in its entirety within the District Plan. It is essential that the NZFS is able to meet its responsibility of providing efficient and effective emergency services to all New Zealanders, in order to avoid, remedy or mitigate the adverse effects of fire and other emergencies. The Commission's main areas of concern are the provision of firefighting water supplies and the provision of firefighting access in new developments to enable the New Zealand Fire Service (NZFS) to operate effectively and efficiently in an emergency. In order to achieve this, the Commission seeks compliance with the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008 (Code of Practice).	Disallow in part
	PC4.5.3	Oppose Plan Change	The proposed changes are inappropriate for Mangawhai and other small villages and the rural areas of Kaipara.	Oppose in Part	The risk to life from fire is relevant across the entire district and the provision of firefighting water supply is essential to avoid, remedy and mitigate fire risks.	Disallow submission
	PC4.5.4	Costs to Comply	The costs to residential property owners of complying with the proposed changes are substantial and totally out of proportion to any possible benefits and would impose an unreasonable and unnecessary financial burden upon owners.	Oppose in Part	NZFS supports the submitters comment of implementing and installing smoke alarms within the Kaipara District as a form of saving lives. However, a single factor approach is not sufficient when it comes to fire safety and the protection of property. Availability of fire fighting water supplies is another important consideration. Water supply is able to be addressed through the implementation of the Code of Practice contributing to the safety and wellbeing of communities.	Disallow in part
Far North District Council	PC4.27.2	Policies	The proposal adds an issue, an objective and three policies to Chapter 2 - District wide resource management. The general public may see no difference between structural fire and wildfire. It is unclear if there will be mention in Chapter 7 - Natural Hazards that structural fire is addressed in Chapter 2.	Support	The NZFS supports this proposal to the extent the proposal will benefit the public by improving the clarity of the District Plan in relation to types of fires.	Allow submission
PC4.24 Steve Fitt	PC4.24.1	Role of Code in the District Plan	Incorporation of Fire Safety Rules based on NZFS Code of Practice was illconceived and done without consideration of the legal situation; whether contents of code were lawful; ramifications on amenity values of district; cost to individuals to comply with the Code	Support in part	The NZFS supports this proposal to the extent the proposal will benefit the public by improving the clarity of the District Plan in relation to types of fires.	Allow in part

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	PC4.24.2	Amenity	If allowed to continue it will turn Mangawhai, as an example, into a tank town denuded of all vegetation and trees - an example being the area on the causeway on Molesworth Street opposite the Museum	Oppose	The New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008 (Code of Practice) requires water to be accessible for firefighting via a connection point, but does not state the connection point has to be directly on any tank provided for firefighting purposes. This enables flexibility in the location of tanks, if tanks are installed for firefighting purposes.	Disallow submission
	PC4.24.3	Costs to Comply	Rules were side-stepped to allow smaller tanks and modified requirements in respect of access and special couplings but only on obtaining resource consents at great cost (Evaluation shows that 177 consents have been granted with no indication of how many applicants installed the standard 45,000 litre tanks).	Oppose in Part	The Code of Practice allows applicants to submit their own alternative methods of obtaining a sufficient water supply. The NZFS then reviews alternative proposals on a case by case basis to confirm if they will meet the firefighting needs. This flexibility is enabled through Section 4.4. of the Code of Practice. Depending on circumstances examples of alternatives may include smaller tanks, swimming pools or permanent ponds or streams. The Code of Practice does not rigidly require the installation of 45,000 litre tanks as the submitter suggests.	Disallow in part
	PC4.24.4	Legislation	Some of the changes are welcome but other simply perpetuate the confusion that surrounds the NZFS Code of Practice and whether it is legally applicable to the RMA and the Building Act.	Oppose in Part	The supply of water to a building, as opposed to within a building, is not provided for under the Building Act or Building Code which have a different purposes. The implementation of the Code of Practice within the District Plan is consistent with the purpose of the RMA.	Disallow in part
	PC4.24.10	Miscellaneous	In my understanding most house fires are caused by cooking accidents, heaters [or] open fire accidents, candles overturned, or electrical faults.	Oppose	The NZFS undertake advertising and education programmes to minimise risks of fire in and around the home. Despite that, it is unlikely that all fires can be avoided and therefore provisions needs to be made for the suppression and extinction of fires, including by the provision of adequate firefighting water supplies.	Disallow submission
	PC4.24.17	Role of Code in the District Plan	The Code of Practice is not a statutory document and it is not mandatory for Council to include it in rules in the District Plan. There is no interface between the Code of Practice in the Fire Service Act with other legislation which is relevant to local authorities such as the RMA and Building Act. The Code of Practice is simply a set of standards for water mains and has no relevance to any other matters relating to firefighting and does not impose any requirements in respect of the RMA or Building Act.	Oppose	The implementation of the Code of Practice is an appropriate means of avoiding, remedying and mitigating potentially significant adverse effects. There have been many cases where the Environment Court has imposed conditions requiring firefighting water supply on consents, for example <i>Puwerā Maori Ancestral Land Unincorporated Group v Whangarei DC [2016] NZEnvC 94</i> ; and <i>Sustainable Ventures Ltd v Tasman District Council [2015 NZEnvC 174]</i> . This confirms that implementing the Code of Practice through the Resource Management Act is appropriate. The scope of the Code of Practice is not statutorily limited to mains supply adequacy as the submitter suggests.	Disallow submission

Submitter	Specific Submission Number	Subject	Summary	Support / Oppose	Explanation for Support/Oppose	Allow / Disallow Submission (in whole or in part)
	PC4.24.18	Legislation	Section 30 of the Fire Services Act deals with: Use of water in mains for fire protection, fire fighting, and hazardous substances emergency protection. Note that s30 deals solely with water mains and water mains only. The duties of the National Commander in respect of water mains are set out in s30(2), and under s30(3) the National Commander is obliged to publish a Code of Practice specifying standards for water supply volume and pressure for water mains. The Code of Practice cannot include other matters such as access for fire trucks, hard-stands and turning circles for fire trucks, other forms of water supply that are not water mains, special couplings or restrictions on vegetation around houses. The Code of Practice as drafted goes way beyond the limitations imposed by section 30(3).	Oppose	The NZFS disagrees the Code of Practice is beyond the limitations of section 30. Section 30(2) enables NZFS to check the adequacy of water supply concerning any property the Fire Service is under obligation to protect, this is not limited to reticulated properties. This includes the testing of water mains, but does not specifically exclude alternative and/or onsite water supply methods.	Disallow submission
	PC4.24.19	Legislation	Under s21(6) of the Fire Service Act states that 'the Minister shall not approve any Code of Practice or standard which has the effect of requiring any building to achieve performance criteria additional to or more restrictive than specified in the Building Act 2004 or in the building code'.	Neutral	The supply of water to a building, as opposed to within a building, is not provided for under the Building Act or Building Code which have a different purposes. The Code of Practice does not require more restrictive or additional criteria as the Building Act does not address the supply of water to a building. The NZFS agrees this is consistent with section 21(6) of the Fire Service Act, although that addresses different matters to a Code of Practice confirmed under section 30.	Acknowledge Submission
	PC4.24.20	Role of Code in the District Plan	The foreword to the Code tends to embellish the powers that the NZFS derives from the Code of Practice. For instance, it states that the Code will form the basis of a partnership between the Fire Service and territorial authorities. The Evaluation appears to accept this: '...Council is supportive of the intent of NZFS's document that it forms the basis of a partnership between NZFS and territorial authorities and be used by territorial authorities in rules regulating subdivisions in the District Plan. Council and NZFS would then achieve a common objective in respect of providing water supplies for firefighting purposes to facilitate fire safe communities'. To be blunt, there is no such statutory partnership and there is no mandate for such matters to be included in the Code of Practice.	Oppose	The Fire and Emergency New Zealand (FENZ) Bill has passed its second reading and is currently in the House of the Whole Committee. Whilst there has been no confirmation of an enactment date, it is likely to be later in 2017. As it is currently written FENZ will be required to develop a Code of Practice in consultation with local authorities (s63(2)) which is then subject to approval by the Minister. This further emphasises the intent for the Commission and local authorities to work together to provide for the safety and wellbeing of communities. The current Code of Practice has been embedded into consents through first instance decisions on district plans and Environment Court caselaw, for example <i>Puwerā Maori Ancestral Land Unincorporated Group v Whangarei DC [2016] NZEnvC 94</i> ; and <i>Sustainable Ventures Ltd v Tasman District Council [2015] NZEnvC 174</i> . This confirms that implementing the Code of Practice through the Resource Management Act is appropriate.	Oppose

Submitter	Specific Submission Number	Subject	Summary	Support / Oppose	Explanation for Support/Oppose	Allow / Disallow Submission (in whole or in part)
	PC4.24.21	Legislation	Under s21 of the Fire Services Act the Fire Service Commission's role is to seek to achieve co-ordination with territorial authorities along with all other authorities, departments and professions in respect of fire safety. The functions of the Commission in promoting fire safety are set out in s21(2). They relate to the dissemination of knowledge, education, and publicity about fire safety, campaigns and research and do not relate to setting obligatory guidelines or standards that relate to the supply of water for fire fighting or the issue of consents under the RMA or in respect of subdivisions.	Oppose in Part	The NZFS disagrees this is the only role under s21. In addition to the identified matters, section 21(2)(g) states that the functions of the commission shall include "seeking continuously new ways to reduce the incidence of fire and the risk to life from fire". Having adequate water on site is essential to reduce the risk to life from fire. The focus on section 21 of the Fire Service Act also omits other important functions, such as the National Commander's obligations under section 170 to: make provision in every fire district for the prevention, suppression and extinction of fire and the safety of persons endangered by fire; and to make provision for cooperation between the NZFS and local authorities. In addition, as previously stated a new Code of Practice will be developed in consultation with local authorities following enactment of the FENZ bill. Clause 31A of Schedule 1 to the FENZ bill confirms the provisions of the current Code of Practice will continue to apply until a new Code of Practice is developed. Any replacement code of practice developed following enactment of the FENZ bill will take time to develop. This will likely be a lengthy process given the extensive consultation throughout the development. Given the intent of the FENZ bill and caselaw on the Code of Practice it is appropriate for the Code of Practice to be incorporated in the District Plan.	Disallow in part
	PC4.24.22	Legislation	While it is accepted practice that it (the Code of Practice) is reviewed every five years, that practice had not been followed. The last review was in 2008. In fact there is no statutory basis for the review of the Code.	Oppose in Part	The Fire and Emergency New Zealand (FENZ) Bill has passed its second reading and is currently in the House of the Whole Committee. Whilst there has been no confirmation of an enactment date, it is considered likely to be later in 2017. As it is currently written FENZ will be required to develop a Code of Practice in consultation with local authorities (s63(2)) which is then subject to approval by the Minister. As currently drafted there will be three yearly reviews of the Code. Clause 31A of Schedule 1 to the FENZ bill confirms the provisions of the current Code of Practice will continue to apply until a new Code of Practice is developed. Any replacement code of practice developed following enactment of the FENZ bill will take time to develop. Given the length of time likely to pass until a new Code of Practice is developed and approved, the current Code of Practice, as included within the Operative District Plan is still the most appropriate means of providing water for firefighting purposes.	Disallow in part
	PC4.24.23	Legislation	Under the RMA, a reference to the Code in the District Plan is treated as a reference to the Code in force at the time. If the Code is replaced or amended then there has to be a costly Plan amendment.	Oppose in Part	The superseding of documents and replacement with an updated version is a risk to all documents referenced in District Plans but is not a valid reason for the document to not be included within a Plan. If a new Code of Practice is developed, the existing Code can remain as the relevant document until such time as the Plan is reviewed.	Disallow in part

Submitter	Specific Submission Number	Subject	Summary	Support / Oppose	Explanation for Support/Oppose	Allow / Disallow Submission (in whole or in part)
	PC4.24.24	Costs to Comply	KDC has spent a fortune in ratepayers' money on trying to come to terms with this issue and work out what the Code actually says, how it applies, and what its legal obligations are in respect of the Code. Unless the matter is put to bed once and for all it is going to cost the KDC many millions of dollars on an ongoing basis to keep up to date with the vagaries of the NZFS, with absolutely no benefit to the community.	Neutral	The NZFS disagrees the implementation of the Code of Practice has no benefit to the community.	Acknowledge Submission
	PC4.24.25	Miscellaneous	The Evaluation notes the different approaches of local authorities throughout the country to this issue. It is ludicrous that each council in the country should be faced with dealing with such a complex issue separately, at huge expense for each individually. It is totally unreasonable that small councils such as the KDC should be burdened with such complicated problems. The whole question of fire safety and the powers of the NZFS should not be a matter for each individual council but a national issue which is the responsibility of central government in association with the NZFS.	Neutral	The Commission agrees that a national approach to water for firefighting is the most appropriate method of management to what is a consistent resource management issue across the country. The Code of Practice provides consistent regulations to be applied across the country. In the absence of an existing central government requirement, the NZFS considers implementation of the Code of Practice through District Plans throughout the country to be the most appropriate means of a consistent approach.	Acknowledge Submission
PC4.26 Robin Johnson	PC4.26.1	Miscellaneous	The objective of introducing rules relating to fire safety can be summarised as firstly saving life and secondly preserving property. Life Safety. This is totally unrelated to provision of water supplies. If a fire breaks out in a house life safety is best served by the provision of working smoke alarms and immediate evacuation of the premises. Anyone who can't or doesn't will be toast long before the brigade arrives. The incidence of domestic fires is strongly correlated with deprivation.	Oppose	NZFS supports the submitters comment of implementing and installing smoke alarms within the Kaipara District as a form of saving lives. However, a single factor approach is not sufficient when it comes to fire safety and the protection of property. Availability of fire fighting water supplies is another important consideration. Water supply is able to be addressed under the Resource Management Act and is essential for minimising risks in event of a fire.	Disallow submission
	PC4.26.3	Other Methods	SNZ PAS 4509:2008 - Council has proposed adopting this standard and have implemented a piecemeal approach so far. The proposal now presented does not improve the situation. The problem lies in the standard. For houses not served by public water supply the requirement of 45,000 litres of water in 90m is farcical. While the council has reduced this to 11,000 litres (the rationale for this is unclear - certainly no justification has been provided for this in the documentation provided). The solutions advanced in Gisborne may have some merit although the idea that the volume required is proportional to the number of houses is of course a fallacy. The past practice of council of requiring each property to install a tank is similarly flawed, the standard required a tank within 90 metres so if my neighbour installs a tank there is no reason for me to do the same.	Oppose	The NZFS does not support the removal of the Code in its entirety within the District Plan. It is essential that the NZFS is able to meet its responsibility of providing efficient and effective emergency services to all New Zealanders, in order to avoid, remedy or mitigate the adverse effects of fire and other emergencies. The Commission's main areas of concern are the provision of firefighting water supplies and the provision of firefighting access in new developments to enable the New Zealand Fire Service (NZFS) to operate effectively and efficiently in an emergency. In order to achieve this, the Commission seeks compliance with the New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008 (Code of Practice).	Disallow submission
Jonathan Larsen	PC4.29.7	Role of Code in the District Plan	The requirements of the Code of Practice contradict the District Plan's permitted activity standards. For example the Code of Practice specifies minimum access widths of 4m and maximum gradients of 16%. In practice of course the Fire Service safely operates on accesses less than 4m wide and steeper in gradient than 16%, both in the immediate area and around the country.	Oppose	The NZFS acknowledges that this conflict exists. The NZFS seeks accessways that are consistent with the requirements of the Code of Practice. This was a matter sought during development of the Kaipara District Plan, that was not accepted in the Operative Plan. The NZFS can drive down some accessways narrower than 4m. However, a minimum of 4m is required to allow firefighters to get in and out of vehicles, and manoeuvre around appliances. In event of an emergency the NZFS will seek to access and fight a fire even with a narrower accessway. However having inadequate access can result in time delays and restrict the ability for an efficient response.	Disallow submission

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	PC4.29.8	Role of Code in the District Plan	The Code of Practice is a non-statutory document that has no regard to the matters that are supposed to be considered by the Council in instituting a rule into a statutory District Plan. The Council has arbitrarily adopted the Code of Practice without having proper regard to whether there is an actual problem or environmental effect to be addressed, nor whether the proposed remedy will address any such problem or environmental effect even if it did exist.	Oppose	The implementation of the Code of Practice is an appropriate means of avoiding, remedying and mitigating potentially significant adverse effects. There have been many cases where the Environment Court has imposed conditions requiring firefighting water supply on consents, for example <i>Puwera Maori Ancestral Land Unincorporated Group v Whangarei DC [2016] NZEnvC 94</i> ; and <i>Sustainable Ventures Ltd v Tasman District Council [2015 NZEnvC 174]</i> . This confirms that implementing the Code of Practice through the Resource Management Act is appropriate.	Disallow submission
	PC4.29.10	Miscellaneous	<p>The actual facts in relation to response to incidents:</p> <p>The entire Kaipara district area is covered by volunteer fire brigades. In the event that a fire occurs, the volunteers are alerted by pager and siren, and make their way to the fire station from their work, home or leisure location in order to respond to the incident. Once a full crew has arrived to man the appliance they then respond to the incident.</p> <p>If a genuine fire breaks out in a normal modern fire-loaded structure, the development of the fire and fire spread occurs very quickly. If a fire starts in a normal room in the absence of an accelerant, all of the contents of the room can be expected to be fully involved in fire (flashover) within about two and a half minutes. For an example see https://www.youtube.com/watch?v=piofZLySsNc Following flashover in the room of origin the fire spread will rapidly occur into other non-fire separated parts of the structure.</p> <p>In a city where there are professional crews on duty 24/7, buildings can be saved or partially saved when this occurs. In this situation crews are responding to incidents within very short periods of time, and stations located within short distances of each other. Even in this situation buildings are often damaged by fire and smoke, including partial roof collapse, to the extent that they are demolished and rebuilt.</p> <p>The situation in Kaipara is very different. For example at Mangawhai it is known that the average time from the start of structure fire incident resulting in damage to the arrival of the appliance at the incident is almost 15 minutes. In a normal building when a fire has become established, there will be no chance of saving the building after this sort of time period of time has elapsed.</p>	Oppose	<p>When a fire appliance arrives at a site, delays in obtaining a water source can have significant implications on the ability to effectively fight fires. In addition, an onsite water supply can help extinguish fire on an existing building and also prevent fire spread to neighbouring properties or vegetation. To provide some perspective, each fire appliance that attends a fire carries in the order of 3,000L of water. A tanker may carry an additional 6,000L. Even a 10,000L water tank can consequently almost double the available water supply for a two appliance and tanker response to a fire.</p> <p>It is also important to recognise that fire behaviour is not uniform and slow smouldering fires can occur that do not reach flashover before the arrival of appliances, whether paid or volunteer.</p>	Disallow submission

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	PC4.29.11	Miscellaneous	<p>Dwellings in non-reticulated areas whether urban or rural almost invariably have rainwater tanks.</p> <p>Normal rural fire fighting practice involves utilising the first arriving appliance's onboard water, rain water tanks of the affected building, the tanks of adjacent neighbours, swimming pools, brigade or other water tankers, subsequent arriving appliances' water, and appliance water shuttles and water relays. This is the status quo of providing a water supply used throughout the country.</p> <p>This practice will continue to be used on all existing dwellings and other buildings in the Kaipara District in the unlikely event of a fire.</p> <p>Neither the formulation of the original rule, nor the analysis of the proposal acknowledges that there has been a single incident in Kaipara where a building was not saved because it didn't have a dedicated fire fighting water supply.</p>	Oppose	When a fire appliance arrives at a site, delays in obtaining a water source can have significant implications on the ability to effectively fight fires. The Code of Practice provides flexibility to enable a variety of water sources to be provided for firefighting. These may include swimming pools. The NZFS is unable to rely upon domestic potable tanks unless a dedicated water supply is provided. For example the recent drought in Northland resulted in many Mangawhai occupants running out of water in their domestic tanks.	Disallow submission
	PC4.8.1	Role of Code in the District Plan	Incorporation of Fire Safety Rules based on NZFS Code of Practice was illconceived and done without consideration of the legal situation; whether contents of the code were lawful; ramifications on amenity values of the district; cost to individuals to comply with the code and possible subsequent amendments.	Support in part	<p>The NZFS supports the withdrawal of Proposed Plan Change 4, due to the current plan already providing reference to the NZFS Code of Practice (the Code).</p> <p>The NZFS opposes the request to remove the Code in its entirety within the District Plan. It is essential that the NZFS is able to meet its responsibility of providing efficient and effective emergency services to all New Zealanders, in order to avoid, remedy or mitigate the adverse effects of fire and other emergencies. The production of the Code of Practice is a mandatory requirement under the Fire Service Act and has been Gazetted by the National Commander.</p>	Allow in part
	PC4.8.2	Amenity	If allowed to continue it will turn Mangawhai, as an example, into a Tank Town denuded of vegetation and trees as is the case on the causeway on Molesworth Drive opposite the museum	Oppose	The New Zealand Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008 (Code of Practice) requires water to be accessible for firefighting via a connection point, but does not state the connection point has to be directly on any tank provided for firefighting purposes. This enables flexibility in the location of tanks, if tanks are installed for firefighting purposes.	Disallow submission
	PC4.8.3	Costs to Comply	Rules were side-stepped to allow smaller tanks and modified requirements in respect of fire vehicle access, hard stand and special couplings but only on obtaining resource consents at great cost. Costs will continue to be enormous should the code be adopted in its entirety.	Oppose in Part	The Code of Practice allows applicants to submit their own alternative methods of obtaining a sufficient water supply. The NZFS then reviews alternative proposals on a case by case basis to confirm if they will meet the firefighting needs. This flexibility is enabled through Section 4.4. of the Code of Practice. Depending on circumstances examples of alternatives may include smaller tanks, swimming pools or permanent ponds or streams.	Disallow in part

Submitter	Specific Submission Number	Subject	Summary	Support / Oppose	Explanation for Support/Oppose	Allow / Disallow Submission (in whole or in part)
	PC4.8.4	Role of Code in the District Plan	The Code of Practice is not a statutory document and it is not mandatory for Council to include it in rules in the District Plan. There is no interface between the Code of Practice under the Fire Services Act and any other legislation relevant to local authorities. It stands on its own as a standard for nothing more than water mains.	Oppose	The implementation of the Code of Practice is an appropriate means of avoiding, remedying and mitigating potentially significant adverse effects. There have been many cases where the Environment Court has imposed conditions requiring firefighting water supply on consents, for example <i>Puwerā Maori Ancestral Land Unincorporated Group v Whangarei DC [2016] NZEnvC 94</i> ; and <i>Sustainable Ventures Ltd v Tasman District Council [2015 NZEnvC 174]</i> . This confirms that implementing the Code of Practice through the Resource Management Act is appropriate.	Disallow submission
	PC4.8.5	Legislation	The Fire Service Act has been repealed and the Fire and Emergency NZ Bill is [in] the process of being brought in and is with the select committee stage.	Oppose	Whilst the Fire and Emergency New Zealand (FENZ) Bill is yet to be enacted, the Fire Service Act is the current and appropriate legislation at this time. Clause 31A of Schedule 1 to the FENZ bill confirms the provisions of the current Code of Practice will continue to apply until a new Code of Practice is developed. Any replacement code of practice developed following enactment of the FENZ bill will take time to develop. This will likely be a lengthy process given the extensive consultation throughout the development. Given the length of time likely to pass until a new Code of Practice is developed, the current Code of Practice, as included within the Operative District Plan is still the most appropriate means of providing water for firefighting purposes.	Disallow submission
	PC4.8.7	Miscellaneous	The whole question of fire safety and the powers of NZFS should not be a matter for each individual council but a national issue which is the responsibility of central government in association with the NZFS.	Oppose	The Commission agrees that a national approach to water for firefighting is the most appropriate method of management to what is a consistent resource management issue across the country. The Code of Practice provides consistent regulations to be applied across the country. In the absence of an existing central government requirement, the NZFS considers implementation of the Code of Practice through District Plans throughout the country to be the most appropriate means of a consistent approach.	Disallow submission
	PC4.8.8	Legislation	The NZFS under the Fire Services Act should be putting its energies into coordinating inquiry and research into alternative methods of providing water for firefighting (and other firefighting issues) as required under the Fire Safety Act and the soon Fire and Emergency Bill.	Oppose	The Code of Practice provides flexibility to the means of compliance by enabling alternative water supplies such as swimming pools, permanent ponds and lakes.	Disallow submission

Appendix B - Council's Decision on Proposed Plan

Resource Management Act 1991
Kaipara District Council
Plan Change 4 to the District Plan
Fire Safety Rules (Land Use)

Hearing of Submissions
Decisions of the Hearing Panel

Hearing Panel: **Alan Watson**
Burnette Macnicol
Mark Farnsworth

Hearing Dates: **15 – 16 August 2017**

1.0 THIS DECISIONS REPORT

This decision report contains the decisions of the Independent Hearing Commissions regarding the proposed plan change and the submissions to it. The report includes a commentary on the issues raised in the submissions as the basis for our decisions on the plan change and on the submissions. Those issues were largely addressed in the Kaipara District Council's (**Council**) report on the plan change and the submissions, that report having been prepared in accordance with section 42A of the Resource Management Act 1991 (**RMA**) and which is hereinafter referred to as the **section 42A report**.

As detailed below, our decisions are that the submissions are accepted, accepted in part or rejected in accordance with our decision that the plan change is approved with modifications.

2.0 PANEL APPOINTMENT

Council appointed Independent Hearing Commissioners (**Commissioners**) Alan Watson (Chair), Burnette Macnicol and Mark Farnsworth to a Hearing Panel (**Panel**), with the authority to hear and make decisions on submissions and further submissions, and in doing so, on the plan change itself.

3.0 NOTIFICATION AND SUBMISSIONS

The plan change was notified on 14 October 2016 and a summary of the submissions were notified on 17 March 2017. Twenty-nine submissions and fifty-nine further submissions were received. The further submissions included one received late, one week after the closing date. We resolved to accept that submission, which is a further submission, from Gordon Palmer in terms of sections 37 and 37A of the RMA. We note that Mr Palmer did not attend the hearing or provide any reasons for the submission being received late such that we would not usually accept it. However, the submission is in similar form to other further submissions and no persons would be prejudiced by our acceptance of it. Further, no parties at the hearing had any comments to make in relation to our acceptance or otherwise of it.

We accordingly extended the time period for the receipt of further submissions in order to accept the further submission of Gordon Palmer for the following reasons:

- The interests of no persons will be adversely affected by the waiver;
- The matters raised in the submission are not dissimilar to those raised in other submissions received during the submissions period;
- The acceptance of the submission will be in the interests of the community in achieving an adequate assessment of the effects of the plan change; and
- The acceptance of the submission will not result in any unreasonable delay in determining the plan change.

A list of submitters and further submitters can be found at pages 7-9 of the Section 42A report.

4.0 OFFICERS REPORT

The Panel received a section 42A report¹ prepared by Peter Reaburn, Council's consultant planner. That report also includes recommendations which are to accept the plan change but with rewording of the provisions as set out

¹ Section 42A Report, Proposed Plan Change 4, Fire Safety Rules (Land Use), 18 July 2017

in the report.

5.0 HEARING

The hearing was on 15 and 16 August 2017 at the Mangawhai Club. During the hearing, the following submitters appeared before the Panel to speak in support of their submissions on the Plan Change:

- New Zealand Fire Service², represented by:
 - Kerry Anderson, Legal Counsel;
 - William O'Donoghue, National Adviser Fire Risk Management;
 - Perri Duffy, Consultant Planner; and
 - Two representatives from the local NZFS
- Jonathan Larsen³
- Clive Boonham⁴
- Thomas Parsons.

David Chisholm, a resident from Alamar Crescent, also made a brief oral presentation to the Panel, although he was not a submitter. He sought, and was granted, that opportunity by the Chair, it being noted that he could be a witness for Mr Boonham.

We also heard from Council's reporting planner, Peter Reaburn.

In attendance from Council and providing comments as required, were Howard Alchin, Policy Manager and Natalie Robinson, Policy Analyst.

We note that the New Zealand Fire Service is now Fire and Emergency New Zealand (**FENZ**) under the Fire and Emergency New Zealand Act 2017. It is the same legal body as the New Zealand Fire Service Commission that lodged the submission.

The hearing was adjourned late morning on 16 August 2017 for the Panel to carry out a visit to sites around Mangawhai following which they returned to the hearing venue to consider whether they had sufficient information and to carry out some initial deliberations. They then closed the hearing. The site visit and subsequent meeting was attended by the Commissioners only.

6.0 THE PLAN CHANGE

The purpose and scope of the proposed plan change is described in the section 32 Evaluation Report (**section 32 report**) from the Council⁵, which states the following:

The purpose of the Plan Change is to provide a policy framework for managing the risk of structural fires to life, property and the wider environment and to amend existing rules from the District Plan that is (sic) considered a disproportionate mitigation action to the risk posed by structural fire events. It is also considered that there are other methods and legislation (for example, the Building Act 2004) that address the risk of structural fires and their spread other than including direct reference to the Code of Practice.

² Submitter 28

³ Submitter 29

⁴ Submitter 9

⁵ Section 32 Evaluation Report, Plan Change 4, Fire Safety Rules (Land Use), sections 1.2 and 1.3, dated September 2016

The scope of this Plan Change in respect of structural fires includes the following:

- *The addition of a new issue to Chapter 2;*
- *The addition of a new Objective to Chapter 2;*
- *The addition of three new Policies and an Explanatory Statement in respect of these Policies to Chapter 2;*
- *The addition of four new Other Methods to Chapter 2;*
- *The addition of a new Outcome to Chapter 2;*
- *The amendment of the Fire Safety Rules (Land Use) 12.10.26; 13.10.26; 14.10.26; 15A.10.25; and 15B.10.25;*
- *Amendment of the Dwelling Infrastructure Rule 15A.10.3b(c); and*
- *Retaining reference to the Code of Practice as a matter that will be considered at the time of subdivision in Rules 12.15.4; 13.14.4; 14.13.4; and 15B.14.4.*

More particularly, the proposal is to add an Issue, an Objective and three Policies to Chapter 2: District Wide Resource Management Issues as the District Plan does not contain a specific policy framework for 'structural fires'. An issue of 'fire' is included in Chapter 7: Natural Hazards, where the focus is on 'wild fires' that can occur naturally, and not on 'structural fires'. It is also proposed to amend the existing Fire Safety Rules (Land Use) in the Rural, Residential, Business (Commercial and Industrial), Maori Purposes: Maori Land and the Maori Purposes: Treaty Settlement Land Zones.

In all the rules for these sub-zones, clause (c) is proposed to be deleted. Sub-clause (c) reads as follows:

'The use of buildings shall at all times be in accordance with the fire safety requirements specified in New Zealand Standard NZS 9231:1971 (Model Bylaw for Fire Prevention).

This sub-clause has been removed, because the 1971 'Model Bylaw for Fire Prevention' no longer exists and was not replaced by an updated bylaw.

In all rules, sub-clause (b) is proposed to be deleted, and replaced with an advice note. Sub-clause (b) reads as follows:

'Water supply for fire fighting and access to this supply complies with the New Zealand Fire Service Fire Fighting Water Supply Code of Practice SNZ PAS 4509:2008'

It is considered, in terms of the plan change, that implementing the Code of Practice at a land use stage for new development is a disproportionate action to mitigate the risk posed by structural fire events, and in particular does not capture sites which already have been developed. It is considered that implementation of the Code of Practice is more appropriate at the subdivision stage where the issue of appropriate provision of water for firefighting purposes should be addressed upfront. Further, in the plan change, it is considered that for existing sites, particularly where there are no reticulated water supplies that have sufficient capacity for firefighting purposes, an advice note is a more appropriate measure.

For the Fire Safety Rules (Land Use) for the Residential, Business: Commercial and Industrial Zones, it is proposed to delete sub-clause (d) and Note 1. Sub-clause (d) and note reads as follows:

'The building is located at least 20m away from naturally occurring or deliberately planted areas of scrub or shrubland, woodlot or forest.'

Note 1: For fire safety, the New Zealand Fire Service advises that buildings should be at least 20m from the dripline of any tree and that these setbacks are also appropriate from scrubland and other similar vegetated areas.'

It is considered that sub-clause (d) and Note 1 are not generally urban issues, and to retain such a provision is unnecessary and onerous, particularly where planting in urban areas occurs that will be closer than 20m from residential buildings as part of residential amenity. It is considered that this provision relates more to wild fire situations in the rural areas.

This section of the section 32 report then proceeds to set out what is proposed under the plan change by way of additions and deletions to the existing rules in the District Plan. Those details can be found at pages 7-11 of the section 32 report.

7.0 SUMMARY OF HEARING EVIDENCE AND REPRESENTATIONS

We consider a brief account of the hearing evidence and representations from the hearing is useful context for our decisions.

Briefs of expert evidence had been pre-circulated prior to the hearing date. All material pre-circulated or presented at the hearing can be found on the Council's web page at www.kaipara.govt.nz. In this summary, it is not our intention to provide a detailed account of all the matters covered in each of the briefs/statements but rather an outline of the key matters raised.

Fire Emergency New Zealand (FENZ)

- **Kerry Anderson**, Legal Counsel, presented her written submissions. Key points included:
 - Principal issue is to require compliance with the NZFS Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008 (**Code of Practice** or **Code**) for both land use and subdivision consent in the Kaipara district;
 - A consideration of emergency management under the RMA;
 - The treatment of firefighting requirements in the building legislation;
 - The Code of Practice and the appropriateness of including reference to it within the District Plan;
 - Application of the Code of Practice and how it has been accepted in other districts;
 - Compliance with the Code of Practice is an appropriate consideration; and
 - The relief sought.
- **William O'Donoghue**, the National Advisor Fire Risk Management for FENZ spoke to his written brief of evidence by way of a Powerpoint presentation. He addressed:
 - The principal statutory objectives of the Fire and Emergency New Zealand Act 2017;
 - The Code of Practice for firefighting water supplies and the importance of water supplies in non-reticulated areas;
 - A proposed solution for Kaipara;
 - Examples of why compliance with the Code of Practice is necessary; and
 - A consideration of issues that have been raised.
- **Perri Duffy**, a Senior Planner for Beca Limited, spoke to her written planning evidence for FENZ. Points covered included:

- A consideration of the policy framework.
- Noting that FENZ's interest in Plan Change 4 is underpinned by its principal objectives to reduce the incidence of unwanted fire, and associated risk to life and property and to prevent and limit damage to property.
- A consideration of the section 42A report.
- A discussion on the provisions and outcomes FENZ would like to achieve.

Jonathan Larsen, a Kaipara district ratepayer, Kaipara district Councillor and FENZ employee, spoke to his submission, noting:

- He was making a personal representation;
- He noted that the 20 metre boundary separating buildings from vegetation is unnecessary;
- He questioned the need for compliance with the Code of Practice on a number of different grounds, pointing out that the Fire Emergency NZ Act 2017 gives FENZ personnel the ability to access properties and water in the event of a fire emergency; and
- He advocated that a simple solution was to ensure all domestic water storage tanks had an appropriate mechanism which would assist FENZ's personnel to access the water in the event of an emergency.

Clive Boonham, a Kaipara district ratepayer and resident, presented a comprehensive written representation supporting his original submission and further submission. He noted that his submission had gained considerable support. Points made included:

- An outline of the 'serious' legal issues that should have been resolved prior to the hearing;
- The unlawfulness of the Code of Practice including how the scope of the Code of Practice has been broadened;
- A detailed explanation of why the Code of Practice only applies to urban areas challenging FENZ's interpretation of how it should be applied;
- An outline of the way FENZ are using the RMA provisions to apply pressure on units of local government;
- A consideration of the Building Act and Code of Practice;
- His responses to the FENZ submission to the Plan Change and the section 32 RMA analysis; and
- A concluding statement on 'where do we stand'.

Thomas Parsons, a Kaipara district ratepayer, tabled and spoke to a written representation, questioning the 'one size fits all' regulatory approach. He provided support to his view that the proposed rules are intrusive and expensive to implement. He pointed out the downward trend in the number of deaths due to house fires in New Zealand. Kaipara's contribution to those figures is extremely low. He was also of the view that the 20m boundary separating buildings from vegetation is unnecessary.

8.0 PANEL DECISIONS

We are to make decisions on the submissions, and on the plan change. Clause 10 of Schedule 1 to the RMA sets out the requirements for decisions:

- (1) *A local authority must give a decision on the provisions and matters raised in submissions, whether or not a hearing is held on the proposed policy statement or plan concerned.*

- (2) *The decision –*
- (a) *must include the reasons for accepting or rejecting the submissions and, for that purpose, may address the submissions by grouping them according to –*
 - i. *the provisions of the proposed statement or plan to which they relate; or*
 - ii. *the matters to which they relate; and*
 - (ab) *must include a further evaluation of the proposed policy statement or plan undertaken in accordance with section 32AA; and*
 - (b) *may include -*
 - i. *matters relating to any consequential alterations necessary to the proposed statement or plan arising from the submissions; and*
 - ii. *any other matter relevant to the proposed statement or plan arising from the submissions*
- (3) *To avoid doubt, the local authority is not required to give a decision that addresses each submission individually.*
- (4) *The local authority must –*
- (aaa) *have particular regard to the further evaluation undertaken in accordance with subclause (2)(ab) when making its decision; and*
 - (a) *Give its decision no later than two years after notifying the proposed policy statement or plan under Clause 5; and*
 - (b) *Publicly notify the decision within the same time;*
- (5) *On and from the date the decision is publicly notified, the proposed policy statement or plan is amended in accordance with the decision.*

In this decisions report, the Panel has focussed on the key issues raised in the submissions, further submissions, expert evidence and representations to it.

9.0 SECTION 32 EVALUATION

The plan change is underpinned by a comprehensive section 32 report, the veracity of which was tested during the hearing process. We accept that report addressed the relevant matters.

The Ministry for the Environment's Guide⁶ on Section 32 notes:

Section 32 (and section 32AA) is an important part of ensuring clear, robust decision-making. Section 32 provides a process for critical evaluation of proposals, including the appropriateness of objectives and the efficiency and effectiveness of options generated by the plan development process. It also provides a transparent way to assess the range of risks, costs and benefits of introducing new policies and rules.

Quality section 32 evaluations will show that local authorities have undertaken a rigorous and comprehensive assessment of policy and plan proposals. It is critical that the evaluation is carried out early in the plan development process to inform plan analysis and decision-making. They should provide a strong incentive based on consistent and reliable data for local authorities to make harder calls up-front.

⁶ Ministry for the Environment. 2017. A guide to section 32 of the Resource Management Act 1991: Incorporating changes as a result of the Resource Legislation Amendment Act 2017, Wellington: Ministry for the Environment.

Council (and the Panel) also has an obligation to make a further evaluation under s32AA as part of the decision-making process in relation to changes to the plan change since notification. A further evaluation ensures that any changes that are made to the proposal since the initial evaluation are subject to the same analysis and evaluation. We accordingly consider s32AA below.

10.0 COMMENTARY

10.1 Reference to the Code of Practice

Reference to the Code in the plan change as part of a permitted activity presents some difficulties. That is, difficulties in application and how permitted activity status can be determined without reference to another party. We do not consider the need to have recourse to another party, or to a document outside of the District Plan, to be appropriate in the case of a permitted activity. A permitted activity needs to be clearly expressed so that it is readily determined as to whether an activity is, or is not, permitted by the District Plan.

We endeavoured to enter into some discourse on this matter at the hearing. However, we found FENZ to be focused on having the Code included in the permitted activity provisions and the submitters appearing at the hearing (principally Messrs Boonham and Larsen) focused on the alleged shortcomings in the Council's approach to incorporation of the Code into the Plan Change and the District Plan. We are not in a position to decide on existing provisions in the District Plan that are not before us as part of the plan change, or the manner in which they may have been incorporated into the District Plan. We express no view on that matter. We can however decide the submissions received on the plan change and we proceed to do so in this decisions report.

The legal submissions from Ms Anderson for FENZ provide a comprehensive account of the issues and processes involved in the plan change. We questioned the applicability of using the RMA to address structural fire risk where the fire is caused by anthropogenic means, but Ms Anderson advocated that the RMA could address that risk, and referenced decisions that provided backing for the view advocated. She reminded us that s74(1) of the RMA requires the Council to consider its functions under section 32 and the provisions of Part 2 of the RMA. Council's functions are set out in section 31 of the RMA, with section 31(1)(b) stating:

'...the control of any actual or potential effects of the use, development or protection of land, including for the purpose of:

(i) The avoidance or mitigation of natural hazards...'

She proffered the view that fire is a natural hazard. Mr Reaburn, in addressing the same issue, confirmed that the RMA could address structural fire risk. A counter perspective was offered by Mr Boonham who submitted that the Code had been developed for areas serviced by reticulated water and pointed us to the Code's introduction, where this is clearly articulated. He also noted that the way the voluntary Code is used in the District Plan effectively makes adherence to its provisions mandatory. We accept that Council has chosen to extend the application of the Code and we do not intend to debate the validity of that extension. We will look at how the Code is referenced across the Rules. We also acknowledge that other District Plans make reference to the Code.

We have reviewed the examples provided, coming to the viewpoint that they effectively do make adherence to the voluntary Code mandatory. Whanganui is a good example:

Whanganui District Plan

Subdivision Rules

13.5.7 *Site serviceability*

d. For sites in any rural zone applications shall:

i.

ii. Demonstrate the ability to comply with New Zealand Fire Service Fire Fighting Water Supplies Code of Practice 2008 SNZ PAS 4509:2008

13.5.16 *Water*

b. In the Residential Zone firefighting supply shall be provided in accordance with the New Zealand Fire Service Fire Fighting Supplies Code of Practice 2008 SNZ PAS 4509:2008

Land Use Rules (example)

3.5.4 *Structures*

f. All new habitable structures to be used for residential, commercial or industrial purposes shall be provided with a fire fighting water supply and access to this supply in accordance with New Zealand Fire Service Fire Fighting Water Supply Code of Practice 2008 SNZ PAS 4509:2008

The same logic advanced above for the Code pertains to the reference of the 'use of buildings' in rules which relate to the construction of a building. Some of the rules, current and proposed, mix the **construction** of a building with the **use** of it, and are accordingly amended as consequential amendments, and for clarity and consistency, as part of our decisions.

In justifying the approach adopted both Ms Anderson and Mr Reaburn reminded us of the RMA, section 3, and the definition of **effect**:

3 Meaning of effect

*In this Act, unless the context otherwise requires, the term **effect** includes –*

(f) Any potential effect of low probability which has a high potential impact

There is no disagreement that a structural fire that results in a death is an event with a high impact. In the light of no counter-argument, we accept that section 3(f) RMA could apply to a structural fire however, when probability is added to the mix, then the effect equation changed from 'low probability' to a 'very low probability'. This was a view that Mr Reaburn reluctantly concurred with when pressed by the Panel.

If we accept that the supply of firefighting water and access to it is an issue that can be addressed in the District Plan, with that ability to do so deriving from the RMA, it is then a matter of how the risk profile is addressed, and the measures adopted. Are the measures practical and reasonable?

As pointed out, the RMA and the Building Act have different purposes with the latter focussing on the building itself and the components required to make it structurally sound and safe for those who use it. The Building Act and the Building Code do not, however, cover provision of and access to firefighting water to a building or site. Hence FENZ seeking provisions relating to firefighting water supply and access as part of the plan change. We note with interest, that while both the Building Act 2004 and the Local Government Act 2002 are referenced in the recently adopted Fire Emergency New Zealand Act 2017, the RMA under which FENZ has functions, does not receive a mention.

We accept the Code can be included in some manner in the District Plan, for example, where there are reticulated water supplies, but differ on the approach adopted for doing so in the plan change. We note the concerns of some

submitters in this respect, particularly with there being any reference to the Code at all in the plan change. We agree and question the Code being part of a permitted activity provision when one cannot be certain as to the status of such an activity without recourse to other parties. It cannot be part of a permitted activity if a discretion is needed to be exercised.

If there was to be any specific reference or provision relating to the Code, and we find that it should not be in the objectives, policies and rules, we would then agree with FENZ that the provisions should be applicable to both subdivision and land use, not just to subdivision as sought by the plan change.

Ms Anderson submitted in this respect⁷:

'Fire and Emergency's position is that there is no legitimate basis to distinguish the appropriateness for requiring the Code of Practice to be considered at land use consent stage, if it is an appropriate consideration at subdivision consent stage'

Further, she submitted that:

'Fire and Emergency maintains the requirement to comply with the Code of Practice should apply to all new buildings, not just buildings where subdivision is involved. It is built structures that are most likely to need water applied to them during a fire. It is not logical that because subdivision has already occurred that the issue of the effects of fire are ignored when building the very thing that will be directly affected by fire'

Messrs Larsen and Boonham had concerns with the shortcomings, and also with the legal issues, regarding the incorporation of the Code into the plan change/District Plan by reference, as well as with other issues, both legal and non-legal. We however find it is not necessary to consider much of the issue of the legalities or otherwise of the Code, or the method by which it has been included into the current District Plan, because we find that it is not appropriate to refer to compliance with such as part of a permitted activity, that being part of our considerations relating to the plan change.

We agree with a number of matters raised by Mr Boonham. Importantly, in relation to the plan change, our agreement is reached somewhat differently. Our agreement is based on the practicality of the plan change provisions being incorporated into the District Plan and the actual risk probability of an event occurring. In terms of referencing the Code, we see the need for a clearly differentiated approach for areas with water reticulation and those areas without water reticulation. For those areas without water reticulation, reference to the Code is deleted from the plan change provisions, as part of our decisions. For areas with water reticulation, the engineering standards set out the performance criteria. The standards make reference to the Code.

We accept that the supply of firefighting water and access to it, is an issue that Council has elected comes under their jurisdiction under the District Plan, particularly having regard to the definition of effect in the RMA. In terms of the Code, it is voluntary, any approach to water storage for fire control purposes needs to be tailored to the risk.

We note in this respect that whilst the management of fire may be sought, and effective management to be an outcome directed by the District Plan, that may not be realistic in light of the limited risk of fire. That is more so in reticulated areas. Accordingly, we find reference to, and particularly the use of, the Code as part of a permitted activity provision, and in the rules that apply to permitted activities, in the District Plan to be inappropriate. This is

⁷ Legal submissions by Kay Anderson at para's 40 and 42

due to it not being possible to determine permitted activity status when reference to the Code is required. The same applies to being able to determine whether, in the rules, compliance is achieved with the 'water supply for firefighting and access to this supply' complying with the Code or being 'adequate' for firefighting purposes.

Further, the measures included in the District Plan, being:

- The amount of water storage required on a site; and
- Each site having to provide for its own water storage

are excessive, and not practicable because:

- Storage is often in a position on a site where it cannot be accessed during a fire;
- The length of time it takes to reach a building that is on fire;
- The often unsightly nature of water storage tanks on individual sites; and
- The limited risk of fire occurring.

We have accordingly removed any reference to the Code, and/or provisions of it, in the plan change as part of permitted activity status, from the associated rules and from other provisions based on the submissions received.

We do recommend that Council investigates the provision of water tanks for communal use in the case of fire, at strategic locations in the district and its settlements along with the joint or shared use/availability of water for fire purposes between properties. We accept our recommendations in this respect cannot be all achieved through the current plan change process and would require further investigation by Council.

10.2 Building within 20m of vegetation

The relevant provision is that which states that any building is permitted if:

'The building is located at least 20m away from naturally occurring or deliberately planted area of scrub or shrub land, woodland or forest'

It is supported by a 'Note', that is proposed to be introduced to the District Plan by the plan change, which states:

'Note 1: For fire safety, the New Zealand Fire Service advises that buildings should be at least 20m from the dripline of any tree and that these setbacks are also appropriate from scrub land and other vegetated areas'.

In the plan change provisions as notified, it is sought to delete both of these provisions from the urban rules, but to retain them in the rural rules.

We agree with deletion from the urban rules, because requiring such a significant setback from buildings (particularly dwellings) is not appropriate nor reasonable in an urban area for reasons including the limited size of sites. Accordingly, it is deleted from the urban rules in the recommended set of provisions appending to this report.

It is however, sought to be retained in the rural rules by the plan change. There was debate at the hearing regarding whether this provision could be addressed as part of the current plan change process. We consider it can, on the basis of amendments being sought at this time to the Fire Safety Rules and particularly the rules which contain this provision.

We find that the provision should also be deleted for similar reasons to the corresponding urban rule. That would see the permitted activity provision relating to a building being located at least 20m from scrub etc. being deleted, but the note relating to it being retained in the rural provisions as an advisory note. That note is:

'Note 1: For fire safety, the New Zealand Fire Service advises that buildings should be at least 20m from the dripline of any tree and that these setbacks are also appropriate from scrubland and other vegetated areas'

The corresponding note is also sought to be deleted from the urban rules, which we agree with, but we consider that this note should be retained in the rural rules for guidance purposes.

In support of the above, Mr Parsons, who presented a written submission at the hearing, stated the following⁸:

'The examples I have experienced and cited make it clear that the suggested 20metre boundaries separating buildings from forest is an unnecessary intrusion on the preferences of the property owner. It will save no lives and prevent no fires in Kaipara (whatever may be true in Australia). It may occasionally save a building or two from a wildfire, at the cost of preventing owners of rural properties such as myself from placing a building in a delightful location near the ancient forest and simply accepting the risk involved, with or without insurance, as I choose'.

Whilst we may not agree with all that Mr Parsons states, we do concur with the sentiment he expresses, along with others, in this respect.

Otherwise, the second note in both the urban and rural rules, referring to fire sprinkler systems, is retained.

10.3 Risk

The matter of 'risk', and how risk is to be managed going forward is central to this plan change. Our attention was drawn to 'risk' a number of times. For example, Perri Duffy for FENZ provided us with the view that the natural hazard provisions in the Regional Policy Statement are of particular relevance to the plan change, notably⁹:

Objective 3.13 seeks the risks and impacts of natural hazard events to be minimised by becoming better prepared for the consequences and promoting long-term strategies to reduce the risk on people and communities;

Policy 7.1.1 requires subdivision, land use and development to be managed to minimise the risks from natural hazards; and

Method 7.1.7 identifies objectives, policies and methods (including rules) as a means to give effect to Policy 7.1.1

Ms Duffy also stated that¹⁰:

'Fire and Emergency's interest in Plan Change 4 is underpinned by its principal objectives to reduce the incidence of unwanted fire, the associated risk to life and property, and to prevent or limit damage to property, land and the environment as provided by the FENZ Act 2017'

To achieve this in the Kaipara District, FENZ is seeking rules in the plan change which require compliance with the Code.

The section 32 report provided a finer grain analysis of risk, noting that the risk of structural fires occurring in the Kaipara district is low, however, the consequences can be high in terms of loss of property and even loss of life¹¹. It is noted in the report that taking the average of 25 structural fires within the Kaipara district over the last five years

⁸ Submission at the hearing by Thomas Parsons, penultimate paragraph

⁹ Perri Duffy, Evidence in Chief at [14]

¹⁰ Ibid at [18]

¹¹ Section 32 report at [17]

means there is an estimated 0.0023% chance of any given residential dwelling being affected by a fire within the next 12 months¹². It is further noted that there were no fatalities due to fires within the Kaipara district between the period 2011/2012 to 2015/2016. It was concluded in the report that this could be seen to indicate that the average annual risk to an individual dying from a structural fire within the Kaipara district is very low. Given that a fatality is possible, it means that the magnitude of the consequences of any given fire that occurs could be considered to be high and therefore the overall risk is moderate to high¹³.

Given the fire statistics quoted to us, we find it difficult to accept this conclusion. What is missing from the risk equation is a consideration of probability of an event occurring. When probability is factored into the risk equation then a different result is achieved. As noted above, we questioned Mr Reaburn on the probability of death by fire occurring and he conceded that the probability of such an event occurring is very low. When probability is factored into the risk equation, the overall risk is low. We came to the view that the overall risk should be considered to be low.

We accept that if it was demonstrated that there is a high risk of a fire event occurring then there may be some justification for ensuring that the dedicated water storage for firefighting as required by the Code is a requirement. Given Kaipara's risk profile, the response sought by FENZ is not justified for rural settlements without reticulated water supplies.

When consideration is given to response times, particularly to structural fire events outside the settlements, the water stored onsite may not even be used by the fire service to save a building by the time it arrives at the site concerned¹⁴. It was recommended in the section 42A hearing report that:

'It is therefore considered that installing sprinklers is the best approach for the rural areas of the District. It is to be noted that this is consistent with what is advocated in s1.1 of the Code'

The option of Council providing strategically located tanks specifically for the storage of water for firefighting purposes, or providing volunteer fire brigades with mobile tankers or portable dams in communities that have a fire service (brigades) but not a reticulated water supply, is a method that was discussed in the section 42A report¹⁵. We agree with that being an effective option for the Council.

We are of the view that FENZ and the Council should explore the possibility of providing an agreed volume of water storage in the form of tanks strategically placed in Mangawhai, and potentially in other communities without reticulated water supplies but with firefighting capability, similar to the agreement that was described to us, that exists between FENZ and the Gisborne District Council.

10.4 Costs and Benefits

A common concern expressed in the submissions related to the high costs associated with implementing the Fire Safety Rules relative to the low number of incidents that occur in the district. It is accepted that there is potentially a high impact resulting from fire incident however, when the probability of a fire event occurring is factored into any consideration then a sensible and pragmatic approach is required. We consider that the probability of a fire event occurring should have been given greater weighting in the cost-benefit analysis in the section 32 report. Had greater weight been given to the very low probability of a fire event occurring then we are of the view that it would have

¹² Ibid at [3.2.1]

¹³ Ibid at [3.2.2]

¹⁴ Section 42A report at [18]

¹⁵ Ibid at page 20.

demonstrated that the high cost of providing water tanks, or entering into alternative arrangements, especially on an individual site basis in urban areas which lack water reticulation, is not a reasonable solution nor a cost-effective solution.

From our limited visit to sites at Mangawhai, we observed some situations which are less than desirable from both aesthetic and costs points of view. Those concerns include the number of tanks on individual sites and often the location of tanks in prominent positions. We accept the need for water storage for domestic and other purposes, but we question the need for a specific provision for firefighting purposes, a viewpoint expressed by some submitters.

We note too, the ability of the FENZ and others to access neighbours' water supplies in an emergency. Section 42 of the recently adopted Fire Emergency New Zealand Act 2017 (**FENZ 2017**) gives FENZ wide powers in the event of a fire emergency:

42 Powers of authorised person in relation to land, building or structure

- (1) *An authorised person may exercise the powers under this section for the purpose of taking any steps that the authorised person considers necessary or desirable in order to perform or exercise his or her functions, duties or power.*

We were told, in submissions, that a property owner's water storage could often not be accessed during a fire because of the location of the water storage adjacent, or in close proximity, to the building that is on fire. For example, water tanks under a deck attached to the dwelling. However, we reasonably consider that no one would withhold access to water at their neighbouring property if a property or life was in danger from a fire. Even if they did, FENZ has the ability to use the powers of section 42 of the FENZ 2017.

There was also concern expressed through submissions regarding the use of terms such as 'ensure' and 'adequate' in the provisions. We agree that such provisions are not prescriptive, but we consider that they are acceptable for objectives and policies. The objectives state what is sought and the policies are the means by which the objectives will be achieved. It is the rules which need to be prescriptive or certain in their application so it is clear regarding whether they are complied with or not. We do not see the use of such subjective terms as necessarily problematic as part of the objectives and policies, but agree with the submitters that they are too vague and subjective to be a part of rules.

After looking at a number of different options our attention was refocused by our consideration of risk, and the need for a simple unambiguous approach, one which can be clearly understood and applied. We came to the view that the following phrases should be amended:

- At Point 8, which relates to Chapter 15A.10.3b(c) in the Maori Purposes: Maori Land Chapter, the plan change proposes to amend this rule so that where a water supply is not available, water supplies to all dwellings shall *be adequate for firefighting purposes in accordance with the New Zealand Fire Service's Code of Practice SNZ PAS 4509:2008*. This needs amendment to delete reference to 'adequate' because it creates uncertainty. Given the risk it had been our intention to remove reference to the Code, as sought by the plan change, for this provision.
- Point 9 in the plan change is similar in needing to be amended following the hearing of the submissions. It seeks to retain reference to the Code in the subdivision provisions in the Rural, Residential, Business (Commercial and Industrial) and Maori Purposes: Treaty Settlement Zones (Rules 12.15.4; 13.14.4; 14.13.4 and 15B 14.4) and proposes to retain the rules so that where a water supply is not available, water supplies to dwellings shall *be adequate for firefighting purposes*.

Our rationale is based on:

- The risk profile;
- Site-specific considerations which require different solutions;
- Where dwellings are serviced by reticulated water, the Engineering Standards come into play and these standards appropriately reference the Code of Practice;
- Where dwellings are served by domestic water storage tanks, which can be accessed by FENZ in the event of a fire emergency, then no dedicated water storage for firefighting is required; and
- For rural dwellings, there will be an advisory note in the District Plan encouraging the other methods of fire protection.

In adopting this approach, there are gaps that need to be addressed, namely in the Business (Commercial and Industrial) and Maori Purposes: Treaty Settlement Zones that lack reticulated water storage and for settlements where there is neither reticulated or tank water storage.

Reference is made, in the section 42A report, to 177 resource consents being granted in the period 01 November 2013 to 01 June 2016. That number of consent applications supports the need for a change to the District Plan.

The amended provisions acknowledge the concern of submitters regarding each property owner being required to provide their own water supply on their site for firefighting purposes when that could be approached on a joint basis. That would be a better use of resources and could mean one water source providing for a number of properties and perhaps, following this plan change process, Council investigating the location of water tanks for use in the case of fires at strategic locations in the urbanised areas such as Mangawhai. This would be adopting a collective community-based approach. It is raised in submissions but with no proposals as to how it could be implemented, we do not advance it any further as part of our current considerations.

We do note that section 21 of the FENZ Act 2017 addresses local planning:

21 Local planning

(1) *FENZ must undertake, for each local area, local planning –*

(a) That takes into account –

- i. The national strategy; and*
- ii. The designated services required within the local area; and*
- iii. The fire plan for the local area; and*
- iv. The advice from engagement with civil defence emergency management groups; and*
- v. The advice from the relevant local advisory committee; and*
- vi. Any current operational service agreement and memorandum of understanding that FENZ has, including –*
 - A. The operational service agreement with the Department of Conservation under section 147; and*
 - B. The operational service agreement with the New Zealand Defence Force under section 148; and*
 - C. The memorandum of understanding with the Ministry of Education under section 151; and*

(b) That identifies –

- i. Specific needs, resources, constraints and capabilities in the local area that are relevant to FENZ's functions; and*

- ii. *Local activities that address those needs (and do not duplicate national activities or the activities of other relevant organisations); and*
- (c) *That demonstrates how the local allocation of resources by FENZ fits in with the national plan.*

In implementing the requirements of this section, FENZ and the Council will have the opportunity to objectively look at the different communities' needs of Kaipara and tailor site-specific solutions based on identified needs and realistic risk.

10.5 Section 32AA Evaluation

For the purposes of section 32AA of the RMA, the section 42A version of Plan Change 4 has been considered in terms of section 32(1) to section (4). The Panel finds that the section 32 analysis:

- Did not adequately address the probability of a fire event occurring. While the Panel does accept that any death resulting from fire event has the potential to have a profound effect, to put in place a high-cost solution (with associated amenity effects) to an event that has a very low probability of coming into play is not reasonable.
- Did not adequately address the monitoring of the water storage solutions adopted. Who does it? At what cost? And who pays? How is it ensured that it is effective?
- Did not give adequate attention to the insurance implication that could potentially result from a fire event where the stored water was neither absent or could not be accessed.

The potential cost, both in terms of dollars and amenity, of adopting the Code of Practice provision for water storage in areas which lack water reticulation outweighs the benefits of compliance. Council's reporting officer did note that one of the options the Panel could consider was removing any reference to the Code of Practice, an option taken up by the Panel in areas which lack water reticulation as part of our decisions.

The changes recommended by the Panel, as a result of the hearing and an evaluation of the evidence, representations, submissions and further submissions, will make the District Plan provisions more efficient and effective in achieving the purpose of the RMA.

11.0 CONCLUSIONS

The purpose of the plan change is to provide a specific policy framework for structural fires in the District Plan, and to make some amendments to the existing fire safety rules in the respective zones. We find that the plan changes does not fully address all that is needed in order to provide such a framework for reasons that include it endeavouring to use reference to the Code of Practice as part of a permitted activity provision and the different needs of reticulated and non-reticulated areas. It is not possible to address all that is needed as part of decisions on the submissions and on the plan change but nonetheless we have made amendments to the provisions to the extent that we consider we can.

12.0 DECISIONS

Acting under a delegation from the Kaipara District Council to hear and decide the proposed plan change and the submissions, the Commissioners, pursuant to Clauses 29 and 10 of the First Schedule of the Resource Management Act 1991, resolve that:

- The Proposed Plan Change 4 to the Kaipara District Plan is approved, with the modifications described below;

and

- The submissions and further submissions which support the proposed plan change and/or seek further changes to the plan change are accepted to the extent that the plan change is approved with the modifications described below; and
- All other submissions and further submissions, including those opposing the plan change, are rejected.

The reasons for the decisions on the plan change are included in the commentary in this decision report, and can be summarised as being:

- We agree with much of what is included, and sought by, the plan change as notified. Our agreement is reflected in the amended plan change provisions attached, and for the reasons that those changes to the District Plan are sought by the Council.
- The purpose of the plan change is met in providing a policy framework for managing the risk of structural fires to life, property and the wider environment and amend existing rules from the District Plan that are considered a disproportionate mitigation action to the risk posed by structural fire events. We accept that there are also other methods and other legislation (for example the Building Act 2004) that address the risk of structural fires and their spread other than including direct reference to the Fire Service Firefighting Water Supplies Code of Practice SNZ PAS 4509:2008 (**Code of Practice**).
- The references to the Code of Practice are deleted from the subdivision provisions. Reference to the Code as a performance standard for subdivision is deleted because it lacks the required certainty for a rule but reference to the Code is otherwise retained given it would be beyond the scope of decisions on the plan change to do otherwise.
- Reference to the Code is also deleted from the rules where it does not provide the certainty for a rule and, in particular, to be able to determine whether the rule is met or not.
- Additional reference has been added to Council working with Fire and Emergency New Zealand (**FENZ**) in relation to determining the approach to be taken for the provision of water for firefighting purposes.
- The rules that require buildings to be located at least 20m away from vegetation are deleted, but the associated advice notes are retained for the rural areas, and in part for the urban areas.
- The references to subjective terminology in the rules, for example the use of the term 'adequate', are deleted.
- Reference to Council's Engineering Standards is retained. The provisions are a 'double-up' on the application of the engineering standards applied as part of building consent consideration, but we are limited to the scope of the plan change that would only allow us to remove reference to the engineering standards in rules that relate to water supply for firefighting purposes.
- Where appropriate, and in line with our commentary regarding the plan change process, the concerns of submitters have been taken account of with a number of amendments made to the plan change provisions.

The following modifications are made to the text of Plan Change 4:

1. Add to Chapter 2 as Issue 2.3.14

'2.3.14 Potential adverse effects to life, property, and environment from fires in buildings and structures

The risk to life, property and the environment from is affected by:

- The probability of an event occurring; and

- The variable ability of FENZ across the district to respond to fires in buildings.

The ability to respond is the greatest in those areas that have a public reticulated water supply and a fire emergency station within the settlement or close-by.

Settlements that do not have a public reticulated water supply nor a close-by fire service are more at risk. In these settlements and other rural parts of the district, reliance can be placed on utilising domestic water supplies (both on the site and on properties adjacent to the site) or other static water supplies such as lakes, streams, the sea and swimming pools.

In settlements without a reticulated water supply that do not have a dedicated firefighting supply, Council should work with FENZ on a settlement-by-settlement basis, to assess the need for dedicated community-based water storage and/or the provision of mobile water storage. Careful consideration should be given to the degree of risk; the probability of an event occurring; the costs (not just the establishment cost but also the ongoing costs); and, alternative measures that may be available in these settlements to minimise risk.

In the remaining rural areas of the district, there is a recognition that even with utilising any stored water on site and/or any dedicated water storage for firefighting purposes that these measures may not be sufficient to save a building by the time FENZ or any fire service arrives at the site. Reliance will be placed on education to highlight the need to give consideration to a fire event on an on-going basis.

2. Add to 2.4 District Wide Objectives, as Objective 2.4.15

2.4.15 To encourage and promote fire safety measures to minimise fire risk to life, property and the environment.

3. Add the following Policies to Section 2.5

2.5.17(a) To ensure the provision of water to new reticulated sites within the reticulated services boundary will adhere to the engineering standards.

2.5.17(b) For non-reticulated settlements Council will actively work with FENZ on a settlement by settlement basis to determine the approach to be taken for the provision of water firefighting purposes.

2.5.17(c) In remaining areas of the district encourage education on fire hazard and on fire risk reduction measures.

The District Plan should prompt an awareness of the need to consider fire hazards and how they are mitigated by means that include reinforcing FENZ educational programmes.

Where a public reticulated water supply exists, the Building Code standards can be met without the need for further measures.

For settlements where there is no reticulated water supply, Council will work with FENZ to determine the desirability of a particular community providing static supplies for firefighting purposes in the form of water storage tanks (at strategic locations); water tankers and/or portable dams.

For the remaining rural areas, reliance will be placed on public education.

4. Add the following to Other Methods

2.6.2.5 In non-reticulated settlements, Council will actively engage with FENZ to investigate the provision of additional water supply and to establish the desirability of providing community water tanks or volunteer fire brigades with mobile tankers or portable dams.

2.6.2.6 In the rural areas of the district, Council will promote public education which prompts the recognition of fire risk and the need for mitigation measures, including the installation of sprinkler systems.

2.6.2.7 Council will support FENZ fire safety education initiatives across the district.

5. Add the following to Outcomes

2.7.13 A community which is educated to the fire risk mitigation appropriate to their particular area and that the risks to life, property and the surrounding environment from fire are minimised, as far reasonably practicable.

6. Amend Rules 12.10.26; 15A.10.25; and 15B.10.25 (the rural rules)

Amend the Rules relating to performance standards as:

Chapter 12: Rural

12.10.26	Fire Safety	<p>Any building is permitted if it does not impede the movement of fire service vehicles or equipment or generally restrict access for firefighting purposes.</p> <p>a) Water supply for fire fighting and access to this supply complies with the New Zealand Fire Service Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008;</p> <p>b) The use of buildings shall at all times be in accordance with the fire safety requirements specified in New Zealand Standard NZS 9231:1971 'Model Bylaw for Fire Prevention'; and</p> <p>c) The building is located at least 20m away from naturally occurring or deliberately planted area of scrub or shrubland, woodlot or forest.</p> <p>Note 1: For fire safety, the New Zealand Fire Service advises that buildings should be at least 20m from the dripline of any tree and that these setbacks are also appropriate from scrubland and other similar vegetated areas.</p> <p>Note 2: In the interests of the protection of life and the surrounding environment, in all areas particularly non-reticulated areas over five minutes driving distance from a fire station, it is recommended that subject to the use of the building, a fire sprinkler system is installed in accordance with either the:</p> <ul style="list-style-type: none"> • NZS 4517 (Fire Sprinkler Systems for Houses); or • NZS 4541 (Automatic Fire Sprinkler Systems); or • NZS 4515 (Fire Sprinkler Systems for Life Safety in Sleeping Occupancies up to 2,000m²).
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Chapter 15A: Maori Purposes: Maori Land

15A.10.25	Fire Safety	<p>Any building is permitted if it does not impede the movement of fire service vehicles or equipment or generally restrict access for firefighting purposes.</p> <p>a) Water supply for fire fighting and access to this supply complies with the New Zealand Fire Service Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008;</p> <p>b) The use of buildings shall at all times be in accordance with the fire safety</p>
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		<p>requirements specified in New Zealand Standard NZS 9231:1971 'Model Bylaw for Fire Prevention'; and</p> <p>c) The building is located at least 20m away from naturally occurring or deliberately planted area of scrub or shrubland, woodlot or forest.</p> <p>Note 1: For fire safety, the New Zealand Fire Service advises that buildings should be at least 20m from the dripline of any tree and that these setbacks are also appropriate from scrubland and other similar vegetated areas.</p> <p>Note 2: In the interests of the protection of life and the surrounding environment, in all areas particularly non-reticulated areas over five minutes driving distance from a fire station, it is recommended that subject to the use of the building, a fire sprinkler system is installed in accordance with either the:</p> <ul style="list-style-type: none"> • NZS 4517 (Fire Sprinkler Systems for Houses); or • NZS 4541 (Automatic Fire Sprinkler Systems); or • NZS 4515 (Fire Sprinkler Systems for Life Safety in Sleeping Occupancies up to 2,000m²).
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Chapter 15B: Maori Purposes: Treaty Settlement Land

15B.10.25	Fire Safety	<p>Any building is permitted if it does not impede the movement of fire service vehicles or equipment or generally restrict access for firefighting purposes.</p> <p>a) Water supply for fire fighting and access to this supply complies with the New Zealand Fire Service Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008;</p> <p>b) The use of buildings shall at all times be in accordance with the fire safety requirements specified in New Zealand Standard NZS 9231:1971 'Model Bylaw for Fire Prevention'; and</p> <p>c) The building is located at least 20m away from naturally occurring or deliberately planted area of scrub or shrubland, woodlot or forest.</p> <p>Note 1: For fire safety, the New Zealand Fire Service advises that buildings should be at least 20m from the dripline of any tree and that these setbacks are also appropriate from scrubland and other similar vegetated areas.</p> <p>Note 2: In the interests of the protection of life and the surrounding environment, in all areas particularly non-reticulated areas over five minutes driving distance from a fire station, it is recommended that subject to the use of the building, a fire sprinkler system is installed in accordance with either the:</p> <ul style="list-style-type: none"> • NZS 4517 (Fire Sprinkler Systems for Houses); or • NZS 4541 (Automatic Fire Sprinkler Systems); or • NZS 4515 (Fire Sprinkler Systems for Life Safety in Sleeping Occupancies up to 2,000m²).
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7. Amend Rules 13.10.26 and 14.10.26 (the Urban Rules)

Amend the Rules as:

Chapter 13: Residential

13.10.26	Fire Safety	<p>Any building is permitted if it does not impede the movement of fire service vehicles or equipment or generally restrict access for firefighting purposes.</p> <p>a) Water supply for fire fighting and access to this supply complies with the New Zealand Fire Service Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008;</p> <p>b) The use of buildings shall at all times be in accordance with the fire safety requirements specified in New Zealand Standard NZS 9231:1971 'Model Bylaw for Fire Prevention'; and</p> <p>c) The building is located at least 20m away from naturally occurring or deliberately planted area of scrub or shrubland, woodlot or forest.</p> <p>Note: In the interests of the protection of life and the surrounding environment, in all areas particularly non-reticulated areas over five minutes driving distance from a fire station, it is recommended that subject to the use of the building, a fire sprinkler system is installed in accordance with either the:</p> <ul style="list-style-type: none"> • NZS 4517 (Fire Sprinkler Systems for Houses); or • NZS 4541 (Automatic Fire Sprinkler Systems); or • NZS4515 (Fire Sprinkler Systems for Life Safety in Sleeping Occupancies up to 2,000m²).
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Chapter 14: Business (Commercial and Industrial)

14.10.26	Fire Safety	<p>Any building is permitted if it does not impede the movement of fire service vehicles or equipment or generally restrict access for firefighting purposes.</p> <p>a) Water supply for fire fighting and access to this supply complies with the New Zealand Fire Service Fire Fighting Water Supplies Code of Practice SNZ PAS 4509:2008;</p> <p>b) The use of buildings shall at all times be in accordance with the fire safety requirements specified in New Zealand Standard NZS 9231:1971 'Model Bylaw for Fire Prevention'; and</p> <p>c) The building is located at least 20m away from naturally occurring or deliberately planted area of scrub or shrubland, woodlot or forest.</p> <p>Note: In the interests of the protection of life and the surrounding environment, in all areas particularly non-reticulated areas over five minutes driving distance from a fire station, it is recommended that subject to the use of the building, a fire sprinkler system is installed in accordance with either the:</p> <ul style="list-style-type: none"> • NZS 4517 (Fire Sprinkler Systems for Houses); or • NZS 4541 (Automatic Fire Sprinkler Systems); or • NZS 4515 (Fire Sprinkler Systems for Life Safety in Sleeping Occupancies up to 2,000m²).
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8. Rule 15A.10.3b(c)

Amend the Rule relating to performance standards for Maori Land as:

<p>15A.10.3b(c)</p>	<p>Dwelling Infrastructure</p>	<p>(1) Construction of a dwelling is a Permitted Activity if:</p> <p>a) Minimum floor levels are designed in accordance with the following Standards:</p> <ul style="list-style-type: none"> - Floor levels for habitable buildings are designed with a minimum freeboard height to floor level of 500mm above the 100 year Average Recurrence Interval floor level; and - In addition to the minimum floor level any new dwelling shall be: <ul style="list-style-type: none"> - 5.0m above mean sea level in the West Coast and East Coast Overlays; or - 3.0m above mean sea level in the Mangawhai Harbour Overlay; or - 3.5m above mean sea level in the Kaipara Harbour Overlay; or - 3.5m above mean sea level in Dargaville as defined by the Drainage District boundary as at 21 October 2009. <p>b) Where a Council water supply is available:</p> <ul style="list-style-type: none"> - The written approval of Council's asset manager is obtained and provided with the application to confirm that the Council water supply can be extended to serve the dwelling; - All dwellings are provided, within their net site area, with a connection to the Council water supply; and - The water supply is designed and constructed in accordance with the specific requirements of the Council water supply system; and - All water pipelines vested with Council shall be protected by an Easement in favour of Council; <p>c) Where a public supply is not available, water supplies to all dwellings shall:</p> <ul style="list-style-type: none"> - Meet the requirements of the Building Act 2004; and - Be adequate for firefighting purposes in accordance with the New Zealand Fire Service's Code of Practice SNZ PAS 4509:2008; <p>d) All dwellings are provided with the means for the collection and disposal of collected stormwater from the roof of all associated impervious surfaces including ancillary structures and paved areas, in such a way as to avoid any adverse effects of stormwater runoff on the receiving environment, in accordance with the Kaipara District Council Engineering Standards 2011; and</p>
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		<p>e) Where no Council wastewater system is available, all dwellings are provided with:</p> <ul style="list-style-type: none"> – A wastewater system for individual properties designed in accordance with AS/NZS1547:2008 “Onsite Wastewater Management Standards”; or – A 1,500m² area of land per household for wastewater disposal within the boundaries of the site. The area shall be clear of building sites, driveways and manoeuvring areas.
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9. Delete reference to the Code of Practice as a performance standard for subdivision in the Rural, Residential, Business (Commercial and Industrial) and Maori Purposes: Treaty Settlement Zones.

Amend the Rules accordingly.

10. Retain reference to the Kaipara District Council Engineering Standards 2011.

11. Delete reference to the Code of Practice in the subdivision provisions in Rules 12.15.4; 13.14.4; 14.13.4 and 15B.14.4

Amend the Rule accordingly.

Make the following amendments:

Rule 12.15.4

12.15.4	Water Supply	<p>(1) Where a Council water supply is available :</p> <ul style="list-style-type: none"> a) The written approval of Council’s asset manager is obtained and provided with the application to confirm that the Council water supply can be extended to serve the subdivision; b) All allotments are provided, within their net site area, with a connection to the Council water supply; and c) All water pipelines vested with Council shall be protected by an Easement in favour of Council. <p>(2) Where a public supply is not available, water supplies to all developments shall:</p> <ul style="list-style-type: none"> d) Meet the requirements of the Building Act 2004; and e) Be adequate for fire fighting purposes in accordance with the New Zealand Fire Service’s Code of Practice SNZ PAS 4509:2008.
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Rule 13.14.4 (Residential)

13.14.4	Water Supply	<p>(1) Where a Council water supply is available :</p> <ul style="list-style-type: none"> a) The written approval of Council’s asset manager is obtained and provided with the application to confirm that the Council water supply can be extended to serve the subdivision; b) All allotments are provided, within their net site area, with a connection to the Council water supply; and c) All water pipelines vested with Council shall be protected by an Easement in favour of Council.
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		<p>(2) Where a public supply is not available, water supplies to all developments shall:</p> <p>a) Meet the requirements of the Building Act 2004; and</p> <p>b) Be adequate for fire fighting purposes in accordance with the New Zealand Fire Service's Code of Practice SNZ-PAS 4509:2008.</p>
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Rule 14.13.4 (Business: Commercial and Industrial)

14.13.4	Water Supply	<p>(1) Where a Council water supply is available :</p> <p>a) The written approval of Council's asset manager is obtained and provided with the application to confirm that the Council water supply can be extended to serve the subdivision;</p> <p>b) All allotments are provided, within their net site area, with a connection to the Council water supply; and</p> <p>c) All water pipelines vested with Council shall be protected by an Easement in favour of Council.</p> <p>(2) Where a public supply is not available, water supplies to all developments shall:</p> <p>a) Meet the requirements of the Building Act 2004; and</p> <p>b) Be adequate for fire fighting purposes in accordance with the New Zealand Fire Service's Code of Practice SNZ-PAS 4509:2008.</p>
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Rule 15B.14.4 (Maori Purposes: Treaty Settlement Land)

15B.14.4	Water Supply	<p>(1) Where a Council water supply is available :</p> <p>a) The written approval of Council's asset manager is obtained and provided with the application to confirm that the Council water supply can be extended to serve the subdivision;</p> <p>b) All allotments are provided, within their net site area, with a connection to the Council water supply; and</p> <p>c) All water pipelines vested with Council shall be protected by an Easement in favour of Council.</p> <p>(2) Where a public supply is not available, water supplies to all developments shall:</p> <p>a) Meet the requirements of the Building Act 2004; and</p> <p>b) Be adequate for fire fighting purposes in accordance with the New Zealand Fire Service's Code of Practice SNZ-PAS 4509:2008.</p>
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12. Setbacks from Vegetation in all Zones

Retaining the 20m setback for dwellings from 'naturally occurring or deliberately planted areas of scrubland or shrubland, woodlot or forest' in residential and business zones is inappropriate. For residential zones in particular, the standard approach to amenity involves planting shrubs and trees to beautify sections. It is also noted that settlements have fire brigades, further supporting the deletion of this provision.

It is similarly appropriate for the setback from vegetation provisions to be deleted for the rural areas, but because this provision relates to wild fire effects that may present a risk to life and property, the associated 'Note' is retained in the Rural and two Maori Purposes Zones.

13. Consequential Amendments

Amend the District Plan, as required, in order to give effect to the intent of the above decisions.

Guidance Notes

Below is a table (non-statutory) that sets out what Plan Change 4 means to property owners who wish to build on their properties.

Proposed new approach to the Fire Rules – What does it mean to me?

3. Setbacks from Vegetation in all zones

Retaining the 20m setback for dwellings from “naturally occurring or deliberately planted areas of scrubland or shrubland, woodlot or forest” in residential and business zones is inappropriate. For residential zones in particular, the standard approach to amenity involves planting shrubs and trees to beautify sections. It is also noted that settlements have fire brigades, further supporting the deletion of this provision.

It is similarly appropriate for the setback from vegetation provisions to be deleted for the rural areas but, because this provision relates to wild fire effects that may present a risk to life and property, the associated “Note” is retained in the Rural and two Maori Purposes zones.

Guidance notes:

Below is a table (non-statutory) that sets out what Plan Change 4 means to property owners who wish to build on their properties.

Proposed new approach to the Fire Rules – what does it mean to me?

Zone	Reticulated Water	Non-reticulated water with effective fire service	Non-reticulated water without effective fire service
Residential and Business Zones	<ul style="list-style-type: none"> ✓ Reticulated water supply provides sufficient water. ✓ No District Plan requirements. ✓ Communities include Dargaville, Ruawai, Maungaturoto and Baylys. 	<ul style="list-style-type: none"> ✓ Council to engage with FENZ to review the desirability of dedicated communal water storage for FENZ use. ✓ No District Plan requirements. ✓ Communities include Mangawhai, Kaiwaka and Te Kopuru. 	<ul style="list-style-type: none"> ✓ District Plan support FENZ educational programme to consider fire hazards and appropriate mitigation measures including to install sprinklers. ✓ Communities include Papanui, Tinopai, Whakapirau and Pahi.
Rural and the two Maori Purposes Zones	<ul style="list-style-type: none"> ✓ Reticulated water supply provides sufficient water. ✓ No District Plan requirements. 	<ul style="list-style-type: none"> ✓ District Plan support FENZ educational programme to consider fire hazards and appropriate mitigation measures including to 	<ul style="list-style-type: none"> ✓ District Plan supports FENZ educational programme to consider fire hazards and appropriate mitigation measures, including to install

	install sprinklers.	sprinklers.
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Please Note: Effective FENZ service means if your building is within a five minute drive from a FENZ fire station. In the Kaipara district, there are FENZ fire stations at the following locations: Dargaville, Te Kopuru, Ruawai, Maungaturoto, Kaiwaka and Mangawhai.



Alan Watson

For the Hearing Panel being, Burnette Macnicol, Mark Farnsworth and Alan Watson

06 December 2017

Appendix C - names and addresses of persons to be served with a copy of this notice

Proposed Plan Change 4
to the
Kaipara District Plan
Fire Safety

Schedule of Addresses

Index of Submitters Including Addresses and Contact Details

Submitter Name	Submitter #	Submitter's Address / Contact Details
Miss Kathy Newman	1 FS 7	20 Mangawhai Heads Road Mangawhai 0505 kathynewman@xtra.co.nz
Mr Antonius Perry	2 FS 49	19 Kedge Drive Mangawhai 0505 antonius.perry@clear.net.nz
Mr Ian Fish	3 FS 5	ian@debsandian.com
Ms Carla Hood	4 FS 12	4 Sandy Lane Mangawhai Heads 0505 crshood@gmail.com
Mr Graham Drury	5 FS 55	17 Awatea Street Mangawhai Heads 0505 graham@ggd.net.nz
Mr Ian Clarke	6 FS 39	ccclarky@gmail.com
Mr Stephan Sosich	7, 8 FS 54	ssosich@gmail.com
Mr Clive Boonham	9 FS 17	PO Box 401005 Mangawhai Heads 0541 raro.retreats@xtra.co.nz cliveboonham@gmail.com
Mr Barry and Mrs Jan Clark	10	108 Moir Point Road Mangawhai Heads 0505 bazzclark@gmail.com
Mr Robert Corbett	11 FS 25	9 Shamrock Drive Kumeu 0810 corbett@ihug.co.nz
Prue Innes	12 FS 9	P O Box 173 Mangawhai 0540 prueinnes@xtra.co.nz
Mr Patrick Sparks	13 FS 38	34A Pokapu Street New Lynn Auckland 0600 patricksparks@hotmail.com

Submitter Name	Submitter #	Submitter's Address / Contact Details
Theresa Pearson	14	29 Pearson Street Mangawhai 0505 tessap@xtra.co.nz
Bill Butterfield	15	57 Jack Boyd Drive RD2 Kaiwaka 0573 justwilliam@xtra.co.nz
Mr Grant and Mrs Fiona Douglas	16	C/- Flight Operations (Fc2283) PO Box 92 Dubai United Arab Emirates grant.douglas@beachshadow.com
Henk and Christa van der Woerd	17	14 Ti Kouka Way RD 2 Kaiwaka 0573
Douglas and Anne Somers-Edgar	18	46 Wintle Street Mangawhai Heads 0505 doug.somersedgar@gmail.com
Phillip and Beverly Revell	19	12 Findlay Street Mangawhai Heads 0505 philrevell@yahoo.com
Dr Jorg Nordmeier	20 FS 19	29 Wintle Street Mangawhai Heads 0505 jorgandbarb@yahoo.co.nz
Annette and Bryan Hurring	21	150 Findlay Road RD 3 Pukekohe 2678 bandahnz@xtra.co.nz
Mrs M J Macfarlane	22	PO Box 168 Mangawhai 0540 ruiitemj@clear.net.nz
Ian Chisholm	23 FS 27	179 Taylor Road RD 2 Waimauku 0882 chisholms@xtra.co.nz

Submitter Name	Submitter #	Submitter's Address / Contact Details
Steve Fitt	24 FS 44	PO Box 296 Mangawhai 0540 stevefittprojects@gmail.com
James Bremner	25 FS 15	262 Molesworth Drive Mangawhai Heads 0505 jamesbremner@xtra.co.nz
Robin Johnson	26 FS 23	109 Cornwall Way Mangawhai 0505 glopak.technology@gmail.com
Far North District Council	27 FS 57	Private Bag 752 Kaikohe 0440 plan.changes@fndc.govt.nz
New Zealand Fire Service	28 FS 56	PO Box 6345 Auckland 1141 jaiman.patel@beca.com
Mr Jonathan Larsen	29	1434 State Highway 1 RD 5 Wellsford 0975 jglarsen.nz@gmail.com
Alan Vowles	FS 1	classipm@gmail.com
Clive Wood	FS 2	woodclan@ihug.co.nz
Helen Curreen	FS 3	helen@fourwinds.org.nz
Kenneth Marmont	FS 4	kenneth@xtra.co.nz
Debra Searchfield	FS 6	debs@debsandian.com
Asa Robinson	FS 8	i.fish@xtra.co.nz
Jonathan Drucker	FS 10	druckerjs@yahoo.com
David Stewart	FS 11	210 Molesworth Drive Mangawhai Heads 0505 dave.draft@xtra.co.nz
Beverly Revell	FS 13	beverleyrevell@yahoo.co.nz
Thomas Williams	FS 14	tom_gail@live.com
Judi Boonham	FS 16	judiboonham@gmail.com
Noel Foster	FS 18	31 Alamar Crescent Mangawhai Heads 0505

Submitter Name	Submitter #	Submitter's Address / Contact Details
John Bull	FS 20	4a Black Swamp Road RD 5 Wellsford 0975 bull.john@xtra.co.nz
Roger Bull	FS 21	18a Black Swamp Road RD5 Wellsford 0975 proclimb@gmail.com
Ria McFarlane	FS 22	ruiitemj@clear.net.nz
Grant Douglas	FS 24	grant.douglas@beachshadow.com
Karen Chisholm	FS 26	chisholms@xtra.co.nz
Barbara Pengelly	FS 28	barbarapengelly@xtra.co.nz
Kevin Wood	FS 29	c/o J & AJ Wood 1251 Mangawhai-Kaiwaka Road RD 5 Wellsford 0975 k.wood@westnet.com.au
Miguel Hamber	FS 30	38 Pearson Street Mangawhai 0505 hamber@ihug.co.nz
Alan Preston	FS 31	alanwilliampreston@gmail.com
Bryan Tuck	FS 32	bryan_ann@hotmail.com
Mary Howard	FS 33	annhow@ubernet.co.nz
Joy Murray	FS 34	joy@snookums.co.nz
Phillip Murray	FS 35	phillip@snookums.co.nz
John and Margaret Henderson	FS 36	john@clinicalknowledgesolutions.com
Mangawhai Ratepayers and Residents Association (c/- Barbara Pengelly)	FS 37	MRRA@vodafone.co.nz
Craig Jepson	FS 40	craigjepo@gmail.com
Arnold Leeder	FS 41	arnie@genxglobal.co.nz
David Cole	FS 42	davidgillcole@hotmail.co.nz
Chris Bennett	FS 43	Duneview Drive Mangawhai Bennett58@vodafone.co.nz

Submitter Name	Submitter #	Submitter's Address / Contact Details
Karl Dixon	FS 45	karl_denise@xtra.co.nz
Tracz Family Trust (c/- Adrian Tracz)	FS 46	adrianltracz@gmail.com
Grant Walter	FS 47	grant.k.walter@gmail.com
Tessa Pearson	FS 48	29 Pearson Street Mangawhai 0505 tessap@xtra.co.nz
Thomas Parsons	FS 50	parsonst@ihug.co.nz
Ursula Bode	FS 51	trotai@aol.com
Christian Simon	FS 52	trotai@aol.com
Mark Molloy	FS 53	markgerardmolloy@gmail.com
Bryan Stevens	FS 58	jchalk@xtra.co.nz
Gordon Palmer (late)	FS 59	gorpai@xtra.co.nz

6.4 Matakohe Bridges, Designation 66 – State Highway 12

Policy Analyst 3805.04

Recommended

That Kaipara District Council:

- 1 *Receives the Policy Analyst's report 'Matakohe Bridges, Designation 66 – State Highway 12' dated 12 March 2018; 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 *Delegates authority to amend the operative Kaipara District Plan (Text and Planning Maps) to include Designation 66 – State Highway 12 to the Planning Manager and Policy Manager.*

File number: 3805.04
Report to: Council
Meeting date: 28 March 2018
Subject: Matakohe Bridges, Designation 66 – State Highway 12
Date of report: 12 March 2018
From: Natalie Robinson, Policy Analyst

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

Approved for agenda

Summary

In April 2017, NZ Transport Agency (**NZTA**) lodged a Notice of Requirement (**NoR**) with Kaipara District Council (**KDC**) for a realignment of State Highway 12 at Matakohe, which would remove the two one-way bridges from the network. The NoR was processed by a project team of external consultants under the supervision of the Consents team and the General Manager Regulatory Planning and Policy.

KDC delegated responsibility on the matter to an Independent Commissioner who notified a recommending report in September 2017, recommending that the requirement be confirmed subject to conditions. NZTA reviewed the decision and, in accordance with s172(1) of the Resource Management Act 1991 (**RMA**), accepted the recommendation in part. The only parts that were not accepted related to small technical changes (i.e. cross-referencing, typographic errors) and KDC therefore decided not to appeal the decision.

Council officers subsequently undertook work to include the designation in the operative Kaipara District Plan (**KDP**), pursuant to s175 of the RMA, including amendment of KDP Maps. However, the authority to undertake this step has not been delegated, and so requires the approval of Council.

The RMA provides that the NoR has an interim effect until the designation is confirmed and included in an operative district plan, which must be done 'as soon as practicable' (s175 RMA). This entails showing the Designation on the Schedule of Designations (Appendix 21.1, in underlined red text, **Attachment 1**), and replacing a Planning Map (Map Series Two, Map 19, **Attachment 2**) to show the new designation.

Once construction is completed on the new road and it is open for public use, NZTA will remove the Designation for the section of the existing road which will be vested in Council as a local road.

Recommendation

That Kaipara District Council:

- 1 Receives the Policy Analyst's report 'Matakohe Bridges, Designation 66 – State Highway 12' dated 12 March 2018; 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 *Delegates authority to amend the operative Kaipara District Plan (Text and Planning Maps) to include Designation 66 – State Highway 12 to the Planning Manager and Policy Manager.*

Reason for the recommendation

Council officers do not have the delegated authority under s175 of the RMA to include new designations in the District Plan, and so must seek approval from Council. This step will allow the designation process to be completed, and follow the RMA's direction that including a designation in the District Plan must be done 'as soon as practicable'.

Reason for the report

To enable Council officers to finish the Notice of Requirement process, by including the designation in the operative District Plan, as required by the Resource Management Act 1991.

Background

The Matakoho Bridges replacement project is intended to improve road safety and efficiency, and was planned as part of the NZTA's focus on 'connecting Northland'. The NOR process has been subject to the framework provided by the Resource Management Act 1991, which has included information gathering and decision-making processes similar to a standard resource consent. This included the recommending report by Independent Commissioners acting under delegated authority, NZTA's subsequent acceptance in part of the recommendation, and KDC's decision not to appeal the acceptance in part.

The project will see two new two-lane bridges and a new 3km road alignment built to the north of the existing bridges, with construction completed in stages and expected to take around two and a half years to complete.

Issues

Delegations required

Section 175 of the RMA provides the direction that following NZTA's acceptance in part of the recommendation, and the decision by KDC not to appeal, that:

- (2) *The territorial authority must, as soon as practicable and without using Schedule 1 –*
- (a) *include the designation in its district plan and any proposed district plan as if it were a rule in accordance with the requirement as issued or modified in accordance with this Act; and*
 - (b) *state in its district plan and in any proposed district plan the name of the requiring authority that has the benefit of the designation.*

The authority under s175 to include the designation in the operative Kaipara District Plan has not been delegated to Council officers. This Report therefore seeks the approval of Council to include Designation 66 and its supporting Map in the KDP.

Factors to consider

Community views

The NoR was processed non-notified, on the basis that NZTA had purchased a number of properties or obtained written approvals from property owners within and immediately outside the corridor. There was

also community consultation, including a period of consultation from May – June 2016, and a public information day in August 2016. NZTA also enlisted representatives of Te Uri O Hau to monitor investigations and provide cultural input throughout the project.

Policy implications

This decision will not have any implications on existing Kaipara District Council policies.

Financial implications

There is no direct financial implications to Council approving an amended delegation.

Legal/delegation implications

Council officers have confirmed with legal counsel that the inclusion of the Designation in the KDP does not require public notification, and were proceeding with the requirements of s175, when they became aware that the authority of s175 has not been delegated. This Report therefore seeks the approval of Council to proceed with confirming the designation in the operative Kaipara District Plan, pursuant to s175(2) of the RMA.

Options

Option A: Delegate authority to amend the operative Kaipara District Plan (Text and Planning Maps) to include Designation 66 – State Highway 12 to the Planning Manager and Policy Manager.

Option B: Do not delegate to Council officers to amend the operative Kaipara District Plan (Text and Planning Maps) to include Designation 66 – State Highway 12.

Assessment of options

Option A allows Council to meet the statutory requirement to amend the KDP ‘as soon as practicable’ to include the designation and to state the name of the requiring authority (s175(2) RMA).

Option B will mean Council is not meeting the statutory requirements of the RMA in terms of efficiently dealing with including the designation ‘as soon as practicable’.

Assessment of significance

Under Council’s Significance and Engagement Policy, a decision in accordance with the recommendation is not considered to have a high degree of significance.

Recommended option

The recommended option is **Option A**. This will allow the efficient conclusion of the NoR process and that KDC meets its obligations under the RMA.

Next step

Amend the operative KDP to show Designation 66 on the Schedule of Designations (Appendix 21.1) and the Planning Maps (Map Series Two, Map 19).

Attachments

- Attachment 1 – Amended Designations Schedule
- Attachment 2 – Map Series Two, Map 19

21 Designations

21.1 Introduction

Designations are a tool which enables Requiring Authorities approved under the Resource Management Act 1991 to designate areas of land for a public work or network utility. A Requiring Authority can be a Minister of the Crown, a local authority or a network utility operator approved as a Requiring Authority under Section 167 of the Resource Management Act.

A Designation is a form of 'spot zoning' over a site or route in a District Plan. The 'spot zoning' authorises the Requiring Authority's work or project on the site or route without the need for a Land Use Consent from the Council. A Designation enables a Requiring Authority to undertake the works within the designated area in accordance with the Designation, the usual provisions of the District Plan do not apply to the designated site. The types of activities that can be designated include transport corridors, sewerage treatment plants, water reservoirs and schools.

Appendix 21.1 to this Chapter provides a schedule of Designations in the District. This schedule includes the associated Requiring Authority of the designated the land and the underlying zoning of the land parcel and its specific location within Part E – Maps (Map Series 2). These Designations are either existing Designations pursuant to Section 168, or new Designations which are included in the District Plan pursuant to Section 170 of the Resource Management Act.

It is appropriate to consult with any party that may be affected as a result of a notice of requirement for any new Designation and in particular, New Zealand Historic Places Trust and Tangata Whenua especially in Areas of Significant Interest to Maori or on any Maori Land or Treaty Settlement Land.



State Highway 1 through Kaiwaka

21.2 Resource Management Act Requirements

The procedure for designating land is set out in Part 8 of the Resource Management Act 1991. The first Schedule in the Resource Management Act 1991 contains the provisions for Designations in District Plans.

Section 168 and Section 168A of the Resource Management Act set out the information which must be included in a notice of requirement to designate a piece of land. When Council has received a notice they must make a recommendation to the Requiring Authority as to whether the Designation should be approved, modified or withdrawn.

The scope of the Designation defines what activities the Requiring Authority may undertake on the designated land, in accordance with section 176(1)(a). Section 176A of the Resource Management Act sets out the necessity for an outline plan of the public work, project or work to be constructed on designated land, to be submitted for consideration by the Council.

21.2.1 Requiring Authorities

The following organisations are Requiring Authorities as defined or approved under Section 166 of the Resource Management Act, and which have Designations in the Kaipara District:

- Kaipara District Council
- Minister of Education
- Northpower Limited
- NZ Transport Agency
- Vector Gas Limited
- Minister of Police
- New Zealand Railways Corporation
- Transpower New Zealand Limited
- Minister of Justice
- The New Zealand Refining Company Limited

Designations providing for public works in the District

21.3 How to Use this Chapter

This Chapter only applies if your property or the property you are proposing an activity on has a Designation on it, as shown in Map Series 2 – Part E of the Plan. For clarity, any instance where the Rules in this Chapter overlap (or duplicate) with a Rule in the Zone Chapters, the Rules of this Chapter will take precedence. However, if you are not a Requiring Authority and are doing works on a property with a Designation (not in accordance with that Designation) the Rules of the underlying Zoning (including Overlay) will also apply.

Issues, Objectives and Policies within each Chapter of the Plan are presented in no particular order of importance.

21.4 Designation Rules

21.4.1 Permitted Activities

The following activities shall be Permitted Activities under this Chapter:

- a) Any Activity complying with the Performance Standards set out in Section 21.5 of this Chapter.

21.4.2 Restricted Discretionary Activities

The following activities shall be Restricted Discretionary Activities under this Chapter:

- a) Any Activity not complying with the Performance Standards set out in Section 21.5 of this Chapter.

21.5 Permitted Activity Performance Standards for Work to be Undertaken on Designated Land

Rule	Parameter	Permitted Activity Performance Standard	Activity Status if the Activity does not meet the Performance Standard	Assessment Criteria
21.5.1	Development by the Requiring Authority	<p>Development on designated land by the Requiring Authority in accordance with the Designation is a Permitted Activity if:</p> <p>a) The development is for the purpose for which the land was designated; and</p> <p>b) An outline plan of public work is submitted to Council prior to the commencement of construction in accordance with Section 176A of the Resource Management Act 1991. Except where the following applies:</p> <ul style="list-style-type: none"> - The development is a permitted work or utility set out in Chapter 10 – Network Utilities; - The development is works that have otherwise been approved under the Resource Management Act 1991; - The details of the proposed development were supplied when a Requiring Authority made a requirement in respect of the work under Section 168 of the Resource Management Act 1991; - Council has waived the requirement for an outline plan to be submitted; or - The development is for emergency work which the body or person responsible for its construction considers is immediately necessary to meet an emergency situation and outline drawings of the work are submitted to the Council as soon as practicable after the work has commenced. 	Restricted Discretionary Activity (plus the activity status of any activity within the zone if Rule 21.5.1(a) does not apply).	Where an activity is not permitted by this Rule, Council has restricted its discretion over the following matters when considering and determining an application for Resource Consent: <ul style="list-style-type: none"> i) The extent to which the development is consistent with, or complimentary to, the purpose for which the land is designated; and ii) The extent to which the development is consistent with the Objectives and Policies of the underlying zoning.
21.5.2	Development not in accordance with Designation	<p>Development on designated land, which has the Requiring Authority's written Consent but is not in accordance with the Designation is a Permitted Activity if:</p> <p>a) The development complies with the Performance Standards and Rules of the relevant underlying Zone.</p>	Restricted Discretionary Activity (plus the activity status of any activity within the zone that is not met).	Where an activity is not permitted by this Rule, Council has restricted its discretion over the following matters when considering and determining an application for Resource Consent: <ul style="list-style-type: none"> i) The extent to which the development is consistent with, or complimentary to, the purpose for which the land is designated; and ii) The extent to which the development is consistent with the Objectives and Policies of the underlying zoning.

Appendix 21.1 - Schedule of Designations

ID	Map No.	Designation/Purpose	Requiring Authority	Underlying Zoning					
D1	3	Education Purposes Aranga Primary School and House	Minister of Education	Rural	D36	23,26	Refuse Disposal Purpose (Tinopai Landfill)	Kaipara District Council	Rural
D2	13	Education Purposes Arapohue Primary School and House	Minister of Education	Rural	D37	20,21,51	Refuse Disposal Purposes (Kaiwaka Landfill)	Kaipara District Council	Rural
D3	9,36,37	Education Purposes Community College Outpost	Minister of Education	Residential	D38	18	Refuse Disposal Purposes (Te Maire Landfill)	Kaipara District Council	Rural
D4	9,34,36	Education Purposes Dargaville High School	Minister of Education	Residential	D39	22	Refuse Disposal Purposes (Pouto Road)	Kaipara District Council	Rural
D5	9,34,36	Education Purposes Dargaville Intermediate School	Minister of Education	Residential	D40	22	Refuse Disposal Purposes (Kellys Bay)	Kaipara District Council	Rural
D6	9,34,37	Education Purposes Dargaville Primary School	Minister of Education	Residential	D41	6	Refuse Disposal Purposes (Omamari Landfill)	Kaipara District Council	Rural
D7	9,34,37	Defence Purposes (Dargaville)	Minister of Defence	Commercial	D42	18	Education Purposes Ruawai College and House	Minister of Education	Rural
D8	20,21,51	Electricity Substation and Telecommunications Operations (Kaiwaka)	Northpower	Rural	D43	18	Education Purposes Ruawai Primary School and House	Minister of Education	Rural
D9	15	Electricity Substation and Telecommunications Operations (Mareretu)	Northpower	Rural	D44	9,10,35	Education Purposes Selwyn Park Primary School (Dargaville)	Minister of Education	Residential
D10	18	Electricity Substation and Telecommunications Operations (Ruawai)	Northpower	Rural	D45	9,36,37	Service Lane (Dargaville)	Kaipara District Council	Commercial
D11	15,16,20	Electricity Substation (Maungaturoto)	Transpower NZ Ltd	Rural	D46	13,40	Sewage Treatment Purposes (Te Kopuru Oxidation Ponds)	Kaipara District Council	Rural
D12	9,10,35	Electricity Substation and Telecommunications Operations (Dargaville)	Northpower	Residential	D47	13,41	Sewage Treatment Purposes (Glinks Gully Treatment Area)	Kaipara District Council	Rural
D13	20, 50	Electricity Substation and Telecommunications Operations (Maungaturoto)	Northpower	Rural	D48	20,21,51	Sewage Treatment Purposes (Kaiwaka)	Kaipara District Council	Rural
D14	18,42	Fire Service Purposes (Ruawai)	Kaipara District Council	Residential	D49	20,47	Sewage Treatment Purposes (Maungaturoto)	Kaipara District Council	Industrial
D15	9,36,37	Justice Purposes - Courthouse (Dargaville)	Minister of Justice	Commercial	D50	20,50	Sewage Treatment Purposes (Maungaturoto)	Kaipara District Council	Rural
D16	6	Education Purposes Kaihu Valley Primary School and House (Maropiu Road)	Minister of Education	Maori Land	D51	10,35	Sewage Treatment Purposes (Dargaville Oxidation Ponds)	Kaipara District Council	Industrial
D17	9,36,37	Local Government Purposes	Kaipara District Council	Commercial	D52	16,20,21,24,51,52	State Highway 1	NZ Transport Agency	Rural
D18	18	Local Purpose (Te Maire Community Hall) Purposes	Kaipara District Council	Rural	D53	1,3,4,6,7,9,10,13,14,18,19,20,29,35,36,37,38,42,44,45,47,48,50	State Highway 12	NZ Transport Agency	Rural
D19	21,57	Education Purposes Mangawhai Primary School	Minister of Education	Residential	D54	7,8,9,10,31,35	State Highway 14	NZ Transport Agency	Rural
D20	19,43	Education Purposes Matakohē Primary School	Minister of Education	Rural	D55	8,31	Education Purposes Tangiteroria Primary School	Minister of Education	Rural
D21	20, 48	Education Purposes Maungaturoto Primary School	Minister of Education	Commercial	D56	7	Education Purposes Tangowahine Primary School	Minister of Education	Rural
D22	24	Education Purposes Te Kura Kaupapa Maori o Ngaringa o Matariki	Minister of Education	Rural	D57	13,40	Education Purposes Te Kopuru Primary School and House	Minister of Education	Residential
D23	20	Education Purposes Otamatea High School and House (Bickerstaffe Road)	Minister of Education	Rural	D58	17,21,53	Electricity Substation and Telecommunications Operations (Mangawhai)	Northpower	Rural
D24	20	Education Purposes Otamatea High School House (Bickerstaffe Road)	Minister of Education	Rural	D59	23,26,59	Education Purposes Tinopai Primary School and House	Minister of Education	Residential
D25	19,44	Education Purposes Paparoa Primary School	Minister of Education	Residential	D60	9,34,36	Water Supply Purposes (Dargaville)	Kaipara District Council	Residential
D26	18,42	Police Purposes (Ruawai)	Minister of Police	Residential	D61	20,48	Water Supply Purposes (Maungaturoto)	Kaipara District Council	Rural
D27	9,36,37	Police Purposes - Police Station (Dargaville)	Minister of Police	Residential	D62	17, 20, 21, 50	Gas Pipeline	Vector Gas Ltd	Rural
D29	20,21,51	Education Purposes Kaiwaka Primary School and House	Minister of Education	Residential	D63	16, 17, 21, 24	Petroleum Pipeline	New Zealand Refining Company Limited	Rural
D30	20,21,51	Proposed Service Lane (Kaiwaka)	Kaipara District Council	Commercial	D64	22	Education Purposes Pouto Primary School and House	Minster of Education	Rural
D31	9,36,37	Proposed Service Lane (Dargaville)	Kaipara District Council	Commercial	D65	9, 34	Telecommunications operations (Dargaville)	Northpower	Rural
D32	7,8,9,10,11,12,15,20,21,24,36,37,47	Railway Purposes	NZ Railways Corporation	Rural	D66	19	State Highway 12	NZ Transport Agency	Rural
D33	13	Refuse Disposal Purposes (Parawanui Landfill)	Kaipara District Council	Rural					
D34	9,34	Refuse Disposal Purposes (Dargaville Landfill)	Kaipara District Council	Residential					
D35	13,41	Refuse Disposal Purposes (Glinks Gully Landfill)	Kaipara District Council	Rural					

6.5 Tinopai Hall Handover - Execution of Documents

Property and Commercial Advisor 4603.14

Recommended

That Kaipara District Council:

- 1 *Receives the Property and Commercial Advisor's report 'Tinopai Hall Handover - Execution of Documents' dated 15 March 2018; 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 *Rescinds its resolution of 28 June 2016 that delegates to the Chief Executive responsibility for the execution of the Deed of Lease, Deed for Sale and Purchase of the building and the GST Loan Agreement; and*
- 4 *Nominates that the Mayor and Councillor [surname] have responsibility for the execution of the Deed of Lease and Deed for Sale and Purchase of the hall building.*

File number: 4603.14
Report to: Council
Meeting date: 28 March 2018
Subject: Tinopai Hall Handover - Execution of Documents
Date of report: 15 March 2018
From: John Burt, Property and Commercial Advisor

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

Approved for agenda

Summary

This report is to report back to Council on the Tinopai Hall handover process and to ask Council to nominate two Elected Members to be responsible for the execution of the Deed of Lease and Deed for Sale and Purchase of the hall building.

Although Council delegated responsibility for the execution of the Deed of Lease, Deed for Sale and Purchase of the hall building and GST loan agreement to the Chief Executive, Council's Solicitors have advised that this is not permitted under the Property Law Act 2007 and the two Deeds require execution by two Elected Members (either the Mayor and one other Elected Member or any two Elected Members). Council's standard delegations already provide the Chief Executive with authority for the execution of the GST Loan Agreement.

While the relevant documents have not yet been executed by Council in a practical sense the Hall handover was completed in 2016.

Recommendation

That Kaipara District Council:

- 1 *Receives the Property and Commercial Advisor's report 'Tinopai Hall Handover - Execution of Documents' dated 15 March 2018; 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 *Rescinds its resolution of 28 June 2016 that delegates to the Chief Executive responsibility for the execution of the Deed of Lease, Deed for Sale and Purchase of the building and the GST Loan Agreement; and*
- 4 *Nominates that the Mayor and Councillor [surname] have responsibility for the execution of the Deed of Lease and Deed for Sale and Purchase of the hall building.*

Reason for the recommendation

The deeds and agreements now require approval by two elected Members to enable the handover process to be completed.

Reason for the report

This report is to report back to Council on the Tinopai hall handover process and execution of documents.

Background

In July 2010 Council resolved to:

“That, subject to land tenure be satisfactorily resolved, Council transfers the Tinopai Hall to the community, in the form of the Tinopai Hall Society Incorporated at valuation; and

That, subject to the land tenure being satisfactorily resolved, Council makes a grant to the Tinopai Hall Society Incorporated at purchase price of the hall less the GST component, which will be loaned to the Society by Council, to be repaid by the Society when it receives the refund of GST; and

That, subject to the land tenure being satisfactorily resolved, Council enters into a lease with the Tinopai Hall Society for Lots 1, part Lots 1, 2 and 3 DP 12065 for period of 33 years for a rental of \$1.00 per annum if demanded for camp ground and recreational purposes; and...”

The camp ground was included in the resolution because it had been operated by the Hall Committee for many years and continuing this arrangement enabled the Hall to keep this revenue stream and therefore be self-sustaining.

A conditional agreement to lease dated 15 October 2012 has been signed by Council and the Tinopai Community Hall Society Incorporated (“Agreement to Lease”).

At its Ordinary meeting in July 2013, Council resolved to:

“3 Following legal advice, updated following the recent historic information received and reflected in this report, resolves that:

- a) it holds the Tinopai Hall property for the purposes of a camp ground and recreation area and public hall and holds the property ‘in trust’ for such purpose; and*
 - b) section 140 of the Local Government Act 2002 applies to the sale of the Tinopai Hall structure; and*
 - c) section 40 of the Public Works Act 1981 does not apply; and*
- 4 Makes a grant to the Tinopai Community Hall Society Incorporated for the purchase price of the Tinopai Hall in the sum of \$125,000, upon all conditions contained in the Agreement to Lease being satisfied; and*
 - 5 Applies the purchase price grant in paragraph 4, for the purposes of compliance with section 140(4)(b) Local Government Act 2002, as ‘the proceeds of sale’ for the purpose of enabling the Tinopai Hall to continue to be used as a public hall; and*
 - 6 Undertakes the consultation process under section 141 Local Government Act 2002 with respect to the Tinopai Hall structure; and*
 - 7 Subject to all conditions set out in the Agreement to Lease being satisfied, proceeds to completion of the leasing and sale transaction as set out in the Agreement to Lease subject to the Tinopai Hall Committee becoming registered for GST purposes and agreement being reached which indicates that the sale is to occur as a going concern; and*

8 *Requests that a report be brought back to Council on the results of the consultation process.”*

Since the resolution was made in 2013 new valuations for rating purposes were completed in 2014. The value of the Hall and other improvements increased significantly and the Sale and Purchase Agreement was prepared based on a new 2014 value of \$275,000 rather than the \$125,000 originally granted.

At its ordinary meeting in July 2013, Council resolved:

- “...3 *Notes that no feedback was received from the community on the sale of the Tinopai Hall as a result of the s141 Local Government Act 2002 consultation undertaken in 2013; and*
- 4 *Approves the increase of the grant to the Tinopai Community Hall Society required to facilitate the purchase of the hall from \$125,000 to \$275,000; and*
- 5 *Delegates to the Chief Executive responsibility for the execution of the Deed of Lease, Deed for Sale and Purchase of the building and the GST Loan Agreement;...”*

Copies of the Council reports that relate to these resolutions are appended to this report as **Attachment 1** Tinopai Hall Handover dated 02 June 2016, **Attachment 2** Tinopai Hall Endowment Status dated 01 July 2013 and **Attachment 3** Tinopai Hall Handover and Business Plan dated 07 July 2010.

Issues

All conditions of the previous resolutions have been complied with, and in 2016 the Hall Society signed the Deed of Lease, Deed for Sale and Purchase and GST loan agreement. An agreement to lease was previously executed by both Council and the Hall Society in 2012. A related but separate Contract for Service to cover the sewage treatment system and shared public toilet cleaning costs has been provided to the Hall Society under Council's Community Assistance Policy. This was approved by the relevant activity manager at the time.

Factors to consider

Community views

This Hall provides a meeting venue for community organisations and groups, play groups and school groups. It is a very significant building in the community. The camp ground has been used by generations of holidaymakers. The Hall Committee is very passionate about their building and security of tenure is very important to the Committee.

Policy implications

This does not impact on any current policy. The recommendation is in line with previous Council decisions and with Council's Halls Policy. It will enable the handover of the hall to the community which is the objective of the Halls Policy.

Financial implications

There will be no further costs associated the finalisation of the hall handover. The increase in the grant to purchase the property is offset by the purchase price paid and therefore has no cash implications.

The provision of a grant to the Hall Committee for the purchase price exclusive of GST generates a non-cash unbudgeted expense of \$275,000. Council carries buildings at cost. On recording the sale there

will be a recovery of depreciation (\$54,00) and gain on sale (74,000). These will partially offset the grant and will be incorporated in the year-end financial statements.

Legal/delegation implications

Elected Members will need to sign the Deed of Lease and Deed of Sale and purchase as the responsibility cannot be delegated to staff.

Options

There are two options available to Council.

Option A: Execution of the Deed of Lease and Deed for Sale and Purchase of the hall building by the Mayor and one other Elected Member or by two Elected Members; or

Option B: Not execute the Deed of Lease and Deed for Sale and Purchase of the hall building.

Assessment of options

Option A allows for Council to be able to finalise the documentation in order to complete the Hall handover, as provided by Council's Halls Policy. This option takes in account community views and ensures that Council has complied with all legislative requirements.

Option B will leave Tinopai Hall in documental 'limbo' and the Hall handover procedurally uncompleted. Council's Halls Policy notes that if any hall is not handed back to the community it will be sold to another group or disposed of.

Assessment of significance

Staff are of the opinion that the content and recommendations in this report are consistent with the requirements of the Local Government Act 2002 and that the decision-making requirements have been met. In accordance with Council's Significance and Engagement Policy (dated October 2014) the increase in the size of the grant has been assessed against the thresholds for significance. This assessment is shown in the table below:

Threshold	Significant
Budgeted expenditure of \$3,000,000 or more	No - nil expenditure
Unbudgeted expenditure of \$300,000 or more	No - as above
Increases individual rate levies by 10%	No effect on rates
Transfer ownership or control of a strategic asset to or from the Council	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	

This decision is not a significant one under Council's Policy therefore it is not necessary to consult with the community on this decision as:

- Council already has a sound understanding of the views and preferences of the persons likely to be affected by or interested in the matter (s82(4)(b) Local Government Act 2002); and
- An immediate, quick response, decision is desirable or it is not reasonably practicable to engage.

Recommended option

The recommended option is **Option A**, Execution of the Deed of Lease and Deed for Sale and Purchase of the Hall building by the Mayor and one other Elected Member or by two Elected Members.

Next step

To execute the Deed of Lease and Deed for Sale and Purchase of the Hall building.

Attachments

- 1 Tinopai Hall Handover Report June 2016
- 2 Tinopai Hall Endowment Status Report July 2013
- 3 Tinopai Hall Handover and Business plan report July 2010

File number: 4603.14
Report to: Council
Meeting date: 28 June 2016
Subject: Tinopai Hall Handover
Date of report: 02 June 2016
From: John Burt

Approved for agenda

Property and Commercial Advisor

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

Summary

This report is to report back to Council on the results of consultation conducted on the sale of the hall in 2013 and to obtain Council's approval to increase the size of the grant to the Tinopai Community Hall Society to enable them to purchase the building.

In July 2010 Council resolved to:

"That, subject to land tenure be satisfactorily resolved, Council transfers the Tinopai Hall to the community, in the form of the Tinopai Hall Society Incorporated at valuation; and

That, subject to the land tenure being satisfactorily resolved, Council makes a grant to the Tinopai Hall Society Incorporated at purchase price of the hall less the GST component, which will be loaned to the Society by Council, to be repaid by the Society when it receives the refund of GST; and

That, subject to the land tenure being satisfactorily resolved, Council enters into a lease with the Tinopai Hall Society for Lots 1, part Lots 1, 2 and 3 DP 12065 for period of 33 years for a rental of \$1.00 per annum if demanded for camp ground and recreational purposes; and..."

The campground was included in the resolution because it had been operated by the Hall Committee for many years and continuing this arrangement enabled the Hall to keep this revenue stream and therefore be self-sustaining.

At its ordinary meeting in July 2013, Council resolved to:

"Undertakes the consultation process under section 141 of the Local Government Act 2002 with respect to the Tinopai Hall structure; and

Requests that a report be brought back to Council on the results of the consultation process makes a grant to the Tinopai Community Hall Society Incorporated for the purchase price of the Tinopai Hall in the sum of \$125,000, upon all conditions contained in the Agreement to Lease being satisfied; and..."

No feedback or comment was received from the community on the consultation or notification of the intention to sell the building.

Since the resolution was made in 2013 new valuations for rating purposes were completed in 2014. The value of the hall and other improvements increased significantly and the Sale and Purchase

Agreement was prepared based on a new value of \$275,000 rather than the \$125,000 originally granted. For this reason Council needs to resolve to increase the amount granted. The increase in the grant to purchase the property is offset by the purchase price paid and therefore has no cash implications and is purely a balance sheet transaction. Once this grant is approved the handover can be completed.

Recommendation

That Kaipara District Council:

- 1 *Receives the Property and Commercial Advisor's report 'Tinopai Hall Handover' dated 02 June 2016; 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 *Notes that no feedback was received from the community on the sale of the Tinopai Hall as a result of the s141 Local Government Act 2002 consultation undertaken in 2013; and*
- 4 *Approves the increase of the grant to the Tinopai Community Hall Society required to facilitate the purchase of the hall from \$125,000 to \$275,000; and*
- 5 *Delegates to the Chief Executive responsibility for the execution of the Deed of Lease, Deed for Sale and Purchase of the building and the GST Loan Agreement; the lease has been replaced by a Licence to Occupy.*

Reason for the recommendation

Council needs to formerly increase the size of the grant to the Tinopai Community Hall Society in order to finalise the handover of the Hall.

Reason for the report

This report is to report back to Council on the results of consultation conducted on the sale of the hall in 2013 and to obtain Council's approval to increase the size of the grant to the Tinopai Community Hall Society to enable them to purchase the hall building.

Background

In July 2010 Council resolved to:

"That, subject to land tenure be satisfactorily resolved, Council transfers the Tinopai Hall to the community, in the form of the Tinopai Hall Society Incorporated at valuation; and

That, subject to the land tenure being satisfactorily resolved, Council makes a grant to the Tinopai Hall Society Incorporated at purchase price of the hall less the GST component, which will be loaned to the Society by Council, to be repaid by the Society when it receives the refund of GST; and

That, subject to the land tenure being satisfactorily resolved, Council enters into a lease with the Tinopai Hall Society for Lots 1, part Lots 1, 2 and 3 DP 12065 for period of 33 years for a rental of \$1.00 per annum if demanded for camp ground and recreational purposes; and..."

The campground was included in the resolution because it had been operated by the Hall Committee for many years and continuing this arrangement enabled the hall to keep this revenue stream and therefore be self-sustaining.

A conditional agreement to lease dated 15 October 2012 has been signed by the Council and the Tinopai Community Hall Society Incorporated ("Agreement to Lease").

At its Ordinary meeting in July 2013, Council resolved to:

"3 Following legal advice, updated following the recent historic information received and reflected in this report, resolves that:

- a) it holds the Tinopai Hall property for the purposes of a camp ground and recreation area and public hall and holds the property 'in trust' for such purpose; and*
- b) section 140 of the Local Government Act 2002 applies to the sale of the Tinopai Hall structure; and*
- c) section 40 of the Public Works Act 1981 does not apply; and*

4 Makes a grant to the Tinopai Community Hall Society Incorporated for the purchase price of the Tinopai Hall in the sum of \$125,000, upon all conditions contained in the Agreement to Lease being satisfied; and

5 Applies the purchase price grant in paragraph 4, for the purposes of compliance with section 140(4)(b) Local Government Act 2002, as 'the proceeds of sale' for the purpose of enabling the Tinopai Hall to continue to be used as a public hall; and

6 Undertakes the consultation process under section 141 Local Government Act 2002 with respect to the Tinopai Hall structure; and

7 Subject to all conditions set out in the Agreement to Lease being satisfied, proceeds to completion of the leasing and sale transaction as set out in the Agreement to Lease subject to the Tinopai Hall Committee becoming registered for GST purposes and agreement being reached which indicates that the sale is to occur as a going concern; and

8 Requests that a report be brought back to Council on the results of the consultation process."

Issues

The consultation on the sale of the hall required in accordance with s141 was conducted in 2013 however the results were not reported back to Council. This was probably due to the complete lack of feedback from the community on the proposed sale of the hall.

As no objections were received Council staff proceeded to finalise negotiation on the requisite documentation required to effect the handover. The documentation includes a Deed of Lease, Deed for Sale and Purchase of the building and a loan agreement that formalises the GST refund generated as a result of the transaction. The documents have now been executed by the Tinopai Hall Society Incorporated and now require Council's signature to finalise the hall handover transactions.

One final matter requires attention before this and that is the size of the grant. Since the resolution was made in 2013 new valuations for rating purposes were completed in 2014. The value of the hall and other improvements increased significantly and the Sale and Purchase Agreement was prepared based on a new value of \$275,000 rather than the \$125,000 originally granted. For this reason Council needs to resolve to increase the amount granted. The increase in the grant to purchase the property is offset by the purchase price paid and therefore has no cash implications and is purely a balance sheet transaction.

Factors to consider

Community views

This hall provides a meeting venue for community organisations and groups, play groups and school groups. It is a very significant building in the community. The campground has been used by generations of holidaymakers. The Hall Committee is very passionate about their building and security of tenure is very important to the Committee.

Policy implications

This does not impact on any current Policy. The recommendation is in line with previous Council decisions and with Council's Halls Policy. It will enable the handover of the hall to the community which is the objective of the Halls Policy.

Financial implications

There will be no further costs associated the finalisation of the hall handover. The increase in the grant to purchase the property is offset by the purchase price paid and therefore has no cash implications and is purely a balance sheet transaction.

Legal/delegation implications

Council would need to approve the increase in the grant required to meet the increase in the purchase price.

Options

There are two options available to Council.

Option A: Approve the increase in the grant to the Tinopai Community Hall Society incorporated from \$125,000 to \$275,000; or

Option B: Decline to approve the increase in the size of the grant.

Assessment of options

Option A allows for Council to be able to move forward with this hall handover, as provided by Council's Halls Policy. This option takes in account community views and ensures that Council has complied with all legislative requirements.

Option B will leave Tinopai Hall in documental 'limbo' and the hall handover in danger of derailing. Council's Halls Policy notes that if any hall is not handed back to the community it will be sold to another group or disposed of.

Assessment of significance

Staff are of the opinion that the content and recommendations in this report are consistent with the requirements of the Local Government Act 2002 and that the decision-making requirements have been met. In accordance with Council's Significance and Engagement Policy (dated October 2014) the increase in the size of the grant has been assessed against the thresholds for significance. This assessment is shown in the table below:

Threshold	Significant
Budgeted expenditure of \$3,000,000 or more	No - nil expenditure
Unbudgeted expenditure of \$300,000 or more	No - as above
Increases individual rate levies by 10%	No effect on rates
Transfer ownership or control of a strategic asset to or from the Council	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	

This decision is not a significant one under Council's Policy therefore it is not necessary to consult with the community on this decision as:

- Council already has a sound understanding of the views and preferences of the persons likely to be affected by or interested in the matter (s82(4)(b) Local Government Act 2002); and
- An immediate, quick response, decision is desirable or it is not reasonably practicable to engage.

Recommended option

The recommended option is **Option A**, Approve the increase in the grant to the Tinopai Community Hall Society incorporated from \$125,000 to \$275,000.

Next step

Chief Executive to execute the Deed of lease, Deed for Sale and Purchase of the hall building and GST Loan Agreement.

Attachments

Nil.

File number: 4603.14 **Approved for agenda**

Report to: Council

Meeting date: **Monday 22 July 2013**

From: General Manager Operations

Subject: **Tinopai Hall Endowment Status**

Date of report: 01 July 2013

Officer: Shirley Baume
Commercial Manager

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

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

Summary

In July 2010 Council resolved to hand the Tinopai hall back to the community. Council also resolved to enter into a lease of the land surrounding the hall for a period of 33 years and at a rental of \$1.00 per annum, if demanded, for camp ground and recreational purposes.

A conditional agreement to lease dated 15 October 2012 has been signed by the Council and the Tinopai Community Hall Society Incorporated ("Agreement to Lease"). Recent historic information which has come to hand indicates that this land has always been available for public use and was acquired by Council to ensure that this remains the case. This report discusses the steps Council has taken to ensure the Hall is handed over to the community and that the proposed use of the building and property is consistent with the original and existing uses of a camping ground and recreation area and public hall. If, from the historic information received, the Council determines it is holding the Tinopai Hall and camp ground and recreation area "in trust or as an endowment" then sections 140 and 141 of the LGA apply if the land is to be disposed of.

The Agreement to Lease is conditional on Council complying with Sections 138, 140 and 141 of the Local Government Act 2002 (LGA) as applicable. Compliance with Section 40 of the Public Works Act 1981 (PWA) is also discussed. The sale of Tinopai Hall is currently conditional on Council complying with these Acts and of the Local Government Act 2002 (LGA) as applicable. This report ensures that Council is compliant with all statutory obligations, taking into account historic information.

Recommendation

That Kaipara District Council:

- 1 *Receives the Commercial Manager's report titled Tinopai Hall Endowment Status dated 01 July 2013; 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 section 79 of the Act determines that it does not require further information prior to making a decision on this matter;*

and

- 3 *Following legal advice, updated following the recent historic information received and reflected in this report, resolves that:*
- a) *it holds the Tinopai Hall property for the purposes of a camp ground and recreation area and public hall and holds the property 'in trust' for such purpose; and*
 - b) *section 140 of the Local Government Act 2002 applies to the sale of the Tinopai Hall structure; and*
 - c) *section 40 of the Public Works Act 1981 does not apply; and*
- 4 *Makes a grant to the Tinopai Community Hall Society Incorporated for the purchase price of the Tinopai Hall in the sum of \$125,000, upon all conditions contained in the Agreement to Lease being satisfied; and*
- 5 *Applies the purchase price grant in paragraph 4, for the purposes of compliance with section 140(4)(b) Local Government Act 2002, as 'the proceeds of sale' for the purpose of enabling the Tinopai Hall to continue to be used as a public hall; and*
6. *Undertakes the consultation process under section 141 Local Government Act 2002 with respect to the Tinopai Hall structure; and*
7. *Subject to all conditions set out in the Agreement to Lease being satisfied, proceeds to completion of the leasing and sale transaction as set out in the Agreement to Lease subject to the Tinopai Hall Committee becoming registered for GST purposes and agreement being reached which indicates that the sale is to occur as a going concern.*

Reason for the Recommendation

This decision will help the Tinopai Community to meet their aspirations. The report also ensures that Council has complied with all statutory obligations and gives effect to Council's public intention to transfer the hall to the community.

Reason for the Report

The sale of Tinopai Hall is currently conditional on Council complying with Section 138, 140 and 141 of the Local Government Act 2002 (LGA) as applicable. Compliance with Section 40 of the Public Works Act 1981 (PWA) may also be applicable. This report ensures that Council is compliant with all statutory obligations, taking into account historic information.

Background

In July 2010 Council resolved to hand the hall back to the community. Council also resolved to enter into a lease of the land surrounding the Hall for a period of 33 years at a rental of \$1.00 per annum, if demanded, for camp ground and recreation purposes. On 15 October 2012 the Tinopai Community Hall Society Incorporated (Hall Committee) and Council signed the Agreement to Lease. This agreement is conditional on Council complying, as applicable, with Sections 138, 140 and 141 of the Local Government Act 2002 and section 40 of the Public Works Act 1981.

The land the Hall sits on and the camp ground and recreation area is all in fee simple, designated as Recreation Reserve in the District Plan but not held under the Reserves Act 1977. All of this land was acquired under the Public Works Act 1928 from Violet Mooney, Maro Chignell and Mervyn Sterling in 1971. An extract from the NZ Gazette dated 4 February 1971 stipulates the land described above to be taken for the purposes of camp ground and recreation area and public hall and vested in the Otamatea Council for that purpose.

From historic information recently received the land described above is part of the original subdivision of Komiti. This area was set aside by the Komiti Fruitlands Scheme for recreation and community services. The land then came into the hands of William Peel in 1922. In 1932 he presented the four sections discussed to the community and a local Trust was formed with three members;

Mrs Violet Mooney, Mrs Ethel Chignal and Mr William Chapman. The camp ground has been a long-standing and popular amenity. The Hall Committee has historically managed the campground and any income is put back into the campground to maintain and upgrade the amenity, at no cost to Council. Council has not had to provide any capital or operational costs for the campground itself.

If, from the historic information received, the Council determines it is holding the Tinopai Hall and camp ground and recreation area "in trust or as an endowment" then sections 140 and 141 of the LGA apply if the land is to be disposed of. Section 40 of the Public Works Act 1981 and section 138 of the LGA also need to be considered.

Statutory Analysis

Section 138 LGA: This section of the Act imposes limitations on the disposal of reserve land. A lease for 33 years and sale of the Hall structure does not constitute a disposal under section 138 LGA as the lease/sale does not have "the effect of excluding or substantially interfering with the public's access to the park". This means that section 138 LGA does not apply.

Section 140 LGA: This section places restrictions on the disposal of land held for endowment purposes. The Council is not proposing to sell the land, but to lease it, and the only "sale" for the purposes of section 140(4)(b) LGA is the sale of the Hall structure.

Section 141 LGA: Section 141(1)(d) LGA requires the Council to make a reasonable attempt to notify the donor of the property or his/her successor of the intention to sell and provide a reasonable opportunity to comment on the intended sale. If the Council takes that the view that the property is held in trust then this consultation provision would apply in respect of the Hall structure. Steps have been taken to address this requirement.

Section 40 PWA: This section provides for the offer back of land to the former owners in the event that the land is no longer required for a public work. The offer back obligation will not apply to this case as the existing uses are continuing. Further, the land is not being sold but leased and the Hall structure, while being sold, is tied to the lease so that when the lease terminates ownership of the Hall structure reverts to the Council.

Issues

It is important that Council complies with all statutory requirements in regard to the sale of this Hall and

lease of the land.

Factors to Consider

Community Views

This Hall provides a meeting venue for community organisations and groups, play groups and school groups. It is a very significant building in the community. The camp ground has been used by generations of holidaymakers. The Hall Committee is very passionate about their building and security of tenure is very important to the Committee.

Policy Implications

This does not impact on any current Policy. The recommendation is in line with previous Council decisions and with Council's Halls Policy. It will enable the handover of the Hall to the community, which is of huge significance to the community.

Financial Implications

There is no ongoing financial consideration to Council. While there will be legal fees to pay for the preparation of the Sale and Purchase and Lease documentation, there will be no further ongoing asset management costs.

Legal Implications

Held in Trust: Council's resolution was subject to land tenure being satisfactorily resolved. The Otamatea County Council acquired the land from Violet Mooney, Maro Chignell and Mervyn Sterling under the Public Works Act 1928 for the purposes of camp ground and recreation area and public hall. It appears reasonable for the Council to take the view that it holds the property 'in trust' for such purpose.

Application of Grant: The grant provided to the Hall Committee to enable payment of the purchase price of the Hall becomes the application of 'the proceeds of sale' for the purposes of Section 140(4)(b) LGA. Sections 140 and 141 of the LGA will be met through the lease/sale documentation by ensuring that the building remains in use as a public hall and the land remains in use for a hall, camp ground and recreation area.

Contact with Donors: Section 141(1) (a) will be complied with by the Council making a reasonable attempt to contact the donors of the land or their successors and providing a reasonable opportunity to comment on the proposed sale of the building.

Transfer of Hall: Once the Hall Committee becomes registered for GST the transfer can occur as transfer of a going concern and therefore be zero rated for GST purposes. It is understood that the Hall Committee is in the process of having this registration completed.

Options

Council has two options. Council can consider the recently received historic information regarding the Tinopai Hall, the resolution made by Council in July 2010 and the Agreement to Lease signed in October 2012 or Council can choose not to regard the information received .

Option A: Council records that it holds the Tinopai Hall property 'in trust' for the purposes of a public hall, camp ground and recreation area and that Sections 140 and 141 of the LGA apply. Council can sell the Tinopai Community Hall structure in accordance with Sections 140 and 141 of the LGA. This option is also in accordance with Council's Halls Policy.

Option B: Council can choose not to regard the information received and the current situation will remain as is.

Assessment of Options

Option A allows for Council to be able to move forward with this Hall handover, as provided by Council's Halls Policy. This option takes in account community views and ensures that Council has complied with all legislative requirements.

Option B will leave Tinopai Hall in documental 'limbo' and the Hall handover in danger of derailing. Council's Halls Policy notes that if any hall is not handed back to the community it will be sold to another group or closed up.

Assessment of Significance

Council's Policy on Significance details thresholds and criteria that Council has determined it should consider in deciding whether a decision significant. Under the Council's Policy on Significance, a decision in accordance with the recommendation is not considered to have a high degree of significance.

This handover will have a low budgetary effect on Council as there is no ongoing financial consideration to Council. The building is a community hall and while it is recognised as an important asset to the local community, is not a significant asset for Council.

Recommended Option

The recommended option is **Option A**.

Next Step

That the Sale and Purchase and Lease documentation, as provided for in the Agreement to Lease be prepared, signed and implemented.

File Number: 4603.14
Report To: Council
Meeting Date: **Friday 23 July 2010**
From: Community Spaces Manager
Subject: **Tinopai Hall Handover and Business Plan**
Date of Report: 7 July 2010
Signed By:

Stephen Soole

Conclusion

The Tinopai Hall Committee was asked to present their Business Plan and accounts for work required to the 23 July 2010 Council meeting, as they were unable to make the deadline for the June 2010 meeting.

The Committee has requested \$5,515.65 to enable all work on the hall to be completed. The quotes for the work requested and Business Plan are attached to this report.

Council's Halls Portfolio holder has held meetings with the hall committees during the handover process. The Halls Portfolio holder has been informed of progress and is a part of the decision making process. All reports are made available to the Halls Portfolio holder to read prior to going to the Council meeting.

Recommendation

That, subject to land tenure be satisfactorily resolved, Council transfers the Tinopai Hall to the community, in the form of the Tinopai Hall Society Incorporated at valuation; and

That, subject to the land tenure being satisfactorily resolved, Council makes a grant to the Tinopai Hall Society Incorporated at purchase price of the hall less the GST component, which will be loaned to the Society by Council, to be repaid by the Society when it receives the refund of GST; and

That, subject to the land tenure being satisfactorily resolved, Council enters into a lease with the Tinopai Hall Society for Lots 1, part Lots 1, 2 and 3 DP 12065 for period of 33 years for a rental of \$1.00 per annum if demanded for camp ground and recreational purposes; and

That, subject to the land tenure being satisfactorily resolved, Council approves funding of \$5,515.65 from the 2009/2010 Halls Grant to Tinopai Hall Society Incorporated to enable drainage and flooring works to be completed payable upon the sale and purchase being completed.

Reason for the recommendation

The Tinopai Hall Society Incorporated has met all requirements for the takeover of the hall, including the preparation of a Business Plan which demonstrates the ability of the Society to operate the hall on an ongoing basis. The grant for the drainage and flooring work meets Council's requirements and sees the structural integrity of the hall protected.

Background

A report for the Tinopai Hall handover was presented to the June 2010 meeting. This report provided information about the background of the hall and the Hall Committee. The report also discussed the handover process and at what stage the Committee is at within this process. The Tinopai Hall Committee was unable to supply a Business Plan and accounts for work required at the June 2010 meeting and Council agreed to hold over their decision until the July 2010 meeting.

The Committee has requested \$5,515.65 to enable all work on the hall to be completed. Quotes for this work are attached to this report. Tinopai Hall was unable to supply updated quotes as requested, however they advise they have contacted the relevant tradespeople and it was indicated to the Committee that a 10% increase on the quoted price is acceptable. These increases have been noted on the quotes by the Committee and are highlighted in yellow for clarity. Quotes include replacing the foyer floor inside the hall and waste pipe at the rear of the toilet block.

The Business Plan includes an amount for toilet cleaning and this has been identified as “KDC Rebate” in the income section of the budget. There are public toilets situated behind the hall and they also service the camp ground. However, this is not a rebate as the Committee is currently providing a service to Council. Council is looking at current service providers to ensure that the ratepayer gets best value for ratepayer dollar and with this in mind, all service providers need to be competitive.

With regard to community engagement and buy in, it would be best for this service to remain with the Hall Committee. Council staff and Councillors are in discussion with the Hall Committee to find a workable solution and the best value for ratepayer dollar.

6.6 Local Governance Statement: March 2018 update

Administration Assistant 1203.01

Recommended

That Kaipara District Council:

- 1 *Receives the Administration Assistant's report 'Local Governance Statement: March 2018 update' dated 19 March 2018; 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 amended Local Governance Statement dated 19 March 2018 (circulated as Attachment 1 to the above-mentioned report); and*
- 4 *Notes the following Mayoral appointments to Council's Committees:*

<i>Committee</i>	<i>Appointment/s</i>
<i>Citizens Award Committee</i>	<i>Mayor Smith (Chair) For 2018 round: Councillor Geange for West Coast/Central Ward Councillor Joyce-Paki for Dargaville Ward Councillor Jones for Otamatea Ward [Replacing 2017 appointments: Councillors Curnow, Wade and Wethey]</i>
<i>Community Grants Committee</i>	<i>Commencing April 2018: Councillor Curnow (Chair) from West Coast/Central Ward Councillor Wade for Dargaville Ward Councillor Larsen for Otamatea Ward [Replacing 2017 appointments: Councillors Geange, Jones and Joyce-Paki]</i>
<i>Funding Committee</i>	<i>Councillor del la Varis-Woodcock to replace Councillor Larsen</i>
<i>Raupo Drainage Committee</i>	<i>Mayor Smith and Councillor Curnow to replace Councillor Larsen</i>

- 5 *Notes the Minister of Conservation's appointment of Rex Nathan as the Chair of the Harding Park and Pou Tu Te Rangi Joint Management Committee and the Mayor's nomination of Trish Harding as a Council representative on this Committee; and*
- 5 *Notes that the Mayor has delegated authority to act for him on the Northland Civil Defence Emergency Management Group to Councillor Curnow and appointed Councillor _____ to act as an alternate representative on that Group; and*
- 6 *Delegates the General Manager Governance, Strategy and Democracy to periodically update the Local Governance Statement including the Committee Terms of Reference to keep up to date with changes to Council's Committees made by the Mayor and Council.*

File number: 1203.01
Report to: Council
Meeting date: 28 March 2018
Subject: Local Governance Statement: March 2018 update
Date of report: 19 March 2018
From: Lisa Hong, Administration Officer
Report purpose **Decision** **Information**
Assessment of significance **Significant** **Non-significant**

Approved for agenda

Summary

The Local Governance Statement, including the Committee Terms of Reference, was last brought to Council as a single document in March 2017. Since this time, some Committee members have resigned and the Mayor and Council have established new Committees and appointed new Committee members. Though these decisions have been recorded, they have been recorded in disparate documents and are not easily accessible to the public.

Recommendation

That Kaipara District Council:

- 1 *Receives the Administration Assistant's report 'Local Governance Statement: March 2018 update' dated 19 March 2018; 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 amended Local Governance Statement dated 19 March 2018 (Attachment 1 to the above-mentioned report); and*
- 4 *Notes the following Mayoral appointments to Council's Committees:*

Committee	Appointment/s
Citizens Award Committee	Mayor Smith (Chair) For 2018 round: Councillor Geange for West Coast/Central Ward Councillor Joyce-Paki for Dargaville Ward Councillor Jones for Otamatea Ward [Replacing 2017 appointments: Councillors Curnow, Wade and Wethey]
Community Grants Committee	Commencing April 2018: Councillor Curnow (Chair) from West Coast/Central Ward Councillor Wade for Dargaville Ward Councillor Larsen for Otamatea Ward

		<i>[Replacing 2017 appointments: Councillors Geange, Jones and Joyce-Paki]</i>
	<i>Funding Committee</i>	<i>Councillor del la Varis-Woodcock to replace Councillor Larsen</i>
	<i>Raupo Drainage Committee</i>	<i>Mayor Smith and Councillor Curnow to replace Councillor Larsen</i>
5	<i>Notes the Minister of Conservation's appointment of Rex Nathan as the Chair of the Harding Park and Pou Tu Te Rangi Joint Management Committee and the Mayor's nomination of Trish Harding as a Council representative on this Committee; and</i>	
5	<i>Notes that the Mayor has delegated authority to act for him on the Northland Civil Defence Emergency Management Group to Councillor Curnow and appointed Councillor _____ to act as an alternate representative on that Group; and</i>	
6	<i>Delegates the General Manager Governance, Strategy and Democracy to periodically update the Local Governance Statement including the Committee Terms of Reference to keep up to date with changes to Council's Committees made by the Mayor and Council.</i>	
Reason for the recommendation		
This report is an update on changes within Council's Committees and internal processes on how these decisions are recorded.		

Reason for the report

Council adopted the Committee Terms of Reference as part of the Local Governance Statement in March 2017. Since then, new Committees were established, Committee members have resigned and others were appointed. These updates were brought to Council on an ad hoc, per-decision basis. This report recommends that Council notes the new appointments that have been made and adopts the amended Local Governance Statement and Committee Terms of Reference. While there is no statutory requirement for Council to formally adopt the Terms of Reference, as they were initially adopted by Council it is recommend that a consistent approach be applied.

The Draft Local Government Statement dated 19 March 2018 (Draft LGS, **Attachment 1**) is an aggregate of previous updates, as well as further membership changes and appointments made by the new Mayor.

Background

Pursuant to Section 41A of the Local Government Act 2002 (**LGA 2002**), Appendix 7 of the operative Kaipara District Council Standing Orders (adopted in November 2016, **SO 2016**) states that the Mayor *'has the authority to... establish Council committees, their Terms of Reference, appoint the Chair of each of those Committees and the members'*.

Council Committees

After the 2016 Triennial Local Government Elections, Mayor Gent re-established various Committees and, at its meeting on 09 November 2016, Council noted in a resolution that Mayor Gent established the following Council committees:

- Audit, Risk and Finance Committee;
- Remuneration and Development Committee;
- Raupo Drainage Committee;
- Taharoa Domain Governance Committee;
- Mangawhai Community Park Governance Committee;
- Harding Park and Pou Tu Te Rangi Joint Management Committee; and
- Funding Committee.

Council also administers following Council Committees established by statute or established to manage statutory requirements:

- Pou Tu Te Rangi Joint Management Committee, established by the Te Uri o Hau Settlement Act 2002 (this Committee is also the Harding Park Committee, referred to in whole as the '*Harding Park and Pou Tu Te Rangi Joint Management Committee*', and governs both the Pou Tu Te Rangi site and surrounding Harding Park;
- District Licensing Committee, established as a requirement of the Sale and Supply of Alcohol Act 2012;
- Mangawhai Endowment Lands Account Committee, established to distribute Mangawhai Endowment Lands Account (MELA) funds according to the Mangawai [sic] Endowment Lands Empowering Act 1966; and
- Independent Hearings Commissioners, established to manage hearings as required by the Resource Management Act 1991.

Subsequently, at its meeting on 14 March 2017, Council formally adopted the Kaipara District Council Local Governance Statement March 2017 (**LGS 2017**), which included the Terms of Reference for both Committees re-established by Mayor Gent and statutory Committees.

Since November 2016, Mayor Gent and Council established the following new Council Committees:

- Citizens Award Committee was established by Mayor Gent, and Council noted its establishment, Terms of Reference and the Citizens Awards Policy at its 13 February 2017 meeting;
- Community Grants Committee was established by Council resolution at its 04 April 2017 meeting; and
- Reserve Contributions Policy Review Committee was established by Mayor Gent following a Council resolution at its 11 July 2017 meeting.

These new Committees' Terms of Reference have been included in the Committee Terms of Reference in the Draft LGS.

Council also has a working group, which is a lesser forum in which members can discuss issues with staff to progress reports and strategies. Mayor Gent established the Planning and Regulatory Working Group in late 2017, and Council received its Terms of Reference on 14 November 2017. The Working Group's Terms of Reference has also been included in the Draft LGS for completeness.

Council Committee members

There have been changes to the Committees' membership, notably in Committees in which Mayor Gent was a member. These changes were made by Council at its meeting on 14 November 2017 and are incorporated in the Draft LGS:

- Councillor Larsen replaced Mayor Gent on the Raupo Drainage Committee, with Greg Gent being appointed as a ratepayer representative;
- Councillor Joyce-Paki replaced Mayor Gent on the Taharoa Domain Governance Committee; and
- Councillor Wade replaced Mayor Gent in the Remunerations and Development Committee.

As result of the 2018 Mayoral By-election, further changes were made:

- Doctor Jason Smith was elected Mayor of Kaipara district and became the Chair of Kaipara District Council; and
- Mayor Smith became the Chair of those Committees that are chaired by the Mayor (Remunerations and Development Committee and Citizens Award Committee) and an Ex-Officio member of all Committees of Council.

Some Committee members have resigned or have requested to resign from certain committees:

- Councillor Joyce-Paki requested that she be relieved from the Audit, Risk and Finance Committee mid-2017 and Mayor Gent appointed Councillor Wethey as a replacement;
- External appointee Richard Booth resigned as the Chair of the Audit, Risk and Finance Committee and the Crown Manager appointed Stana Pezic as a replacement in late 2017;
- Councillor Larsen requested that he be relieved from the Funding Committee, and Mayor Smith appointed Councillor del la Varis-Woodcock as a replacement; and
- Councillor Larsen requested that he be relieved from the Raupo Drainage Committee, and Mayor Smith appointed himself and Councillor Curnow as replacement.

Membership in some Committees must be rotated according to their Terms of Reference, and the following 2018 rotations have been made by Mayor Smith:

- Councillors Geange, Joyce-Paki and Jones were appointed to the 2018 round of the Citizens Award Committee; and
- Councillors Curnow, Larsen and Wade were appointed to the Community Grants Committee commencing April 2017, with Councillor Curnow serving as Chair.

Membership changes as above have been incorporated in the Committee Terms of Reference within the Draft LGS.

Combined Committee

The Harding Park and Pou Tu Te Rangi Joint Management Committee is a combined Committee that is co-governed by Council and Te Uri o Hau. Three Council and three Te Uri o Hau representatives sit on this Committee. Robbie Sarich, who was nominated by Te Uri o Hau, sadly passed away in 2017 and was replaced by Rex Nathan. Rex Nathan was nominated to the Chair by the Committee and was formally appointed by the Minister of Conservation. In late 2017, Council representative Hal Harding requested that he be relieved from this Committee, and Mayor Smith recently nominated Trish Harding to replace him. Council staff will be sending a letter to Minister of Conservation for formal appointment.

Membership changes as above have been incorporated in the Committee Terms of Reference within the Draft LGS.

External committees

Following the 2016 Triennial Local Government Elections, Mayor Gent appointed members to external Committees as below:

- Councillor Geange was appointed to the Regional Transport Committee;
- Councillor Jones was appointed to Sport Northland Board;
- Councillor Larsen was appointed to the Joint Civil Defence Emergency Management Committee;
- Mayor Gent was appointed to Kaipara Harbour Treaty Settlement Working Party and Kaipara Harbour Joint Political Committee; and
- Councillor Curnow was appointed to the Pouto Priority Catchment Group.

Council formally noted these appointments at its meeting on 09 November 2016 and they were formally adopted as part of the Kaipara District Council Local Governance Statement on 14 March 2017.

Following changes were made to external appointments since the LGS 2017 was adopted:

- Council re-appointed Councillor Curnow as the Central Ward appointee and Brenda Jackson as the West Coast Ward appointee to the Kaipara Community Health Trust on 14 March 2017;
- Council appointed Councillor del la Varis-Woodcock to the Regional Transport Committee to replace Mayor Gent on 14 November 2017;
- Council re-appointed James Foster to the Kaipara Community Health Trust as the Dargaville Ward appointee; and
- Mayor Gent appointed Councillor Curnow to Northland Chamber of Commerce and Councillor Wethey to Local Government New Zealand Zone One in 2017.

Lastly, Councillor Larsen has requested that he be relieved of his membership on the Joint Civil Defence Emergency Management Committee. Councillor Curnow has attended recent meetings on his behalf. Consistent with the Civil Defence Emergency Management Act 2002 (**CDEM 2002**) and the Northland Establishment Agreement (June 2003), there is a need for Council to formally appoint both a member to represent it on the Group and alternate representative to attend in their absence.

Section 13 of CDEM 2002 and clause 6.3 of the Establishment Agreement provide:

'Each member is to be represented on the Group by one person only, being the mayor/chairperson of that local authority or an alternative representative who has been given the delegated authority to act for the mayor/chairperson.'

Clause 6.4 provides:

'Each member shall also appoint an alternative representative to act in the absence of the representative appointed under 6.3 above. An alternative representative must be an elected person from that territorial authority.'

For the purposes of both CDEM 2002 and the Establishment Agreement, member refers to the group of Northland councils including Kaipara District Council. To fulfil these requirements, the Mayor has determined to delegate his authority to act on the Northland CDEM Group to Councillor Curnow and to appoint another Councillor as the alternate member.

Document support delegation

It is further recommended that Council delegates the General Manager Governance, Strategy and Democracy to make future minor and consequential changes to the Local Governance Statement including the Committee Terms of Reference to avoid the need for such amendments to continually be reported to Council. For the avoidance of doubt, minor amendments are considered those that do not change the intent, structure or responsibilities of a Committee or the Committee structure.

Minor updates

- Section 7.2 on Crown Manger and Crown Observer was updated to incorporate change in circumstances since it was added to the LGS in July 2017;
- Due to changes in organisational structure, all references to Corporate Services Department and Democratic Services Manager were changed to Governance, Strategy and Democracy Team and General Manager Governance, Strategy and Democracy; and
- New corporate graphics were incorporated, and a new format was used to improve clarity and usability.

Issues

Each Committee's Terms of Reference is their governing document. Councillors, Committee members, staff and the public must have easy access to the relevant information and it is preferable (and good practice) that they are recorded with consistent presentation in a single document.

Factors to consider

Community views

The community expects Council and its Committees to operate with a clear governance structure. If communities are to effectively participate in local democracy, it is important that information relating to governance structures and processes are clearly, openly and accurately communicated.

Policy implications

The recommended decision in this report is not considered significant in terms of Council's Significance and Engagement Policy.

The recommended decision in this report will affect the Officer Delegations Policy.

Financial implications

Elected members are reimbursed in accordance with determination set by the Remuneration Authority under s255(5) and clause 18 of Schedule 15 of the LGA 2002 and Council's current Elected Members' Allowances and Recovery of Expenses Policy.

Funding for Council's Committees must align with Council's Annual and Long Term Plans.

Legal/delegation implications

Clause 32(1), Schedule 7 of the LGA 2002 and clause 6.1 of the SO 2016 allows that Council 'may, for the purposes of efficiency and effectiveness, delegate to a Committee... any of its responsibilities, duties or powers except:

- “(a) the power to make a rate;
- (b) the power to make a bylaw;
- (c) the power to borrow money, or purchase or dispose of assets, other than in accordance with the long term plan;
- (d) the power to adopt a long term plan, annual plan, or annual report;
- (e) the power to appoint a chief executive;
- (f) the power to adopt policies required to be adopted and consulted on under the LGA in association with the long term plan or developed for the purpose of the local governance statement;
- (g) Repealed;
- (h) the power to adopt a remuneration and employment policy.”

The list of Council delegations in the Committee Terms of Reference is below:

Audit, Risk and Finance Committee	<ul style="list-style-type: none"> • The Committee makes recommendations to the full Council; • All necessary powers to meet its responsibilities.
Citizens Awards Committee	<ul style="list-style-type: none"> • The Committee has full delegation to grant Citizens Awards.
Community Grants Committee	<ul style="list-style-type: none"> • Distribute the available amount for grants in accordance with policy guidelines.
District Licensing Committee	<ul style="list-style-type: none"> • To make decisions on applications and renewals with reference to the Sale and Supply of Alcohol Act 2012.
Funding Committee	<ul style="list-style-type: none"> • Administers the Creative Communities Scheme and decides on allocations twice a year; • Administers the Rural Travel Fund and decides on allocations twice a year.
Harding Park and Pou Tu Te Rangi Joint Management Committee	<ul style="list-style-type: none"> • Makes recommendations to the full Council for any policies or developments required; • Administering any bylaw or regulation associated with the Park.
Independent Hearings Commissioners' Panel	<ul style="list-style-type: none"> • All decisions relating to the RMA are delegated to the panel as established; • Decisions are reported to the next Council meeting for information.
Mangawhai Community Park Governance Committee	<ul style="list-style-type: none"> • Manage the financial affairs of the Mangawhai Community Park; • Apply for funding from external sources for the enhancement of the Park; • Administer any Kaipara District Council bylaw or regulation associated with the Park; • Make recommendations to the Kaipara District Council for the development of policies, bylaws or other regulatory tools for the effective management of the Park.
Mangawhai Endowment Lands Account Committee	<ul style="list-style-type: none"> • Distribute the available amount for grants in accordance with policy guidelines.

Raupo Drainage Committee	<ul style="list-style-type: none"> • To review and make recommendations on a proposed annual work programme and budget; • To recommend any policy development with regard to Raupo land drainage.
Remuneration and Development Committee	<ul style="list-style-type: none"> • The Committee makes recommendations to the full Council; • The Committee can request expert advice to assist in any matters under consideration.
Reserve Contributions Policy Review Committee	<ul style="list-style-type: none"> • The Committee will make recommendations to the full Council.
Taharoa Domain Governance Committee	<ul style="list-style-type: none"> • Manage the financial affairs of the Taharoa Domain; • Apply for funding from external sources for the enhancement of the Domain; • Administer any Kaipara District Council bylaw or regulation associated with the Domain; • Make recommendations to the Kaipara District Council for the development of policies, bylaws or other regulatory tools for the effective management of the Domain.

It should be noted that decisions made under delegated authority cannot be rescinded or amended, as per SO 2016 and clause 30(3) and clause 30(4), Schedule 7 of LGA 2002.

Options

Option A: Council does not adopt the new LGS and does not delegate the General Manger Governance, Strategy and Democracy to update the LGS as needed.

Option B: Council adopts the new LGS and delegates the General Manger Governance, Strategy and Democracy to update the LGS as needed.

Assessment of options

Mayor and Council's decisions regarding Council's Committees and external Committees will stand regardless, provided that these decisions were made lawfully. The Draft LGS is an aggregate of these decisions as staff understand it to be.

Option A is the status quo. The LGS as adopted in March 2017 and all Council agendas and minutes are published on Council's website. Together, these documents provide bulk of the decisions regarding Committee appointments.

Option B is a change in how Council records its Committee appointments. It allows for staff, Committee members and the public to refer to a single document to get an overarching view.

Option B also better incorporates the Mayoral role and responsibility as described in LGA 2002 as amended in 2014, which states that the Mayor has the unilateral power to establish Committees and appoint members. Looking at Council's records, not all of these decisions were noted in reports to Council nor minuted.

Looking at the volume of Committee changes, this report recommends minor changes be recorded as Local Governance Statement updates with supporting documents (such as a memorandum or an email from the Mayor) filed, made discoverable if requested pursuant to the Local Government and Official Information Management Act 1987.

Recommended option

The recommended option is **Option B**.

Next step

If recommended option is chosen:

- Local Governance Statement will be amended and published on the Council website and sent to Committee members for information;
- Mayor and Council will continue to make decisions regarding Committees of Council and appointments to external Committees, with document support delegated to General Manager Governance, Strategy and Democracy. An updated Officer Delegations Policy has been planned to be brought to Council in April 2018 for adoption;
- Up-to-date Local Governance Statement including Committee Terms of Reference will be made available on the Council website as changes are made.

Attachments

- Draft Local Governance Statement dated 19 March 2018



Kaipara District Council

Local Governance Statement

19 March 2018

Executive Summary

Kaipara District Council is required under Section 40 of the Local Government Act 2002 to adopt a Local Governance Statement following each Triennial election. The Statement is required to provide the community with information on how Council is organised, how it makes decisions and the ability for the community to engage with Council.

draft

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Local Governance Statement 19 March 2018

1 Functions, responsibilities and activities

The purpose of Kaipara District Council is to meet the current and future needs of our communities for good quality local services and infrastructure.

Kaipara District Council has a variety of roles in meeting this purpose. These include:

- Facilitating solutions to local needs;
- Advocating for the district with other agencies;
- Developing local resources;
- Managing and maintaining local infrastructure;
- Environmental management; and
- Planning for the future needs of the district.

2 Local legislation

There are a number of Acts of Parliament that apply to Council or are administered by Council. A comprehensive list of these is included as Appendix 1.

In addition Kaipara District Council is also bound by several Acts of local legislation:

- Mangawai Lands Empowering Act 1966 (*sic*);
- Te Uri O Hau Settlement Act 2002; and
- Kaipara District Council (Validation of Rates and other matters) Act 2013.

All of these are accessible via www.legislation.govt.nz

3 Bylaws

Bylaws are generally made under the Local Government Act 2002. However there is some legislation that directs a Council to compile a bylaw, for example the Dog Control Act 1996.

Current bylaws are:

- General Bylaws 2008 (due for review in 2018)

This is a consolidated bylaw that incorporates a number of activities:

- Activities that can be carried out in public places;
 - Trading in public places;
 - Management of solid waste;
 - Control of advertising signs;
 - Operation of amusement galleries;
 - Fires in the open air;
 - Keeping of animals, poultry and bees;
 - Management of cemeteries and crematoria;
 - Management of public libraries;
 - Management of Council-owned cultural and recreational facilities;
 - Management of nuisances;
 - Control of skateboards;
 - Prohibition of gintraps;
 - Traffic management;
 - Management of Council's water supplies; and
 - Management of Rural Land Drainage.
- Dog Management Bylaw 2009 (due for review 2019)
 - Enables Council to give effect to The Dog Control Act 1996 and to Council's Policy on Dogs.
 - Public Places Liquor Control Bylaws 2009 (due for review 2019)
 - Outlines the days, times and the public places where the consumption of alcohol is prohibited.
 - Wastewater Drainage Bylaw 2016 (due for review 2026)
 - Outlines what can go into the public wastewater systems, who can connect and the ability to continuation of discharge, disconnection and other provisions on the public drainage system.

4 The electoral system

Kaipara District Council currently uses the Single Transferable Vote (STV) system. This form of voting is used in all District Health Board elections and by several local authorities. STV is a preferential voting system and electors rank candidates in order of preference. The number of votes required for a candidate to be elected is calculated by a quota. The other electoral system permitted under the Local Electoral Act 2001 is the First Past The Post (FPP) system in which electors indicate the preferred candidate(s) and the candidate(s) with the most votes is declared the winner.

Under the Local Electoral Act 2001 Council can:

- a) resolve to change the electoral system to be used at the next two elections; or
- b) conduct a binding poll on the question; or
- c) electors can demand a binding poll. A poll can be initiated by at least 5% of electors signing a petition demanding a poll.

Once changed the system must be used for at least the next two triennial elections.

- a) Change by Council resolution

Council may resolve to change its electoral system not later than 12 September in the year that is two years before the next triennial election (s27 LEA). There is no compulsion to make a decision in this timeframe as the status quo will apply unless a decision is taken.

- b) Poll demanded by electors

Council is required to give public notice no later than 19 September in the year that is two years before the year in which the next triennial election is to be held:

- of any resolution passed under s27; and
- of the right of electors to demand a poll, which must be lodged within 90 days.

- c) Poll initiated by Council

Council may resolve to hold a poll (s31 LEA) on a proposal on a specific electoral system for the next two triennial elections. Council must resolve to hold a poll no later than 28 February in the year immediately before the year in which the next triennial election is to be held.

Council resolved in 2017 to retain the STV system for the 2019 and 2022 elections. Council can resolve to change the electoral system in this term.

5 Representation arrangements

Kaipara District Council has eight Councillors. The district is divided into three Wards with three Councillors elected from the Otamatea and West Coast/Central Wards and two from the Dargaville Ward. The Mayor is elected at large across the district.

Council is required to review its representation arrangements at least once every six years. The last review was conducted in October 2012 which resulted in minor adjustments to the Ward boundaries.

The representation review must consider:

- The number of Elected Members;
- Whether members are elected at large across the district or by Wards within the district, or a mixture of both;
- If Wards are used, then the boundaries and electorate populations of those Wards;
- The potential for Maori Wards (elected by voters on the Parliamentary Maori roll); and
- Whether to have community boards and, if so, the boundaries and membership of those.

The Local Electoral Act 2001 provides a framework for the review and Council must ensure that the election of members will provide fair and effective representation of communities of interest within the district.

The Act provides for the establishment of separate Maori Wards. Council may resolve to create separate Maori Wards or conduct a poll on the matter. The community can demand a poll on the matter by initiating a petition signed by 5% of the electors in the district.

Procedure	Deadline	Relevant section
Local authority determines proposed representation arrangements.	Initial proposals must be made: <ul style="list-style-type: none"> • no earlier than 01 March in the year before election year; • by 31 August in the year before election year, if establishing Māori Wards/constituencies; and • in time for the deadline for public notice. 	<ul style="list-style-type: none"> • 19H (territorial authorities); • 19I (regional councils); • 19J (community boards); and • Schedule 1A if establishing Māori Wards / constituencies.
Local authority gives public notice of “initial” proposal and invites submissions.	Within 14 days of resolution, and not later than 08 September in the year before election year.	19M(1)
Submissions close.	Not less than one month after public notice.	19M(2)(d)

Procedure	Deadline	Relevant section
If no submissions then proposal becomes final ¹ .	Public notice to be given when there are no submissions, but no date fixed for doing this.	19Y(1)
Local authority considers submissions and may amend proposal.	Within six weeks of closing date for submissions.	19N(1)(a)
Local authority gives public notice of its "final" proposal.	Within six weeks of closing date for submissions.	19N(1)(b)
Appeals and objections close.	<ul style="list-style-type: none"> not less than one month after the date of the public notice issued under section 19N(1)(b); not later than 20 December in the year before election year. 	<ul style="list-style-type: none"> 19O 19P
If no appeals or objections then proposal becomes final ¹	Public notice to be given when there are no appeals/objections, but no date fixed.	19Y(1)
Local authority forwards appeals, objections and other relevant information to the Local Government Commission ²	As soon as practicable, but not later than 15 January in election year.	<ul style="list-style-type: none"> 19Q 19V(4)
Commission considers resolutions, submissions, appeals and objections and makes determination.	Before 01 April in election year.	19R
Determination subject to appeal to High Court on a point of law ³ .	Appeals to be lodged within one month of determination.	Clause 2, Schedule 5, <i>Local Government Act 2002</i>

Council is required to consider its Representation arrangements during this term.

The last Representation Review can be found at:

www.lgc.govt.nz/decisions-and-determinations/view/kaipara-district-council

¹Under s19V(4) proposals that do not comply with the +/-10% fair representation requirement are subject to confirmation by the Commission.

² Includes any proposal that does not comply with the +/-10% fair representation requirement.

³ Commission determinations may also be subject to judicial review.

6 Elected Members roles and conduct

Kaipara District Mayor and Councillors have the following collective responsibilities:

- Representing the interests of Council;
- Formulating Council's strategic direction and relative priorities through the Long Term Plan (LTP), which determines the services and activities to be undertaken by Council over a 10 year period;
- Determining the expenditure and funding requirements of Council activities through the LTP and annual planning processes;
- Overseeing, developing and/or approving all Council policies, administration, legal, financial and strategic including formal regional, city and/or district planning matters within Council's geographical area of responsibility;
- Monitoring the ongoing performance of Council against its stated objectives and policies (including formal sign-off of the Annual Report);
- Ensuring prudent use of Council resources;
- Law-making (bylaw);
- Overseeing Council compliance with any relevant Acts of Parliament; and
- Employing, setting performance requirements for, and monitoring the ongoing performance of Council's Chief Executive (under LGA 2002, the local authority employs the Chief Executive who, in turn, employs all other staff on its behalf; Elected Members of Council cannot direct, any staff employed by Council other than the Chief Executive).

The Mayor's role at a simple level is to provide leadership to the other Elected Members and the people of the district.

The Mayor's relationship to Council has a number of statutory functions under the LGA 2002. Specifically:

- The presiding officer at meetings of Council at which they are present;
- Ensuring the orderly conduct of meetings of Council;
- The ceremonial head of Council;
- A Justice of the Peace (while in office);

- The Mayor has the authority to appoint a Deputy Mayor, to establish Committees of Council and to appoint the Chairs of those Committees;⁴ and
- The responsibility for leading the development of the district's plans, policies and budgets.

The Deputy Mayor must perform all the responsibilities of the Mayor.

- With the consent of the Mayor to cover a period of absence;
- Without that consent if the Mayor is prevented by illness or other cause from performing their duties; and
- If a vacancy for Mayor occurs during the term of Council.

Elected Members also have obligations imposed on them by specific pieces of legislation. These include:

- Schedule 7 of the Local Government Act 2002, which includes obligations to act as a good employer in respect of the Chief Executive and to abide by the Code of Conduct and Standing Orders;
- The Local Authorities (Members Interests) Act 1968 which regulates the conduct of Elected Members in situations where there is, or could be, a conflict of interest between their duties as an Elected Member and their financial interests;
- The Secret Commissions Act 1910, which prohibits Elected Members from accepting gifts or rewards in the performance of their duties; and
- The Crimes Act 1961 regarding the acceptance of gifts for acting in a certain way or using official information for private profit.

The LGA 2002 requires Council to adopt a Code of Conduct. This provides guidelines and principles for the standard of behaviour expected of Elected Members. It applies not only to Elected Members conduct between themselves but also with the Chief Executive, Council Staff, the media and the public.

Once adopted the Code continues in force until amended by Council. Council can amend the Code whenever it chooses to, however it cannot revoke the Code without adopting another in its place. Once adopted, amendments to the Code, or the adoption of a new Code, require a resolution supported by 75% or more of the members of Council present at the meeting.

Council adopted a revised Code of Conduct at its meeting on 13 December 2016.

⁴ However refer to Deputy Mayor section

7 Governance structure

7.1 Committees

Full Council meets regularly and Council can establish committees to enable it to work more effectively. These committees can be standing committees which sit for the term or special committees that meet for a specific purpose. Council can delegate to the committee (excluding those functions that must be exercised by full Council) specific functions, duties and powers. Council committees still retain a governance function rather than an operational function, even though they can at times be closer to a specific project or activity than full Council.

The full Council cannot delegate the following decisions however and these must be taken by a full Council. These include (Clause 32(1)(a)-(h) of Schedule 7 of the LGA 2002).

- The power to make a rate;
- The power to make a bylaw;
- The power to borrow money, purchase or dispose of assets other than in accordance with the Long Term Plan;
- The power to adopt a Long Term Plan, Annual Plan or Annual Report;
- The power to appoint a Chief Executive;
- Make decisions on representation arrangements;
- The power to adopt a remuneration and employment policy.

The LGA gives the Mayor the power to establish Committees of Council and appoint the Chair if they choose to.

Council's Committee structure at 19 March 2018 is:

Committee	Council Members	Note
Audit, Risk and Finance Committee	Councillors del la Varis-Woodcock, Geange, Larsen, Wade and Wethey	Stana Pezic is the independent Chair of this Committee.
Remuneration and Development Committee	Mayor Smith (Chair), Councillors Curnow, Jones, Wade and Wethey	

Committee	Council Members	Note
Raupo Drainage Committee	Mayor Smith and Councillor Curnow	Ratepayer representatives were appointed in August 2016 for a three year term; and Greg Gent was appointed as a ratepayer representative in November 2017.
Taharoa Domain Governance Committee	Councillors Wade (Chair) and Joyce-Paki	Co-Governance Committee
Mangawhai Community Park Governance Committee	Councillors Curnow (Chair) and Wethey	Co-Governance Committee
Harding Park and Pou Tu Te Rangi Joint Management Committee	Councillors del la Varis-Woodcock and Joyce-Paki	Co-Governance Committee Trish Harding was nominated as the third Council representative in March 2018, pending confirmation from the Minister of Conservation.
Funding Committee	Councillor del la Varis-Woodcock	Overarching Committee for funding application schemes such as Sport NZ Rural Travel Fund and Creative Communities Scheme.
Mangawhai Endowment Lands Account Committee	Councillors Wethey (Chair), Jones and Larsen	
Citizens Awards Committee	Mayor Smith (Chair) and Councillors Geange, Jones and Joyce-Paki (for 2018 round)	Membership rotates annually, excluding Chair.
Community Grants Committee	Councillors Curnow (Chair), Larsen and Wade (April 2018 rotation)	Membership rotates annually
Reserves Contribution Review Committee	Councillors Larsen (Chair), del la Varis-Woodcock and Wade	

The Terms of Reference for all Committees are appended to this Statement as Appendix 2 "Committee Terms of Reference".

Elected members are also appointed to a number of external Committees with other parties or councils. External Committee appointments at 19 March 2018 are:

External Committee Appointments	Members
Regional Transport Committee	Julie Geange
Sport Northland Board	Libby Jones
Kaipara Harbour Treaty Settlement Working Party and Kaipara Harbour Joint Political Committee	Greg Gent
Pouto Priority Catchment Group	Anna Curnow
Northland Chamber of Commerce	Anna Curnow
Local Government New Zealand Zone One	Peter Wethey
Kaipara Community Health Trust	Anna Curnow, Brenda Jackson and James Foster
Joint Civil Defence Emergency Management Group	Anna Curnow

7.2 Crown Manager/Crown Observer

On 15 May 2017, Cabinet agreed to the appointment of a Crown Manager to assist the Kaipara District Council. Pursuant to s258D of the Local Government Act, the Crown Manager was appointed to address any outstanding or future legal actions relating to the development of the Mangawhai Wastewater Scheme, and the setting and collection of rates during and prior to the Kaipara District Council Commissioners' term. The Crown Manager's authority includes the ability to direct Council to address legal actions and the ability to make recommendations to the Minister of Local Government. The Crown Manager is required to ensure, as far as possible, that the existing organisation capability of Council is not diminished. He also has obligations consult with Council, to work in good faith, collaborate with the Northland Regional Council and report to the Council, the Minister and the people of the district.

On 15 June 2017, the Associate Minister of Local Government (under delegation from the Minister of Local Government) appointed Peter David McGredy Winder as Crown Manager. The term of appointment for the Crown Manager started on 20 June 2017 and will, unless otherwise advised by the Minister of Local Government, end on the date of the 2019 triennial local body elections. The Terms of Reference state that the Minister will review the continued need for this appointment in June 2018.

In October 2016 following the triennial local body elections, the Associate Minister of Local Government appointed Barry Harris to the role of Crown Observer. The Crown Observer was to provide support and guidance on matters of governance to the newly-elected Council members, Chief Executive and senior managers. The term for the Crown Observer began on the day the newly-elected Council was declared following the 08 October 2016 elections and ended on 30 September 2017.

8 Meeting processes

The legal requirements for Council meetings are set down in the Local Government Act 2002 and the Local Government Official Information and Meetings Act 1987 (LGOIMA). All Council and Committee meetings must be open to the public unless there is reason to consider some item in the “public excluded” session of a meeting.

Although meetings are open to the public, members of the public do not have a right to speak unless prior arrangements are made. LGOIMA contains a list of the circumstances where councils may consider items with the public excluded from the meeting (these circumstances generally relate to protection of personal privacy, legal privilege or commercial negotiations). The Council agenda is a public document, although parts may be withheld if the above circumstances apply.

The Mayor or Committee Chair is responsible for maintaining order at meetings and may, at his/or her discretion, order the removal of any member of the public for disorderly conduct or remove any Councillor who does not comply with Standing Orders. Minutes of meetings must be kept as evidence of the proceedings of the meeting. These must be made publicly available, subject to the provisions of the LGOIMA.

For an Ordinary meeting of Council, at least 14 days’ notice of the time and place of the meeting must be given. Extraordinary meetings generally can be called with three working days’ notice. During meetings the Mayor and Councillors must follow Standing Orders (a set of procedures for conducting meetings). Council may suspend Standing Orders by a vote of 75% of the members present.

9 Consultation policies

9.1 Special consultative procedure

The Local Government Act 2002 Amendment Act 2014 sets out certain consultation principles and a procedure that local authorities must follow when making certain decisions. This procedure, the **special consultative procedure**, is regarded as a minimum process.

Council can and does consult outside of the special consultative procedure. When it is adopting its Long Term Plan (LTP), Annual Plan or District Plan it will hold formal meetings with community groups and other interested parties. At these meetings Council will seek views on the matters Council considers important and which identify issues of concern to the community.

9.2 Statutory consultation requirement

Section 82 of the Local Government Act 2002 Amendment Act 2014 sets out a number of principles for when Council decides to consult.

10 Liaising with Maori

Kaipara District Council put in place an Iwi relationship plan in 2014. This plan recognises the need to develop and maintain strong relationships at different levels with the various Iwi groups in Kaipara. A Mana Whenua forum increases the ability for Iwi and Maori input into Council decision-making. In addition Council has a Memorandum of Understanding with Te Uri o Hau and is negotiating a Mana Enhancing Agreement with Te Roroa.

Council also has two co-governance committees, the Taharoa Domain Governance Committee (TDGC) and the Harding Park/Pou Tu Te Rangi Joint Committee (HP/PTTR).

- TDGC is a Committee between Council, Te Roroa and Te Kuihi; and
- Te Uri o Hau appoints to the HP/PTTR Joint Committee. Both the Harding Park and Pou Tu Te Rangi Committees oversee the Reserve Management Plan (RMP) for the Harding Park site.

11 Management structure and relationships

The Local Government Act 2002 sets out the role of the Chief Executive. Section 42 explains that a Chief Executive is responsible for:

- Implementing the decisions of the local authority;
- Providing advice to members;
- Ensuring all powers and duties delegated to them and to staff are properly performed;
- Ensuring the effective and efficient management of Council's activities;
- Maintaining systems that allow for effective planning and performance;
- Providing leadership for the staff;
- Employing the staff on behalf of the local authority; and
- Negotiating the terms of employment of the local authority staff.

Council has a performance agreement with the Chief Executive and manages this through regular performance reviews and a formal Remuneration and Development Committee. Council does not evaluate the performance of any other staff. In reviewing the Chief Executive's performance they need to also consider the performance of the wider team. Council needs to ensure that its expectations of the Chief Executive are documented and included in any agreed performance targets.

Whilst the Elected Members will have relationships with Council officers, it is important that each respect the other's role and responsibilities. Officers must be able to provide free and frank advice to Elected Members. It is Council officers who implement decisions, oversee projects and provide advice to Council. Staff are accountable to the Chief Executive and Elected Members (including the Mayor) cannot direct staff.

12 Remuneration and Employment Policy

Council is currently developing a Remuneration and Employment Policy.

13 Equal Employment Opportunities Policy

Kaipara District Council has a policy of equal employment opportunity for all workers and regards the identification and elimination of any discrimination and the provision of equal opportunities as essential principles in the management of its staff resources.

Council affirms this commitment through a policy of positive action by adopting constructive policies and practices for equal opportunities in all aspects of employment, including recruitment and selection, training and development, education, career path planning and promotions. The objective of this policy is to ensure that for any given position the best available person gets the job.

14 Key approved planning and policy documents

14.1 Long Term Plan

This represents the directions being set for the district's future. It is put together by Council with the assistance of the community and other organisations. It outlines the communities' expectations and describes how Council in partnership with Government agencies and other organisations will work to achieve these. Council's corporate and financial policies, as follows, are contained in the Long Term Plan: Significance and Engagement Policy, Policy on Development, Accounting Policies, Treasury Policies, Liability Management Policy, Investment Policy, Revenue and Financing Policy, Rating Policies and Funding Impact Statement.

14.2 District Plan

The District Plan was prepared under the Resource Management Act 1991 and sets out Council's objectives, policies and rules in relation to land use and subdivision activities in the Kaipara district.

14.3 Annual Plan

The Annual Plan is Council's committed level of activity, expenditure and service to the community. It specifies the activities that will be carried out during the year, toward achieving the goals and objectives of the Long Term Plan, how much this work will cost, the targets for the year and the measures that will be used to determine whether the targets have been met.

14.4 Annual Report

The Annual Report sets out Council's achievements and reports on whether the targets forecast in the Annual Plan were reached. An Annual Report is required to be prepared and audited every year.

14.5 Asset Management Plans

Council has prepared Plans which provide the framework for maintaining Council's physical assets (i.e. roading, water supply, stormwater, wastewater, community amenities, recreational facilities etcetera). They define the level of service that will be provided and identify the sources and amount of funding required.

14.6 Civil Defence Plan

All territorial authorities are required to have an Operative Plan dealing with district civil defence matters.

14.7 Fire Plan

As part of its responsibilities as the rural fire authority Council is required to prepare a Fire Plan. Part One of the Plan covers operational matters (updated annually) such as resources and staff while Part Two deals with administrative issues.

14.8 Kai Iwi Lakes (Taharoa Domain) Reserve Management Plan

Council is responsible for administering the Kai Iwi Lakes (Taharoa Domain) on behalf of the Crown. The Plan sets out how the governance, operational management and future development of the Domain will be undertaken on an ongoing basis.

14.9 Reserves and Open Space Strategy (ROSS)

The Reserves and Open Space Strategy (ROSS) identifies opportunities and recommends actions to achieve the desired reserves and open space within the district along with a policy framework for the different types of reserves and open spaces.

Copies of the key approved planning and policy documents (and the process for their development and review) may be obtained from the Council Customer Service Centre or from the website www.kaipara.govt.nz.

15 Public access to Council and its Elected Members

Contact details for Mayor and Councillors can be found on the Kaipara District Council website www.kaipara.govt.nz.

Requests for Council services should be made directly to the relevant Council department by calling 0800 727 059.

Council meetings are held in public and the times and venues for these are advertised on Council's website and in local newspapers.

16 Process for requests for official information

Under the Local Government Official Information and Meetings Act 1987 (LGOIMA) any person may request information from Council. Any request for information is a request made under LGOIMA. You do not have to say you are making a request under LGOIMA.

Once a request is made Council must supply the information unless reason exists for withholding it. LGOIMA says that information may be withheld if release of the information would:

- endanger the safety of any person;
- prejudice maintenance of the law;
- compromise the privacy of any person;
- reveal confidential or commercially sensitive information;
- cause offence to tikanga Maori or would disclose the location of waahi tapu;
- prejudice public health or safety;
- compromise legal professional privilege;
- disadvantage the local authority while carrying out negotiations or commercial activities.

Council must answer requests within 20 working days (although there are certain circumstances where this timeframe may be extended). Council may charge for official information under guidelines set down by the Ministry of Justice.

In the first instance you should address requests for official information to:

- Chief Executive, Kaipara District Council, Private Bag 1001, Dargaville 0340

17 Appendices

Appendix 1 Comprehensive List of Legislation

Appendix 2 Committee Terms of Reference

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Kaipara District Council – Listing of Legislation**Public General Acts of New Zealand**

There are many general Acts of Parliament that confer powers on the Kaipara District Council and regulate its functions, duties and responsibilities. The most significant of these are as follows:

Building Act 2004

Building Research Levy Act 1969

Burial and Cremation Act 1964

Bylaws Act 1910

Citizenship Act 1977

Civil Defence Emergency Management Act 2002 (Lifelines)

Climate Change Response Act 2002

Construction Contracts Act 2002

Consumer Guarantees Act 1993

Copyright Act 1994

Disputes Tribunal Act 1988

Dog Control Act 1996

Electoral Act 1993

Electricity Act 1992

Employment Relations Act 2000

Energy Efficiency and Conservation Act 2000

Fair Trading Act 1986

Fencing Act 1978

Fencing of Swimming Pools Act 1987

Financial Reporting Act 2013

Fire Services Act 1975

Food Act 2014

Forest and Rural Fires Act 1977

Gambling Act 2003

Gas Act 1992

Goods and Services Tax Act 1985

Hazardous Substances and New Organisms Act 1996

Health Act 1956

Health (Drinking Water) Amendment Act 2007 (an amendment of the Health Act 1956)

Health and Safety at Work Act 2015

Heritage New Zealand Pouhure Taonga Act 2014

Holidays Act 2003

Human Rights Act 1993

Impounding Act 1955

Income Tax Act 2007

Insolvency Act 2006
Kaipara District Council (Validation of Rates and Other Matters) Act 2013
KiwiSaver Act 2006
Land Drainage Act 1908
Land Transfer Act 1952
Land Transport Act 1998
Land Transport Management Act 2003
Land Transport (Road Safety and Other Matters) Amendment Act 2011
Litter Act 1979
Local Authorities (Members' Interests) Act 1968
Local Electoral Act 2001
Local Government Act 1974
Local Government Act 2002
Local Government Act 2002 Amendment Act 2012
Local Government (Financial Reporting and Prudence) Regulations 2014
Local Government Official Information and Meetings Act 1987
Local Government (Rating) Act 2002
Major Events Management Act 2007
Mangawai Lands Empowering Act 1966 (sic)
Minimum Wage Act 1983
Municipal Insurance Act 1960
New Zealand Library Association Act 1939
Parental Leave and Employment Protection Act 1987
Plumbers, Gasfitters, and Drainlayers Act 2006
Postal Services Act 1998
Privacy Act 1993
Property Law Act 2007
Protected Disclosures Act 2000
Public Audit Act 2001
Public Bodies Contracts Act 1959
Public Records Act 2005
Public Works Act 1981
Rates Rebate Act 1973
Rating Valuations Act 1998
Reserves Act 1977
Resource Management Act 1991
Resource Management Infringement Offences Regulations 1999
River Boards Act 1908
Sale and Supply of Alcohol Act 2012
Sale of Goods Act 1908
Soil Conservation and Rivers Control Act 1941

Smoke-free Environments Act 1990

Tax Administration Act 1994

Telecommunications Act 2001

Trespass Act 1980

Utilities Access Act 2010

Wages Protection Act 1983

Walking Access Act 2008

Waste Minimisation Act 2008

Wild Animal Control Act 1977

Wildlife Act 1953



KAIPARA DISTRICT COUNCIL

Kaipara District Council

Committee Terms of Reference

19 March 2018

draft

draft

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1 Governance Structure

This document sets out the Terms of Reference for Committees of Kaipara District Council. The Governance Structure is developed in accordance with the provisions and requirements of the Local Government Act 2002.

2 Role of the Mayor

Section 41A of the Local Government Act 2009 confers a number of powers and responsibilities to the Mayor. The Mayor may:

- Define and promote a vision for the advancement of Kaipara and the people of Kaipara, and to provide leadership to achieve that vision;
- Lead the development of Council plans, policies and budgets (including the Annual Plan and Long Term Plan) for consideration by Council;
- Ensure effective engagement between Council and the people of Kaipara;
- Appoint the Deputy Mayor;
- Establish Committees of the governing body (Council) and appoint the Chair for each of those committees; and
- Be an ex-officio member of all Committees of Council.

3 Role of Committees

Council cannot delegate any of the following matters to committees, subcommittees or any other subordinate decision-making body (Clause 32(1)(a)-(h) of Schedule 7 of the Act):

- (a) the power to make a rate;
- (b) the power to make a bylaw;
- (c) the power to borrow money, or purchase or dispose of assets, other than in accordance with the Long Term Plan;
- (d) the power to adopt a Long Term Plan, Annual Plan or Annual Report;
- (e) the power to appoint a chief executive;
- (f) the power to adopt policies required to be adopted and consulted on under the Local Government 2002 in association with the Long Term Plan or developed for the purpose of the Local Governance Statement;
- (g) (Repealed); and
- (h) the power to adopt a remuneration and employment policy.

4 Ambiguity and Conflict

For clarity, matters that are not delegated by Council to a committee or another subordinate decision-making body, or to the Chief Executive or other Council officer, are to be determined by Council.

In the event of uncertainty or dispute as to which Committee is authorised to act in respect of a particular matter, due to ambiguity or conflict between the provisions of the Terms of Reference, the Chief Executive will prepare a written report on the matter for Council's consideration. The decision of Council will be final and binding.

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5 Committees Terms of Reference

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Reserve Contributions Committee Terms of Reference	23
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Audit, Risk and Finance Committee Terms of Reference

Reports to:	Full Council
Chair:	Stana Pezic (external appointee)
Membership:	Councillors Victoria del la Varis-Woodcock, Julie Geange, Jonathan Larsen, Andrew Wade and Peter Wethey
Meeting frequency:	Four times a year
Quorum:	Four

Purpose

To oversee the risk management and internal control, audit functions, financial and other external corporate reporting and compliance with legislation.

To monitor Council's financial performance against the Long Term Plan and Annual Plan.

Responsibilities

Audit

- Agree audit scope with Management;
- Input into audit scope to the external auditor;
- Consider the audit management letter and take appropriate actions.

Risk

- Ensure a comprehensive risk management framework is in place and operates effectively;
- Identify and monitor risks associated with legislative compliance.

Finance

- Advising and supporting the development of the Long Term Plan and Annual Plan;
- Financial Policies;
- Monitoring the financial performance of Council and recommending actions;
- Recommending the Annual Report to Council.

Delegations

- The Committee makes recommendations to the full Council;
- All necessary powers to meet its responsibilities.

Membership review

Annually.

Communications

- The Committee Chair is the authorised spokesman for the Committee in all matters where the Committee has a particular interest;
- Committee members, including the Chair, do not have delegated authority to speak to the media on behalf of Council on matters outside the Committee's interest;
- Council's Governance, Strategy and Democracy Team will manage and support formal communications between the Committee and Council, and for the Committee in the exercise of its business.

Conduct

The Committee shall conduct its affairs in accordance with the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, the Local Authorities (Members Interest) Act 1968 and Kaipara District Council's Standing Orders and Code of Conduct.

Remuneration

Elected members will be reimbursed in accordance with the determination set by the Remuneration Authority under s255(5) and clause 18 of Schedule 15 of the Local Government Act 2002 and Council's Current Elected Members Expenses Policy.

Funding and budgets

Funding for the Committee will align with Council's Annual and Long Term Plans.

Citizens Awards Committee Terms of Reference

Reports to:	Full Council
Chair:	Mayor Jason Smith
Membership:	Councillors Julie Geange, Libby Jones and Karen Joyce-Paki (2018 round)
Meeting frequency:	Once a year
Quorum:	Three

Purpose

To assess nominations in accordance with the Citizens Awards Policy and decide on recipients of Kaipara District Council's Citizens Awards.

Responsibilities

To grant Citizens Awards to residents of the Kaipara district in accordance with Council policy.

Delegations

The Committee has full delegation to grant Citizens Awards.

Membership review

At the start of each calendar year the Ward Councillors will be replaced by another Councillor from the same Ward, until all Councillors have been on the Committee. The rotation will then begin again.

Communications

- The Committee Chair is the authorised spokesman for the Committee in all matters where the Committee has a particular interest;
- Committee members, including the Chair, do not have delegated authority to speak to the media on behalf of Council on matters outside the Committee's interest;
- Council's Governance, Strategy and Democracy Team will manage and support formal communications between the Committee and Council, and for the Committee in the exercise of its business.

Conduct

The Committee shall conduct its affairs in accordance with the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, the Local Authorities (Members Interest) Act 1968 and Kaipara District Council's Standing Orders and Code of Conduct.

Remuneration

Elected members will be reimbursed in accordance with the determination set by the Remuneration Authority under s255(5) and clause 18 of Schedule 15 of the Local Government Act 2002 and Council's Current Elected Members Expenses Policy.

Funding and budgets

Funding for the Committee will align with Council's Annual and Long Term Plans.

draft

Community Grants Committee Terms of Reference

Reports to:	Full Council
Chair:	Councillor Anna Curnow
Membership:	Councillors Jonathan Larsen and Andrew Wade (commencing April 2018)
Meeting frequency:	As necessary
Quorum:	Two

Purpose

To consider applications for Community Assistance Grants and Contracts for Service and make recommendations to Council. To also ensure the policy is fit for purpose and make recommendations to Council as necessary.

Responsibilities

- Ensure that expenditure for grants and Contracts for Service are in keeping with Council policy;
- Assessing applications and allocating funds according to the policy.
- Reviewing the policy after each triennial local body election.

Delegations

Distribute the available amount for grants in accordance with policy guidelines.

Membership

A Councillor from each Ward, rotated on an annual basis.

Communications

- The Committee Chair is the authorised spokesman for the Committee in all matters where the Committee has a particular interest;
- Committee members, including the Chair, do not have delegated authority to speak to the media on behalf of Council on matters outside the Committee's interest;
- Council's Governance, Strategy and Democracy Team will manage and support formal communications between the Committee and Council, and for the Committee in the exercise of its business.

Conduct

The Committee shall conduct its affairs in accordance with the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, the Local Authorities (Members Interest) Act 1968 and Kaipara District Council's Standing Orders and Code of Conduct.

Remuneration

Elected members will be reimbursed in accordance with the determination set by the Remuneration Authority under s255(5) and clause 18 of Schedule 15 of the Local Government Act 2002 and Council's Current Elected Members Expenses Policy.

Funding and budgets

Funding for the Committee will align with Council's Annual and Long Term Plans.

draft

District Licensing Committee Terms of Reference

Reports to:	Full Council
Chair:	Mark Farnsworth
Membership:	Gordon Lambeth, Mark Vincent
Meeting frequency:	As required
Quorum:	Uncontested applications can be considered by the Chair alone. Where applications require a full hearing three members are required.

Purpose

To administer Council's alcohol licensing framework as determined by the Sale and Supply of Alcohol Act 2012 (the Act).

Responsibilities

- To consider and determine applications for:
 - Licences and Manager's certificates;
 - Temporary authority to carry out the sale and supply of alcohol;
 - Variation, suspension or cancellation of licences;
 - Implementing the Kai Iwi Lakes (Taharoa Domain) Reserve Management Plan.
- To provide an annual report to Kaipara District Council and the Alcohol Regulatory and Licensing Authority on its functions as prescribed by legislation.

Delegations

To make decisions on applications and renewals with reference to the Sale and Supply of Alcohol Act 2012.

Membership review

List members are appointed by the Chief Executive on the recommendation of Kaipara District Council. The current appointee's terms expire in 2020. Other members can be appointed to the list at any time in accordance with the Act.

Communications

- The Committee Chair is the authorised spokesman for the Committee in all matters where the Committee has a particular interest.
- Committee members, including the Chair, do not have delegated authority to speak to the media on behalf of Council on matters outside the Committee's interest.

- Council's Governance, Strategy and Democracy Team will manage and support formal communications between the Committee and Council, and for the Committee in the exercise of its business.

Conduct

The Committee shall conduct its affairs in accordance with the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, the Local Authorities (Members Interest) Act 1968 and Kaipara District Council's Standing Orders and Code of Conduct.

Remuneration

- Elected members will be reimbursed in accordance with the determination set by the Remuneration Authority under s255(5) and clause 18 of Schedule 15 of the Local Government Act 2002 and Council's Current Elected Members Expenses Policy.
- External members will be remuneration in accordance with s195 of the Sale and Supply of Alcohol Act 2012.

Funding and budgets

Funding for the Committee will align with Council's Annual and Long Term Plans.

Funding Committee Terms of Reference

Reports to:	Full Council
Chair:	<i>Creative Communities Scheme:</i> Allan Mortensen
	<i>Rural Travel Fund:</i> Chris Biddles
Membership:	<i>Creative Communities Scheme:</i> Councillor Victoria del la Varis-Woodcock, Nicola Everett, Ollie Knox, and John Pickworth
	<i>Rural Travel Fund:</i> Councillor Victoria del la Varis-Woodcock, Roxanne Kelly, Karen Smales and Vern Stevens
Meeting frequency:	Four times a year
Quorum:	Three

Purpose

- Allocate funding in accordance with the Creative New Zealand Creative Communities Scheme;
- Allocate funding in accordance with the Sport NZ Rural Travel Fund Scheme.

Responsibilities

- Assess applications for funding in line with local priorities and criteria established by the funder;
- Ensure accountability for the funds expended by applicants and that all funds are accounted for.

Delegations

- Administer the Creative Communities Scheme and decide on allocations twice a year;
- Administer the Rural Travel Fund and decide on allocations twice a year.

Membership review

Annual review of community list representatives.

Communications

- The Committee Chair is the authorised spokesman for the Committee in all matters where the Committee has a particular interest.
- Committee members, including the Chair, do not have delegated authority to speak to the media on behalf of Council on matters outside the Committee's interest.

- Council's Governance, Strategy and Democracy Team will manage and support formal communications between the Committee and Council, and for the Committee in the exercise of its business.

Conduct

The Committee shall conduct its affairs in accordance with the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, the Local Authorities (Members Interest) Act 1968 and Kaipara District Council's Standing Orders and Code of Conduct.

Remuneration

Elected members will be reimbursed in accordance with the determination set by the Remuneration Authority under s255(5) and clause 18 of Schedule 15 of the Local Government Act 2002 and Council's Current Elected Members Expenses Policy.

Funding and budgets

Funding for the Committee will align with Council's Annual and Long Term Plans.

draft

Harding Park Committee Terms of Reference

Reports to:	Full Council
Chair:	Rex Nathan
Membership:	Hal Harding, Mathew Wati and Willie Wright Councillors Victoria del la Varis-Woodcock and Karen Joyce-Paki
Meeting frequency:	Four times a year
Quorum:	Three

Purpose

To work alongside the Pou Tu Te Rangi Joint Management Committee as established by Te Uri o Hau Claims Settlement Act 2002 to manage the Pou Tu Te Rangi, Harding Park and Old Mount Wesley Cemetery Reserve area.

Responsibilities

- Implementing the Reserve Management Plan;
- Managing any financial resources of the Reserve;
- Managing and maintaining any Licences to Occupy in accordance with the Reserve Management Plan;
- Setting the Annual Works Programme;
- Meeting as a Joint Committee with the Pou Tu Te Rangi Joint Management Committee.

Delegations

- Making recommendations to the full Council for any policies or developments required;
- Administering any bylaw or regulation associated with the Park.

Membership

- The membership of the Harding Park Committee is the same as the members of the Pou Tu Te Rangi Joint Management Committee. The membership is three members nominated by Te Uri o Hau Settlement Trust and three appointed by Kaipara District Council, of which two must be Councillors.

- The Chair of the Harding Park Committee will be the same as the Chair of the Pou Tu Te Rangi Joint Management Committee and must be one of the Te Uri o Hau appointees.
- Membership will be reviewed after each triennial local body election.

Communications

- The Committee Chair is the authorised spokesman for the Committee in all matters where the Committee has a particular interest;
- Committee members, including the Chair, do not have delegated authority to speak to the media on behalf of Council on matters outside the Committee's interest;
- Council's Governance, Strategy and Democracy Team will manage and support formal communications between the Committee and Council, and for the Committee in the exercise of its business.

Conduct

The Committee shall conduct its affairs in accordance with the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, the Local Authorities (Members Interest) Act 1968 and Kaipara District Council's Standing Orders and Code of Conduct.

Remuneration

Elected members will be reimbursed in accordance with the determination set by the Remuneration Authority under s255(5) and clause 18 of Schedule 15 of the Local Government Act 2002 and Council's Current Elected Members Expenses Policy.

Funding and budgets

Funding for the Committee will align with the Council's Annual and Long Term Plans.

Independent Hearings Commissioners' Panel Terms of Reference

Reports to:	Full Council
Chair:	As appropriate
Membership:	The number is determined as appropriate from Philip Brown, Michael Campbell, Mark Farnsworth, David Hill, Greg Hill, Bronwyn Hunt, William Kapea, Michael Lester, Burnette O'Connor, Les Simmons, Bill Smith and Alan Watson
Meeting frequency:	As required

Purpose

To undertake certain hearings under the Resource Management Act 1991(RMA).

Responsibilities

- The power to hear and decide any of the following RMA matters:
 - Application for a resource consent or change to conditions of resource consent;
 - Notice of objection;
 - Notice of requirement to designate land and alter a designation; for a heritage order or alteration to.
- The power to exercise all procedural powers under the RMA relevant to the matter to be heard from the date selection is confirmed until the final decision is delivered.

Delegations

- All decisions relating to the RMA are delegated to the panel as established;
- Decisions are reported to the next Council meeting for information.

Membership review

List members are appointed by resolution of Kaipara District Council and will be reviewed every three years as per Council resolution of 04 April 2017.

Communications

- The Committee Chair is the authorised spokesman for the Committee in all matters where the Committee has a particular interest.
- Committee members, including the Chair, do not have delegated authority to speak to the media on behalf of Council on matters outside the Committee's interest.

- Council's Governance, Strategy and Democracy Team will manage and support formal communications between the Committee and Council, and for the Committee in the exercise of its business.

Conduct

The Committee shall conduct its affairs in accordance with the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, the Local Authorities (Members Interest) Act 1968 and Kaipara District Council's Standing Orders and Code of Conduct.

Remuneration

Panel members are paid by arrangement with Kaipara District Council.

Funding and budgets

Funding for the Committee will align with Council's Annual and Long Term Plans.

draft

Mangawhai Community Park Governance Committee Terms of Reference

Reports to:	Full Council
Chair:	Councillor Anna Curnow
Membership:	Councillor Peter Wethey Maurice Langdon and Jim Wintle
Meeting frequency:	Four times a year
Quorum:	Three

Purpose

To govern Mangawhai Community Park in accordance with the Master Plan and work programme.

Responsibilities

- Implementing the Mangawhai Community Park Master Plan;
- Initiating a review of the Master Plan when appropriate but at least every 10 years;
- Negotiating terms and conditions with external organisations for the use of the Mangawhai Community Park, including all leases and Licences to Occupy;
- Submitting to the Annual Plan and Long Term Planning process.

Delegations

- Manage the financial affairs of the Mangawhai Community Park;
- Apply for funding from external sources for the enhancement of the Park;
- Administer any Kaipara District Council bylaw or regulation associated with the Park;
- Make recommendations to the Kaipara District Council for the development of policies, bylaws or other regulatory tools for the effective management of the Park.

Membership

Two Kaipara District Councillors, one community representative appointed by Kaipara District Council and the Chair of the Friends of Mangawhai Community Park.

Membership review

The Chair of the Friends of Mangawhai Community Park is re-appointed by the Friends on an annual basis.

Communications

- The Committee Chair is the authorised spokesman for the Committee in all matters where the Committee has a particular interest;
- Committee members, including the Chair, do not have delegated authority to speak to the media on behalf of Council on matters outside the Committee's interest;
- Council's Governance, Strategy and Democracy Team will manage and support formal communications between the Committee and Council, and for the Committee in the exercise of its business;
- Any member of the Committee may request a particular item be added to the Agenda through Council's General Manager Governance, Strategy and Democracy.

Conduct

The Committee shall conduct its affairs in accordance with the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, the Local Authorities (Members Interest) Act 1968 and Kaipara District Council's Standing Orders and Code of Conduct.

Remuneration

- Elected members will be reimbursed in accordance with the determination set by the Remuneration Authority under s255(5) and clause 18 of Schedule 15 of the Local Government Act 2002 and Council's Current Elected Members Expenses Policy;
- External members will be reimbursed their travel to and from duly called meetings of the Committee in line with Council's Current Elected Members Expenses Policy.

Funding and budgets

Funding for the Committee will align with Council's Annual and Long Term Plans.

Mangawhai Endowment Lands Account Committee Terms of Reference

Reports to:	Full Council
Chair:	Councillor Peter Wethey
Membership:	Councillors Libby Jones and Jonathan Larsen
Meeting frequency:	Once a year
Quorum:	Two

Purpose

To consider applications for grants from the Mangawhai Endowment Lands Account (MELA).

Responsibilities

- Ensure that expenditure for grants from MELA are in keeping with the Mangawhai Lands Empowering Act 1966 (sic);
- Assessing applications and allocating funds according to the policy for financial assistance.

Delegations

Distribute the available amount for grants in accordance with policy guidelines.

Membership

The three Otamatea Ward Councillors.

Communications

- The Committee Chair is the authorised spokesman for the Committee in all matters where the Committee has a particular interest;
- Committee members, including the Chair, do not have delegated authority to speak to the media on behalf of Council on matters outside the Committee's interest;
- Council's Governance, Strategy and Democracy Team will manage and support formal communications between the Committee and Council, and for the Committee in the exercise of its business.

Conduct

The Committee shall conduct its affairs in accordance with the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, the Local Authorities (Members Interest) Act 1968 and Kaipara District Council's Standing Orders and Code of Conduct.

Remuneration

Elected members will be reimbursed in accordance with the determination set by the Remuneration Authority under s255(5) and clause 18 of Schedule 15 of the Local Government Act 2002 and Council's Current Elected Members Expenses Policy.

Funding and budgets

Funding for the Committee will align with Council's Annual and Long Term Plans.

draft

Raupo Drainage Committee Terms of Reference

Reports to:	Full Council
Chair:	Ian Beattie
Membership:	David Hart, Greg Gent, Brian Madsen, Ross McKinley and Ken Whitehead Mayor Jason Smith and Councillor Anna Curnow
Meeting frequency:	Four times a year
Quorum:	Four, one of which must be a Council representative

The Raupo Drainage Committee was established under the 1989 Reorganisation Order to provide Governance of the Drainage District. It is a co-governance Committee between Council and ratepayers.

Purpose

Drainage, stopbanks and flood protection governance in the Raupo Drainage District.

Responsibilities

- Advise Council on the work programme for land drainage maintenance;
- Create a contact point for land drainage issues;
- Feedback between ratepayers combine with above;
- Input into the Asset Management Plan.

Delegations

- To review and make recommendations on a proposed annual work programme and budget;
- To recommend any policy development with regard to Raupo land drainage.

Membership review

- Ratepayer representatives are elected prior to each triennial local body election;
- If a vacancy occurs in the ratepayer representatives then the Committee can co-op an eligible ratepayer for the rest of the term.

Communications

- The Committee Chair is the authorised spokesman for the Committee in all matters where the Committee has a particular interest'
- Committee members, including the Chair, do not have delegated authority to speak to the media on behalf of Council on matters outside the Committee's interest;
- Council's Governance, Strategy and Democracy Team will manage and support formal communications between the Committee and Council and for the Committee in the exercise of its business;
- Any member of the Committee may request a particular item be added to the Agenda through Council's General Manager Governance, Strategy and Democracy.

Conduct

The Committee shall conduct its affairs in accordance with the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, the Local Authorities (Members Interest) Act 1968 and Kaipara District Council's Standing Orders and Code of Conduct.

Remuneration

- Elected members will be reimbursed in accordance with the determination set by the Remuneration Authority under s255(5) and clause 18 of Schedule 15 of the Local Government Act 2002 and Council's Current Elected Members Expenses Policy.
- External members will be reimbursed their travel to and from duly called meetings of the Committee on the same basis as the Elected Members Expenses Policy.

Funding and budgets

Funding for the Committee will align with Council's Annual and Long Term Plans.

Remuneration and Development Committee Terms of Reference

Reports to:	Full Council
Chair:	Mayor Jason Smith
Membership:	Councillors Anna Curnow, Libby Jones, Andrew Wade and Peter Wethey
Meeting frequency:	Twice a year
Quorum:	Three

Purpose

To oversee the Chief Executive's performance and to make recommendations on Councillor Development.

Responsibilities

- Agree with the Chief Executive the annual performance objectives;
- Conduct the performance review required in the Chief Executive's employment agreement;
- Represent Council in regard to any issues which may arise in respect to the Chief Executive's job description, performance objectives or other matters;
- Oversee any recruitment and selection process for a Chief Executive and make recommendations to Council;
- Oversee any development needs for Councillors and agree annual training plans to achieve these.

Delegations

- The Committee makes recommendations to the full Council;
- The Committee can request expert advice to assist in any matters under consideration.

Membership review

Annually.

Communications

- The Committee Chair is the authorised spokesman for the Committee in all matters where the Committee has a particular interest;
- Committee members, including the Chair, do not have delegated authority to speak to the media on behalf of Council on matters outside the Committee's interest;

- Council's Governance, Strategy and Democracy Team will manage and support formal communications between the Committee and Council, and for the Committee in the exercise of its business.

Conduct

The Committee shall conduct its affairs in accordance with the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, the Local Authorities (Members Interest) Act 1968 and Kaipara District Council's Standing Orders and Code of Conduct.

Remuneration

Elected members will be reimbursed in accordance with the determination set by the Remuneration Authority under s255(5) and clause 18 of Schedule 15 of the Local Government Act 2002 and Council's Current Elected Members Expenses Policy.

Funding and budgets

Funding for the Committee will align with Council's Annual and Long Term Plans.

draft

Reserve Contributions Committee Terms of Reference

Reports to:	Full Council
Chair:	Councillor Jonathan Larsen
Membership:	Councillors Victoria del la Varis-Woodcock and Andrew Wade
Meeting frequency:	As necessary
Quorum:	Two

Purpose

To review Council's 'Reserve Contributions (use of) Policy' adopted in December 2014, for Council to consider before the 2018/2028 Long Term Plan. Council collects financial contributions in accordance with the District Plan provisions and reserve contributions are a subset of these. The use of the expenditure of these contributions is governed by the Resource Management Act.

Responsibilities

- Review the existing policy to re-establish priorities for the use of reserve contributions;
- Provide guidance for the programme of works that will be in the Long Term Plan and each Annual Plan thereafter;
- Consider a set of overarching principles against which reserve contribution funds will be allocated;
- Make any additional recommendations on other policies that may need to be considered to manage the impacts of any recommended changes to the use of reserve contributions.

Delegations

The Committee will make recommendations to Full Council.

Membership

Three Councillors appointed by the Mayor.

Communications

- The Committee Chair is the authorised spokesman for the Committee in all matters where the Committee has a particular interest;
- Committee members, including the Chair, do not have delegated authority to speak to the media on behalf of Council on matters outside the Committee's interest;

- Council's Governance, Strategy and Democracy Team will manage and support formal communications between the Committee and Council, and for the Committee in the exercise of its business.

Conduct

The Committee shall conduct its affairs in accordance with the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, the Local Authorities (Members Interest) Act 1968 and Kaipara District Council's Standing Orders and Code of Conduct.

Remuneration

Elected members will be reimbursed in accordance with the determination set by the Remuneration Authority under s255(5) and clause 18 of Schedule 15 of the Local Government Act 2002 and Council's Current Elected Members Expenses Policy.

Funding and budgets

Funding for the Committee will align with Council's Annual and Long Term Plans.

draft

Taharoa Domain Governance Committee Terms of Reference

Reports to:	Full Council
Chair:	Councillor Andrew Wade
Membership:	Councillor Karen Joyce-Paki Ric Parore and Alan Nesbitt
Meeting frequency:	Four times a year
Quorum:	Three

Purpose

To govern Taharoa Domain in accordance with the Kai Iwi Lakes (Taharoa Domain) Reserve Management Plan (RMP) and any legislative framework.

Responsibilities

- Implementing the RMP;
- Initiating a review of the Master Plan for the Domain when appropriate but at least every 10 years;
- Meeting all statutory requirements associated with the management and administration of the Domain;
- Submitting to the Annual Plan and Long Term Planning process;
- Monitoring the natural environment at Taharoa Domain and the Kai Iwi Lakes and reporting any issues or concerns to Council;
- Overseeing the management of the Kai Iwi Lakes camp grounds;
- Agreeing terms and conditions with external organisations for the use of the Domain.

Delegations

- Manage the financial affairs of the Taharoa Domain;
- Apply for funding from external sources for the enhancement of the Domain;
- Administer any Kaipara District Council bylaw or regulation associated with the Domain;
- Make recommendations to the Kaipara District Council for the development of policies, bylaws or other regulatory tools for the effective management of the Domain.

Membership

Two Kaipara District Councillors, one representative appointed by Te Roroa and one representative appointed by Te Kuihi.

Communications

- The Committee Chair is the authorised spokesman for the Committee in all matters where the Committee has a particular interest;
- Committee members, including the Chair, do not have delegated authority to speak to the media on behalf of Council on matters outside the Committee's interest;
- Council's Governance, Strategy and Democracy Team will manage and support formal communications between the Committee and Council, and for the Committee in the exercise of its business.

Conduct

The Committee shall conduct its affairs in accordance with the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, the Local Authorities (Members Interest) Act 1968 and Kaipara District Council's Standing Orders and Code of Conduct.

Remuneration

- Elected members will be reimbursed in accordance with the determination set by the Remuneration Authority under s255(5) and clause 18 of Schedule 15 of the Local Government Act 2002 and Council's Current Elected Members Expenses Policy;
- External members will be reimbursed their travel to and from duly called meetings of the Committee in line with Council's Current Elected Members Expenses Policy.

Funding and budgets

Funding for the Committee will align with Council's Annual and Long Term Plans.

Working Group

Planning and Regulatory Working Group Terms of Reference

Reports to:	Full Council
Chair:	Councillor Peter Wethey
Members:	Councillors Anna Curnow and Jonathan Larsen
Meeting frequency:	Quarterly, and as required
Quorum:	Two members

Purpose

- To review the process for appointing Independent Commissioners and provide advice and feedback on regulatory, planning and policy related matters.

Responsibilities

- Develop a policy with regards to appointment of Independent Commissioners;
- Assess and provide advice and feedback on regulatory matters;
- Assess and provide advice and feedback on district planning and policy matters;
- Make any other recommendations to Council, as required.

Delegations

- The working group will make recommendations to full Council for adoption.

Conduct

The working group shall conduct its affairs in accordance with the Local Government Act 2002, the Local Government Official Information and Meetings Act 1987, the Local Authorities (Members Interest) Act 1968 and Kaipara District Council's Code of Conduct.

Remuneration

Elected members will be reimbursed in accordance with the determination set by the Remuneration Authority under s255(5) and clause 18 of Schedule 15 of the Local Government Act 2002 and Councils Current Elected Members Expenses Policy.

Funding and budgets

Funding for the working group will align with Council's Revenue and Financing Policy.

draft

6.7 Code of Conduct Elected Members: March 2018 update

Acting Chief Executive 1203.01

Recommended

That Kaipara District Council:

- 1 *Receives the Acting Chief Executive's report 'Code of Conduct Elected Members: March 2018 update' dated 20 March 2018; 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 amended Code of Conduct Elected Members dated 19 March 2018 (circulated as Attachment 1 to the above-mentioned report); and*
- 4 *Instructs the General Manager Governance, Strategy and Democracy to update all published versions of the Code and all references to it made in other Council documents.*

File number: 1203.01 **Approved for agenda**
Report to: Council
Meeting date: **28 March 2018**
Subject: **Code of Conduct Elected Members: March 2018 update**
Date of report: 20 March 2018
From: Peter Tynan, Acting Chief Executive
Report purpose **Decision** **Information**
Assessment of significance **Significant** **Non-significant**

Summary

The 'Code of Conduct Elected Members' was adopted by Council in December 2016. As part of an ongoing review of Council's policies and processes a number of errors, omissions and inconsistencies have been identified with this Code. These issues would effectively make the Code unable to be implemented if it needed to be used, and this report has been prepared to rectify that situation. Amendments to the Code require a resolution supported by 75% of the members of Council present at the meeting.

Recommendation

That Kaipara District Council:

- 1 *Receives the Acting Chief Executive's report 'Code of Conduct Elected Members: March 2018 update' dated 20 March 2018; 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 amended Code of Conduct Elected Members dated 19 March 2018 (circulated as Attachment 1 to the above-mentioned report); and*
- 4 *Instructs the General Manager Governance, Strategy and Democracy to update all published versions of the Code and all references to it made in other Council documents.*

Reason for the recommendation

The Code of Conduct Elected Members as currently adopted would not be able to be implemented if it was needed to be used. These recommendations resolve that problem.

Reason for report

Council adopted a Code of Conduct Elected Members on 13 December 2016. With a range of issues becoming apparent with Council policies and processes over recent months the Chief Executive initiated an ongoing review process to pro-actively identify issues before they created problems. The review is being progressed gradually and over time to fit within available resources. In advance of the March 2018 meeting of Council, officers reviewed Council's Committee Terms of Reference and the Code of Conduct Elected Members. This report deals with the latter review.

As a result of this review, officers have identified a number of omissions, errors and inconsistencies with the Code as it currently stands, largely related to the processes set out for applying the Code. Should a situation arise where the Code needed to be used and enforced, the deficiencies which have been identified with it would mean that this was difficult if not impossible. This is an inappropriate and potentially serious situation for Council to be in, and this report represented the first available opportunity to resolve these issues.

For the Code to be amended and adopted, a resolution supported by 75% or more of the members of Council present at the meeting is required (this provision is contained in both the Code itself and the Local Governance Statement). For the avoidance of doubt, the following table summarises the number of votes required to amend the Code of Conduct depending on the number of members present (above the quorum figure of five).

Number of members present	Minimum votes required to amend
5	4
6	5
7	6
8	6
9	7

Background

The Local Government Act 2002, Schedule 7 requires a local authority to adopt a Code of Conduct and that Elected Members of the local authority will comply with the Code.

The Code of Conduct must set out:

- Understandings and expectations adopted by the local authority about the manner in which Elected Members may conduct themselves while acting in their capacity as Elected Members, including:
 - behavior toward one another, Council staff, the Public and the media.

The Code also outlines practices in relation to the disclosure of information, including (but not limited to) the provision of any document to Elected Members that:

- is received by, or is in the possession of, an Elected Member in his/her capacity as an Elected Member; and
- relates to the ability of the local authority to give effect to any provision of the Local Government Act 2002.

The Code provides an explanation of the obligations on Elected Members under the Local Government Official Information and Meetings Act 1987 (LGOIMA) and any other Act or rule of law that applies to Elected Members.

The Code also sets out a process for the making of complaints against an Elected Member under it and the process through which such complaints are considered and deliberated upon. This is the area where the existing Code is deficient.

In developing solutions to the issues with the existing Code, officers reviewed the Elected Member Code

of Conducts of the following councils:

- Auckland Council (AC)
- Far North District Council (FNDC)
- Hamilton City Council (HCC)
- Tauranga City Council (TCC)
- Thames-Coromandel District Council (TCDC)
- Wellington City Council (WCC)

Issues

There are three main problems that have been identified with the existing Code that appear to have the effect of rendering it unusable and unenforceable. Specifically:

Process for making a complaint

Under the Code only Elected Members or the Chief Executive (CE) are able to make complaints under it. The Code also provides that complaints must be made in writing to the CE. Such an approach potentially involves the situation where the CE writes to themselves. Leaving aside the absurdity of such an approach, it is questionable whether the maker and receiver of a complaint being the same person is appropriate.

Further, it is questionable whether Council's principal administrative officer is the appropriate person to be receiving a complaint from an Elected Member about the behaviour of another Elected Member. It would be more appropriate that such a complaint was made to the elected leader of Council.

To rectify this issue, it is recommended that s13.2 Code be amended so that complaints are made to the Mayor (rather than the CE). In the situation where either the complaint is in relation to the behaviour of the Mayor, or is made by the Mayor, the proposed amendment provides that the complaint is made to the Deputy Mayor. In either case the Mayor, or Deputy, then works through the CE to have the complaint processed and investigated.

Under the proposed amendment s13.2 of the Code would state:

"13.2 Complaints

Complaints alleging a breach of the Code of Conduct can only be made by an Elected Member or by the Chief Executive. A complaint relating to another member must be addressed to the Mayor. If the Mayor is either the subject of the complaint or the complainant it must be addressed to the Deputy Mayor.

Any allegation of a breach of the Code must be in writing, make a specific allegation of a breach of the Code and provide corroborating evidence.

On receipt of a complaint the Mayor, working through the Chief Executive, must forward that complaint to an independent investigator for a preliminary assessment to determine whether the issue is sufficiently serious to warrant a full investigation."

This amendment is tracked in the **Attachment 1** version of the Code. To ensure internal consistency, consequential amendments have also been made to Appendix 2 ('Process for the determination and investigation of complaints'). These amendments are also tracked in the attachment.

Investigators

The current Code provides that “shortly after the start of the triennium” the CE will, in consultation with the Mayor, prepare a list of investigators for the purposes of undertaking a preliminary assessment. The Code goes on to state that the list may be prepared by the CE “specifically for his or her Council, prepare a list jointly with neighbouring councils or contract with an agency capable of providing appropriate investigators, such as EquiP”. Obviously the last alternative is inconsistent with the requirement of the CE to prepare a list. In Appendix 2 the policy requires the CE to “refer the complaint to an investigator selected from a panel agreed at the start of the triennium”. Again, there are inconsistencies in these provisions that, at the very least, would provide difficulties in applying the Code, and potentially could leave any process conducted under it open to challenge.

As currently written the Code makes no provisions for the list, or panel, to be adapted later in the triennium to reflect changes in circumstances or other developments of reference. The potential exists, therefore, for Council to have an out of date or unusable list (panel) with no means to rectify this. It is proposed to amend the Code to provide for an alternative to using the list constructed, or agency selected, at the beginning of the triennium.

The current Code explicitly mentions EquiP as a potential agency for providing investigators. EquiP is the business unit of Local Government New Zealand (LGNZ). It is inappropriate and unnecessary for a policy to refer to a specific, non-statutory organisation in this way and it is proposed that this reference be removed.

Under the recommended amendment footnote 2 of the Code reads:

“On behalf of the Council the Chief Executive, in consultation with the Mayor may, shortly after the start of the triennium, either: prepare in advance a list of independent investigators, or; engage a reputable agency capable of providing appropriate investigators. Alternatively, the Chief Executive may, in consultation with the Mayor (or Deputy Mayor if the complaint involves or was made by the Mayor) engage an appropriate person following receipt of the complaint.”

A consequential amendment to Appendix 2 (also tracked in the attached) is recommended to ensure internal consistency by removing reference to a “panel”.

During the review of this Code, officers could find no evidence of a list having been prepared or a contract having been entered into at the beginning of the triennium, once again meaning that the Code in its current form would be unusable. While the proposed amendment is intended to provide an option should a list become out of date during the triennium, it also creates a solution to the problem created by the fact that a list was not prepared “shortly after” the start of the triennium.

Penalties and Actions

Appendix 2 of the Code states that “the form of penalty that might be applied will depend on the nature of the breach and may include actions set out in s13.1 of this Code”. As it currently stands, however, s13.1 sets out the principles for a Code of Conduct complaint and makes no reference to penalties. The current Code, in fact, makes no mention of potential penalties at all. Again, given the reference in Appendix 2, this omission renders the Code unusable. To rectify this a new s14 of the Code is proposed (as below) with a consequential amendment to Appendix 2. The proposed “Penalties and Actions”

section is taken from the FNDC code, which has recently been updated, and is broadly consistent with similar provisions found in other councils' Codes.

“14 Penalties and actions

Where a complaint is determined to be material and referred to the Council the nature of any penalty or action will depend on the seriousness of the breach.

14.1 Material breaches

In the case of material breaches of this Code the Council, or a Committee with delegated authority, may require one of the following:

- *a letter of censure to the member;*
- *a request (made either privately or publicly) for an apology;*
- *a vote of no confidence in the member;*
- *removal of certain Council-funded privileges (such as attendance at conferences);*
- *Restricted entry to Council offices, such as no access to staff areas;*
- *limitation on any dealings with Council staff so that they are confined to the Chief Executive only;*
- *suspension from Committees or other bodies;*
- *an invitation for the member to consider resigning from the Council.*

A Council or Committee may decide that a penalty will not be imposed where a respondent agrees to one or more of the following:

- *attend a relevant training course; and/or*
- *work with a mentor for a period of time; and/or*
- *participate in voluntary mediation (if the complaint involves a conflict between two members);and/or*
- *tender an apology.*

The process is based on the presumption that the outcome of a complaints process will be made public unless there are grounds, such as those set out in LGOIMA, for not doing so.

14.2 Statutory breaches

In cases where a breach of the Code is found to involve regulatory or legislative requirements, the complaint will be referred to the relevant agency. For example:

- *breaches relating to members' interests (where members may be liable for prosecution by the Auditor-General under the Member's Interests Act);*
- *breaches which result in the Council suffering financial loss or damage (where the Auditor-General may make a report on the loss or damage under section 30 of the Local Government Act which may result in the member having to make good the loss or damage);*

- *breaches relating to the commission of a criminal offence which will be referred to the Police (which may leave the Elected Member liable for criminal prosecution)."*

Factors to consider

Community views

Communities justifiably expect Council to comply with its statutory requirements and to have up to date and usable policies, codes and procedures in place. Fulfilling such expectations is vital if Council is to maintain the confidence of its communities.

Policy implications

The decisions recommended in this report are not considered significant in terms of Council's Significance and Engagement Policy.

Financial implications

The decisions recommended in this report do not involve financial implications for Council.

Legal/delegation implications

The Local Government Act 2002 Schedule 7 requires a local authority to adopt a Code of Conduct and that Elected Members of the local authority will comply with the Code.

Options

Option A: Council adopts the Code of Conduct Elected Members as amended by the recommendations contained in this report.

Option B: Council does not adopt the Code of Conduct Elected Members with the amendments as recommended in this report and leaves the Code as it currently stands in place.

Assessment of options

The Mayor and Councillors are held accountable for their behaviour through the Code of Conduct, if this is to be effective the Code needs to be able to be applied and enforced.

Option B is the status quo. While the Code clearly and adequately sets out the standards and behaviours expected of Elected Members, omissions and inconsistencies raise questions as to whether it could actually be appropriately used to deal with a complaint. The existence of an unenforceable Code has the potential to impact negatively on the behaviour of Elected Members and reduce Council's standing with its communities

Option A rectifies the issues that have been identified with the existing Code meaning that, if necessary, it can be used to deal effectively and appropriately with a complaint.

Recommended option

The recommended option is **Option A**.

Next step

If recommended option is chosen:

- The Code of Conduct will be amended and published on Council's website and sent to all Elected Members for their information.
- The General Manager Governance, Strategy and Democracy will make all necessary consequential amendments to references to the Code in other Council documents.

Attachment

- Draft Code of Conduct Elected Members, dated 19 March 2018 (with proposed amendments tracked)

Code of Conduct Elected Members

19 March 2018

1 Background

The Local Government Act 2002 Schedule 7 requires a local authority to adopt a Code of Conduct and that Elected Members of the local authority will comply with the Code.

The Code of Conduct must set out:

- Understandings and expectations adopted by the local authority about the manner in which Elected Members may conduct themselves while acting in their capacity as Elected Members, including:
 - behaviour toward one another, Council staff, the Public and the news media.

The Code also outlines practices in relation to the disclosure of information, including (but not limited to) the provision of any document to Elected Members that:

- a) is received by, or is in the possession of, an Elected Member in his/her capacity as an Elected Member; and
- b) relates to the ability of the local authority to give effect to any provision of the Local Government Act 2002.

The Code also provides an explanation of the obligations on Elected Members under the Local Government Official Information and Meetings Act 1987 (LGOIMA) and any other Act or rule of law that applies to Elected Members.

Standing Orders apply principally to the conduct of meetings (Schedule 7 of the Local Government Act 2002, cl27). A question concerning the conduct of an Elected Member during a meeting should be dealt with at the meeting under the relevant provisions in the Standing Orders. Where it is not possible at a meeting to deal with a matter of conduct under Standing Orders the conduct may be raised under the Code.

The following governance principles (relevant to the Code of Conduct) are defined under the Local Government Act 2002 (s39):

- a) A local authority should ensure that the role of democratic governance of the community, and the expected conduct of Elected Members, is clear and understood by the Elected Members and the community.
- b) A local authority should ensure that the relationship between Elected Members and management of the local authority is effective and understood.

In summary, the objectives of a Code of Conduct are to set out:

- The conduct of Elected Members towards one another, staff and public;
- How information is disclosed;
- Legislation that applies to the actions of Elected Members;
- The relationship between Elected Members and management.



2 Key principles

2.1 Introduction

This Code of Conduct is based on a number of key principles. The principles underpin and guide these standards and may be used as an aid in interpreting the substantive provisions of the Code.

2.2 Council core values

Elected Members have a duty to act in accordance with the agreed Council Core Values being:

Integrity

- We will do what we say we will
- We will act with good intent
- We will do the right thing in the right way.

Teamwork

- We will work together
- We will support each other
- We will work as one organisation.

Delivering value

- We will seek to understand needs and deliver to them
- We will apply our skills and knowledge for the benefit of others.

2.3 General principles of good governance

Honesty and integrity

Elected Members have a duty to act honestly and with integrity at all times.

Public interest

Elected Members have a duty to serve the interests of the district as a whole. They must not act in order to gain or provide financial or other benefits for themselves, their families, friends or business interests.

Declare private interests

Elected Members must declare any private interests or personal benefits relating to their public duties and take steps to resolve any conflicts of interest in such a way that protects the public interest. This means fully disclosing actual or potential Conflicts of Interest; avoiding any financial or other obligation to any individual or organisation that might reasonably be thought to influence them in the performance of their duties.

Impartiality

Elected Members should make decisions on merit and in accordance with their statutory obligations when carrying out public business. This includes the making of appointments, awarding of contracts or recommending individuals for rewards or benefits.



Accountability

Elected Members are accountable to the public for their decisions and actions and should consider issues on their merits, taking into account the views of others. This means co-operating fully and honestly with the scrutiny appropriate to their particular office.

Openness

Elected Members should be as open as possible about their actions and those of Council and should be prepared to justify their actions.

Respect

Elected Members should treat others, including Council officers, with respect at all times. This means not using derogatory terms towards or about others including in all types of media, not misrepresenting the actions or statements of others, observing the rights of other people and treating people with courtesy.

Duty to uphold the law

Elected Members should uphold the law and, on all occasions, act in accordance with the trust the public places in them.

Stewardship

Elected Members should ensure that Council uses resources prudently and for lawful purposes and that Council maintains sufficient resources to meet its statutory obligations.

Leadership

Elected Members should promote and support these principles by example, and should always act in the best interests of the whole community.

3 Respective responsibilities

The Local Government Act 2002 envisages a clear separation of roles and responsibilities between Elected Members and management.

Members (Council as a Whole)

The Elected Members, acting as Council, are responsible for:

- Preparing and adopting the Long Term Plan (LTP), Annual Plan (AP) and Annual Report;
- The development and approval of Council strategies, policies, bylaws and plans;
- Setting rates;
- Monitoring and reviewing the performance of Council against its stated objectives and policies;
- Employing, overseeing and monitoring the Chief Executive.



Council can only act by a majority decision at meetings. Each Elected Member has one vote¹. With certain exceptions, the exercise of Council's powers can be delegated to Committees, sub-committees or to individual persons.

The Elected Members are accountable to electors through the ballot box. They have declared an oath that:

“They will faithfully and impartially, and according to their best skill and judgment, execute and perform in the interests of the Kaipara district, the statutory powers, authorities and duties vested in or imposed upon them as Elected Members of the Kaipara District Council.”

The Mayor

The Mayor is the head of the governing body of Kaipara District Council, providing leadership to other Elected Members and the organisation. They are one of the Elected Members and share the same collective responsibilities. The Mayor is the presiding Elected Member at meetings of Council and as such is responsible under Standing Orders for the orderly conduct of Council business at meetings.

The Mayor has no power to commit Council to any particular course of action except where specifically authorised to act under duly delegated authority.

The Office of the Mayor carries with it an element of community leadership. The leadership role frequently requires the Mayor to act as a community advocate, promoting the attributes of the community and representing its interests. Community leadership and advocacy will be more effective where it is carried out with the knowledge and support of Council.

Chief Executive

The Chief Executive (CE) is appointed by the governing body and is responsible for the implementation and management of Council's policies and objectives within the budgetary constraints established by Council. In terms of the Local Government Act 2002, the CE's responsibilities are:

- a) Implementing the decisions of Council.
- b) Providing advice to Elected Members.
- c) Ensuring that all functions, duties and powers delegated to the CE or to any person employed by Council or imposed or conferred by any Act, regulation or bylaw are properly performed and exercised.
- d) Ensuring the effective, efficient and economic management of the activities and planning of the local authority.
- e) Maintaining systems to enable effective, planning and accurate reporting of the financial and service performance of the local authority.
- f) Providing leadership to the staff of the local authority.
- g) Employing staff on behalf of the local authority (including negotiating terms of employment).

¹ With the exception of statutory deadlines or compliance where the Mayor or Chair will have a casting vote.



4 Confidential information

In the course of their duties Elected Members will occasionally receive information that may need to be treated as Confidential or Public Excluded. Confidential information includes information that officers have judged there is good reason to withhold under s6 and s7 of LGOIMA. This will often be information that is either commercially sensitive or is personal to a particular individual or organisation.

- The CE is responsible for the release of information under LGOIMA. Any confidential information will be clearly marked as Confidential or Public Excluded;
- Members must not use or disclose confidential information for any purpose other than the purpose for which the information was supplied to the Elected Member;
- Members should be aware that failure to observe these provisions will impede the performance of Council by inhibiting information flows and undermining public confidence in Council;
- Failure to observe these provisions may also expose Council to prosecution under the Privacy Act 1993 and/or civil litigation;
- Elected Members should also be aware that as Elected Members they are accountable to the public and that all official information held by themselves, whether on Council equipment or their own personal equipment, is subject to LGOIMA. Official information, if sought as part of a request, must be made available to the CE or nominee so that it can be assessed in terms of the requirements of the Act for possible release or eligibility to be withheld.

5 Relationships and behaviours

5.1 Relationships with other Elected Members

Elected Members will conduct their dealings with each other in ways that:

- maintain confidence in the office to which they have been elected;
- are open and honest;
- focus on issues rather than personalities;
- avoid aggressive, offensive or abusive conduct.

5.2 Relationships with Chief Executive and staff

The effective performance of Council also requires a high level of co-operation and mutual respect between Elected Members and staff. To ensure that level of co-operation and trust is maintained, Elected Members will:

- Recognise that the CE is the employer (on behalf of Council) of all Council employees, and as such only the CE or his/her delegated appointees may hire, dismiss, instruct or censure an employee;
- Make themselves aware of the obligations that Council and CE have as employers and observe those requirements at all times;



- Treat all employees with courtesy and respect (including the avoidance of aggressive, offensive or abusive conduct towards employees);
- Observe any guidelines that the CE puts in place regarding contact with employees;
- Not do anything that compromises, or could be seen as compromising, the impartiality of an employee;
- Avoid publicly criticising any employee in any way but especially in ways that reflect on the competence and integrity of the employee;
- Raise concerns about employees only with the CE and concerns about the CE only with the Mayor/Deputy Mayor present;
- Not seek to improperly influence staff in the normal undertaking of their duties.

Members should be aware that failure to observe the requirements of this section of the Code of Conduct may compromise Council's obligations to act as a good employer and may expose Council to civil litigation and audit sanctions.

5.3 Relationships with the community

Effective Council decision-making depends on productive relationships between Elected Members and the community at large.

Elected Members should ensure that individual citizens are accorded respect in their dealings with Council and have their concerns listened to and deliberated on in accordance with the requirements of the Local Government Act 2002 and other relevant legislation.

Elected Members should act in a manner that encourages and values community involvement in local democracy.

5.4 External and media communications

The media plays an important part in local democracy. In order to fulfil this role, the media needs access to accurate, timely information about the affairs of Council. From time to time, individual Elected Members will be approached to comment on a particular issue either on behalf of Council or as an Elected Member in their own right. This part of the Code deals with the rights and duties of Elected Members when speaking to the media on behalf of Council or in their own right.

Public statements representing Council policy or reporting decisions of Council will be made only with specific or general authority of Council and will clearly state the person's authority for making the statement on behalf of the Council.

The following rules apply for media contact on behalf of Council:

- The Mayor is the first point of contact for the official view of the governing body on any issue;
- The Mayor may refer any matter to the relevant Committee Chair or to another Commissioner;
- No other Elected Member may comment on behalf of the governing body without having first obtained the approval of the Mayor;



- The CE is authorised to make statements relating to any of the areas for which the CE has statutory responsibility;
- Department Managers may make factual statements relating to the functions of their departments;
- Otherwise the CE, Mayor or any Elected Member or Council officer may make specific statements on behalf of Council only with the specific authority of the relevant Council, Committee or sub-committee meeting.

Elected Members are free to express a personal view in the media at any time. When doing so, they should observe the following guidelines:

- Media comments must not state or imply that they represent the views of the governing body;
- Where an Elected Member is making a statement that is contrary to a governing body decision or policy, the Elected Member must not state or imply that his or her statements represent a majority view;
- Media comments must observe the other requirements of the Code of Conduct e.g. not disclose confidential information or compromise the impartiality or integrity of staff or be derogatory in respect of another Elected Member.

The CE, management and staff should not comment publicly on the performance of Council or Elected Members.

6 Conflicts Of Interest

It is a requirement of this Code of Conduct that Elected Members fully acquaint themselves with, and strictly adhere to, this section on Conflicts of Interest. There are two main classes of Conflict of Interest:

- A financial Conflict of Interest is where a decision or act of the governing body could reasonably give rise to an expectation of financial gain or loss by an Elected Member.
- A non-financial Conflict of Interest does not have a direct personal financial impact. It may arise from a personal relationship or involvement with a non-profit organisation or from conduct that indicates prejudice or pre-determination.

Elected Members need to familiarise themselves with the provisions of the Local Authorities (Members' Interests) Act 1968 which concerns financial interests and with other legal requirements concerning non-financial Conflicts of Interest.

It is an Elected Member's responsibility to declare Conflicts of Interest at Council meetings where matters in which they have any interest arise.

Elected Members are also required to make full and complete annual Declarations of Interest.

The Local Authorities (Member's Interest) Act 1968 provides that an Elected Member is disqualified from office or from election to office if that Elected Member is concerned or interested in contracts under which payments made by or on behalf of the local authority exceed \$25,000 in any financial year.



If any Elected Member is in any doubt as to whether or not a particular course of action (including a decision to take no action) raises a Conflict of Interest, the Elected Member should seek guidance from the CE immediately.

Elected Members may also contact the Office of the Auditor-General for guidance as to whether that Elected Member has a pecuniary interest. If there is a pecuniary interest, the Elected Member may seek an exemption from the Audit Office to allow that Elected Member to participate or vote on a particular issue in which they may have a pecuniary interest. The latter must be done before the discussion or vote. Elected Members must also seek approval from the Office of the Auditor-General for contractual payments to themselves, their spouses or their companies that exceed the \$25,000 annual limit. The CE can assist the Elected Member with this if requested.

Failure to observe the requirements of the Local Authorities (Members' Interests) Act 1968 could potentially invalidate the particular decision made, or the action taken, by Council. Failure to observe these requirements could also leave the Elected Member open to prosecution under the Local Authorities (Members' Interests) Act 1968. In the event of a conviction Elected Members can be ousted from office.

7 Ethics and public duty

Kaipara District Council seeks to promote the highest standards of ethical conduct amongst its Elected Members. The reputation of Council is dependent on Elected Members' conduct and the public perception of this conduct.

Elected Members should not influence, or attempt to influence, any Council employee to take actions that may benefit the Elected Member or the Elected Member's family or business interests.

Elected Members should not use Council resources of any sort for personal business.

Elected Members must not solicit, demand or request any gift, reward or benefit by virtue of their position. The offer and receipt of gifts, including special occasion goodwill gifts, must be reported to the CE.

8 Pre-election period

During the three months prior to polling date for local body elections, Council resources should not be used in any way that could be deemed to give any sitting Elected Member an advantage.

During this period Elected Members will:

- not use Council stationery, email, postage or facsimile/telephone facilities of any other Council resource explicitly for campaign purposes;
- not attempt to make any use of Council communications that could be construed as giving that Elected Member an unfair electoral advantage by raising their profile;
- abide by any Council policies adopted by the Governing Body relating to conduct during the pre-election period.



9 Disclosure of pecuniary and other interests

The law makes specific provision requiring Elected Members to disclose pecuniary (financial) interests. However interests that are not pecuniary can be just as important; family connections, kinship, friendship, membership of an association, society, company or trade union, trusteeship and many other kinds of relationships can influence Elected Member's judgement and may give the impression that an Elected Member might be acting for personal motives. If Elected Members are in doubt, disclose the interest, seek advice from the Mayor, Committee Chair or CE and, if necessary, withdraw from the meeting.

An Elected Member or some firm or organisation with which the Elected Member is personally connected may have professional, business or personal interest within the areas for which Council is responsible. Such interests may be substantial and closely related to the work of one or more of Council's Committees or sub-committees. Before seeking or accepting membership and particularly the chairing of any such Committee or sub-committee, Elected Members should seriously consider whether membership would necessarily involve them:

- disclosing an interest so often that the Elected Member would be of little value to the Committee or sub-committee;
- Weakening public confidence in the impartiality of the Committee or sub-committee.

The principles about disclosures of interest should be borne in mind with regard to unofficial relations with other Elected Members, at informal occasions and formal Council or Committee meetings.

10 Representing Council

Members who are invited or wish to represent Council at an event such as a seminar or conference must forward a written report to Council, which summarises the event including its potential significance to the business of Council. Where Council is represented by a delegation, one Elected Member of the party will report back on their behalf.

11 Disqualification of Elected Members from Office

Members are automatically disqualified from office if they are convicted of a criminal offence punishable by two or more year's imprisonment or if they cease to be or lose their status as an elector or of certain breaches of the Local Authorities (Members' Interests) Act 1968.

12 Compliance

Elected Members must comply with the provisions of this Code of Conduct. Elected Members are also bound by the Local Government Act 2002, the Local Authorities (Members' Interests) Act 1968, the Local Government Official Information and Meetings Act 1987 (LGOIMA), the Secret Commissions Act 1910, the Crimes Act 1961 and the Securities Act 1978. The CE will ensure that an explanation of these Acts is provided at the first meeting after each triennial election and that copies of these Acts are freely available to Elected Members. Short explanations of the obligations that each of these Acts has with respect to conduct of Elected Members are attached to this Code as **Appendix 1**.



13 Code of Conduct complaints

13.1 Principles

The following principles will guide any processes for investigating and determining whether or not a breach under this Code has occurred:

- that the approach for investigating and assessing a complaint will be proportionate to the apparent seriousness of the breach complained about;
- that the roles of complaint, investigation, advice and decision-making will be kept separate as appropriate to the nature and complexity of the alleged breach; and
- that the concepts of natural justice and fairness will apply in the determination of any complaints made under this Code. This requires, conditional on the nature of an alleged breach, that affected parties:
 - have a right to know that an investigation process is underway;
 - are given due notice and are provided with an opportunity to be heard;
 - have a right to seek appropriate advice and be represented; and
 - have their privacy respected.

13.2 Complaints

Complaints alleging a breach of the Code of Conduct can only be made by an elected member or by the Chief Executive. A complaint relating to another member must be addressed to the Mayor. If the Mayor is either the subject of the complaint or the complainant it must be addressed to the Deputy Mayor.

Deleted: All complaints made under this Code must be made in writing and forwarded to the CE.

Any allegation of a breach of the Code must be in writing, make a specific allegation of a breach of the Code and provide corroborating evidence.

On receipt of a complaint the Mayor, working through the Chief Executive, must forward that complaint to an independent investigator for a preliminary assessment to determine whether the issue is sufficiently serious to warrant a full investigation².

Deleted: CE

13.3 Investigation, advice and decision

The process, following receipt of a complaint, will follow the steps outlined in **Appendix 2**.

Deleted: Only Elected Members and the CE may make a complaint under this Code.¶

13.4 Materiality

An alleged breach under this Code is material if, in the opinion of the independent investigator, it would, if proven, bring an Elected Member or Council into disrepute or, if not addressed, reflect adversely on another Elected Member of Council.

Deleted: ² On behalf of Council the Chief Executive will, shortly after the start of a triennium, prepare, in consultation with the Mayor or Chair, a list of investigators for this purpose of undertaking a preliminary assessment. The Chief Executive may prepare a list specifically for his or her Council, prepare a list jointly with neighbouring councils or contract with an agency capable of providing appropriate investigators, such as Equip.

2. On behalf of Council the Chief Executive, in consultation with the Mayor may, shortly after the start of the triennium, either prepare in advance a list of independent investigators or engage a reputable agency capable of providing appropriate investigators. Alternatively, the Chief Executive may, in consultation with the Mayor (or Deputy Mayor if the complaint involves or was made by the Mayor) engage an appropriate person following receipt of the complaint.



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14 Penalties and actions

Where a complaint is determined to be material and referred to Council the nature of any penalty or action will depend on the seriousness of the breach.

14.1 Material breaches

In the case of material breaches of this Code the Council, or a Committee with delegated authority, may require one of the following:

- a letter of censure to the member;
- a request (made either privately or publicly) for an apology;
- a vote of no confidence in the member;
- removal of certain Council-funded privileges (such as attendance at conferences);
- Restricted entry to Council offices, such as no access to staff areas;
- limitation on any dealings with council staff so that they are confined to the Chief Executive only;
- suspension from Committees or other bodies;
- an invitation for the member to consider resigning from Council.

A Council or Committee may decide that a penalty will not be imposed where a respondent agrees to one or more of the following:

- attend a relevant training course; and/or
- work with a mentor for a period of time; and/or
- participate in voluntary mediation (if the complaint involves a conflict between two members);and/or
- tender an apology.

The process is based on the presumption that the outcome of a complaints process will be made public unless there are grounds, such as those set out in LGOIMA, for not doing so.

14.2 Statutory breaches

In cases where a breach of the Code is found to involve regulatory or legislative requirements, the complaint will be referred to the relevant agency. For example:

- breaches relating to members' interests (where members may be liable for prosecution by the Auditor-General under the Member's Interests Act);
- breaches which result in Council suffering financial loss or damage (where the Auditor-General may make a report on the loss or damage under section 30 of the Local Government Act which may result in the member having to make good the loss or damage);
- breaches relating to the commission of a criminal offence which will be referred to the Police (which may leave the Elected Member liable for criminal prosecution).



15 Review of the Code of Conduct

Once adopted, the Code of Conduct continues in force until amended by the Governing Body. The Code can be amended at any time however cannot be revoked unless the Governing Body replaces it with another Code. Once adopted, amendments to the Code of Conduct require a resolution supported by 75% or more of the Elected Members of the Governing Body present.

16 Implementation

The parties to this Code agree to abide by its provisions at all times having regard to the declaration of Office and Council policy.

For the avoidance of doubt, an Elected Member must adhere to the Code of Conduct. A breach of the Code does not constitute an offence under the Local Government Act 2002 however may raise questions about the Elected Member's standing within Council.



Appendix 1 - Legislation bearing on the role and conduct of Elected Members

This is a summary of the legislative requirements that have some bearing on the duties and conduct of Elected Members. The full statutes can be found at www.legislation.govt.nz.

The Local Authorities (Members' Interests) Act 1968

The Local Authorities (Members' Interests) Act 1968 (LAMIA) provides rules about Elected Members discussing and voting on matters in which they have a pecuniary interest and about contracts between Elected Members and Council.

A pecuniary interest is likely to exist if a matter under consideration could reasonably give rise to an expectation of a gain or loss of money for a member personally (or for their spouse or a company in which they have an interest). In relation to pecuniary interests LAMIA applies to both contracting and participating in decision-making processes.

With regard to pecuniary or financial interests a person is deemed to be "concerned or interested" in a contract or interested "directly or indirectly" in a decision when:

- a person, or spouse or partner, is "concerned or interested" in the contract or where they have a pecuniary interest in the decision; or
- a person, or their spouse or partner, is involved in a company that is "concerned or interested" in the contract or where the company has a pecuniary interest in the decision.

There can also be additional situations where a person is potentially "concerned or interested" in a contract or have a pecuniary interest in a decision, such as where a contract is between an Elected Members' family trust and Council.

Determining whether a pecuniary interest exists

Elected Members are often faced with the question of whether or not they have a pecuniary interest in a decision and if so whether they should participate in discussion on that decision and vote. When determining if this is the case or not the following test is applied:

"...whether, if the matter were dealt with in a particular way, discussing or voting on that matter could reasonably give rise to an expectation of a gain or loss of money for the member concerned." (OAG, 2001)

In deciding whether they have a pecuniary interest, Elected Members should consider the following factors.

- What is the nature of the decision being made?
- Do I have a financial interest in that decision - do I have a reasonable expectation of gain or loss of money by making that decision?
- Is my financial interest one that is in common with the public?
- Do any of the exceptions in the LAMIA apply to me?
- Could I apply to the Auditor-General for approval to participate?



Elected Members may seek assistance from the Mayor/Chair or other person to determine if they should discuss or vote on an issue but ultimately it is their own judgment as to whether or not they have pecuniary interest in the decision. Any member who is uncertain as to whether they have a pecuniary interest is advised to seek legal advice. Where uncertainty exists members may adopt a least-risk approach which is to not participate in discussions or vote on any decisions.

Members who do have a pecuniary interest will declare the pecuniary interest to the meeting and not participate in the discussion or voting. The declaration and abstention needs to be recorded in the meeting minutes. (Further requirements are set out in Council's Standing Orders.)

The contracting rule

An Elected Member is disqualified from office if they are "concerned or interested" in contracts with their Council if the total payments made, or to be made, by or on behalf of Council exceed \$25,000 in any financial year. The \$25,000 limit includes GST. The limit relates to the value of all payments made for all contracts in which you are interested during the financial year. It does not apply separately to each contract, nor is it just the amount of the profit the contractor expects to make or the portion of the payments to be personally received by you.

The Auditor-General can give prior approval and, in limited cases, retrospective approval for contracts that would otherwise disqualify the Elected Member under the Act. It is an offence under the Act for a person to act as an Elected Member of Council (or Committee of Council) while disqualified.

Non-pecuniary Conflicts of Interest

In addition to the issue of pecuniary interests, rules and common law govern conflicts of interest more generally. These rules apply to non-pecuniary conflicts of interest, including common law rules about bias. In order to determine if bias exists or not members need to ask:

"Is there a real danger of bias on the part of the Elected Member of the decision-making body, in the sense that he or she might unfairly regard with favour (or disfavour) the case of a party to the issue under consideration?"

The question is not limited to actual bias, however relates to the appearance or possibility of bias reflecting the principle that justice should not only be done, but should be seen to be done. Whether or not Elected Members believe they are not biased is irrelevant.

Elected Members focus should be on the nature of the conflicting interest or relationship and the risk it could pose for the decision-making process. The most common risks of non-pecuniary bias are where:

- Elected Members' statements or conduct indicate that they have pre-determined the decision before hearing all relevant information (that is, Elected Members have a "closed mind"); and
- Elected Members have a close relationship or involvement with an individual or organisation affected by the decision.

In determining whether or not they might be perceived as biased, Elected Members must also take into account the context and circumstance of the issue or question under consideration. For example, if an Elected Member has stood on a platform and been voted into office on the promise of implementing that platform then voters would have every expectation that the Elected Member would give effect to that



promise, however they must still be seen to be open to considering new information (this may not apply to decisions made in quasi-judicial settings, such as an RMA hearing).

Local Government Official Information and Meetings Act 1987

The Local Government Official Information and Meetings Act 1987 (LGOIMA) sets out a list of meetings procedures and requirements that apply to local authorities and local/community boards. Of particular importance for the roles and conduct of Elected Members is the fact that the Chair has the responsibility to maintain order at meetings, however all Elected Members should accept a personal responsibility to maintain acceptable standards of address and debate. No Elected Member should:

- create a disturbance or a distraction while another Elected Member is speaking;
- be disrespectful when they refer to each other or other people; or
- use offensive language about Council, other Elected Members, any employee of Council or any member of the public.

See Standing Orders for more detail.

Secret Commissions Act 1910

Under this Act it is unlawful for an Elected Member (or Officer) to advise anyone to enter into a contract with a third person and receive a gift or reward from that third person as a result or to present false receipts to Council.

If convicted of any offence under this Act a person can be imprisoned for up to two years and/or fined up to \$1,000. A conviction would therefore trigger the ouster provisions of the LGA 2002 and result in the removal of the Elected Member from Office.

Crimes Act 1961

Under this Act it is unlawful for an Elected Member (or Officer) to:

- accept or solicit for themselves (or anyone else) any gift or reward for acting or not acting in relation to the business of Council; and
- use information gained in the course of their duties for their, or another person's, monetary gain or advantage.

These offences are punishable by a term of imprisonment of seven years or more. Elected Members convicted of these offences will automatically cease to be Elected Members.

Financial Markets Conduct Act 2013

Financial Markets Conduct Act 2013 (previously the Securities Act 1978) essentially places Elected Members in the same position as company directors whenever Council offers stock to the public. Elected Members may be personally liable if investment documents such as a prospectus contain untrue statements and may be liable for criminal prosecution if the requirements of the Act are not met.



Appendix 2 – Process for the determination and investigation of complaints

Step 1: Mayor or Deputy Mayor receives complaint

On receipt of a complaint under this Code the Mayor (or Deputy Mayor if the complaint was made by or involves the Mayor), working through the Chief Executive (CE) will refer the complaint to an investigator selected under the provisions of this code. The CE will also:

- inform the complainant that the complaint has been referred to the independent investigator, and the name of the investigator, and refer them to the process for dealing with complaints as set out in the Code; and
- inform the respondent that a complaint has been made against them, the name of the investigator and refer them to the process for dealing with complaints as set out in the Code.

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Step 2: Investigator makes preliminary assessment

On receipt of a complaint the investigator will assess whether:

- 1 The complaint is frivolous or without substance and should be dismissed;
- 2 The complaint is outside the scope of the Code and should be redirected to another agency or process;
- 3 The complaint is non-material; and
- 4 The complaint is material and a full investigation is required.

In making the assessment the investigator may make whatever initial inquiry is necessary to determine the appropriate course of action. The investigator has full discretion to dismiss any complaint which, in their view, fails to meet the test of materiality.

On receiving the investigator's preliminary assessment the CE will:

- 1 Where an investigator determines that a complaint is frivolous or without substance, inform the complainant and respondent directly and inform other members (if there are no grounds for confidentiality) of the investigator's decision.
- 2 In cases where the investigator finds that the complaint involves a potential legislative breach and outside the scope of the Code, forward the complaint to the relevant agency and inform both the complainant and respondent of the action.

Step 3: Actions where a breach is found to be non-material

If the subject of a complaint is found to be non-material the investigator will inform the CE and, if they choose, recommend a course of action appropriate to the breach, such as:

- that the respondent seeks guidance from the Mayor or Committee Chair;
- that the respondent attends appropriate courses or programmes to increase their knowledge and understanding of the matters leading to the complaint.

The CE will advise both the complainant and the respondent of the investigator's decision and any recommendations, neither of which are open to challenge. Any recommendations made in response to a non-material breach are non-binding on the respondent and Council.



Step 4: Actions where a breach is found to be material

If the subject of a complaint is found to be material the investigator will inform the CE, who will inform the complainant, the respondent and the Mayor (or Deputy Mayor if the complaint was made by or involves the Mayor). The investigator will then prepare a report for Council on the seriousness of the breach.

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In preparing that report the investigator may:

- consult with the complainant, respondent and any affected parties;
- undertake a hearing with relevant parties; and/or
- refer to any relevant documents or information.

On receipt of the investigator's report the CE will prepare a report for Council or the Committee with delegated authority, which will meet to consider the findings and determine whether or not a penalty, or some other form of action, will be imposed. The CE's report will include the full report prepared by the investigator.

Step 5: Process for considering the investigator's report

Depending upon the nature of the complaint and alleged breach the investigator's report may be considered by the full Council, excluding the complainant, respondent and any other 'interested' members or a Committee established for that purpose.

In order to avoid any suggestion of bias, a Code of Conduct Committee may often be the best mechanism for considering and ruling on complaints. Committees should be established at the start of a triennium with a majority of members selected from the community through either an application process or by invitation.

Council or the Committee will consider the CE's report in open meeting, except where the alleged breach concerns matters that justify the exclusion of the public, such as the misuse of confidential information or a matter that would otherwise be exempt from public disclosure under s48 of LGOIMA, in which case it will be a closed (Public Excluded) meeting.

Before making any decision in respect of the investigator's report Council or the Committee will give the Elected Member against whom the complaint has been made an opportunity to appear and speak in their own defence. Members with an interest in the proceedings, including the complainant and the respondent, may not take part in these proceedings.

The form of penalty that might be applied will depend on the nature of the breach and may include actions set out in s14.1 of this Code.

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In accordance with this Code, Council will agree to implement the recommendations of a Code of Conduct Committee, if one exists, without debate.

7 Public Excluded Council agenda items 28 March 2018

Recommended

That the public be excluded from the following part of the proceedings of this meeting namely:

- *Confirmation of Public Excluded Council minutes 28 February 2018; and*
- *Taharoa Domain Public Toilets and Dump Station: Funding from Ministry of Business, Innovation and Employment*

The general subject matter of each matter to be considered while the public is excluded, the reasons for passing this resolution in relation to each matter and the specific grounds under s48(1) of the Local Government Official Information and Meetings Act, 1987 for the passing of this resolution are as follows:

General subject of each matter to be considered:	Reason for passing this Resolution	Ground(s) under Section 48(1) for the passing this resolution:
<i>Confirmation of Public Excluded Council minutes 28 January 2018</i>	<i>Section 7(2)(i) enables any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).</i>	<i>Section 48(1)(a) That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.</i>
<i>Taharoa Domain Public Toilets and Dump Station: Funding from Ministry of Business, Innovation and Employment</i>	<i>Section 7(2)(j) prevent the disclosure or use of official information for improper gain or improper advantage</i>	<i>S48(1) (a) That the public conduct of the whole or the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist.</i>

8 Open meeting Council agenda 28 March 2018

Recommended

That the public be re-admitted to the meeting and resolutions made whilst in Public Excluded be confirmed in Open Meeting.

Closure

**Kaipara District Council
Dargaville**