



# **AGENDA**

## **Ordinary Council meeting Monday, 13 September 2021**

**I hereby give notice that an Ordinary Meeting of Council will be held on:**

**Date: Monday, 13 September 2021**

**Time: 10.30am**

**Location: Tauranga City Council  
Council Chambers  
91 Willow Street  
Tauranga**

*Please note that this meeting will be livestreamed and the recording will be publicly available on Tauranga City Council's website: [www.tauranga.govt.nz](http://www.tauranga.govt.nz).*

**Marty Grenfell  
Chief Executive**

# Terms of reference – Council

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## Membership

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<b>Chairperson</b>	Commission Chair Anne Tolley
<b>Members</b>	Commissioner Shadrach Rolleston Commissioner Stephen Selwood Commissioner Bill Wasley
<b>Quorum</b>	<u>Half</u> of the members physically present, where the number of members (including vacancies) is <u>even</u> ; and a <u>majority</u> of the members physically present, where the number of members (including vacancies) is <u>odd</u> .
<b>Meeting frequency</b>	As required

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## Role

- To ensure the effective and efficient governance of the City
- To enable leadership of the City including advocacy and facilitation on behalf of the community.

## Scope

- Oversee the work of all committees and subcommittees.
- Exercise all non-delegable and non-delegated functions and powers of the Council.
- The powers Council is legally prohibited from delegating include:
  - Power to make a rate.
  - Power to make a bylaw.
  - Power to borrow money, or purchase or dispose of assets, other than in accordance with the long-term plan.
  - Power to adopt a long-term plan, annual plan, or annual report
  - Power to appoint a chief executive.
  - Power to adopt policies required to be adopted and consulted on under the Local Government Act 2002 in association with the long-term plan or developed for the purpose of the local governance statement.
  - All final decisions required to be made by resolution of the territorial authority/Council pursuant to relevant legislation (for example: the approval of the City Plan or City Plan changes as per section 34A Resource Management Act 1991).
- Council has chosen not to delegate the following:
  - Power to compulsorily acquire land under the Public Works Act 1981.
- Make those decisions which are required by legislation to be made by resolution of the local authority.
- Authorise all expenditure not delegated to officers, Committees or other subordinate decision-making bodies of Council.
- Make appointments of members to the CCO Boards of Directors/Trustees and representatives of Council to external organisations.
- Consider any matters referred from any of the Standing or Special Committees, Joint Committees, Chief Executive or General Managers.

## **Procedural matters**

- Delegation of Council powers to Council's committees and other subordinate decision-making bodies.
- Adoption of Standing Orders.
- Receipt of Joint Committee minutes.
- Approval of Special Orders.
- Employment of Chief Executive.
- Other Delegations of Council's powers, duties and responsibilities.

## **Regulatory matters**

Administration, monitoring and enforcement of all regulatory matters that have not otherwise been delegated or that are referred to Council for determination (by a committee, subordinate decision-making body, Chief Executive or relevant General Manager).



## Order of Business

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- 1      OPENING KARAKIA**
- 2      APOLOGIES**
- 3      PUBLIC FORUM**
- 4      ACCEPTANCE OF LATE ITEMS**
- 5      CONFIDENTIAL BUSINESS TO BE TRANSFERRED INTO THE OPEN**
- 6      CHANGE TO THE ORDER OF BUSINESS**

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## **7 CONFIRMATION OF MINUTES**

### **7.1 Minutes of the Council meeting held on 30 August 2021**

**File Number:** A12872347

**Author:** Jenny Teeuwen, Committee Advisor

**Authoriser:** Robyn Garrett, Team Leader: Committee Support

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### **RECOMMENDATIONS**

That the Minutes of the Council meeting held on 30 August 2021 be confirmed as a true and correct record.

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### **ATTACHMENTS**

#### **1. Minutes of the Council meeting held on 30 August 2021**





# **MINUTES**

**Ordinary Council meeting  
Monday, 30 August 2021**

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	Nil	
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	Nil	
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**MINUTES OF TAURANGA CITY COUNCIL****ORDINARY COUNCIL MEETING  
HELD AT THE TAURANGA CITY COUNCIL, BY VIDEO CONFERENCE  
ON MONDAY, 30 AUGUST 2021 AT 10.30AM**

**PRESENT:** Commission Chair Anne Tolley, Commissioner Shadrach Rolleston, Commissioner Stephen Selwood and Commissioner Bill Wasley

**IN ATTENDANCE:** Marty Grenfell (Chief Executive), Paul Davidson (General Manager: Corporate Services), Barbara Dempsey (General Manager: Regulatory & Compliance), Susan Jamieson (General Manager: People & Engagement), Nic Johansson (General Manager: Infrastructure), Christine Jones (General Manager: Strategy & Growth), Gareth Wallis (General Manager: Community Services), Angela Pinton (Community Relations Advisor), Coral Hair (Manager: Democracy Services), Robyn Garrett (Team Leader: Committee Support) and Jenny Teeuwen (Committee Advisor)

Commission Chair Anne Tolley commented that the meeting was being conducted remotely due to COVID level four restrictions. She thanked staff, particularly those who were deemed essential and were carrying on essential works for their community, and also the rest of the staff who were working from home. She also thanked all essential workers in the community in all their various guises that were carrying on to make sure that essential services were taking place.

**1 OPENING KARAKIA**

Commissioner Shadrach Rolleston opened the meeting with a Karakia.

**2 APOLOGIES**

Nil

**3 PUBLIC FORUM**

Nil

**4 ACCEPTANCE OF LATE ITEMS**

Nil

**5 CONFIDENTIAL BUSINESS TO BE TRANSFERRED INTO THE OPEN**

Nil

**6 CHANGE TO THE ORDER OF BUSINESS**

Nil

## 7 CONFIRMATION OF MINUTES

### 7.1 Minutes of the Council meeting held on 2 August 2021

#### RESOLUTION CO16/21/1

Moved: Commissioner Bill Wasley

Seconded: Commissioner Shadrach Rolleston

That the minutes of the Council meeting held on 2 August 2021 be confirmed as a true and correct record, subject to the following correction:

- (a) Commissioner Stephen Selwood be removed as being present at the meeting.

**CARRIED**

## 8 DECLARATION OF CONFLICTS OF INTEREST

Nil

## 9 DEPUTATIONS, PRESENTATIONS, PETITIONS

Nil

## 10 RECOMMENDATIONS FROM OTHER COMMITTEES

Nil

## 11 BUSINESS

### 11.1 Executive Report

**Staff** Marty Grenfell, Chief Executive  
Paul Davidson, General Manager: Corporate Services  
Barbara Dempsey, General Manager: Regulatory & Compliance  
Susan Jamieson, General Manager: People & Engagement  
Nic Johansson, General Manager: Infrastructure Services  
Christine Jones, General Manager: Strategy & Growth  
Gareth Wallis, General Manager: Community Services

Chief Executive Marty Grenfell reiterated the earlier comments of the Commission Chair and thanked staff for the remarkable way that they had responded to the COVID lockdown to ensure council services and business continued.

#### Key points

- Community Services
  - The Arts and Culture team were preparing for the Arts Festival which would hopefully still go ahead in October.
  - A review of the four Mainstreet organisations was currently underway.
  - A new Chief Executive had been appointed to Tourism Bay of Plenty.
  - The new Bay Venues Ltd Board were interviewing for a new Chief Executive this week.
  - Planning was underway for a temporary library location from early next year when the Willow Street campus would be closed down.

- Work on Kulim Park had been delayed but it was hoped to still be completed and open prior to Christmas.
- Elizabeth Street was progressing as planned. Workers would make the most of quiet CBD conditions under level three. The Farmers retail offering was on track to be opened by Labour weekend.
- The AIMS games had been cancelled for the second year in a row due to COVID.
- Infrastructure Services
  - The Water and Wastewater teams were commended for continuing to work through COVID level four restrictions.
  - Due to COVID restrictions, the start date for the Cameron Road street works was pushed out to 13 September. Works could not be started under essential work criteria and definitions for COVID this time around.
  - Tenders for the road maintenance contracts would close on 13 September. Negotiations would be undertaken through September and October with contracts awarded by 1 November. Commencement dates for the contracts would be 1 December or early December.
  - The Street Design Toolkit was launched last month and would give guidance for street design, from strategy through to implementation.
- People and Engagement
  - There would be an ongoing Service Centre presence in the Papamoa library for two days a week beginning in September 2021.
  - Recruiting for the new Community Relations roles was nearly concluded with only two roles still to fill.
  - A Māori Language Strategy, Te Koruru, had been developed to provide guidance for the best practice use of Te Reo Māori in Tauranga City Council's (TCC) communications and documentation.
  - A snap survey on how staff were coping during lockdown was currently being undertaken.
- Regulatory & Compliance
  - The number of building consents received during June and July had added pressure to the Building Services and Environmental Planning teams. Overtime was being offered to all staff and contractors, where possible, to ensure consents were delivered as soon as possible. International Accreditation New Zealand (IANZ) had confirmed that its assessment would take place mid-September and it was concerning that percentages for building consents would be dropping during this time due to consent numbers and resourcing issues.
- Corporate Services
  - The four significant pieces of work being undertaken at the Marine Precinct – wharf development, marine facility strategy, spatial planning, and ownership options – were progressing well and would continue to be progressed though COVID.
  - The Holiday Park and Airport had been performing well prior to the lockdown.
  - Digital Services continued to keep the business running in spite of supply issues due to COVID.
  - The Finance team were working through the audit process with Audit New Zealand. This work was continuing remotely during the lockdown.
- Strategy and Growth
  - The report included key sustainability initiatives that were underway.
  - The Chief Executive Forum of SmartGrowth was working on the development of a streamlined priority development area reporting template which would provide a 'glance on a page' for each priority development growth area. This work would be presented at the 17 September SmartGrowth Leadership meeting.

### **In response to questions**

- Community Services
  - The 'HeretoHelpU' service would be in action during lockdown. It had been developed by the Wise Group during the last lockdown and was a one stop shop for those that

- needed help in times like COVID. It had been launched a week ago and had already had significant pick up.
- The first master planning session for Blake Park had occurred prior to lockdown and work would continue during lockdown. Not being able to meet in person would not hold the project up.
  - The Historic Collection staff and the volunteers working in that space were commended for their work, in particular the digitising and recording of taonga that had come in via the community. It was hoped that some of the taonga could be displayed in the new temporary library space.
  - An update on what was happening at Tye Park would be provided to Commissioners.
  - Dive Crescent - The refurbishment of the cargo shed was still planned to be completed prior to Christmas; however, earthquake strengthening seismic issues with the structure could influence whether or not this would happen. The old wharf would be resurfaced and be available for use. The building close to Trinity Wharf between the railway line and the road was planned to be demolished.
- Infrastructure Services
    - Work on the Cameron Road and Waiāri projects could continue under level three COVID restrictions.
    - Auckland remaining at COVID level four for at least another two weeks would have a compounding effect on supply chain costs and risks already outlined in the report.
    - Suppliers across the city would continue to undertake critical roading maintenance work until contracts were awarded and commenced in December.
    - TCC's new contract model, which brought more control of the process and decision making in house, was expected to address the recent issues with road re-sealing.
    - The Street Design Toolkit would take into account the views of those living in streets being built for the future, especially in terms of greater density.
  - People and Engagement
    - The Papamoa Ratepayers Association and the local MP would be advised of the service centre initiative commencing in the Papamoa Library in September.
    - It was pleasing to see that positive media coverage was on the increase.
    - The partnership focus and direction between Council and tangata whenua, especially in terms of strategic decision making through the Local Government Act 2002 (LGA), the Resource Management Act 1991 (RMA) and the Three Waters reform, was strongly encouraged by the Commissioners.
    - The 70% response rate to date of the snap staff survey showed that staff were engaged and happy to share how things were going for them during lockdown.
  - Regulatory & Compliance
    - Tsunami preparedness would be city-wide but with a strong focus on Mount Maunganui and Papamoa coastal areas.
    - The environment incidents graph referred to general complaints and incidents for work that was being undertaken that was not in accordance with the city plan. The upwards trend over the past six to eight months meant that, with no change in staff levels, it was challenging to get through the schedule for resource consents.
    - 'R3' building inspection referred to the third level of residential applications. There were three levels with level three having the highest level of complexity for design and building.
    - It was acknowledged that the increase in the number of building consents could, in part, be as a result of the proposed increase in fees. There was reluctance from the industry to re-timing applications or putting applications on hold.
    - In terms of emergency management planning for natural disasters, the individual business plans for the Port and Industrial area and their emergency management responses needed to be understood to then work out what effect this could have on the wider community.
  - Corporate Services
    - The Marine Precinct spatial plan would be completed by the end of the calendar year.
    - The SAP platform could provide a high level analysis and insight for community

surveys that was not skewed by a particular view or age or gender. It was more about how the questions were delivered rather than the technology in the background.

- Strategy and Growth
  - The Energy Advisor position to help the Council and Bay Venues deliver 2GWh energy savings across the portfolios was for a two-year fixed term. It was expected that the role would identify opportunities and have these embedded within the two years.
  - The new direction of the environment strategy being more action focussed was acknowledged and commended.

#### **RESOLUTION CO16/21/2**

Moved: Commissioner Bill Wasley

Seconded: Commissioner Stephen Selwood

That the Council:

- (a) Receives the Executive Report.
- (b) Rescinds the recommendation from 21 August 2018 in regard to the need to demolish the building located at 10 Dive Crescent, and enters into a five-year lease with Fixation Coffee Ltd, subject to a six-month redevelopment clause.
- (c) Approves the appointment of Barbara Dempsey as Council's Emergency Management Recovery Manager.

**CARRIED**

### **11.2 Amendments to the Airport Bylaw 2016**

**Staff** Paul Davidson, General Manager: Corporate Services

#### **RESOLUTION CO16/21/3**

Moved: Commissioner Bill Wasley

Seconded: Commissioner Stephen Selwood

That the Council:

- a) Approves the following amendments to the Airport Bylaw 2016
  - (i) Addition of clause 7.9.2 allowing for recovery of costs for removing a vehicle in breach of the Bylaw provisions;
  - (ii) Addition of clause 7.9.3 noting that appropriate care must be taken when removing and storing a towed vehicle but Council is not liable for any loss or damage (except if the result of negligence);
  - (iii) Addition of "small passenger vehicles" to clause 7.5.1 to provide for a designated stopping area for small passenger vehicles; and
  - (iv) Addition of "vaping" to the provisions in clause 9.1 prohibiting smoking.
- b) Notes the minor and consequential changes to the Airport Bylaw 2016 outlined in paragraphs 13 to 17 of this report.

**CARRIED**

### **11.3 Temporary Road Closure Report - Annual Events 2021 2022**

**Staff** Nic Johansson, General Manager: Infrastructure Services  
Gareth Wallis, General Manager: Community Services

**RESOLUTION CO16/21/4**

Moved: Commissioner Stephen Selwood  
Seconded: Commissioner Shadrach Rolleston

That the Council:

- (a) Receives the report of Temporary Road Closures for Annual Events 2021-2022.
- (b) Pursuant to Clause 11(e) of the Tenth Schedule of the Local Government Act 1974, grants approval to close the roads and car parks listed on Attachment A to ordinary vehicular traffic on the dates and during the hours stated for the purposes of facilitating safe and successful operations during the following events in Tauranga.

**CARRIED**

**11.4 City Vision Update**

**Staff** Christine Jones, General Manager: Strategy and Growth  
Angela Pointon, Community Relations Advisor

The staff presentation for this item was included in the livestream for this council meeting and can be viewed at the following link at the time 1:14:22:

<https://www.youtube.com/watch?app=desktop&v=jBLswRpqK2Q>

At 11.53am. the meeting adjourned.

At 12pm, the meeting resumed.

**In response to questions**

- The work undertaken to date had encapsulated the thinking of the Commission and their desire to involve the community so that they had ownership.
- The work had also built on, and was linked to, work that was already in place, in particular SmartGrowth, the Urban Form and Transport Initiative (UFTI), the Transport System Plan (TSP) and the National Policy Statement for Urban Development (NPS-UD). Gaps identified through the sustainability stocktake around transport, housing areas and climate change, would also become key aspects to work on through the vision and strategy refresh.
- Steps one to nine of the process and approach would be reviewed and refreshed after the completion of each step to take into account any issues highlighted or feedback received through the process.

**RESOLUTION CO16/21/5**

Moved: Commissioner Stephen Selwood  
Seconded: Commissioner Shadrach Rolleston

That the Council:

- (a) Notes that the City Vision project aims to be delivered by December 2021; and
- (b) Approves the concept design and the proposed method for the City Vision Project.

**CARRIED**



## 11.5 Representation Review - public feedback and adoption of Initial Proposal

**Staff** Coral Hair, Manager: Democracy Services

### Key points

- Four options had been offered in the pre-engagement with the community.
- 825 survey responses had been received.
- The survey respondents were not a demographically representative sample of the city's population.
- The survey results, legislative requirements, and the issues and concerns raised by the Review and Observer Team needed to be considered in decision-making.
- Survey results showed Option Two as the most preferred option – one general ward with nine councillors, one Māori ward councillor from one Māori ward, plus a mayor.
- 74% of respondents preferred 10 councillors or less.
- 46% of respondents were against community boards, 38% in favour, and 16% unsure.
- The naming of the Māori ward would be gifted by Te Rangapū Mana Whenua o Tauranga Moana via the submission process.
- Feedback on the names of wards would be part of the submission process.
- As well as the previous four options, two new options were presented – 4A and 4B:
  - 4A – eight councillors from eight general wards, one councillor from one Maori ward (nine councillors) plus a mayor (10 elected members).
  - 4B – nine councillors from nine general wards, one councillor from one Māori ward (ten councillors), plus a Mayor (11 elected members). This option was non-complying for the Mauao, Arataki and Papamoa wards and would need to go to the Local Government Commission for their determination.
- Next steps:
  - 3 September to 4 October 2021 – public submission period.
  - 18 October 2021 – Council meeting to hear public submissions.
  - 8 November 2021 – Council meeting to deliberate on public submissions and resolve final proposal.
  - 12 November 2021 – public notice of final proposal and appeal/objection period for a month.
  - 13 December 2021 – appeal/objection period ends and any appeals and objections are sent to the Local Government Commission by 15 December 2021.
  - Final decision by April next year.

### In response to questions and discussion points raised

- Although the low number of submissions received could not be ignored, care was needed for decision-making as they could not be taken as representative of the whole city.
- The numbers for the drop-in sessions were low - four at Greerton, ten at Papamoa and twelve at Willow Street.
- As all expenses in local body elections were borne by candidates, standing for election and campaigning in one ward across the whole city would be very expensive and this option would likely reduce the number of candidates able to stand.
- There was the risk that ward councillors could misunderstand their role as a councillor, which was to make decisions on behalf of the whole city, and tend to take the view and voice of the ward they represented when making decisions.
- The desire not to increase the number of councillors was very clear.
- The Commissioners preferred option 4A for the following reasons:
  - The most fair and equitable option, particularly for Māori - all electors, whether on the general roll or on the Māori roll, would vote for one councillor and the mayor.
  - Provided a better representation across the city with each ward being similar in terms of population representation.
  - There was significant passion and positive work happening in communities that needed and deserved expression in terms of representation at the council table.

- Placed the mayoral position very strongly in a leadership role.
- Better enabled a smaller council.
- There would be no need for community boards with multiple communities represented through this option.
- It was a complying proposal.
- More equitable in terms of the cost to stand.
- Put everybody in the same boat and treated the same way.

## RESOLUTION CO16/21/6

Moved: Commissioner Stephen Selwood

Seconded: Commissioner Shadrach Rolleston

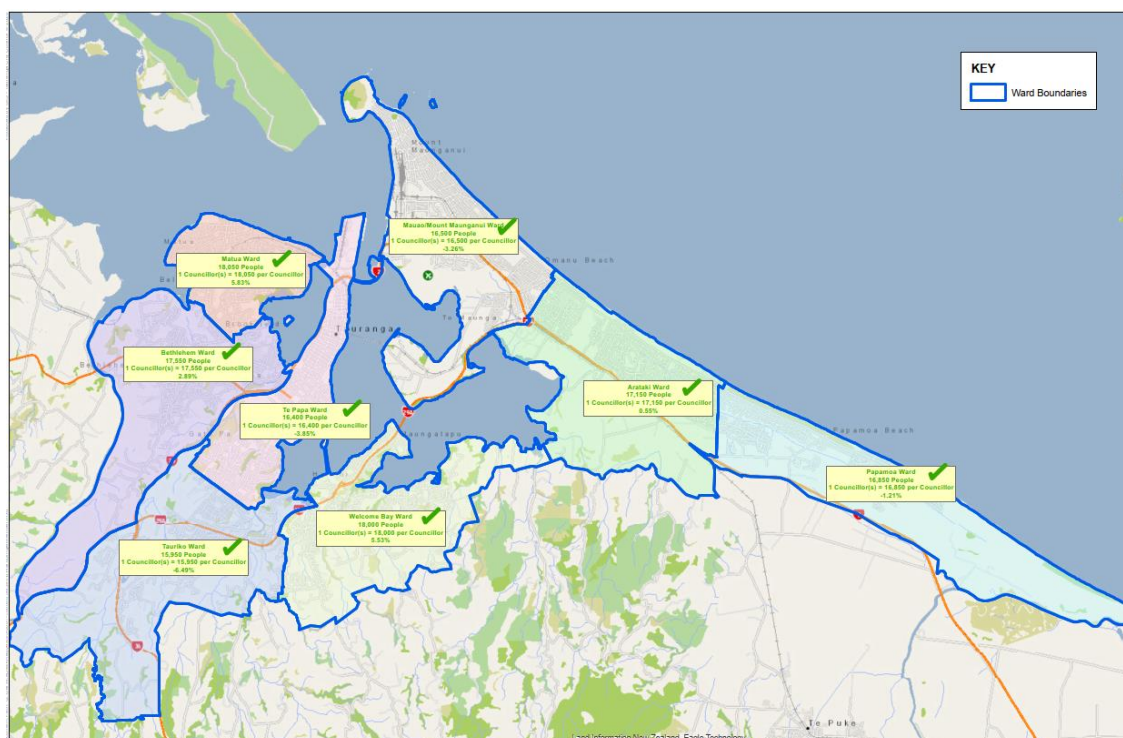
That the Council:

- (a) Receives the report “Representation Review – Public Feedback and Adoption of Initial Proposal”; and
- (b) Having reviewed its representation arrangements in accordance with sections 19H and 19J of the Local Electoral Act 2001, determines that the following proposal applies for the Tauranga City Council for the elections to be held on 8 October 2022:
  - (i) The Tauranga City Council shall comprise a Mayor and nine councillors.
  - (ii) Eight of the proposed members of the Tauranga City Council are to be separately elected by the electors of eight general wards and one member is to be separately elected by the electors of one Māori ward. The Mayor will be elected at large by all the electors of Tauranga City.
  - (iii) Notes that the proposed name of the Māori ward will be gifted by Te Rangapū Mana Whenua o Tauranga Moana through the submission process on the Initial Proposal.
  - (iv) The proposed names of the wards, the number of members to be elected by the electors of each ward, and the population each member will represent are set out in the table below together with the compliance with the fairness population rule for the general wards.

Ward Name	Number of Members to be elected	Population Per Member	+/- 10%
Māori ward	1	15,300	N/A
Mauao/Mount Maunganui	1	16,500	-3.26
Arataki	1	17,150	0.55
Pāpāmoa	1	16,850	-1.21
Welcome Bay	1	18,000	5.53
Matua	1	18,050	5.83
Bethlehem	1	17,550	2.89
Te Papa	1	16,400	-3.85
Tauriko	1	15,950	-6.49
<b>Total</b>	<b>9</b>		

- (v) In accordance with section 19V(2) of the Local Electoral Act 2001, the population that each member of a general ward represents is within the range of 17,056 +/- 10% (15,350 to 18,762).

(vi) The proposed boundaries of each ward are those set out in the map below.



(vii) That in accordance with sections 19H, 19K and 19T of the Local Electoral Act 2001, the wards reflect the following identified communities of interest:

Ward Name	Description of communities of interest
Māori ward	This ward reflects the community of interest for Māori electors and those in the Māori community.
Mauao/Mount Maunganui	This ward includes Mount Maunganui, Omanu, Bayfair and Matapihi. It forms part of the coastal strip and recognises the unique feature of Mauao which is an important cultural, historic and geographical feature. This ward has a focus on leisure and tourism, faces increased tsunami risk, sea level rise and coastal hazards due to its location. Improved transportation links to the City via state highways are of importance to residents.
Arataki	This ward includes Arataki, Te Maunga, Palm Beach and Kairua. It forms part of the coastal strip. Like the Mauao/Mount Maunganui ward, the residents have strong links to the unique feature of Mauao and the ward has a focus on leisure and tourism, faces increased tsunami risk, sea level rise and coastal hazards due to its location. Improved transportation links to the City via state highways are of importance to residents.
Pāpāmoa	This ward includes Pāpāmoa, Golden Sands, Wairakei and Te Tumu. This coastal strip area will continue to have accelerating population growth. In the next 10 years an estimated 2-3,000 new homes will be built in the areas already zoned for housing and 7-8,000 homes once Te Tumu is zoned for housing. It also faces increased tsunami risk, sea level rise and coastal hazards due to its location. Improved transportation links to the City as well as the construction of a direct link to the Tauranga Eastern Link via

	the Pāpāmoa East Interchange are of importance to residents.
Welcome Bay	This ward includes Welcome Bay, Maungatapu, Kaitemako, Poike and Ohauiti. These areas have a reliance on services and facilities located in other suburbs and transportation to the city centre is an important issue for local residents. More rural based residents have specific needs related to rural living.
Matua	This ward includes Matua, Otumoetai, Bellevue and Brookfield. With a large population living close to the city centre, the residents of this ward are impacted by the increase of infill housing, are interested in safer transport options and the development of community facilities.
Bethlehem	This ward includes includes Bethlehem and Judea. With a large population living close to the city centre, the residents of this ward are impacted by the increase of infill housing, are interested in safer transport options and the development of community facilities.
Te Papa	This ward includes Te Papa Peninsula, Sulphur Point, CBD, Fraser Cove, Tauranga South, Merivale, Yatton Park and Greerton (north of Chadwick Road). The Te Papa Spatial Plan, with its focus on increased density and city-living type housing, is estimated to increase the number of residents on the Te Papa Peninsula by 15,000 by 2050. The Cameron Road redevelopment project with improved passenger services and transport choices will have a major impact on residents. The development of community facilities, spaces and places and the inner-city revitalisation are of importance to residents.
Tauriko	This ward includes Pyes Pa, Hairini, Oropi, Gate Pa, Greerton (south of Chadwick Road), The Lakes and Tauriko. The expansion of the city to the west has seen boundary changes with Western Bay to facilitate the development of business, industry and residential growth. It is estimated in the next 10 years that 3-4,000 new homes will be built, improvements will be made to SH29 and connections to it, and an additional 100-150 hectares of business land will be provided creating an additional 2,000 jobs. This ward includes rural based residents that have specific needs related to rural living.

(viii) That no community boards be established.

- (c) That in accordance with section 19K of the Local Electoral Act 2021, the reason for the proposed changes are:
- (i) This proposal recognises the distinct communities of interest in the City based on geographical areas and provides for fair and effective representation of those communities of interest.
  - (ii) This proposal is seen as more equitable as both general and Māori electors vote for one councillor.
  - (iii) This proposal has a more even distribution of electors per councillor for the general wards than other options.
  - (iv) This proposal has the potential for a more efficient governance model with a

reduction in the number of councillors from ten to nine.

- (v) This proposal is more easily understood than other representation arrangements and has a direct relationship between electors and the ward councillor.
- (vi) This has the potential for less costs for candidates standing in general wards.
- (vii) This proposal may address the concerns and issues raised by the Review and Observer Team.
- (viii) This proposal provides the Mayor with a clear leadership role across the city as elected at large.
- (d) As required by sections 19T and 19W of the Local Electoral Act 2001, the boundaries of the nine wards coincide with the current statistical meshblock areas determined by Statistics New Zealand.
- (e) In accordance with section 19M of the Local Electoral Act 2001, the Council will give public notice of this proposal on 3 September 2021 (within 14 days of the resolution being made and before 8 September 2021) and that interested people can make submissions on this proposal until 4 October 2021.
- (f) Approves changes to the timeline for the representation review with the Council hearing submissions on 18 October 2021 and deliberating on submissions and adopting a Final Proposal on 8 November 2021.

**CARRIED**

## 12 DISCUSSION OF LATE ITEMS

Nil

## 13 PUBLIC EXCLUDED SESSION

### RESOLUTION TO EXCLUDE THE PUBLIC

#### RESOLUTION CO16/21/7

Moved: Commissioner Bill Wasley

Seconded: Commissioner Stephen Selwood

That:

- (a) the public be excluded from the following parts of the proceedings of this meeting.
- (b) Hazel Hape, Tauranga Women's Refuge, be permitted to enter the meeting for the discussion of item 13.2, because of her knowledge of the item.

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

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48 for the passing of this resolution
<b>13.1 – Public Excluded Minutes of the Council meeting held on 2 August 2021</b>	s7(2)(b)(i) – The withholding of the information is necessary to protect information where the making available of the information would disclose a trade secret.	s48(1)(a) – the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for

	s7(2)(h) – The withholding of the information is necessary to enable Council to carry out, without prejudice or disadvantage, commercial activities.	which good reason for withholding would exist under section 6 or section 7
<b>13.2 – Tauranga Women's Refuge – lease of property</b>	s6(b) – The making available of the information would be likely to endanger the safety of any person.	s48(1)(a) – the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7.
<b>13.3 – Appointment of hearings panel for Plan Changes 26, 27, 30</b>	s7(2)(a) – The withholding of the information is necessary to protect the privacy of natural persons, including that of deceased natural persons.	s48(1)(a) – the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7.
<b>13.4 – Request for Additional Leased Parking Spaces – 2 Devonport Road</b>	s7(2)(h) – The withholding of the information is necessary to enable Council to carry out, without prejudice or disadvantage, commercial activities. s7(2)(i) – The withholding of the information is necessary to enable Council to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).	s48(1)(a) – the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7.
<b>13.5 – Approval to award Cameron Road construction contract</b>	s7(2)(b)(ii) – The withholding of the information is necessary to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information. s7(2)(h) – The withholding of the information is necessary to enable Council to carry out, without prejudice or disadvantage, commercial activities.	s48(1)(a) – the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7.

**CARRIED**

At 12.40pm, the meeting adjourned.

At 1.15pm, the meeting resumed in the Public Excluded session.

At 2.05pm the meeting resumed in the open session.

## **14 CLOSING KARAKIA**

Commissioner Shadrach Rolleston closed the meeting with a Karakia.

**The meeting closed at 2.06pm.**

**The minutes of this meeting were confirmed as a true and correct record at the Ordinary Council meeting held on 13 September 2021.**

.....  
**CHAIRPERSON**

Unconfirmed

**8 DECLARATION OF CONFLICTS OF INTEREST**

**9 DEPUTATIONS, PRESENTATIONS, PETITIONS**

Nil

**10 RECOMMENDATIONS FROM OTHER COMMITTEES**

Nil



## 11 BUSINESS

### 11.1 Deliberations on the draft Tauranga City Council Acquisitions and Disposals Policy

**File Number:** A12667479

**Author:** Christine Jones, General Manager: Strategy & Growth

**Authoriser:** Christine Jones, General Manager: Strategy & Growth

#### PURPOSE OF THE REPORT

1. To deliberate on and then adopt the Property Acquisitions and Disposals Policy.
- 

#### RECOMMENDATIONS

That the Council:

- (a) Adopts the Property Acquisitions and Disposals Policy with:
    - (i) Proposed amendments in red contained in Attachment 1; and
    - (ii) Inclusion of the 'atypical' property category as highlighted in orange in Attachment 1; or  
Exclusion of the 'atypical' property category as highlighted in orange in Attachment 1;
  - (b) Revokes the following policies:
    - (i) Council Land: Recognition of Tangata Whenua Interests and Aspirations Policy
    - (ii) Property Acquisition and Divestment Road Stopping Policy
    - (iii) Strategic Acquisitions Fund Policy
  - (c) Requests staff undertake further work to determine if leases and/or easements could or should be included in a future version of the policy.
- 

#### EXECUTIVE SUMMARY

2. This report seeks to deliberate on submissions on the draft Property Acquisitions and Disposals Policy (the Policy) and adopt the Policy (Attachment 1).
3. A single Property Acquisitions and Disposals Policy (the policy) is proposed, incorporating the substance of three existing policies. If the policy is adopted, the following policies will be revoked:
  - Council Land: Recognition of Tangata Whenua Interests and Aspirations Policy
  - Property Acquisition and Divestment Road Stopping Policy
  - Strategic Acquisitions Fund (SAF) Policy
4. The proposed policy provides clear principles regarding the management and purpose of Council's property acquisitions and disposals.
5. If adopted, this policy will guide the delivery of Council's acquisitions and disposals, which is a key part of ensuring that Council plans for and provides affordable fit-for-purpose services and enhances the quality of life for current and future residents.
6. The policy also aims to recognise the close association that Mana Whenua has with the land in Tauranga Moana. The proposed policy provides Mana Whenua with a right of first refusal for the purchase of surplus property, suitable for disposal.

## BACKGROUND

7. The Strategy and Policy Committee at their 9 May 2016 meeting resolved to leave the reviewed Council Land: Recognition of Tangata Whenua Interests and Aspirations Policy on the table. This policy was again placed on the Policy Prioritisation in 2017. Through this ongoing review it was considered beneficial to consider the way in which Council acquires and disposes of property and to consolidate relevant policies to ensure transparency. The Property Acquisition and Divestment Road Stopping Policy and Strategic Acquisitions Fund Policy were therefore included in the review.
8. Council recognises the close association that Mana Whenua has with the land in Tauranga Moana. The proposed policy provides Mana Whenua with a right of first refusal for surplus property, suitable for disposal on the open market, which has been approved by Council for disposal. The proposed policy excludes strategic disposals and road stopping from the right of first refusal process.
9. The concept of right of first refusal was raised by the Tangata Whenua Collective (now, Te Rangapū Mana Whenua o Tauranga Moana Partnership) (Te Rangapū) with Council in 2015 and would recognise the role that Mana Whenua has in building, protecting and celebrating Tauranga, its environment and its people.
10. Throughout the 2018-2020 period, Councillors and Te Rangapū engaged in several hui to understand each other's aspirations and considerations, and to engage directly on the opportunities and concerns which might arise in a right of first refusal process. These conversations have informed the drafting of the policy and right of first refusal flow chart.
11. The Strategic Acquisitions Fund Policy was originally adopted by Council on 22 May 2018 with the substance of that policy now included in the proposed policy.
12. The Property Acquisition and Divestment Road Stopping Policy was originally adopted by Council on 18 May 1998. The policy has been updated and included in the proposed policy.
13. Council on 1 December 2020 adopted the draft Acquisitions and Disposals Policy for consultation.
14. Public submissions on the proposed policy were sought from 15 March 2021 to 15 April 2021. Two drop-in sessions were held, the first on 7 April 2021 and the second on 15 April 2021.
15. A total of 104 submissions were received. Hearings took place on 31 May 2021 with 11 submitters speaking.

## STRATEGIC / STATUTORY CONTEXT

16. If adopted, this policy will guide the delivery of Council's property acquisitions and disposals, which is a key part of ensuring that Council plans for and provides affordable fit-for-purpose services and enhances the quality of life for current and future residents.
17. A right of first refusal would recognise Council's ongoing commitment to working with Mana Whenua and the significant relationship Mana Whenua of Tauranga Moana have with the land.

## ISSUES ANALYSIS

18. From the submissions the following issues and concerns were raised:
  - (a) Confusion regarding terminology
  - (b) The inclusion of leases/easements in the policy
  - (c) Who makes the decision whether land considered for disposal is strategic or surplus
  - (d) Whether market value can be established by way of valuation assessment from a registered valuer
  - (e) Concerns over the proposed right of first refusal

- (f) Offering surplus property back to iwi/hapu after an open market process

## MINOR AMENDMENTS TO THE POLICY

19. When reviewing the submissions there was some concern regarding the terminology used in the policy. We have proposed changes to the policy to assist in the readability of the policy. The proposed changes to the policy have been track changed in Attachment 1.
20. One of the changes to the policy is to clarify the scope of the policy at clause 2.1. The draft policy previously referred to excluding operational management of property, however this was not as clear as it could be and was compounded by the inclusion of leases and easements in the definition of acquisition and disposal. As discussed below in this report, further work is required before leases and easements could be included in the policy.
21. Another example of misunderstanding that came through submissions is that strategic and surplus property were used interchangeably. To provide clarity, minor wording changes are proposed for the definition of surplus property and strategic disposal. Changes were also made at 5.7.2 and 5.8.1 of the policy. The following are the proposed definitions in the policy:
  - (a) **Surplus property:** Property that has been reviewed from a whole of organisation perspective and assessed as no longer required for strategic or operational purposes.
  - (b) **Strategic disposals:** Disposal of property for the purposes of achieving strategic or operational outcomes for the community.
22. Some submitters referenced the sale of the 11 Mission Street site to the Otamataha Trust as an example of selling surplus land and how the right of first refusal process would work. If that property was to be disposed of under this policy it would be considered a strategic disposal, not a sale of surplus property. The reason it would be considered a strategic disposal is that Council was trying to achieve a strategic outcome for the community by the continued access to the Elms and it allowed for the Elms to expand. The property was bought for a specific purpose and the conditions on its disposal ensured that it would be utilised in that way.
23. Alternatively, an example of surplus property is the five residential lots located at the corner of Sandhurst Drive and Grenada Street. Council has considered this property is no longer required. Council purchased the original land parcel that the sections were created from in 2011 as part of land required for the Sandhurst Drive extension. Following the completion of the Sandhurst Drive extension, the balance was subdivided into five residential sections with the intention of sale to recoup the cost of the original purchase.
- 24.

Option	Advantages	Disadvantages
<b>Amend the policy to make the changes for clarity.</b> (recommended and incorporated in Attachment 1)	<ul style="list-style-type: none"> <li>Assists in the readability of the policy.</li> <li>Makes the differences between surplus and strategic property clearer.</li> </ul>	<ul style="list-style-type: none"> <li>Nil</li> </ul>
Do not make the changes to the policy	<ul style="list-style-type: none"> <li>Nil</li> </ul>	<ul style="list-style-type: none"> <li>Continued misunderstanding of the policy.</li> </ul>

## INCLUSION OF LEASES AND EASEMENTS

25. As mentioned previously, it has become clear through the submission process that further work is required on the inclusion of leases and easements in the policy. The definitions of 'disposal' and 'acquisition' in the draft policy included "grant of easement, lease". It is proposed that leases and easements are removed from the policy and that the scope of the policy be amended to clarify that granting interests in land are not included in the policy.
26. Leases was not an area of discussion that was explicitly explored when the policy was developed and further discussion as to the impact of how the inclusion of leases and easements would work is required before they could be included in the policy.
27. Further work on this issue will look to understand leases and how they interact with the disposal of land. Further, other work, currently being undertaken, is likely to assist in determining when a lease would be considered strategic for example. For instance, a long-term lease could be considered strategic and therefore the process set out in the policy would be undertaken. This would be a change in how leases are currently considered.
28. Direction is sought for staff to further investigate the inclusion of leases and easements in the policy for the next policy review in two years' time.
- 29.

Option	Advantages	Disadvantages
<b>Remove the reference to leases and easements in the Policy and request staff to undertake work to determine if leases or easements could or should be included in the policy.</b> (recommended and incorporated in Attachment 1)	<ul style="list-style-type: none"> <li>Removes the confusion between what is operational versus strategic.</li> <li>Allows Council staff to continue to investigate ways to include leases and easements in the Policy which align with other reviews.</li> <li>Further work can be undertaken to understand how a long-term lease could be considered a disposal or acquisition of property.</li> </ul>	<ul style="list-style-type: none"> <li>Doesn't acknowledge the potential that a long-term lease could be considered a disposal.</li> </ul>
Retain the reference to leases and easements in the Policy	<ul style="list-style-type: none"> <li>Allows for Mana Whenua to be informed of Council leases.</li> </ul>	<ul style="list-style-type: none"> <li>The process in the Policy does not reflect how leases are reviewed currently and would therefore increase the workload for staff and Mana Whenua.</li> <li>Leases and easements were not fully considered in discussions with Mana Whenua and how that would work, and it has the potential to raise expectations when Council is not currently able to deliver.</li> </ul>

## THE DECISION TO DETERMINE WHETHER LAND IS STRATEGIC OR SURPLUS

30. Submitters raised concern regarding who was going to make the decision on the classification of strategic or surplus land and the final disposal of the property. Changes have been made in the policy to clarify that Council (Commissioners or Councillors) will make the decision on the classification and the disposal of property.

31.

Option	Advantages	Disadvantages
<b>Amend Policy to provide clearer statements on the decision making</b> (recommended and incorporated in Attachment 1)	<ul style="list-style-type: none"> <li>Makes the policy clear on Council's role.</li> </ul>	<ul style="list-style-type: none"> <li>Could be considered repetitive of legislation.</li> </ul>
No changes to policy	<ul style="list-style-type: none"> <li>Nil</li> </ul>	<ul style="list-style-type: none"> <li>Continued confusion regarding who makes the decision to classify and dispose of land.</li> </ul>

## OPEN MARKET VALUE OR RIGHT OF REFUSAL VALUATION APPROACH

32. One of the repeated concerns by submitters was the ability to determine market value through the proposed valuation assessment, by a registered valuer. Many of those submitters felt that the only way to determine market value was for all surplus properties to be sold through an open market process, such as an auction.
33. There are three issues arising from these submitter concerns for consideration:
- In principle should a Right of Refusal (RFR) for Mana Whenua be provided?
  - If yes to (a), should this apply to all surplus properties or should some be subject to Open Market?
  - If RFR applies, should market value be determined by one or more independent valuations.

## RIGHT OF REFUSAL (RFR) FOR MANA WHENUA

34. Council recognises the close association that Mana Whenua has with the land in Tauranga Moana. The proposed policy provides Mana Whenua with a right of first refusal for surplus property, suitable for disposal on the open market, which has been approved by Council for disposal. The policy proposes to exclude strategic disposals and road stopping from the right of first refusal process.
35. The proposed process for the disposal of surplus property contained within the policy reflects the discussion between Council and Te Rangapū regarding how a right of first refusal might operate. The policy acknowledges the importance of partnership between Council and Mana Whenua, whilst also achieving market value for the ratepayer on the disposal of the surplus property.
36. As discussed in this report (paragraphs 41 – 43) a new policy purpose is proposed to recognise the significant role Mana Whenua have in Tauranga and their connection to the land. If no RFR existed and an open market approach was taken for all surplus properties as suggested by some submitters, that would be inconsistent with this proposed purpose of the policy.
37. Of the 104 submissions received, 52 supported the proposed right of first refusal process. Some submitters suggested the right of first refusal should go further and raised concerns

over Mana Whenua being required to pay for the land especially for waahi tapu sites. For clarity, when the property is being assessed as either surplus or strategic, the cultural significance of the property would be considered as part of that assessment, however, it is not the only factor. Council must balance this with its obligations under section 14 of the Local Government Act, to ensure prudent stewardship and the efficient and effective use of its resources.

38. Some submitters did not support the policy and expressed concern about a 'race-based' policy, others just do not wish Council to sell any land.
39. The proposed right of first refusal is for surplus land only. It is proposed to apply to the partners to the Treaty based on that agreement and its principles as opposed to race. As defined in the policy, surplus property is land (and any improvements) that Council no longer requires for any purpose. As a general rule, the sole objective of the disposal of surplus property is the realisation of a financial return and the removal of the unrequired asset from the property portfolio. Applying a right of first refusal process to this land, whilst still achieving market value, allows Council to recognise the partnership with Mana Whenua. Council has an ongoing commitment to working with Mana Whenua, and the opportunity to provide Mana Whenua with the possibility of purchasing land in their rohe, whilst also achieving a financial return can be seen as a positive step for Tauranga.
40. If RFR is supported in principle, then some type of valuation or non-market process is required to be followed for the following key reasons:
  - (a) Council would be exposed to a reputational risk if property was taken to the open market to determine the RFR value, but then not offered for sale. It would also be unlikely to attract genuine purchasers if purchasers were aware that their price was to be offered to Mana Whenua first.
  - (b) Principle 4.5 of the policy recognises the partnership between Mana Whenua and Council. Taking the property to the open market defeats the concept of first right of refusal and therefore affords no tangible recognition of the partnership. It is acknowledged that Mana Whenua have difficulty in being able to purchase property at an auction. The use of the registered market valuation allows for Council to provide an opportunity for Mana Whenua to purchase property.

Option	Advantages	Disadvantages
<b>Include the proposed right of first refusal to Mana Whenua for surplus property</b> (recommended and retained in Attachment 1)	<ul style="list-style-type: none"> <li>Recognises Mana Whenua and the important role they play in Tauranga.</li> <li>Provides an opportunity for iwi or hapu to purchase land in their rohe.</li> <li>Ensures a financial return for Council on surplus land.</li> <li>Provides a transparent process.</li> </ul>	<ul style="list-style-type: none"> <li>May take longer to achieve a financial return, than a standard open market process.</li> <li>The open market does not determine the market value, but a registered valuation.</li> </ul>
Remove the right of first refusal from the Policy.	<ul style="list-style-type: none"> <li>Surplus property would be sold at open market, allowing the open market to determine the value.</li> <li>May be faster to achieve a financial return.</li> </ul>	<ul style="list-style-type: none"> <li>Does not recognise the important role of Mana Whenua in Tauranga.</li> <li>Does not support Mana Whenua's aspirations.</li> </ul>

### Additional Policy Purpose

41. Considering the above, the submissions have also highlighted the need to link the purpose of the policy with the right of first refusal, and the intention to recognise Mana Whenua's role in Tauranga. With that, it is proposed to include an additional policy purpose at 1.4 as follows:

*"To recognise the historical and cultural connection Mana Whenua have to the land and acknowledge the role that Mana Whenua have in building, protecting and celebrating Tauranga."*

42. This purpose reflects the language used in the consultation document and provides a clear connection to including a right of first refusal and Mana Whenua's involvement when Council dispose of property. It highlights the important relationship between Council and Mana Whenua, Mana Whenua's strong connection to the land and the important role they play in Tauranga.

43.

Option	Advantages	Disadvantages
<b>Include the proposed additional policy purpose</b> (recommended and incorporated in Attachment 1)	<ul style="list-style-type: none"> <li>Recognises the important role Mana Whenua play in Tauranga.</li> <li>Links the right of first refusal to the purpose of the policy.</li> </ul>	<ul style="list-style-type: none"> <li>Nil</li> </ul>
Do not include the proposed policy purpose	<ul style="list-style-type: none"> <li>No change required to policy.</li> </ul>	<ul style="list-style-type: none"> <li>No clear link between policy purpose and the right of first refusal</li> </ul>

### SHOULD RIGHT OF FIRST REFUSAL APPLY TO ALL SURPLUS PROPERTIES?

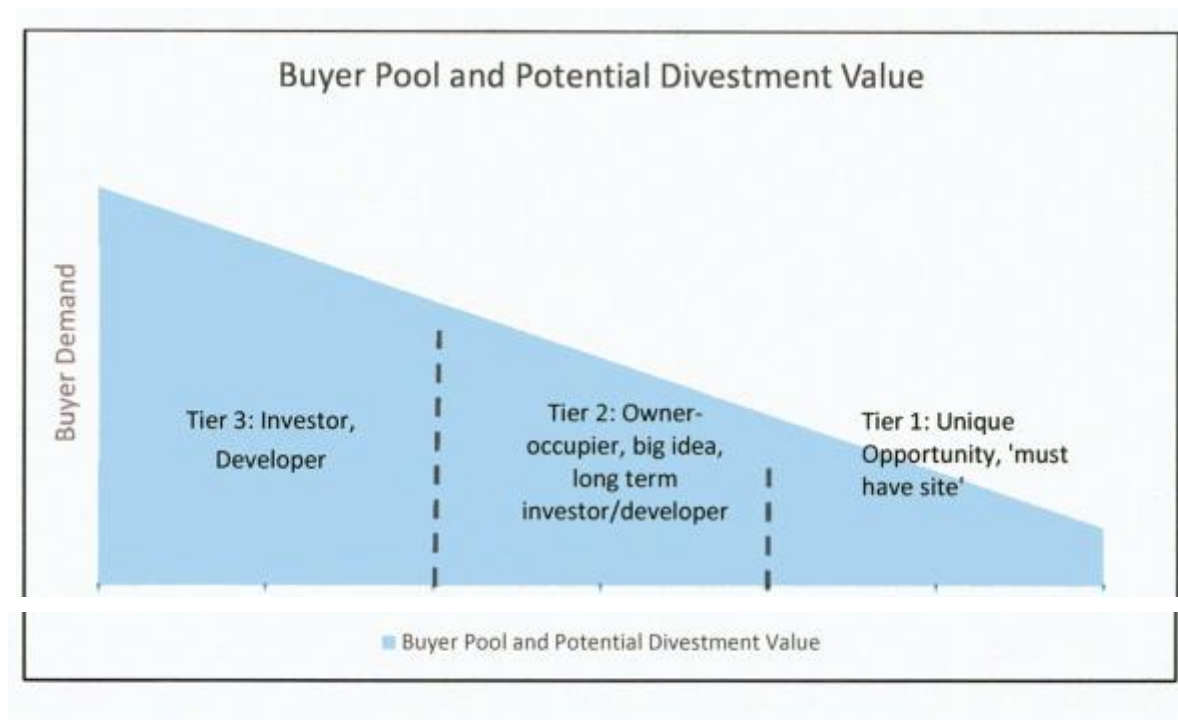
44. If RFR is approved in principle, then should / can the concerns of submitters re the appropriateness of market value be addressed in same manner? At the request of the Chief Executive this report addresses this question by considering whether all surplus properties should be subject to the RFR.
45. The policy could include an additional category of property in response to a concern about properties where it may be difficult for a registered valuation to reasonably accurately ascertain the market value of a property. Such properties may have unique characteristics, be an anomaly in the market, have a variety and range of possible uses and attributable values, or because the value to specific purchasers can be distinguished from the wider market. To mitigate the potential risk of not achieving a fair and accurate value for such 'atypical' properties, they could be excluded from the right of first refusal process.
46. Atypical property is proposed to be defined as property with the following characteristics:
- Unique property, where there has been a lack of similar sales to inform the assessment of market value; and/or
  - Properties with a range of possible uses with a significant range of values associated with each of those uses; and/or
  - Properties where the value to a sub-section of the market differs from the value of the property to the market as a whole.
47. If Council did incorporate provisions relating to atypical property, further amendments to reflect the new category of property, and its exclusion from the right of first refusal process, would be made to sections 5.6.3.4 and 5.6.3.7 of the policy.
48. Determination of what an atypical property is may be problematic for those seeking clarity on the likely application of the policy, including staff. If this definition is included, there will need



to be further discussion and guidance as to likely qualifying properties. This could be informed by early discussions with a valuer and other property professionals.

### Previous Consideration of Atypical Properties

49. The issue of atypical properties was raised in a report to the 19 March 2019 Policy Committee meeting. The report was removed from the agenda at the meeting due to insufficient consultation with Mana Whenua. The inclusion of atypical properties was then raised with Councillors and Mana Whenua at a hui in August 2020. It was agreed at that hui that the inclusion of atypical properties category was unnecessary and was strongly opposed by Mana Whenua. The draft policy, when adopted for consultation on 1 December 2020, did not include the 'atypical' property category and as such the views of the wider community are unknown regarding this potential addition.
50. Valuers are required to value in accordance with accepted standards and guidelines. In most cases, these refer to the valuer assessing the highest and best use of the property, and valuing accordingly. Many properties are worth more to one sector of the market, or individual buyer, than others. These buyers are usually the successful buyers which reflects the concept of highest and best use. These transactions become the sales on which valuers base their valuations.
51. It is acknowledged that for some valuation assessments there may be limited comparable sales. In those circumstances, market evidence may come from further afield geographically, older sales, or sale of less similar properties with adjustments made.
52. The previous discussion on 'atypical properties' often referred to the disposal of an 8,100 square metre site at 384-410 Maunganui Road to Zespri in 2015. The site was large and unique with a range of potential development opportunities.
53. Council obtained independent valuation advice on the Maunganui Road site which explored a range of possible purchasers and those purchasers' likely 'highest and best use' of the property. That analysis included consideration of previous sales, market demand assessment, development feasibility analysis, and a broad range of alternative uses. The graphic in paragraph 72 below, was provided by the independent advisor to illustrate that a higher value (x-axis) would be supported by higher tier purchasers, and those higher tier purchasers would be a smaller number of market buyers.





54. The property at 384-410 Maunganui Road was sold by way of an open market offer. The value achieved was substantively higher than the 'Tier 1' estimated market value assessed by the independent advisor.

### Atypical Properties – Risks and Issues

55. Section 14 of the Local Government Act requires opportunities for Maori to contribute to its decision-making processes. Te Rangapū have been involved in every step of this policy development process. In August 2021 the Te Rangapu were informed of the re-inclusion of the atypical property in the policy development considerations, however this was not consultation or discussion. Mana Whenua have consistently been clear that they do not support atypical properties being defined in the policy and excluded from the RFR.

56.

Option	Advantages	Disadvantages /Risks
Amend the Policy to include the “atypical property” category and for these properties to be excluded from the right of first refusal process	<ul style="list-style-type: none"> <li>Is consistent with the purpose of the policy to deliver best value to residents.</li> <li>Addresses the difficulty of using a registered valuer to determine market value for unique properties and provides an alternative of an open market process.</li> <li>Removes the risk of an alternative purchaser demonstrating that they would have paid a considerably higher price, had they been given the opportunity.</li> <li>Partially responds to the concerns of those submitters who supported an open market process to determine market value.</li> </ul>	<ul style="list-style-type: none"> <li>Is inconsistent with some of the purpose and principles of the policy.</li> <li>Mana Whenua have consistently advised that they do not support inclusion of atypical property category.</li> <li>This draft policy engagement with Mana Whenua did not include this option.</li> <li>Mana Whenua concern of a reduction in the pool of surplus properties available to Mana Whenua to purchase under right of first refusal.</li> <li>Is inconsistent with how property is purchased under the Public Works Act.</li> </ul>
No change to the policy, do not include “atypical property”.	<ul style="list-style-type: none"> <li>Reverse of the above</li> </ul>	<ul style="list-style-type: none"> <li>Reverse of the above</li> </ul>

### VALUATION APPROACH

57. Submitters raised concerns around the reliance on an independent valuation to determine the price in an RFR situation. If RFR applies, should market value be determined by one or more independent valuations.
58. The policy proposes to mirror the Treaty of Waitangi claims settlement process use of market valuations. Market valuations are used in many other situations such as determining value under the Public Works Act, or for insurance and mortgage purposes. Valuation assessments are required to conform to accepted international and national standards and

procedures. Registered valuers are required to meet certain education and experience standards to be registered and to undertake continuing professional development.

59.

Option	Advantages	Disadvantages
Retain the requirement to obtain a market valuation from a registered valuer.	<ul style="list-style-type: none"> <li>• Used and accepted in a variety of situations.</li> <li>• Consistent with the purpose and principles of the policy.</li> <li>• Allows Mana Whenua to participate in the process.</li> <li>• Ensures a tangible opportunity to represent the partnership</li> </ul>	<ul style="list-style-type: none"> <li>• Risk that a registered market valuation is not considered by some in the community as an accurate value of the property.</li> </ul>
<b>Require two registered valuations to determine market value</b> (recommended and incorporated in Attachment 1)	<ul style="list-style-type: none"> <li>• Provides further assurance that the market value as determined in the valuation is reflective of the market value.</li> <li>• Reduces reliance on only one independent valuer.</li> </ul>	<ul style="list-style-type: none"> <li>• Increased cost.</li> <li>• Increase in administration and time to complete market value assessment.</li> <li>• Mana Whenua can already obtain a valuation if the first valuation is not acceptable, and therefore a total of three valuations would have been undertaken in the process.</li> <li>• Inconsistent with the process when acquiring land under the Public Works Act.</li> </ul>

### A Bright-line Type Test

60. A submitter suggested a bright-line type test be considered. The bright-line test would be a condition preventing the property being on sold within a certain timeframe.
61. Council has already assessed that the property is surplus property and determined that the property is no longer required. As the property is no longer required, the purpose of the sale is to achieve a financial return and the removal of the unrequired asset from the property portfolio. To place further conditions on the sale of the property is likely to negatively impact the purchase price.
62. A bright-line test would potentially provide a level of protection from the lack of an open market process and 'windfall' gains through rapid purchase and subsequent disposal. It would go some way to mitigate the associated reputational risk that Council sold the property 'too cheaply'.
63. There is, however, a question of fairness relative to open market purchases which are subject to rapid price increases. With all property transactions there is an element of risk, that the property could potentially be worth more for instance if you waited a short time and then sold.

64. There was no suggestion that any bright-line type test would apply if the property was sold at open market, and therefore this would only apply to Mana Whenua as purchasers. The proposed right of first refusal process is to allow Council to recognise the important role Mana Whenua play in Tauranga.
65. If Council chooses to apply the 'atypical properties' definition and exclude these from the RFR, then the benefit of a brightline test would be significantly reduced.

Option	Advantages	Disadvantages
<p><b>Do not include a bright-line test in the policy</b> restricting the timing of subsequent sale of property purchased through Right of First Refusal process. (recommended and no change to Attachment 1)</p>	<ul style="list-style-type: none"> <li>Consistent with engagement with Mana Whenua through policy development</li> <li>Does not introduce a condition which will likely negatively impact on the price.</li> <li>If 'atypical properties' including in policy, lower likelihood of non-market based windfall gains.</li> </ul>	<ul style="list-style-type: none"> <li>Risk of short term 'windfall' gains through purchasing and quickly on-selling the property, and perceived loss of best value opportunity for ratepayers.</li> </ul>
<p>Include a bright-line test to require a profit share after a specified time period.</p>	<ul style="list-style-type: none"> <li>Potentially provide a level of protection from 'windfall' gains through rapid purchase and subsequent disposal.</li> </ul>	<ul style="list-style-type: none"> <li>Inconsistent with engagement with Mana Whenua through policy development.</li> <li>Likely to impact negatively on the price of the property.</li> <li>Not consistent with commercial best practice</li> <li>Would require further staff time to administer</li> <li>No guidance provided as to what would be considered a reasonable time period.</li> <li>Only applies to surplus property sold by way of right of first refusal and is not suggested to be contained in any other disposal.</li> <li>Perceived unfairness that Council would not be sharing in any potential loss only profit.</li> </ul>

### Right of First Refusal Process Timeframes

66. Submitters did express concern that the length of time set out in the flow chart appended to the policy is too long for a property to be sold. The timeframes included in the flow chart have been discussed at length with Te Rangapū, Councillors and staff and enable appropriate consultation at each step. No changes are proposed to the timeframes set out in the flow chart.

67. The number of properties that are likely to be declared surplus property will vary: there are currently only two properties that would be considered surplus property. Given the small number of properties we are considering, the process allows for trust and confidence to build between Mana Whenua and Council.
68. The Treaty settlement process in the Tauranga Moana settlement provides a 30 day timeframe. A 30 day timeframe is not recommended here, as it does not allow for iwi or hapu to undertake adequate due diligence. Through the Treaty settlement negotiation process iwi are aware, well in advance, of the properties that are available for right of first refusal; that would not be the case with Council.
- 69.

Option	Advantages	Disadvantages
No changes to the right of first refusal timeframes	<ul style="list-style-type: none"> <li>Allows appropriate consultation at each step</li> <li>Transparent</li> <li>Can be varied by agreement with the relevant iwi or hapu.</li> </ul>	<ul style="list-style-type: none"> <li>Is perceived to take a long time.</li> </ul>
<b>Shorten the timeframes provided in the right of first refusal process to 45 days.</b>  (recommended and incorporated in Attachment 1)	<ul style="list-style-type: none"> <li>Provides a shorter timeframe.</li> </ul>	<ul style="list-style-type: none"> <li>May cause ongoing issues with Mana Whenua being able to fully participate in the process</li> <li>Would undermine the purpose of the policy.</li> <li>Change in timeframe is not done with the agreement or input of iwi and hapu.</li> </ul>
Shorten the timeframes to 30 days.	<ul style="list-style-type: none"> <li>Is the same timeframe as those contained in Treaty settlements.</li> <li>Potential to achieve a quick settlement</li> </ul>	<ul style="list-style-type: none"> <li>The Treaty settlement process already has the disclosure requirements before the timeframe begins. This timeframe therefore does not allow iwi/hapu the opportunity to undertake adequate due diligence, like they can in the Treaty settlement process.</li> <li>Doesn't reflect the timeframes developed between staff and Mana Whenua.</li> <li>May cause ongoing issues with Mana Whenua being able to fully participate in the process</li> </ul>

## Resolving Disputes

70. A final concern with the right of first refusal process is how will disputes be resolved regarding the most appropriate iwi or hapu for Council to offer the property to. The right of first refusal process sets out that surplus property would be offered in the first instance to the relevant iwi or hapu as identified in the iwi and hapu maps. These iwi and hapu maps have been developed and provided to us by iwi and hapu. Where there is crossover and therefore uncertainty as to who is the most appropriate purchaser, the position is that the iwi/hapu will determine who the iwi/hapu purchaser is within the 60 working day timeframe outlined in the policy flowchart. It is the responsibility of iwi and hapu to inform Council as to who the most appropriate purchaser is.

71.

Option	Advantages	Disadvantages
<b>No changes to the policy</b> (recommended and no change to Attachment 1)	<ul style="list-style-type: none"> <li>Allows for Mana Whenua to resolve any disputes through a tikanga process</li> <li>Clear timeframes are provided in the policy to resolve timeframes</li> <li>Is the agreed approach with Mana Whenua</li> </ul>	<ul style="list-style-type: none"> <li>Disputes may not be resolved within the timeframe.</li> </ul>
Consider alternative ways to resolve any disputes	<ul style="list-style-type: none"> <li>There may be alternative ways to resolve the dispute.</li> </ul>	<ul style="list-style-type: none"> <li>Would require further investigation and consultation.</li> <li>Would delay the implementation of the policy.</li> </ul>

## Offer back to Mana Whenua after Open Market process

72. To ensure transparency, the proposed process outlined by the proposed right of first refusal flowchart specifies that if an open market disposal process results in a price which is lower by 10% (or more) than the value determined by the independent valuer through an unsuccessful negotiation with Mana Whenua, then prior to finalising an open market transaction, the property is re-offered to relevant Iwi/Hapu at the lower value. The Iwi/Hapu shall have 10 working days to accept or decline in writing the revised offer.

73. One of the complexities with this step in the process is that some of the surplus properties have constraints or issues e.g. weathertightness. The extent of these constraints or issues may not be known at the time of valuation and may require further due diligence. It is at this point that Mana Whenua may have no further interest in the property regardless of price. It is therefore beneficial to both Mana Whenua and Council that time and energy is not wasted continuing a process if Mana Whenua have no further interest.

74. To mitigate the risk of unnecessary process, it is proposed to amend the policy to include "unless iwi/hapu have already advised they have no further interest in the property". This inclusion is to allow Council to continue with the open market process when iwi have indicated they have no further interest in the property regardless of the price.

75. The proposed offer-back step in the policy does come with a potential reputational risk, in that the property that is being offered to the open market is still subject to the condition of going back to Mana Whenua. This may raise the issue that the property is not genuinely for sale and may reduce the number of potential purchasers.

76.

Option	Advantages	Disadvantages
<b>Amend the Policy to include “unless iwi/hapu have already advised they have no further interest in the property”</b> (recommended and incorporated in Attachment A to Attachment 1)	<ul style="list-style-type: none"> <li>Allows for certainty to be provided that iwi or hapu have no further interest in the property.</li> <li>Allows for transparency in process.</li> <li>Removes unnecessary process.</li> </ul>	<ul style="list-style-type: none"> <li>Can still allow for uncertainty in the open market process.</li> <li>Reputational risk that the property is not genuinely for sale.</li> </ul>
No changes to the policy	<ul style="list-style-type: none"> <li>Allows for transparency in process</li> </ul>	<ul style="list-style-type: none"> <li>Additional time required unnecessarily if there is no further interest in the property.</li> <li>Reputational risk that the property is not genuinely for sale</li> </ul>
Remove the offer back requirement from the policy.	<ul style="list-style-type: none"> <li>Provides certainty when going to the market that no further offer back situation is required.</li> </ul>	<ul style="list-style-type: none"> <li>Is inconsistent with the discussions between Council and Staff.</li> <li>Does not provide for that transparency and building of trust between Mana Whenua and Council.</li> <li>Likely to require further consultation with Mana Whenua.</li> </ul>

## FINANCIAL CONSIDERATIONS

77. The proposed Acquisitions and Disposals Policy will not impact on Council’s acquisitions costs, as the current processes for acquiring property will not be altered by the policy.
78. All disposals of Council property incur costs, including staff time, holding costs and valuation costs, agents’ fees and the cost of completing any legislative or contractual obligations, such as offer back obligations under section 40 of the Public Works Act. Such costs are generally a very small percentage of the sale price.
79. There is potential for additional costs during protracted negotiations for any disposal, including, but not limited to, a right of refusal process. These could include staff time and holding costs for the length of the negotiation.
80. Conversely, if negotiations for the disposal of surplus property are completed swiftly, either on the open market or as part of a right of first refusal process, the disposal may cost less.

## LEGAL IMPLICATIONS / RISKS

81. This matter complies with the Council’s legal and policy requirements. Legal advice has been sought throughout the development of this policy, except for the inclusion of the ‘atypical’ property category or the introduction of two valuations, a change in timeframe or a bright-line test.
82. The risks, such as the reputational risks have been discussed previously in this report.

## CONSULTATION / ENGAGEMENT

83. Public submissions were sought from 15 March 2021 to 15 April 2021. Two drop-in sessions were held the first on 7 April 2021 and the second on 15 April 2021.
84. The consultation was advertised widely through council libraries, on the website and through social media.
85. A total of 104 submissions were received. Of the 104 submissions 38 indicated that they wish to be heard, with 11 submitters speaking at the hearings on 31 May 2021.

## SIGNIFICANCE

86. The Local Government Act 2002 requires an assessment of the significance of matters, issues, proposals and decisions in this report against Council's Significance and Engagement Policy. Council acknowledges that in some instances a matter, issue, proposal or decision may have a high degree of importance to individuals, groups, or agencies affected by the report.
87. In making this assessment, consideration has been given to the likely impact, and likely consequences for:
  - (a) the current and future social, economic, environmental, or cultural well-being of the district or region
  - (b) any persons who are likely to be particularly affected by, or interested in, the decision.
  - (c) the capacity of the local authority to perform its role, and the financial and other costs of doing so.
88. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the decision is of medium significance.

## ENGAGEMENT

89. Taking into consideration the above assessment, that the decision is of medium significance, officers are of the opinion that no further engagement is required prior to Council making a decision. As discussed, public consultation has already been undertaken on the issue, and we received a variety of responses to the issue. Ongoing consultation has occurred with Mana Whenua through Te Rangapū as to the progress of the policy review. The proposed changes to the policy do not change the intent of the policy and in our opinion do not require further public consultation.
90. However, as discussed earlier in the report, if atypical property, or a bright-line test is included in the policy, then the policy has changed, and this change directly impacts Mana Whenua. Te Rangapū and the community have not had an opportunity to comment on the inclusion of atypical properties or a bright-line test in this consultation round. However, Te Rangapū have previously been consistent and clear that they do not support the atypical property approach. Mana Whenua have not had an opportunity to have their say on the inclusion of atypical property or a bright-line test. Council can give consideration to whether further discussion and engagement with Mana Whenua and the wider community is appropriate.

## NEXT STEPS

91. If significant changes and the decision to consult is made, then further public consultation would be undertaken.
92. If the policy is adopted and no further consultation deemed necessary, the policy would be uploaded to the Council's webpage and the following policies would be removed:
  - (a) Council Land: Recognition of Tangata Whenua Interests and Aspirations Policy
  - (b) Property Acquisition and Divestment Road Stopping Policy
  - (c) Strategic Acquisitions Fund (SAF) Policy

93. Staff would continue to review the appropriateness of the inclusion of leases/easements in the policy and report back as part of the policies review in two years' time.
94. Council's decision will be communicated to those that submitted on the draft policy.

## **ATTACHMENTS**

1. **Draft Acquisitions and Disposals Policy 2021 - A12775242** [↓](#)





## Draft Property Acquisitions and Disposals Policy

<b>Policy type</b>	City Policy		
<b>Authorised by</b>	Council		
<b>First adopted</b>	<i>Adoption date</i>	<b>Minute reference</b>	
<b>Revisions/amendments</b>	<i>Add years</i>	<b>Minute references</b>	
<b>Review date</b>	This policy will be reviewed two yearly after adoption.		

### 1. PURPOSE

- 1.1. To provide clear guidance, with the intent of ensuring:
- a consistent, transparent and robust approach to the acquisition and disposal of council property;
  - council's legislative responsibilities are adhered to; and
  - council's policy position regarding property disposals and acquisitions supports the achievement of council's strategic objectives.
- 1.2. To deliver best value to residents via the adoption of a prudent and holistic approach to the acquisition and disposal of council property.
- 1.3. To support the timely acquisition and disposal of property.
- ~~4.3-1.4 To recognise the historical and cultural connection Mana Whenua have to the land and acknowledge the role that Mana Whenua have in building, protecting and celebrating Tauranga.~~

### 2. SCOPE

- ~~2.1. This policy relates to the acquisition and disposal of council property; **excluding** except for:~~
- ~~acquisition or granting of interests in land, such as leases or easements~~
  - ~~operational management of council property, the management of Council property leases, easements and the~~ acquisition of stormwater- affected property.

### 3. DEFINITIONS

Term	Definition
Acquisition	procurement of property <del>including via, but not limited to, purchase, lease, easements-gifting, and vesting and land exchanges</del>
Additional Compensation	as that term is defined by the Public Works Act 1981
<u>Atypical Property</u>	<u>is property with the following characteristics:</u>

	<p>a) <u>Unique property, where there has been a lack of similar sales to inform the determination of market value; and/or</u></p> <p>b) <u>Properties with a range of possible uses with a significant range of values associated with each of those uses; and/or</u></p> <p>c) <u>Properties where the value to a sub-section of the market differs from the value of the property to the market as a whole.</u></p>
Council	refers to Tauranga City Council
Council resolution	A resolution (decision) made at a Council meeting, according to the requirements of the Local Government Act 2002
Disposal	<del>Disposal of property including, includes, but not limited to, sale, grant of easement, lease, gift, and vesting and land exchange</del>
Mana Whenua	refers to the iwi and hapu who have traditional authority over the property, as defined by rohe, or whose rohe is within one kilometre of the surplus property
Market Value	<p>is the estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion.</p> <p>Does not take into account factors such as cultural values or tenancy agreements that have not yet been entered into</p>
Open Market Process	a competitive process which provides unrestricted access to all potential purchasers
<del>Operational Property</del>	<del>property used for council services or infrastructure e.g. recreation reserve, stormwater reserve, carpark building, office block, or library. An operational property may have been a strategic property originally.</del>
Property	<u>subject to clause 2.1,</u> is land and/or an interest in land and may include any asset constructed in or on land
Right of First Refusal	when council offers surplus property, by way of sale, directly to Mana Whenua in accordance with clause 5.9 of this policy, prior to sale via an open market process
Road Stopping	as defined by the Local Government Act 1974
Rohe	geographical area of interest for iwi and hapu as specified in the relevant protocol agreements that are between council and Tauranga Moana iwi and hapu
<del>Unscheduled Strategic Acquisitions Fund Acquisition</del>	a budget allocated via the long-term plan to be used for time sensitive, unscheduled acquisitions
Strategic Disposal	<p>Disposal of property for the purposes of achieving strategic or operational outcomes for the community.</p> <p><del>For guidance, as a general rule, Council will be seeking outcome/s other than solely financial return.</del></p>

Surplus Property	Property that has been reviewed from a whole of organisation perspective and assessed as no longer required <del>by council</del> for <del>operational</del> , strategic or <del>investment operational</del> purposes, <del>or to achieve operational outcomes for the community, and has been approved by council as ready for disposal.</del> For guidance, as a general rule, the sole objective of disposal of surplus property is realisation of financial return and removal of unrequired asset from the property portfolio
Unscheduled Acquisition	an acquisition that <del>either either has not been identified and planned for</del> is not contemplated by and in accordance with the <del>in the</del> long-term plan or annual plan or occurs ahead of the financial year within which it was planned and budgeted for.
Unscheduled Disposal	a disposal which has not been <del>identified and planned for</del> within <del>contemplated by and in accordance with</del> the long-term plan or annual plan

#### 4. PRINCIPLES

- 4.1. Acquisition and disposal of council property will be managed transparently, subject to reasonable commercial confidentiality constraints.
- 4.2. Council is not in the business of investing in property with the primary intent of achieving financial gain.
- 4.3. Acquisition and disposal of council property is to support~~s~~ growth and enable~~s~~ the timely provision of infrastructure and services.
- 4.4. Acquisition and disposal of council property will be conducted to enhance~~s~~ the lifestyle, amenity and liveability of the city and will be ~~strategically~~ managed to deliver improved economic, environmental, social or cultural outcomes.
- 4.5. Council recognises the close association that Mana Whenua have with the land in Tauranga Moana and the role that partnership plays between council and Mana Whenua.
- 4.6. All costs relating to acquisitions or disposals will be met by the respective parties to a transaction, unless otherwise agreed, stated in this policy or determined by statute.

#### 5. POLICY STATEMENT

##### 5.1. Identification and Management of Acquisitions and Disposals

###### 5.1.1 Acquisitions and disposals will be:

- i. identified by the relevant council managers in collaboration with the council activities responsible for property acquisitions and disposals; and
- ii. managed by the council activity responsible for property acquisitions and disposals, to ensure adherence with best practice, council policy and statutory requirements.

##### 5.2. Determining Market Value

###### 5.2.1 Market Value will be assessed by ~~an two~~ independent registered valuer~~s~~ and will be provided in the form of a full report which meets all reporting standards ~~and must not be in short form.~~

##### 5.3. Operational Acquisitions

###### 5.3.1 Council will acquire property to meet council's existing or future levels of service, including property required for infrastructure delivery.

5.3.2 Operational acquisitions are:

- i. provided for in the annual plan or long-term plan, either as specifically identified property/ies or ~~in response in order to contribute to a set of level of identified~~ service requirements ~~or associated with / or required to enable projects contemplated by the annual plan or long-term plan; or~~
- ii. funded from capital funding sources ~~including but not limited to those identified in the long-term plan, annual plan and/or by development contributions; or~~
- iii. ~~designated in advance (where appropriate and possible); and or~~
- iv. purchased within the financial year containing the allocated purchase budget or are purchased within delegated financial authority.

5.4. Unscheduled Acquisitions

5.4.1 Unscheduled acquisitions ~~are acquisitions which do not meet the requirements of clause 5.3.2.~~

5.4.2 ~~Unscheduled acquisitions~~ allow council to acquire property on a proactive and efficient basis, ensuring that council can take advantage of market opportunities. Unscheduled acquisitions support council to:

- i. deliver improved economic, environmental, social or cultural outcomes; and
- ii. meet its future operational requirements, by allowing for the advantageous purchase of property not anticipated for in the current financial year.

~~5.5. Administration of the~~ Strategic Acquisitions Fund

5.5.1 The Strategic Acquisitions Fund can be used to fund, in whole or in part, the purchase price of unscheduled acquisitions, or operational acquisitions with an insufficient budget allocation, and for associated additional compensation costs.

5.5.2 The Strategic Acquisitions Fund is for time sensitive purchases, when the time required for a council resolution approving budget for the purchase would jeopardise the likelihood of successfully purchasing the identified property.

5.5.3 The Strategic Acquisitions Fund is not for funding costs related directly or indirectly to the development of a property, such as consenting, design or construction costs.

5.5.4 When the Strategic Acquisitions Fund is used to purchase property, which is later used for operational purposes, the relevant council activity will then ~~account internally for the purchase of~~ the property. The ~~notional~~ purchase amount will be based on the amount the property was originally purchased for, including any legal and valuation costs incurred at the time of purchase, plus holding costs. The monies will be reimbursed to the Strategic Acquisitions Fund. Consideration may be given to the current market value and the original reason for purchase.

5.5.5 Budget is allocated to the Strategic Acquisitions Fund per annum. Council will set the annual budget for the Strategic Acquisitions Fund in the long-term plan or annual plan.

5.5.6 Unspent funds and proceeds reimbursed to the Strategic Acquisitions Fund will be carried over into the following financial year.

- 5.5.7 The Strategic Acquisitions Fund will be capped once the amount contained in the fund equals or exceeds the total amount of budget allocated over the previous three years. Future annual budget allocations will resume once the amount in the Strategic Acquisitions Fund is less than the total amount of budget allocated over the previous three years.
- 5.5.8 The Strategic Acquisitions Fund will be managed by the council activity responsible for property acquisitions. The Executive is responsible for prioritising applications to the Strategic Acquisitions Fund.
- 5.5.9 Final decisions on all applications to the Strategic Acquisitions Fund are made by the Mayor (following informal consultation with Councillors) and the Chief Executive.
- 5.6 Process to classify property for the purposes of disposal
- 5.6.1 Disposal of council property may be initiated by a request from an external party or by council.
- 5.6.2 Requests to purchase council owned property will be assessed on a case by case basis and council's response will be guided by this policy.
- 5.6.3 Council will, in assessing and classifying land for disposal undertake the following steps:
- Step 1: Assess*
- 5.6.3.1 Council will undertake an assessment of the property to identify and report on the following:
- council's pre-existing ~~contractual and~~ statutory or other legal obligations in relation to the property; and
  - whether there are any strategic objectives to be achieved through disposal; and
  - if the property is suitable for an open market process.
- Step 2: Engagement with Mana Whenua on cultural matters*
- 5.6.3.2 Council will notify Mana Whenua of the details of the property being considered and a summary of the assessment undertaken in 5.6.3.1 above.
- 5.6.3.3 If a Property is not subject to pre-existing ~~contractual or~~ statutory or other legal obligations, council will meet with Mana Whenua within 30 days of giving notice as per 5.6.3.2 and engage in good faith to ensure any cultural matters have been appropriately identified and considered in the assessment.
- Step 3: Classification*
- 5.6.3.4 Council will make the final decision regarding the classification of the property as either a strategic disposal or surplus property or atypical property, and the process for disposal, and shall notify Mana Whenua within [30] days of making a decision.
- 5.6.3.5 If the property disposal is ~~classified as determined to be~~ a strategic disposal, the property will be disposed of according to the process set out in 5.7 Strategic Disposal process.
- 5.6.3.6 If the property is ~~classified as determined to be~~ a surplus property, it will be disposed of according to the process set out in 5.8 Disposal of Surplus Property (see also Attachment A).

- 5.6.3.7 If the property is classified as atypical property, it will be disposed in an appropriate manner and will not be subject to the right of first refusal process.
- 5.6.4 Market Value (also referred to in 5.2) informs all disposals.
- 5.6.5 For all disposals the method of disposal will be at the discretion of council and informed by property market conditions and the characteristics of the property being disposed of.
- 5.6.6 Council will carry out any community engagement in relation to the disposal as required by The public will be notified regarding disposals, in accordance with council's Significance and Engagement Policy and applicable legislation.
- 5.7 Strategic disposal process
- 5.7.1 A strategic disposal occurs when the disposal of a property is for the purposes of achieving strategic or operational outcomes for the community.
- 5.7.2 A strategic disposal is not subject to right of first refusal; and may occur as an unscheduled disposal. Any unscheduled disposals that are classified as strategic disposals are to be approved by Council resolution.
- 5.7.3 The desired outcomes for the strategic disposal will inform the detail of the disposal process. The desired outcomes may be non-financial in nature.
- 5.7.4 In general, council will seek to achieve market value for strategic disposals. However, council will consider strategic disposals at non-market value in order to achieve economic, environmental, social or cultural outcomes.
- 5.7.5 A strategic disposal may include partnering arrangements, including, but not limited to joint ventures, such as public-private partnerships, co-management or co-governance arrangements.
- 5.7.6 A strategic disposal will be carried out in accordance with any applicable statutory requirements affecting the property.
- 5.8 Disposal of surplus property (see also Attachment A)
- 5.8.1 Property can only be declared surplus property under this policy via the long-term plan, annual plan or by Council resolution. For guidance, as a general rule, the sole objective of disposal of surplus property is the realisation of a financial return and removal of the unrequired asset from the property portfolio.
- 5.8.2 Unscheduled disposals of surplus property are to be approved by Council resolution.
- ~~5.8.4~~ 5.8.3 Surplus property will be sold at market value.
- ~~5.8.25~~ 5.8.4 Subject to any other legal requirements affecting the property,  
Surplus property suitable for disposal via an open market process shall be subject to a right of first refusal in favour of Mana Whenua, as per 5.9.
- ~~5.8.35.7.1~~ Property can only be declared surplus property under this policy via the long-term plan, annual plan or by Council resolution.
- ~~5.8.45.7.1~~ Unscheduled disposals of surplus property are to be approved by Council resolution.
- 5.8.5 The proceeds from the disposal of surplus property will be returned to:
- i. the council activity that funded the purchase, or;

- ii. the Strategic Acquisitions Fund if the purchase was funded by the Strategic Acquisitions Fund, ~~will return to the Strategic Acquisitions Fund.~~

#### 5.9 Right of First Refusal (see also Attachment A)

- 5.9.1 Following the discharge of any pre-existing ~~contractual or~~ statutory or other legal obligations by Council, Mana Whenua will be provided with the opportunity to purchase surplus property prior to it being sold via an open market process.
- 5.9.2 The right of first refusal applies to surplus property which has been assessed as suitable for sale via an open market process. Right of first refusal does not apply to strategic disposals.
- 5.9.3 The right of first refusal offer will be made to Mana Whenua.
- 5.9.4 Mana Whenua will determine if they have an interest in purchasing the property and which iwi or hapu will proceed with the purchase.
- 5.9.5 Market value will be paid for surplus property via right of first refusal.
- 5.9.6 Attachment A outlines the processes and timeframes which apply to the right of first refusal process.
- 5.9.7 Amendments to Attachment A must be approved by the Mayor and Deputy Mayor; and the Chair and Deputy Chair of Te Rangapū Mana Whenua o Tauranga Moana (or it's equivalent).

### 6. ROAD STOPPING

6.1. Council will consider permanent road stopping and disposal, where:

- i. the road is not likely to be required for council or community purposes, or
- ii. the road stopping is required to meet the operational requirements of either council or crown.

1. Road stopping will be undertaken in accordance with the processes outlined in the Local Government Act 1974 ~~and 2002 and/or the~~ Public Works Act 1981.

6.2. All costs associated with the road stopping shall be met by the requesting party or as otherwise specified by council's user fees and charges in the long-term plan or annual plan.

6.3. Road stopping requests will not be treated as surplus property and are not subject to right of first refusal process.

### 7. RELEVANT DELEGATIONS

7.1. The Chief Executive or their delegate has responsibility for the implementation of this policy except for those outlined in clauses 5.6.3.4, 5.7.2, 5.8.1 and 5.8.2.-

7.2. The Mayor and Chief Executive have delegations under clause 5.5.9

7.3. The Mayor, Deputy Mayor and the Chair and Deputy Chair of the Te Rangapū Mana Whenua o Tauranga Moana have delegations under clause 5.9.7.

### 8. REFERENCES AND RELEVANT LEGISLATION

- Public Works Act 1981
- Local Government Act 1974
- Local Government Act 2002
- Reserves Act 1977

- Iwi and hapu protocols with Tauranga City Council
- Iwi and hapu management plans
- Reserve management plans

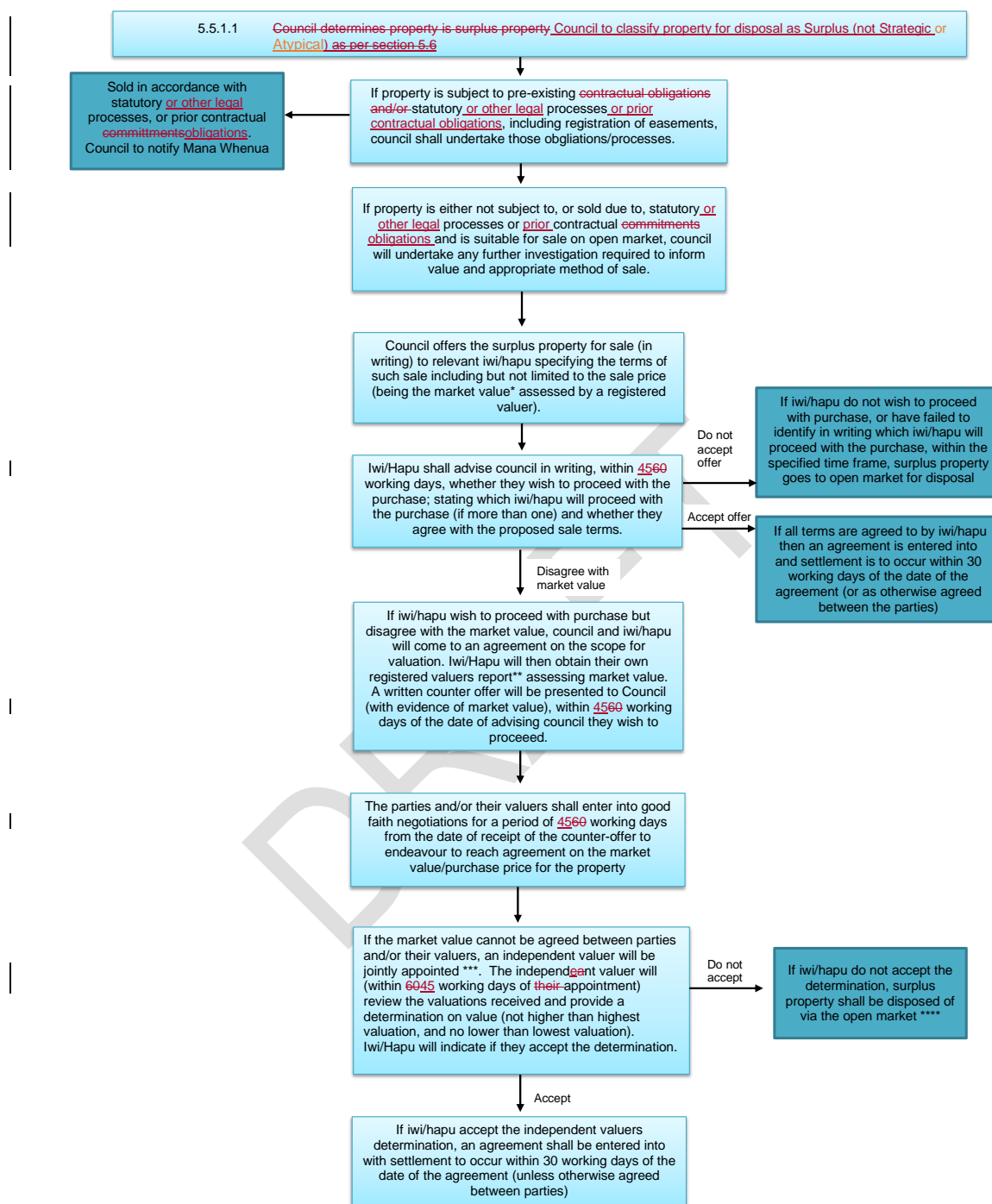
**9. ASSOCIATED POLICIES/PROCEDURES**

- Community, Private and Commercial Use of Council Administered Land Policy
- Stormwater Reactive Reserve Fund Policy
- Significance and Engagement Policy

DRAFT



Attachment A: Acquisitions and Disposals Policy - Sale of Surplus Property – Right of First Refusal (RFR) – Flowchart



\* The definition of market value is contained in section 3 of the policy.

\*\* If iwi/hapu obtain their own valuation advice, a full copy of that advice shall be provided to council upon receipt regardless of whether such advice is received outside of the 4560 working day period, or whether a counter-offer is made.

\*\*\* If the parties cannot agree on a joint appointment, an appointment will be made by the President of the New Zealand Institute of Valuers.

\*\*\*\* If the open market disposal process results in a price which is lower by 10% (or more) than the value determined by the independent valuer, then prior to proceeding, (unless iwi/hapu have advised they have no further interest in the property), the property is re-offered to relevant iwi/hapu at the lower value, and the iwi/hapu shall have 10 working days to accept or decline in writing such revised offer.

## 11.2 Amendment to the Keeping of Animals Bylaw 2018

**File Number:** A12232162

**Author:** Emma Joyce, Policy Analyst

**Brent Lincoln, Team Leader: Animal Services**

**Authoriser:** Barbara Dempsey, General Manager: Regulatory & Compliance

### PURPOSE OF THE REPORT

1. To amend the Keeping of Animals Bylaw 2018 (the Bylaw) to provide for the issuing of notices under the Bylaw.

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### RECOMMENDATIONS

That the Council:

- (a) Amends the Keeping of Animals Bylaw 2018 to provide for the issuing of formal notices under the Bylaw.

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### EXECUTIVE SUMMARY

2. The Keeping of Animals Bylaw 2018 (the Bylaw) provides for Tauranga residents to keep animals (excluding dogs) and poultry in a manner which has minimal impact on, or causes minimal nuisance to, the wider community. A clause in the previous 2008 Bylaw provided for the issuing of a formal notice to carry out remedial action where animal services officers identified non-compliance with the Bylaw provisions. This provision was inadvertently omitted from the 2018 Bylaw.
3. This report requests the Council amend the 2018 Bylaw to add provision for the formal issuing of notices. This better aligns with the preferred practice to encourage persons to comply with bylaws before undertaking enforcement action.

### BACKGROUND

4. Council adopted a new Bylaw in 2018 following statutory review and public consultation. During this process of adopting a new Bylaw, the following clause providing for the issuing of notices was omitted;

*“The Council may give notice to any person in breach of this Bylaw to carry out any remedial action in order to comply with the Bylaw and every such notice shall state the time within which the remedial action is to be carried out, and may be extended from time to time”.*

5. Adding the clause back into the Bylaw through an amendment gives animal services officers the ability to issue formal notices under the Bylaw to undertake remedial action before requiring enforcement. For example, if someone has beehives that are causing a nuisance, officers would be able to issue a notice under the Bylaw for the person to relocate or remove the hives.
6. A copy of the 2018 Bylaw with the proposed addition (highlighted in yellow) is appended at attachment one.

### STRATEGIC / STATUTORY CONTEXT

7. Section 146 of the Local Government Act 2002 provides for local authorities to make bylaws for the purposes of keeping of animals including bees and poultry.

## OPTIONS ANALYSIS

8. Council could choose to amend the bylaw to include a provision for the issuing of notices or retain the status quo. The table below outlines the advantages and disadvantages of each option.

Option		Advantages	Disadvantages
1	Amend the Bylaw <b>(recommended)</b>	<ul style="list-style-type: none"> <li>Better provides for compliance action consistent with preferred practice</li> <li>Consistent with previous Bylaw</li> </ul>	<ul style="list-style-type: none"> <li>Nil</li> </ul>
2	Do not amend the Bylaw	<ul style="list-style-type: none"> <li>Nil</li> </ul>	<ul style="list-style-type: none"> <li>Bylaw does not recognise preference to encourage compliance before enforcement</li> <li>Inconsistent with provisions of previous 2008 Bylaw</li> </ul>

## FINANCIAL CONSIDERATIONS

9. There are no financial considerations arising from the recommendation to amend the Bylaw.

## LEGAL IMPLICATIONS / RISKS

10. There are no legal implications arising from the proposed amendment. No notices have been issued since the Bylaw was adopted. However, providing for notices to be issued enables staff to scale compliance and enforcement action where necessary.
11. There is no requirement to have a clause regarding notices. A person can still be in breach of the Bylaw without the issuing of a notice.

## SIGNIFICANCE

12. The Local Government Act 2002 requires an assessment of the significance of matters, issues, proposals and decisions in this report against Council's Significance and Engagement Policy. Council acknowledges that in some instances a matter, issue, proposal or decision may have a high degree of importance to individuals, groups, or agencies affected by the report.
13. In making this assessment, consideration has been given to the likely impact, and likely consequences for:
- the current and future social, economic, environmental, or cultural well-being of the district or region
  - any persons who are likely to be particularly affected by, or interested in, the matter.
  - the capacity of the local authority to perform its role, and the financial and other costs of doing so.
14. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the matter is of low significance.

## ENGAGEMENT

15. Taking into consideration the above assessment, that the matter is of low significance, officers are of the opinion that no further engagement is required prior to Council making a decision.

16. Section 156 of the LGA 02 requires councils to use the special consultative procedure when amending bylaws unless the matter is of low significance or unlikely to have a large impact on the wider public. As this amendment is of low significance, no consultation or engagement on the amendment is recommended in accordance with the provisions on s156 of the LGA 02.

### NEXT STEPS

17. The amended Bylaw will be made available on the council website.

### ATTACHMENTS

1. **Keeping of Animals Bylaw 2018 - 2021 Amendment - A12773332** [↓](#)

## KEEPING OF ANIMALS BYLAW 2018



<b>First adopted</b>	1 October 2008	<b>Minute reference</b>	M08/86.10
<b>Reviewed</b>	11 December 2018	<b>Minute reference</b>	M18/108.9
<b>Amended</b>	Xx xx 2021	<b>Minute reference</b>	
<b>Review date</b>	Review is required ten years after date of adoption.		
<b>Engagement required</b>	Special Consultative Procedure		
<b>Associated documents</b>	Beaches Bylaw 2018		
<b>Relevant Legislation</b>	Local Government Act 2002		

**1. TITLE**

- 1.1 This bylaw is the Keeping of Animals Bylaw 2018.

**2. COMMENCEMENT**

- 2.1 This Bylaw comes into force on 1 April 2019.

**3. APPLICATION**

- 3.1 This Bylaw applies to Tauranga.

**4. PURPOSE**

- 4.1 To allow for the keeping of animals and poultry in a manner which has minimal impact on, or causes minimal nuisance to, the wider community.

**5. DEFINITIONS**

- 5.1 For the purposes of this Bylaw the following definitions shall apply:

Term	Definition
------	------------

Animal	means any mammal, other than a human being, and includes any bird, reptile, amphibian, fish or invertebrate organism of any kind
Approved	approved in writing by the Council, either by resolution of the Council or by any Authorised Officer of the Council
Authorised Officer	any officer of the Council or any other person authorised under the Local Government Act 2002 and authorised by the Council to administer and enforce its Bylaws
Bylaw	refers to the Tauranga City Council Keeping of Animals Bylaw 2018
Council	refers to Tauranga City Council, the elected member body representing Tauranga
Level 1 or 2 Road	as defined in the Tauranga City Council – Local Road Categories.
License	includes a permit or other authority from Council
Occupier	means the inhabitant occupier of any property and in any case where any building, house or tenement or premises is unoccupied, shall be deemed to include the owner
Owner	means the person entitled to receive the rent of property, land, building or premises, and includes an agent acting on behalf of the owner.
Poultry	includes any domestic fowl (including roosters), turkey, geese, ducks, ostrich, pigeon or emu
Residential zone	as defined in the Tauranga City Plan.
Road	has the same meaning as in the Land Transport (Road User) Rule 2004, or subsequent amendments
Rural zone	as defined in the Tauranga City Plan.
Stock	includes any cattle, horse, deer, ass, mule, sheep, goat, pig or camelid (alpaca and llama)
Stock Proof Fence	being a wire fence, having seven or eight wires properly strained, the posts to be of durable timber, metal, or reinforced concrete, and not more than five metres apart, and securely rammed and, in hollows or where subject to lifting through the strain of the wire, to be securely footed, or stayed with wire; the battens (droppers) to be affixed to the wires and of durable timber, metal or plastic, evenly spaced, and not fewer than three between posts; the wires to be galvanised and of 2.5mm high tensile steel or 4mm steel or its equivalent; the bottom wire to be not more than 125mm from the ground, the next three wires to be not more than 125mm apart; and the top wire or rail to be not less than one metre from the ground.

**6. PIGS AND GOATS**

- 6.1 Pigs and goats are only permitted to be kept in areas zoned rural in the Tauranga City Plan.

**7. BEES**

- 7.1 Bees may be kept on private property unless, in the opinion of the Authorised Officer, the keeping of bees is causing a public safety or nuisance issue.
- 7.2 Council encourages beekeepers to engage with their local beekeeping clubs to access advice and expertise to manage bees.

**8. POULTRY**

- 8.1 Poultry can be kept in Rural and Residential Zones so long as they are confined to the property occupied by the Poultry owner.
- 8.2 Rules for Poultry houses and runs are as follows;
- (a) any Poultry house or run is constructed at least five metres from any neighbouring dwelling or workplace; and
  - (b) the Poultry house and run are maintained at all times in good repair, clean and free from any offensive smell, rats, vermin or overflow therefrom.
  - (c) No person shall keep more than 12 head of Poultry except with a Licence from Council.
- 8.2 No person shall keep a rooster in an area zoned residential.
- 8.3 No person shall keep any rooster in the Rural Zone, if in the opinion of the Authorised Officer, the keeping of such rooster is causing a nuisance to any other person.
- 8.4 Nothing in this clause shall prevent any person keeping Poultry in any auction room for not more than 48 hours for the purpose of sale, keeping Poultry on their premises in an approved type of coop for immediate consumption, or from keeping Poultry in a bird shop for the purpose of sale.

*Note: Any buildings will need to be compliant with relevant rules in the Tauranga City Plan.*

**9. STOCK**

- 9.1 No person shall ride, drive or lead Stock on roads at any time except with the permission of Council.
- 9.2 Stock may be driven along any street or Road (except a street or Road designated as a Level 1 or Level 2 Road) from one paddock or farm to another, if both paddocks or farms are the property of one owner, or in the course of routine farming procedure. If Stock is driven on the Road, consideration must be given to the timing of the move to minimise impact on normal road users and the stock owner or person in charge may be required to complete a Site Specific Traffic Management Plan.
- 9.3 Horses may be ridden on the beach as per the Beaches Bylaw 2018. No other Stock can be driven on or along the beach.

- 9.4 Horses or cattle must be kept at least five metres from any dwelling, shop, warehouse, factory, workshop, place of worship, or school.
- 9.5 No Owner or Occupier of any land, Stock Owner, or person in charge of Stock, shall permit any Stock to be kept or grazed thereon, unless such land is enclosed on all sides by a proper and adequate Stock Proof Fence.

## **10. NOTICES**

- 10.1 The Council may give notice to any person in breach of this Bylaw to carry out any remedial action in order to comply with the Bylaw and every such notice shall state the time within which the remedial action is to be carried out, and may be extended from time to time.

## **11. OFFENCES AND PENALTIES**

- 11.1 Every person who breaches the terms of this Bylaw commits an offence. Further, every person commits a breach under this Bylaw who:
- (a) fails, refuses or neglects to comply with any notice duly given to that person under this Bylaw;
  - (b) obstructs or hinders any Authorised Officer of the Council or other Council appointed person in performing any duty or in exercising any power under this Bylaw.
- 11.2 Subject to any provision to the contrary, any person guilty of an offence against this Bylaw shall be subject to the penalties set out in Section 242(4) of the Local Government Act 2002, and is liable on summary conviction to a fine not exceeding \$20,000.

## **12. LICENCES**

- 12.1 The form of any application for and grant of any permission, licence or approval required under this Bylaw will be determined by the Council.
- 12.2 The Council may attach to any permission, approval or licence any terms or conditions as it thinks fit.
- 12.3 No application for a licence from the Council, and no payment of or receipt for any fee paid in connection with such application or licence, shall confer any right, authority or immunity on the person making such application or payment.
- 12.4 Suspending or Revoking Licences
- (a) The Council may revoke or suspend a Licence granted under this Bylaw if it reasonably believes the licence holder:
    - i. has acted or is acting in breach of the Licence; or
    - ii. is unfit in any way to hold such a Licence.
  - (b) The Council may require the Licence holder to attend a hearing to explain why the licence should not be revoked or suspended. The Council may revoke or suspend the licence at its discretion. If either:
    - i. the licence holder does not attend the hearing; or
    - ii. if after the hearing the Council is satisfied the licence holder has been in breach of the licence or is unfit to hold the licence.



- (c) The Council may suspend any Licence granted under this Bylaw for a period not exceeding 72 hours during the staging of any special event, by giving the licence holder 10 days' notice in writing. The Council may suspend any such Licence for the purposes of protecting the public from nuisance or for protecting, promoting or maintaining public health and safety.

**13. DISPENSING POWERS**

- 13.1 The Council may waive full compliance with any provision of this Bylaw in a case where the Council is of the opinion that full compliance would needlessly cause harm, loss or inconvenience to any person or business without any corresponding benefit to the community. The Council may in its discretion impose conditions of any such waiver.

### 11.3 Annual Report on Dog Control Policy and Practices 2020/2021

**File Number:** A12703511

**Author:** Brent Lincoln, Team Leader: Animal Services

**Authoriser:** Barbara Dempsey, General Manager: Regulatory & Compliance

#### PURPOSE OF THE REPORT

1. To meet legislative requirements of section 10A of the Dog Control Act 1996.
- 

#### RECOMMENDATIONS

That the Council:

- (a) Receives the Annual Report on Dog Control Policy and Practice 2020/2021 report; and
  - (b) Pursuant to Section 10A of the Dog Control Act 1996, adopts the Tauranga City Council Report on Dog Control Policy and Practices for 2020/2021.
- 

#### EXECUTIVE SUMMARY

2. The Dog Control Act 1996 requires all territorial authorities to report annually on the outcomes associated with key areas identified by Section 10A of the Act. The key areas are identified below.

#### BACKGROUND

3. Below is an extract from Section 10A of the Dog Control Act identifying what information must be provided in the Report -
  1. *In respect of each financial year, report on the administration of –*
    - a) *Its Dog Control Policy adopted under section 10; and*
    - b) *Its Dog Control Practices.*
  2. *The report must include, information relating to –*
    - a) *The number of registered dogs.*
    - b) *The number of probationary and disqualified owners.*
    - c) *The number of dogs classified as dangerous and the relevant provision under which the classification was made.*
    - d) *The number of dogs classified as menacing under section 33A.*
    - e) *The number of dogs classified as menacing under section 33C.*
    - f) *The number of infringement notices issued.*
    - g) *The number of prosecutions taken.*
  3. *The Territorial Authority must give public notice of the report –*
    - a) *by means of notice published in –*
      - (i) *one or more daily newspapers circulating in the district; or*
      - (ii) *one or more other newspapers that have at least an equivalent circulation in the district to the daily newspapers circulating in that district.*
    - b) *by any means that the territorial authority thinks desirable in the circumstances.*

4. *The territorial authority must also, within one month after adopting the report, send a copy of it to the Secretary for Local Government.*

## 2020/21 HIGHLIGHTS

4. We have previously reported the decrease in the number of attacks and aggression, this is a pleasing result and could be indicative of several factors, including but not limited to the change in demographics of dogs, owners taking greater responsibility for their dogs and the proactive approach taken by Animal Service Officers.
5. All dogs registered for the first time after 1 July 2006 must be microchipped. Council offers a service where the price of microchipping is very reasonable, and the pound is open on Mondays making this requirement straightforward for dog owners. 84% of dogs have been chipped. (our records indicate that 2362 are not chipped). Council has written to dog owners; we are finding that a high percentage have had their dog microchipped, they just have not informed Council.
6. Euthanising dogs is a sad reality for the staff and last year we had to euthanise 67 dogs. This is 11 dogs less than the previous year.
7. Barking dogs – it is not unreasonable to suggest that the barking dog complaints may increase, given the increase in housing intensification and the larger number of dogs that do not get enough exercise (these are often the smaller dogs).
8. As the new registration year commences staff will focus on ensuring all dogs are registered by undertaken site visits to properties where dogs have been registered previously, continue the proactive patrols, the project to ensure all dogs are microchipped and to undertake a variety of education initiatives, along with responding to customer enquiries.
9. There is also a budget to undertake maintenance on the pound to increase the Health and Safety of those that work at the pound.

## ENGAGEMENT

10. Preparing and advertising the Annual Dog report is a legislative requirement no further consultation or engagement is required.

## ATTACHMENTS

1. **Attachment A - Annual Section 10A Report on Control of Dogs for the year 1 July 2020 to 30 June 2021 - A12782194** [↓](#)



**TCC Policy and Practices in Relation to the  
Control of Dogs for the Year  
1 July 2020 to 30 June 2021  
(Section 10A of the Dog Control Act 1996)  
Attachment A**

Brent Lincoln  
Team Leader: Animal Services  
Tauranga City Council

## 1. Background

The implementation of a robust compliance strategies combined with a strong educational approach continues to contribute toward a reduction in the key areas of reported dog related offences.

The total number of registered dogs in Tauranga continues to grow, despite this, we have seen a continued downward trend in complaints received about barking and roaming dogs, attacks on people and animals rushed at.

Known dog numbers have increased by 588 to 14736, which is a 4.2% increase for the year.

## 2. Education

- During the year we visited 8 schools and spoke to over 1332 children teaching them how to act around dogs, how to avoid being bitten by dogs and what to do if they want to pat a dog.
- 64 employees of 4 businesses who work in the community where provided with skills to manage dogs that they may encounter in their day to day business. This included TCC staff, nurses and postal workers.
- To assist owners meet their legal obligations with microchipping their dogs, Council offers a microchip service from the pound. The cost is only \$25 and at the same time staff have the opportunity to discuss dog control and behaviour with the owner. We chipped 89 dogs at the pound during the year.



## 3. Dog Prohibited Areas

Dogs are prohibited from certain specified areas. The following areas are assessed for consideration as dog prohibited areas:

- Children's playgrounds.
- Areas of ecological sensitivity.
- Areas of intense public use.
- Any other areas as resolved by Council.

### Comment

Studies are showing that the mere presence of dogs in the vicinity of ecologically sensitive areas can impact on the viability of nesting birds to lay fertilised eggs and raise their young. Consultation between the Spaces and Places team and Animal Services staff have identified some key areas for protection. By utilising new provisions in our Dog Management Bylaw, we have implemented temporary leash control and dog prohibited areas to protect wildlife during these critical

periods. These areas include sections of the Waikareao Estuary, Gordon Carmichael Reserve and Waimapu Estuary

#### 4. Dog Exercise and Leash Control

While dog owners can exercise their dogs off leash in many areas of the city and most of our parks and the beach, it is important owners realise they are responsible to ensure their dog cannot cause nuisance or danger to any animals or people.

Many owners don't appreciate that other people don't want their dog running up to them, even if it is a lovely dog.

Best practice for dog owners is to leash their dog whenever approaching another animal or person and obtaining permission before allowing their dog to approach. This would reduce the number of complaints about dogs rushing at people and attacking other domestic animals.

#### 5. Fees

All dogs must be registered by the age of three months. When buying or acquiring a dog the new owner should be aware that if it is not registered, they must do so immediately.

Dog registration fees are set by Council resolution. Tauranga City has an administratively simple fee structure which is equitable and transparent with standard registration being \$92 increasing to \$138 if not registered by 1 August and \$138 for a Classified Dangerous dog increasing to \$207 if not registered by 1 August.

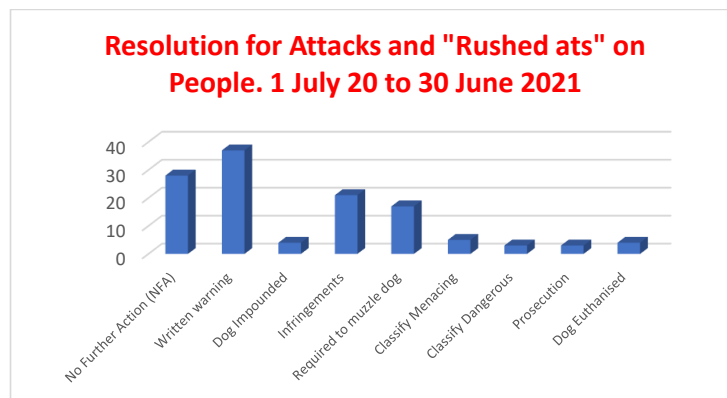
Owners of unregistered dogs face a \$300 fine together with the cost of registration. Dog registration fees, fines and impound fees are used to fund dog control.

#### 6. Trends in Dog aggression

At 30 June	Attacks on people	Rushing People	Attacks on Domestic Animals	Total	Total Known Dogs	Aggression as a % of Total Known Dogs
2017	84	91	132	307	12672	2.42%
2018	84	101	123	308	13082	2.35%
2019	63	92	94	249	13493	1.85%
2020	60	104	127	291	14246	2.04%
2021	50	74	114	238	14736	1.6%

- 469 dogs were impounded. This includes dogs roaming, captured and trapped. 402 dogs were released to their owner or adopted and 67 were euthanised (release rate 85.7%).

- The majority of dogs classified as menacing are classified because they are American Pit Bull Terriers (automatically classified because of their breed). Traditionally, these dogs have also been responsible for the majority of attacks on people. Since the introduction compulsory neutering of menacing dogs, we have seen a noted reduction in the attacks by these types of dogs.
- We are continuing to develop our adoption program which rehomes many unwanted dogs each year. Staff have established strong liaisons with other adoption groups with our dogs finding new homes throughout New Zealand.
- We utilise a range of tools to encourage owners to control their dogs to minimise repeat offending. The following graph depicts the outcome for the 124 reported incidents where people were attacked or rushed at by a dog. The good news for this year was the fact that it was the first year that we didn't have an attack that was serious enough to prosecute an owner.  
Note: NFA (No Further Action) is where the complainant cannot be contacted or no longer wants us to proceed or is unwilling to give evidence if required or where the dog owner can't be identified.



## 7. Complaints

	2019/2020	2020/2021
Total number of registered dogs	13594	14215

Total number of probationary owners	0	0
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Total number of disqualified owners	18	26
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Total number of dogs classified as dangerous		
▪ S.31 (1)(a) Section 57A conviction	1	1
▪ S.31 (1)(b) Sworn evidence	5	8
▪ S.31 (1)(c) Owner admits in writing	12	8
<b>TOTAL</b>	<b>18</b>	<b>17</b>

Total number of dogs classified as menacing because of:		
▪ S.33A(1)(b)(i) Observed or reported behaviour (deed)	67	61
▪ S.33A (1)(b)(ii) Characteristics associated with breed	0	0
▪ S.33C Dog breeds listed in schedule four of the Dog Control Act 1996	140	118
<b>TOTAL</b>	<b>207</b>	<b>179</b>

Number of infringement notices issued	445	430
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<b>Number of dog related complaints received</b>	<b>4236</b>	<b>4359</b>
▪ Attacks on people	60	50
▪ Attacks on domestic animals	127	114
▪ Person rushed at	104	74
▪ Other animals or vehicles rushed at	41	33
▪ Barking dogs	969	1068
▪ Bylaw (excludes roaming dogs)	70	84
▪ Roaming dogs	1337	1313
▪ Miscellaneous*	1528	1623

\* NB: Miscellaneous complaints are made up of customer messages, registration enquiries, requests for dog traps etc.

Number of summary prosecutions commenced		4
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## 11.4 Strategic Framework Refresh Project Update

**File Number:** A12851083

**Author:** Anne Payne, Strategic Advisor

Jeremy Boase, Manager: Strategy and Corporate Planning

**Authoriser:** Christine Jones, General Manager: Strategy & Growth

### PURPOSE OF THE REPORT

1. This report summarises the planned approach to, and output from, the Strategic Framework Refresh Project to enable delivery by July 2022. This report focuses on Tauranga City Council's strategic framework structure and content, noting that the City Vision workstream is reported separately to Council.

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### RECOMMENDATIONS

That the Council:

- a) Receives the Strategic Framework Refresh Project Update report; and
- b) Notes that the Strategic Framework Refresh Project aims to be delivered by July 2022.

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### BACKGROUND

2. Alongside the multi-partner City Futures Project approved by Council's Policy Committee on 16 June 2020<sup>1</sup>, Tauranga City Council planned a refresh of its own strategic framework. The aim was to ensure that Tauranga City Council's strategic direction was:
  - clearly articulated and understood both within and external to the organisation; and
  - in alignment with the outcomes of the joint City Futures Project.
3. As a result of a range of factors contributing to rethinking the City Futures Project, the Strategy, Finance and Risk Committee approved the Strategic Framework Refresh Project concept (including the City Vision) on 28 June 2021, resolving that the Committee:
  - Supports a focussed Council-led approach to the development of a city vision, drawing on information received through prior engagement processes and seeking further community input through a further defined engagement process.
  - Approves a strategic framework refresh for Tauranga City Council, building on existing strategies, plans and information received through prior engagement processes, and identifying and filling key gaps in the existing strategic framework.
4. It was also acknowledged by the Committee that all City Futures Project inputs to date would continue to be valuable to the City Vision and the wider Strategic Framework Refresh Project.
5. The City Vision project concept and approach was reported separately to Council on 30 August 2021 (Agenda item 11.4).
6. This report summarises the planned approach to, and outputs from, Tauranga City Council's strategic framework refresh elements of the wider project, scheduled for completion in July 2022.

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<sup>1</sup> Setting the Strategic Direction for the Long Term Plan, Agenda Item 8.2: [Agenda Policy Committee 16 June 2020](#)

**TAURANGA CITY COUNCIL'S STRATEGIC FRAMEWORK REFRESH**

7. The purpose of the strategic framework refresh project is to ensure that Tauranga City Council has a current, cohesive and understandable strategic framework that provides a clear line of sight from Council activity to the City's Vision (currently also under development as part of this project).
8. The need for this refresh has become more pressing due to a range of external factors (such as climate change and more general environmental concerns, Covid-19 impacts and changes to government policy – including 3-Waters, Resource Management Act and local government reforms) and internal factors (staff change over time – losing our 'institutional memory', age of some existing strategies and plans, governance change).
9. The combined impact of these factors is that our overall strategic direction is not easily seen or understood by our external partners and community, or by many within our own organisation. We have many strategies and plans, but it is difficult to see how they fit together, what takes priority and what our overall objectives and goals are.
10. The strategic framework should be an externally-facing, visual outline of the organisation's overarching strategic direction – of how it is working towards our City's Vision. A strong strategic framework should be creative but clear, relevant, future-focussed and aspirational. It should align with our organisation's goals and objectives, not just with existing initiatives.
11. For Tauranga City Council, the key outcomes from this project are that:
  - Our community and partners can easily see how the organisation is contributing to the community outcomes and to achieving Tauranga City's Vision.
  - Our governance and staff have a shared understanding of what the organisation is trying to achieve and how we aim to get there.
  - Our people know how they fit into the bigger picture of what the organisation is working toward.
  - We are guided by a set of current, relevant and succinct strategic documents, which 'weave together' where this makes sense.
  - We have a clear focus for evaluating existing programmes, and those considered in the future, to ensure all efforts support our overarching purpose.

**Concept**

12. At its simplest, our strategic framework is depicted as a flax weave, demonstrating that our community outcomes connect up to the City's Vision (under development), with our three strategic approaches and our underpinning principles 'weaving through' everything we do.
13. An initial mock-up of this concept is shown in the diagram below:



14. The content of the strategic framework will then articulate how Council contributes to achieving our community outcomes and, ultimately, Tauranga City's Vision. Our intention is to normally have one primary strategy for each of the 'strands' of our framework weave (i.e. our community outcomes and strategic approaches), with a range of strategic/action plans underpinning this primary strategy.
15. As our contribution to each of the 'strands' of our framework weave are at different levels of development, we are creating summaries outlining where we are now and where we want to be for each – which is helping us to confirm where the most critical gaps are in our current strategic direction. These summaries will evolve over time and are provisionally referred to as 'Strategy Snapshots' or 'At A Glance' documents. As outlined in the approach section below, these Strategy Snapshots will serve as conversation starters with sector groups and our community during this project.

### Project outputs

16. Our strategic framework is envisaged as primarily a web-based tool that users (both our community and within our organisation) can click into to move through the layers of the framework, accessing more detail at each level.
17. A range of printable documents will also be available from the web-based strategic framework tool. A mock-up of one of these, a 'Framework on a Page' view (not yet populated) is provided as **Attachment 1** to this report. Much of the content of this type of report will be developed or confirmed over the course of this project.

### Approach

18. A summary of key activities and indicative timeframes for this project are set out in Table 1. Please note that these are subject to change.

*Table 1: A summary of key activities, tasks and indicative timeframes for the Strategic Framework Refresh Project (excluding the City Vision component)*

Ref	Activity	Tasks	Indicative Timing
1	Getting started	Overall project concept, structure and approach developed.  Initial drafts of Strategy Snapshots for each 'strand' of the framework weave.	July – August 2021  (completed)
2	Getting started (continued)	Synthesise key themes from previous engagements, plus any currently underway (also for City Vision project).  Confirm the critical gap 'strands', which will require sector group workshops to complete the Strategy Snapshots for these priority areas (provisionally: Inclusive City, Environment, Sustainability and Te Ao Māori 'strands').  Communicate the strategic framework refresh process (external and within Tauranga City Council).	September
3	Tools progressed	Web-based strategic framework tool developed	October – November
4	Sector group work for more well-developed 'strands'	Strategy Snapshots completed as far as possible for other than priority 'strands' via informal engagement with sector groups – will identify <u>priority actions</u> and any further work required in these areas – including whether a primary strategy is needed for this 'strand' (sufficient may already exist).	October – November
5	Sector group engagement for priority 'strands'	<i>Following on from the City Vision community and sector group engagement scheduled for November:</i>  Hold sector group workshops for priority 'strands' (provisionally: Inclusive City, Environment, Sustainability, and Te Ao Māori) – identify <u>priority actions</u> and any further work required in these areas (anticipate a primary strategy required for each).	December
6	Draft to Council	Council receives draft strategic framework, including suite of Strategy Snapshot documents, for consideration, alongside an update on next steps and the web-based tool development.	December 2021

Ref	Activity	Tasks	Indicative Timing
7	Primary strategy development for priority 'strands', envisaged to be: <ul style="list-style-type: none"> <li>- Inclusive City</li> <li>- Environment</li> <li>- Sustainability</li> <li>- Te Ao Māori</li> </ul>	<u>Under a separate workstream for each 'strand'</u> – with separate project and engagement plans. <ul style="list-style-type: none"> <li>- Each strategy at least in draft form by close of project.</li> <li>- Identify existing strategies &amp; plans that underpin, what needs to be retained and what further work is required.</li> </ul>	February – April 2022
8	Finalise content for remaining 'strands'	<u>Under a separate workstream for each 'strand'</u> – level of work required will have been determined during October-November informal engagement with sector groups.	February – April
9	Underpinning strategies and plans updated	All existing strategies and plans either programmed to be formally rescinded or positioned within the refreshed strategic framework.	February – April
10	Web-based strategic framework tool finalised and populated	Web-based framework tool tested, finalised and populated – including processes for ongoing content ownership and management.	February – April 2022
11	Council adopts draft strategic framework	Council adopts draft strategic framework, including refreshed content, for public consultation	May 2022
12	Public consultation and response	Public consultation on draft strategic framework, including refreshed content.  Proposed amendments in response to consultation feedback.	June 2022
13	Council adopts final strategic framework	Council adopts final strategic framework, including refreshed content.	July 2022

## FINANCIAL CONSIDERATIONS

19. Financial costs depend on how much external resource is required to deliver key elements of the project to a quality standard and within the specified timeframes. There may be a requirement for external resourcing for primary strategy development (up to four processes), web-based tool development and maintenance, creative design and publication development.
20. Up to \$300,000 is available within the approved 2021/22 budget for strategy development. A request for unbudgeted expenditure will be made if this proves insufficient once more detailed planning has been completed.
21. An Annual Plan 2023 budget item may also be required for post 30 June 2022 work, such as design and delivery of publication material and additional functionality for internal use of the web-based strategic framework tool.

## LEGAL IMPLICATIONS / RISKS

22. This report has no legal implications. Any risks associated with the recommended approach will be identified during more detailed planning of the workstreams for each 'strand' of the framework, as outlined in the approach section above.

## CONSULTATION / ENGAGEMENT

23. There has been considerable consultation with both the community and city leaders to date, as discussed in the background section of this report. Further involvement with both the general community and sector groups is outlined in the approach section above.

## SIGNIFICANCE

24. The Local Government Act 2002 requires an assessment of the significance of matters, issues, proposals and decisions in this report against Council's Significance and Engagement Policy. Council acknowledges that in some instances a matter, issue, proposal or decision may have a high degree of importance to individuals, groups, or agencies affected by the report.
25. In making this assessment, consideration has been given to the likely impact, and likely consequences for:
- (a) the current and future social, economic, environmental, or cultural well-being of the district or region
  - (b) any persons who are likely to be particularly affected by, or interested in, the .
  - (c) the capacity of the local authority to perform its role, and the financial and other costs of doing so.
26. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the matter of Tauranga City Council's strategic framework refresh is of high significance, however the decision proposed in this report (being to receive a project update) is of low significance.

## ENGAGEMENT

27. Taking into consideration the above assessment, that the matter of Tauranga City Council's strategic framework refresh is of high significance, officers are of the opinion that the nature of this project requires further community involvement as outlined in this report.


## NEXT STEPS

28. Next steps to progress Tauranga City Council's strategic framework refresh are outlined in the Proposed Method section above.


## ATTACHMENTS

1. **Strategic Framework on a Page - A12865908** [↓](#)


**Tauranga City Vision**  
(under development)




**We are inclusive**  
Tauranga is a city that recognises and promotes partnership with tangata whenua, and values culture and diversity, and where people of all ages and backgrounds are included, feel safe, connected and healthy




**We value and protect our environment**  
Tauranga is a city that values our natural environment and outdoor lifestyle, and actively works to protect and enhance it



**We have a well planned city**  
Tauranga is a city that is well-planned with a variety of successful and thriving compact centres, resilient infrastructure, and community amenities.




**We can move around our city easily**  
Tauranga is a well-connected city, easy to move around in and with a range of sustainable transport choices




**We support business and education**  
Tauranga is a city that attracts and supports a range of businesses and education opportunities, creating jobs and a skilled workforce

**COMMUNITY OUTCOMES**




**Te Ao Māori**

Tauranga is committed to understanding and applying key Māori concepts that enhance outcomes for the community, thereby bringing to life the principles of Te Tiriti o Waitangi *(in draft)*



**Sustainability**

Sustainability and resilience underpin our decision making and service delivery, protecting the future of our city *(in draft)*



**We recognise we are an integral part of the wider Bay of Plenty region and upper North Island**

Tauranga is a well-connected city having a key role in making a significant contribution to the social, economic, cultural and environmental well-being of the region.

	We are inclusive	We value and protect our environment	We have a well planned city	We can move around our city easily	We support business and education
<b>EXAMPLES ONLY</b>	<p><i>Prepared communities for an emergency event</i></p> <p><i>Increased awareness of Tauranga's unique history</i></p> <p><i>People feel more connected and loneliness decreases</i></p>	<p><i>Reducing emissions and waste</i></p> <p><i>Greening the city</i></p> <p><i>Healthy and vibrant water</i></p> <p><i>Carbon footprint per unit of gdp reduces towards zero carbon by 2050</i></p>	<p><i>More dwellings in the existing city</i></p> <p><i>Proximity to centres</i></p> <p><i>Accessible, available, suitable community facilities</i></p> <p><i>Resilient infrastructure</i></p>	<p><i>Noticeable shift from cars onto public transport</i></p> <p><i>Improved safety</i></p> <p><i>Traffic congestion is managed</i></p> <p><i>Reliable travel times for commerce and freight</i></p> <p><i>Better public transport, walking and cycle connections to enable access to work, recreation and cultural activities</i></p>	<p><i>Job productivity improves</i></p> <p><i>Rise in education attainment and knowledge intensive jobs</i></p> <p><i>Investment in City Centre</i></p> <p><i>Visitor economy improves</i></p>
	<b>Strategy Snapshot: Inclusive City</b>	<b>Strategy Snapshot: Environment</b>	<b>Strategy Snapshot: Well-Planned City</b>	<b>Strategy Snapshot: Move Around Our City Easily</b>	<b>Strategy Snapshot: Support Business &amp; Education</b>
	<p><u>Short Term Actions (2022-2024)</u></p> <ul style="list-style-type: none"> <li>• Xyz</li> </ul> <p><u>Med Term Actions (2024-2030)</u></p> <ul style="list-style-type: none"> <li>• Xyz</li> </ul> <p><u>Longer Term Actions (2031-2050)</u></p> <ul style="list-style-type: none"> <li>• Xyz</li> </ul>	<p><u>Short Term Actions (2022-2024)</u></p> <ul style="list-style-type: none"> <li>• Xyz</li> </ul> <p><u>Med Term Actions (2024-2030)</u></p> <ul style="list-style-type: none"> <li>• Xyz</li> </ul> <p><u>Longer Term Actions (2031-2050)</u></p> <ul style="list-style-type: none"> <li>• Xyz</li> </ul>	<p><u>Short Term Actions (2022-2024)</u></p> <ul style="list-style-type: none"> <li>• Xyz</li> </ul> <p><u>Med Term Actions (2024-2030)</u></p> <ul style="list-style-type: none"> <li>• Xyz</li> </ul> <p><u>Longer Term Actions (2031-2050)</u></p> <ul style="list-style-type: none"> <li>• Xyz</li> </ul>	<p><u>Short Term Actions (2022-2024)</u></p> <ul style="list-style-type: none"> <li>• Xyz</li> </ul> <p><u>Med Term Actions (2024-2030)</u></p> <ul style="list-style-type: none"> <li>• Xyz</li> </ul> <p><u>Longer Term Actions (2031-2050)</u></p> <ul style="list-style-type: none"> <li>• Xyz</li> </ul>	<p><u>Short Term Actions (2022-2024)</u></p> <ul style="list-style-type: none"> <li>• Xyz</li> </ul> <p><u>Med Term Actions (2024-2030)</u></p> <ul style="list-style-type: none"> <li>• Xyz</li> </ul> <p><u>Longer Term Actions (2031-2050)</u></p> <ul style="list-style-type: none"> <li>• Xyz</li> </ul>
	<p><b>How we will track progress (key indicators &amp; targets):</b></p> <ul style="list-style-type: none"> <li>• Overall outcome level</li> <li>• TCC contribution</li> <li>• Within TCC (corporate responsibilities)</li> </ul>	<p><b>How we will track progress (key indicators &amp; targets):</b></p> <ul style="list-style-type: none"> <li>• Overall outcome level</li> <li>• TCC contribution</li> <li>• Within TCC (corporate responsibilities)</li> </ul>	<p><b>How we will track progress (key indicators &amp; targets):</b></p> <ul style="list-style-type: none"> <li>• Overall outcome level</li> <li>• TCC contribution</li> <li>• Within TCC (corporate responsibilities)</li> </ul>	<p><b>How we will track progress (key indicators &amp; targets):</b></p> <ul style="list-style-type: none"> <li>• Overall outcome level</li> <li>• TCC contribution</li> <li>• Within TCC (corporate responsibilities)</li> </ul>	<p><b>How we will track progress (key indicators &amp; targets):</b></p> <ul style="list-style-type: none"> <li>• Overall outcome level</li> <li>• TCC contribution</li> <li>• Within TCC (corporate responsibilities)</li> </ul>

**WHAT SUCCESS LOOKS LIKE**

What Tauranga City Council will do (priority actions)



## 11.5 Tauranga's Non-Compliance with National Policy Statement - Urban Development Capacity Requirements

**File Number:** A12864622

**Author:** Christine Jones, General Manager: Strategy & Growth

**Authoriser:** Christine Jones, General Manager: Strategy & Growth

### PURPOSE OF THE REPORT

1. To publicly report on Tauranga City's non-compliance with the National Policy Statement – Urban Development (NPS-UD) and associated reporting to the Minister of the Environment.

### RECOMMENDATIONS

That the Council:

- (a) Receives the report "Tauranga's Non-Compliance with National Policy Statement – Urban Development Capacity Requirements".

### DISCUSSION

2. The NPS-UD requires each local authority to provide at least sufficient development capacity in new and existing urban areas, for both standalone and attached dwellings, and in the short, medium and long-term. Sufficiency requires assessment of plan enablement, infrastructure readiness, development feasibility and what is realisable.
3. Clause 3.7 on the NPU-UD states:  
*If a local authority determines that there is insufficient development capacity over the short term, medium term, or long term, it must:*
  - a) *immediately notify the Minister for the Environment; and*
  - b) *if the insufficiency is wholly or partly a result of RMA planning documents, change those documents to increase development capacity for housing or business land (as applicable) as soon as practicable, and update any other relevant plan or strategy); and*
  - c) *consider other options for: (i) increasing development capacity; and (ii) otherwise enabling development.*
4. The letter to the Minister has been sent (refer attachment 1) and addresses both the actions that Tauranga City Council is taking to increase supply and the remaining significant barriers.

### NEXT STEPS

5. The letter to the Minister requests an opportunity to meet to discuss collective responses to the issues. In parallel the Priority Development Area joint SmartGrowth working group is progressing initiatives and will formally report to the 17 September SmartGrowth Leadership Group meeting. A copy of the letter to the Minister will also be included on that SmartGrowth agenda.

### ATTACHMENTS

1. **Final Signed Letter to Minister Parker re Non-Compliance with NPS-UD - A12864549** [↓](#)



2 September 2021



Hon David Parker  
Minister of Environment  
Parliament Buildings  
Wellington

By email: [d.parker@ministers.govt.nz](mailto:d.parker@ministers.govt.nz)

Dear Minister

### **Tauranga's Non-Compliance with NPS-UD Development Capacity Requirements**

Tauranga City Council (TCC) is, as required by the NPS-UD, formally notifying you as Minister for the Environment, that Tauranga City has insufficient development capacity to comply with the relevant provisions of the NPS-UD. Much of the content of this letter will be familiar to you given your knowledge and involvement in Tauranga City matters.

The NPS requires each local authority to provide at least sufficient development capacity in new and existing urban areas, for both standalone and attached dwellings, and in the short, medium and long-term. Sufficiency requires assessment of plan enablement, infrastructure readiness, development feasibility and what is realisable.

The recently completed 2021 Housing and Business Assessment (HBA) outlines a similar shortfall to that previously communicated by TCC to all SmartGrowth partners. The HBA table below summarises the situation with numbers in the red cells indicating a shortage. (Refer attachment for additional detail).

	<b>Short Term 0-3 years</b>	<b>Medium Term 4-10 years</b>	<b>Long Term 10-30 years</b>	<b>Total 0-30 years</b>
Housing Demand	3,589	7,882	15,062	26,533
<b>Total Housing Demand (including margin)</b>	<b>4,307</b>	<b>9,458</b>	<b>17,321</b>	<b>31,087</b>
Supply - Infill/ Intensification	718	2,838	7,230	10,785
Supply - Greenfield UGA's	2,470	6,245	9,949	18,664
<b>Total Supply</b>	<b>3,188</b>	<b>9,083</b>	<b>17,179</b>	<b>29,449</b>
Demand / Supply (Shortfall) Surplus	(401)	1,201	2,117	2,916
Demand incl. Margin / Supply	(1,119)	(376)	(143)	(1,637)

**Tauranga City Council action to address insufficiency**

Significant action is underway to address these challenges in a way that delivers on the jointly agreed Urban Form and Transport Initiative focused on growing in a different and much more sustainable way than the past. In respect of zoned development capacity, the following is underway:

- Supporting the Te Papa spatial plan and wider intensification opportunity across the city through Plan Change 26 Housing Choice (to give effect to NPS-UD intensification provisions). We note here that Kainga Ora have made a substantive submission to this plan change. It is imperative that we work collaboratively to resolve the issues identified by Kainga Ora to ensure these planning provisions become operative in a timely manner.
- Partnership with Kainga Ora and other government agencies in the development of a significant Council-owned property in Bethlehem (Parau Farms) and exploring other possible opportunities on another site. These developments will have a significant focus on social and affordable housing outcomes.
- Proposed divestment of the majority of Council's elder housing portfolio to Kainga Ora for redevelopment.
- Structure planning and rezoning of the Te Tumu and Tauriko West greenfield growth areas, followed by the Keenan Road and Ohauti South areas. These projects have a strong focus on live/work/learn/play outcomes, multi-modal transport systems, increased residential density and a wider mix of housing typologies as well as more sustainable outcomes (including in relation to carbon emissions)
- Applied spatial planning for intensification of Te Papa, commencement of spatial planning for the greater Otumoetai area and subsequent to that Mount Maunganui areas to refocus growth 'up' instead of primarily 'outwards'.
- Master planning for regeneration of the Gate Pa and Merivale suburbs in Te Papa alongside Accessible Properties and Kainga Ora. Again, these projects will have significant focus on social and affordable housing outcomes.
- Refreshing the City Centre masterplan with a strengthened focus on residential development which will be supported by an upcoming plan change to better enable development eg through increasing building heights
- Consideration of future development options, including the possibility of high-density master planned housing on the Crown-owned racecourse and golf course site in Te Papa.
- Supporting papakainga development and wider development aspirations on Maori land noting there is significant untapped potential in this space that will be able to assisted by recent government funding announcements.

In respect of infrastructure funding and delivery:

- The adopted 2021-31 Long Term Plan (LTP) includes all of the necessary infrastructure investment to enable development of Te Papa, Tauriko West and Te Tumu across the transport, three waters, reserves and community infrastructure areas. The total level of capital investment has increased from the 2018-28 LTP of \$2.6 billion almost doubling to \$4.6 billion over the 2021-31 LTP period.
- The LTP includes significant increases to rates, development contributions and debt to fund and finance growth. This includes \$550 million of rate funded debt retirement levy to ensure that TCC remains within prudent debt levels. This places an inequitable burden on current ratepayers to fund infrastructure which will benefit future communities. The average annual projected rates rise over each of the first 5 years of the LTP period is 14% per annum.

- Further work is underway to secure alternative financing and funding arrangements through the Housing Infrastructure Fund (HIF), tolling, Infrastructure Acceleration Fund, IFF levies and direct developer funding and delivery of infrastructure. The purpose is to enable development to proceed at pace and reduce the inequitable burden on ratepayers for growth related investment.
- We acknowledge that the implementation of water reform will also have a significant financial impact on our balance sheet and financial strategy.
- Our revised HIF application currently with MHUD for the Papamoa East Interchange and associated projects would enable development of a significant mixed-use town centre with 1,500 medium and high-density homes. Once fully built out there will be 10,000 people living within a 1km walking catchment of the town centre supporting active modes and transport self-containment.
- Further work is also underway across the three councils in the SmartGrowth Partnership to assess wider funding options using independent advice from Mafic and KPMG.
- The Council has reviewed and reshaped its organisational structure and increased its level of resourcing to better enable the delivery of the capex programme required to enable growth.

### **Risks and uncertainties**

The above work programme provides a pathway to address development and funding constraints over time however there remains significant risks to achieving this within a timely manner. Some of the key risks include:

#### City-Wide

- As you are aware the recent freshwater reforms have created significant risk for many proposed housing developments. For instance, in both Tauriko West and Te Tumu they potentially compromise around 40% of developable area. We appreciate the Government's reception of the concerns we have raised in this space and the time MfE staff have dedicated to working through these issues with our team.
- Insufficient funding and financing tools for growth-related infrastructure are a major concern, particularly in the transport space. Tauranga's transport system is under extreme pressure and this matter consistently rates as the biggest issue for our residents. Through the Urban Form & Transport Initiative and the Transport System Plan we have an agreed plan to address these issues. But it is not one that we are collectively able to fund. While NLTP decisions have not been made, indications are that less than 50% of our transport programme is likely secure Waka Kotahi co-investment due to wider funding constraints outside of their control.
- In addition, Tauranga's geography, topography and other constraints dictate the State Highway network also providing an essential and often primary local and public transport function in addition to an inter-regional and freight function. There is a concerning lack of forward planning, funding and potentially desire to improve this network which can't adequately meet all of these needs. This is becoming the significant limitation to growth in Tauranga.
- We note recent decisions to exclude Stage 2 of the Tauranga Northern Link project from the NZUP may affect delivery of over 2,000 new homes in the neighbouring Western Bay of Plenty District at Omokoroa. We understand that constructive conversations between WBOPDC and Waka Kotahi and other parties are underway to address these matters and trust these will result in outcomes that enable Omokoroa to be further developed as planned so that further pressure is not put on Tauranga's housing market.
- Planning processes to rezone land for development are complex, expensive, resource hungry and not fit for purpose, as acknowledged by the Government as a key driver for the resource management reforms. With your support we are proposing to use the

streamline plan change process for both Te Tumu and Tauriko West and have started to prepare applications.

- At our recent meeting the potential use of resource consenting pathways instead of plan changes was mooted. We have further considered this in relation to Tauriko West and Parau Farms. In Tauriko West the critical path for development is driven by planning, design and delivery of infrastructure not rezoning of land. Hence a plan change process would not get houses on the ground any quicker. Secondly under both the District Plan and COVID-19 Recovery (Fast-track Consenting) Act a consenting process is high risk due to the non-complying activity status of urban development. This requires demonstration that the effects of development were minor or were not contrary to objectives and policies for the rural zone. We have taken independent planning advice which recommends against the use of the 'COVID-19' consenting pathway for Tauriko West. It is worth noting that we made submissions to the select committee process for the 'COVID-19' consenting Bill seeking a relaxed consenting pathway for non-complying activities with Tauriko West in mind, but our suggestions were not adopted.
- In respect of Parau Farms, similar non-complying activity status issues exist. However, we note that consenting would occur by the developer (likely to be Kainga Ora). Hence you may wish to engage with the Minister of Housing and seek that Kainga Ora is directed to consider consenting options for this project directly.

#### Tauriko West (3,000-4,000+ homes)

- Initial transport investment will only enable approximately half of Tauriko West to be developed (2,000 homes). Significant investment by Waka Kotahi is required to enable the full delivery of Tauriko West (as well as the Tauriko Business Estate extension and Keenan Road). There is significant planning, business case, designation and funding processes to be completed. We are committed to working with Waka Kotahi to progress this work and deliver the right balance of transport solutions for the future, in particular high-quality public transport options and an efficient inter-regional freight corridor. This investment will enable over 4,000 homes and 100 hectares of business land over the next one to two decades. We are hopeful that it can be delivered in a timely manner that does not compromise the timing of development and we are open to new and innovative funding approaches to make this happen such as tolling or road pricing.
- We are particularly motivated to resolving these issues given the significant role Kainga Ora is likely to play as a landowner and developer in Tauriko West with a focus on social and affordable housing delivery.

#### Te Tumu (6,000+ homes)

- The biggest challenge for Te Tumu is securing access and servicing corridors through multiple owned Maori land. Specifically, infrastructure corridors are required through the Te Tumu Kaituna 14 (TK14) 240-hectare block which spans from the Pacific Ocean to the Kaituna River. Development cannot commence unless this occurs. The block has over 4,000 beneficial owners and certain owners have opposed the Trustees approach to progressing development aspirations. This has resulted in a number of court hearings, including most recently in the Court of Appeal. Tauranga City Council is not directly involved in these matters (and it is not our role to be) but we are supporting Trustees with resourcing, support and advice to progress resolution of these matters. We understand that further government resourcing for Maori land development is being made available. It is critical that some of this funding is allocated to the TK14 Maori Land Trust to enable urban development planning (estimated 160 developable hectares of the 240-hectare block) and beneficial owner engagement to progress. We are confident that with the right support in place the existing issues will be overcome, but much less confident that it will occur within the 2025 timeframe for house building to begin as currently assumed.
- We also have some concerns that these Maori land issues will spill over to the upcoming rezoning process for Te Tumu.

### Intensification

- Intensification is coming off a low base in Tauranga. As such it is important that the public sector takes a strong lead in this space to demonstrate outcomes to the community and private sector developers. Projects like redevelopment of Accessible Property owned social housing stock, development of Kainga Ora land acquired on Cameron Road, future options for the racecourse/golf course, redevelopment of elder housing stock, the city centre, and the Parau opportunities are central to this occurring.
- The coastal strip from Mount Maunganui to Papamoa is a highly desirable area to live and develop with significant intensification opportunity. However, it is currently constrained by regional rules around liquefaction management that do not align with the Building Act, Building Code and MBIE Guideline package used elsewhere. This is a significant issue constraining development capacity. The Regional Council and Tauranga City Council are working together to review the current natural hazard planning framework that may enable development opportunity in this area in a manner that still delivers natural hazard resilience. The Mount Maunganui spatial plan is currently on hold pending resolution of this matter.

As this demonstrates when taken together, the risks of meeting our development capacity targets are significant. As shown in the attachment the development capacity shortfalls identified on the first page of this letter could increase to 4-5,000 homes should there be further delay in releasing supply in Tauriko and Te Tumu. Similarly, if intensification estimates are not achieved the shortfall will be greater. While risks around Te Tumu are largely outside our collective hands, in Tauriko and Te Papa we collectively have much more control in resolving our current challenges.

Even if we are successful in delivering sufficient development capacity, the other area of concern is whether or not supply will be at prices that residents can afford. With median house prices in the city of approximately \$1m and the high cost structure for both intensification and greenfield development this is a major concern. Given the lack of tools available in this space TCC plan to focus on negotiating affordability outcomes directly with developers in lieu of the benefits they receive from zoning and infrastructure provision. We also applaud the greater role Kainga Ora plan to have in this space and urge that further effort is put into policy and resourcing to deliver affordable ownership and rental products.

### **Summary**

In summary Tauranga City has a significant challenge delivering sufficient development capacity to meet current and future growth rates, and the requirements of the NPS-UD. We are committed to growing differently and more sustainably than we have in the past in line with the Urban Form & Transport Initiative agreed programme and outcomes.

As outlined, much work is underway to address the issues we face, but the majority of issues are outside the control of the Council. Many of the issues we face are under the direct control of government and we seek to build on our existing partnership to address them together to ensure we deliver not just enough new homes, but the right type and right priced homes for our community.

Alternative growth options simply do not exist in the city, so we collectively need to make these options work for everyone, and in a timely manner.

We would appreciate the opportunity to meet collectively to further discuss what we are collectively doing to address these matters and whether there are opportunities for doing things differently.

Yours sincerely



Anne Tolley  
**Commission Chair**  
**Tauranga City Council**



Bill Wasley  
**Commissioner**  
**Tauranga City Council**



Shadrach Rolleston  
**Commissioner**  
**Tauranga City Council**



Stephen Selwood  
**Commissioner**  
**Tauranga City Council**

*Cc by email to:*

*Hon Nanaia Mahuta - Minister of Local Government - [n.mahuta@ministers.govt.nz](mailto:n.mahuta@ministers.govt.nz)*

*Hon Dr Megan Woods - Minister of Housing - [m.woods@ministers.govt.nz](mailto:m.woods@ministers.govt.nz)*

*Hon Grant Robertson - Minister of Finance – [g.robertson@ministers.govt.nz](mailto:g.robertson@ministers.govt.nz)*

*Hon Michael Wood - Minister of Transport – [m.wood@ministers.govt.nz](mailto:m.wood@ministers.govt.nz)*

### Attachment - Assessment of insufficient development capacity

The 2017 Housing and Business Assessment for Tauranga and the Western Bay of Plenty identified **sufficient** capacity across the short, medium and long-term. This assessment can be found at the following link [https://smartgrowthbop.org.nz/media/2094/smartgrowth-nps-udc-housing-and-business-capacity-assessment-2017\\_final-for-sg-website.pdf](https://smartgrowthbop.org.nz/media/2094/smartgrowth-nps-udc-housing-and-business-capacity-assessment-2017_final-for-sg-website.pdf). Since this time the following factors have changed:

- Further assessment of the realisation of development capacity shows that a substantial amount of currently zoned and serviced development capacity will not be delivered until the medium to long-term when previously it had been allocated to the short-term
- The rate of growth has remained very strong, and has not reduced as expected due to COVID-19
- Tauranga City Council has faced significant delay in releasing additional development capacity primarily due to factors outside our control. These issues are further detailed below.

A revised assessment of sufficiency prepared for our 2021-31 Long Term Plan consultation is set out below.

**Table 1: Shortfall in dwellings assuming 15% within existing city area and 85% in new areas**

Estimated dwelling shortfall			
	Short term (1 – 3 yrs)	Medium term (4 – 10 yrs) with Te Tumu and Tauriko West	Medium term without Te Tumu and Tauriko West
Projected dwellings needed (citywide)	3,590	7,880	7,880
Citywide shortfall	580	460	3,460
Citywide shortfall plus 20%	1,300	2,030	5,030

**Table 2: Shortfall in dwellings assuming 25% within existing city area and 75% in new areas**

Estimated dwelling shortfall			
	Short term (1 – 3 yrs)	Medium term (4 – 10 yrs) with Te Tumu and Tauriko West	Medium term without Te Tumu and Tauriko West
Projected dwellings needed (citywide)	3,590	7,880	7,880
Citywide shortfall	220	-330	2,670
Citywide shortfall plus 20%	940	1240	4,240

This assessment demonstrates a significant shortage of development capacity across the short and medium-term. The final column of each table shows the sharp increase in capacity shortage that would occur if there was delay in releasing the Tauriko West and Te Tumu areas. This was included due to the significant challenges and risks these projects face.

The final draft of the 2021 Housing and Business Assessment (HBA) has now been completed which tells a similar story to the tables above as per the figures below with numbers in the red cells indicating a shortage

	Short Term 0-3 years	Medium Term 4-10 years	Long Term 10-30 years	Total 0-30 years
Housing Demand	3,589	7,882	15,062	26,533
<b>Total Housing Demand (including margin)</b>	<b>4,307</b>	<b>9,458</b>	<b>17,321</b>	<b>31,087</b>
Supply - Infill/ Intensification	718	2,838	7,230	10,785
Supply - Greenfield UGA's	2,470	6,245	9,949	18,664
<b>Total Supply</b>	<b>3,188</b>	<b>9,083</b>	<b>17,179</b>	<b>29,449</b>
Demand / Supply	(401)	1,201	2,117	2,916

(Shortfall) Surplus				
Demand incl. Margin / Supply	(1,119)	(376)	(143)	(1,637)

The differences, particularly in the medium term, between the housing capacity calculations in the final draft HBA tables and those prepared for 2021-31 Long Term Plan consultation are due to greater expectations around realisable dwelling uptake in the established infill/ intensification areas of Tauranga City. The final draft HBA anticipates that infill/ intensification areas will accommodate 20% of projected dwelling demand in the short term increasing to 36% over the medium term<sup>1</sup>. This increase in uptake is assumed to result from an uplift in residential intensification, enabled and encouraged through Proposed Plan Change 26: Housing Choice to the Operative Tauranga City Plan, associated spatial planning and greater levels of investment in these infill/ intensification areas.

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<sup>1</sup> the 2021-31 Long Term Plan shortfall scenarios calculated the impact of 15% of housing demand being accommodated in infill/ intensification areas over the entire 10 year short-medium term period, and 25%.



**12 DISCUSSION OF LATE ITEMS****13 PUBLIC EXCLUDED SESSION****RESOLUTION TO EXCLUDE THE PUBLIC****RECOMMENDATIONS**

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

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

<b>General subject of each matter to be considered</b>	<b>Reason for passing this resolution in relation to each matter</b>	<b>Ground(s) under section 48 for the passing of this resolution</b>
<b>13.1 - Public Excluded Minutes of the Council meeting held on 30 August 2021</b>	<p>s6(b) - The making available of the information would be likely to endanger the safety of any person</p> <p>s7(2)(a) - The withholding of the information is necessary to protect the privacy of natural persons, including that of deceased natural persons</p> <p>s7(2)(b)(i) - The withholding of the information is necessary to protect information where the making available of the information would disclose a trade secret</p> <p>s7(2)(b)(ii) - The withholding of the information is necessary to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information</p> <p>s7(2)(h) - The withholding of the information is necessary to enable Council to carry out, without prejudice or disadvantage, commercial activities</p> <p>s7(2)(i) - The withholding of the information is necessary to enable Council to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)</p>	s48(1)(a) - the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7
<b>13.2 - Tauranga Art Gallery Trust - Board Performance Review, 2021</b>	s7(2)(a) - The withholding of the information is necessary to protect the privacy of natural persons, including that of deceased natural persons	s48(1)(a) - the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7

**14 CLOSING KARAKIA**