



AGENDA

Ordinary Council meeting Monday, 2 May 2022

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

Date: Monday, 2 May 2022

Time: 10am

**Location: Bay of Plenty Regional Council Chambers
Regional House
1 Elizabeth 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.

**Marty Grenfell
Chief Executive**

Terms of reference – Council

Membership

Chairperson	Commission Chair Anne Tolley
Members	Commissioner Shadrach Rolleston Commissioner Stephen Selwood Commissioner Bill Wasley
Quorum	<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> .
Meeting frequency	As required

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).

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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**
- 7 CONFIRMATION OF MINUTES**
Nil
- 8 DECLARATION OF CONFLICTS OF INTEREST**
- 9 DEPUTATIONS, PRESENTATIONS, PETITIONS**
Nil
- 10 RECOMMENDATIONS FROM OTHER COMMITTEES**
Nil

11 BUSINESS

11.1 Te Ara ō Wairākei Landscaping - Report Back on Stakeholder Meetings and Confirmation of Next Steps

File Number: A13284798

Author: Jane Groves, Stormwater Programme Leader
Raleigh Cairns, Environmental Programme Leader

Authoriser: Nic Johansson, General Manager: Infrastructure

PURPOSE OF THE REPORT

1. To report back on the outcome of meetings recently held between the Commission and Te Ara o Wairākei Stream Landscape Project partners Te Kapu O Waitaha (Waitaha) and Ngā Pōtiki ā Tamapahore Trust (Ngā Pōtiki), representatives of the 'Friends of Palm Beach Reserve' group, and adjacent landowners in relation to an 'amended planting plan' developed for the stream corridor in the Palm Beach West (PBW) area of Papamoa. Feedback has been incorporated into the final design presented in this report together with various options and a recommended way forward. A similar revised plan has been developed and will be shared with residents in Areas 4 and 5 to also enable planting in these areas to occur over the next two planting seasons.

RECOMMENDATIONS

That the Council:

- (a) Receives this report, "Te Ara ō Wairākei Landscaping - Report Back on Stakeholder Meetings and Confirmation of Next Steps";
- (b) Approves the 'amended planting plan' for implementation within Palm Beach West (Area 2) over the 2022/3 planting season.

EXECUTIVE SUMMARY

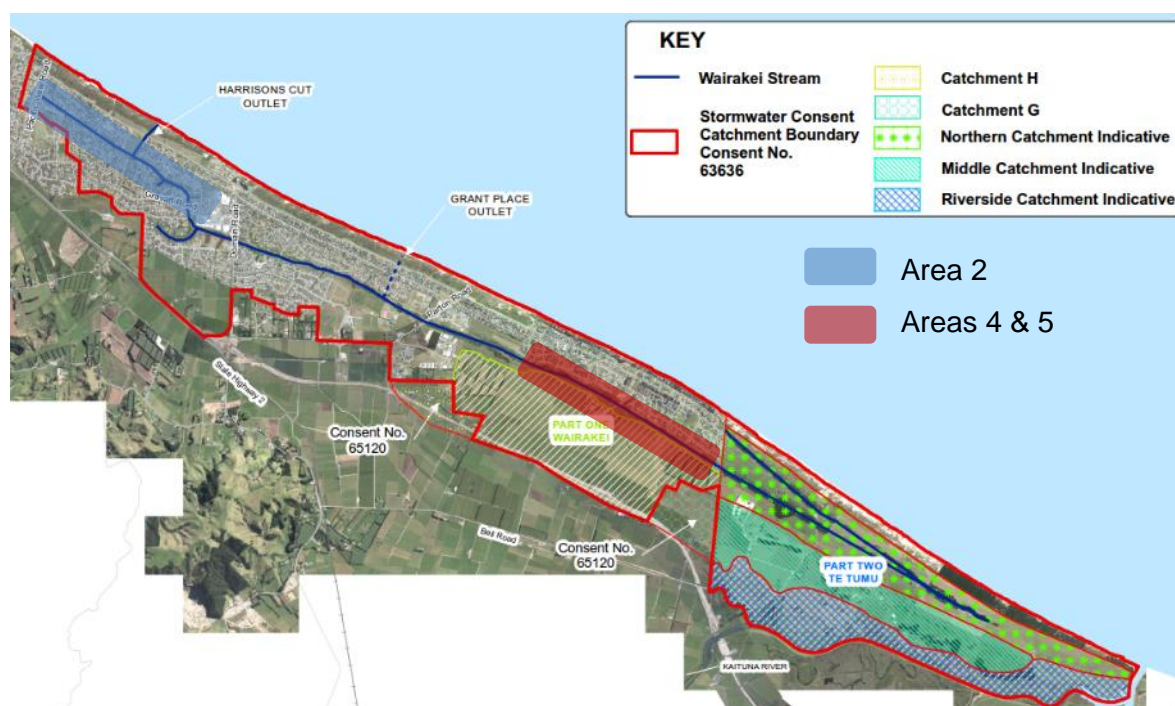
2. The Te Ara ō Wairākei Landscaping Project (The Project) is a requirement of Council's Comprehensive Stormwater Discharge Consent (CSC). The CSC was varied in 2015, after appeal proceedings and mediation, to improve the economic viability of land development in the area. New conditions were added at this time requiring the preparation and implementation of both Landscape and Cultural Plans for the Wairākei Stream corridor by 2025 (one Cultural Plan for each of the 3 Iwi groups who were a party to the appeal).
3. A key feature of all plans is the extensive planting of stream margins along the corridor as a means of ecological enhancement and a means to restore cultural recognition and activity in the area.
4. Some PBW residents have opposed planting since it commenced in their area preferring that the area remains in grass and that the planting that has already occurred be removed.
5. In response to this opposition Council, in May 2020, ceased all planting in Area 2 (PBW) and initiated a range of engagement initiatives on the project (and intended project outcomes). A series of onsite meetings with residents, meetings with representatives of the 'Friends of Palm Beach Reserve' group and a community survey on the Landscape Plan were undertaken.
6. In February and March of 2021 further meetings with project partners Waitaha and Ngā Pōtiki, and representatives of the 'Friends of Palm Beach' group also occurred. The

objective of these meetings was to try and reach a compromise with the parties with respect to the type and extent of planting.

7. Feedback from these meetings informed the development of an 'amended planting plan' for PBW. Key features of this plan include use of lower growing native species (< 600mm) and larger extents of open areas along the pond margins free from planting enabling access to the water edge and water views. The plan also allows for 35 native trees, surrounded by low level planting, to be added.
8. The Commission have recently met with Waitaha, Ngā Pōtiki, resident representatives and landowners (via a public meeting) to seek feedback on this amended plan. Feedback has been incorporated into the final design presented in this report together with various options and a recommended way forward.

BACKGROUND

9. The predominantly Council owned Wairākei Stream Corridor is located within Papamoa and extends for approximately 14km before reversing via a 4km long blind 'back arm' in Te Tumu. The stream relies on in-stream storage and soakage for the management of stormwater and mitigation of flooding within the existing Papamoa area, the urban growth area in Wairākei (under development) and also the future development area of Te Tumu.
10. Council holds a CSC to address stormwater management and the discharge of treated stormwater runoff in Papamoa. This stipulated a 100% stormwater storage mitigation requirement as a means to mitigate stormwater discharges and associated flood risk.



11. This CSC was varied in 2015 to improve the economic viability of land development within the area and to reduce development contributions; in essence, to reduce the land area required for stormwater mitigation storage. The variation was approved after appeal proceedings and mediation, with key parties being Ngā Pōtiki ā Tamapahore Trust, Te Kapu O Waitaha and Ngāi Te Rangī Iwi.
12. The CSC, as varied, included new conditions requiring a Wairākei Stream Corridor Landscape Plan and a Wairākei Stream Cultural Plan for Stage 1 (to the Te Tumu boundary) and for Stage 2 (Te Tumu). These conditions were incorporated to address cultural concerns and were considered to be a mechanism by which cultural recognition and activity in the area could be restored.

13. The Plans for Stage 1 were prepared over 2016-18, and all reflect the desire for indigenous planting along the corridor. As required by the CSC these Stage 1 plans were lodged with and accepted by the Bay of Plenty Regional Council (BoPRC). The CSC also stipulated conditions around consultation during the Plan development and prior to their implementation. A record of this consultation was submitted and approved by BoPRC.

Plan Implementation to Date

14. In 2018 Council commenced the implementation of planting and other ecological and cultural enhancement works as per the submitted plans along the corridor. Within the 101ha project area, tracks, seating, bollards, shade trees and signage has now been completed in 4 of the 5 areas (84.3ha, 84%) including planting of 300,000 plants over 8.5ha. A further 9.9ha of planting is to come, of which 0.9ha is located in PBW (refer **Attachment 1** – PBW is denoted as Area 2, Area 4 extends from Parton Road to Golden Sands Drive and 5 from Golden Sands Drive to the Te Tumu Boundary).
15. The Cultural Plans describe how the cultural values of each were to be represented i.e. through signage, cultural motifs, interpretation panels etc. Implementation of these elements along the corridor is well progressed and appears to be positively supported.

ENGAGEMENT

What is the Issue and What Has Council Done in Response?

16. Some PBW residents have opposed planting since planting commenced in their area. In their opinion the ponds are being converted to wetlands, water views are being obstructed, banks are slumping, plant selection is incorrect, maintenance is poor, the plants attract vermin and house prices will reduce. These residents request that the PBW area remains in grass, and further that the planting that has already occurred be removed.
17. In response Council, in May 2020, ceased new (and infill) planting at this location and undertook more intensive engagement with residents through face to face meetings, public 'area' meetings, and a local e-newsletter distributed to all residents and Tangata Whenua.
18. Issues relating to poor performance of the maintenance contractor were addressed and a new contractor was engaged and instructed to undertake an increased level of maintenance.
19. A range of engagement initiatives since this time have been carried out to raise awareness of project outcomes and provide an avenue for community feedback including a community survey that had almost 1000 respondents (161 of which resided within Area 2 adjacent to the corridor).
20. Feedback from these meetings and the survey informed the development of an 'amended planting plan' (**Attachment 2**) for Area 2. Key features of the amended plan include use of lower growing native species (< 600mm) and larger extents of open areas around pond margins which are free from planting enabling access to the water edge and water views. The plan also allows for 35 native trees, surrounded by low level planting, to be added.
21. To further inform decision-making required for this report, the Commission have met with Tangata Whenua project partners Waitaha and Ngā Pōtiki, resident representatives and have also held a public meeting on the 28 March with attendees being predominantly adjacent landowners. The objective of these meetings was to present for feedback the 'amended planting plan' and try to reach a compromise with respect to the extent and type of planting to enable planting to begin over the 2022/3 planting season.
22. The Commission advise that the 'amended plan' was generally well received by the Tangata Whenua project partners and the resident's representatives. Feedback received from the public meeting was not as favourable however, with many wanting the area to remain in grass and issues of poor maintenance by Council being cited as the reason for this view. The Commission advised the attendees that 'no planting'/'area remaining in grass' was not an option given the requirement for planting which was set out in the CSC. Residents were however encouraged to advise staff of any issues with the placement of trees and location of the open areas around the ponds and these have been incorporated into the final design

(**Attachment 3**). There was an acknowledgement from both Council and the Commission that maintenance of planted areas needed to be improved.

23. As noted above, Areas 4 and 5 remain unplanted. To ensure residents in these areas have further opportunity to provide feedback on planting, an amended plan for these areas has been prepared and will be sent to adjacent landowners, Waitaha and Ngā Pōtiki as was done for Area 2. These areas already have significant planting and many areas of regenerating wetland. Once feedback is received and incorporated into a final design, planting will take place with the timing dependent on being able to source plants.

STRATEGIC / STATUTORY CONTEXT

24. Council's CSC makes provision for a Wairākei Stream Landscape and Cultural Plan. These plans were lodged with and accepted by BoPRC in 2018. The plans provide for specified planting in the PBW area and elsewhere along the stream corridor. Depending on the option selected in PBW, and the extent to which it deviates from that depicted in the plan submitted to BoPRC (and that which was previously consulted on) there may be compliance issues that need to be considered.
25. To ascertain BoPRC's initial response to the possible implementation of an amended plan staff met with the BOPRC Consents Manager Reuben Fraser on 5 July 2021. Key aspects of Mr Fraser's response were that:
- The CSC anticipates planting, and the landscape and cultural plans are to provide cultural recognition and environmental restoration
 - Generally, the expectation to recognise and provide for the relationship of Maori with Te Ara ō Wairākei should be prioritised over the views of adjacent residents
 - That any decisions made by BOPRC with respect to compliance/enforcement would be influenced by the positions of Ngā Pōtiki and Waitaha.
26. The outcome of the recent engagement on the amended plan has been provided to BoPRC and further comment sought. Given the engagement undertaken with the Tangata Whenua project partners, local residents and the community as described above, the initial response from BOPRC is that the intent of the CSC conditions are still met and that no enforcement action is warranted.

OPTIONS ANALYSIS

27. The following options, relating to planting in PBW, are proposed for Council's consideration together with likely impact, if any, on project stakeholders and project outcomes. **Option 2. Partial – Amended Planting Plan in PBW** (in red box) is the recommended option.

STAKEHOLDER	OPTION		
	1. Status Quo in PBW <i>Implement 2018 PBW plan as lodged with BOPRC</i>	2. Partial – Amended Planting Plan in PBW <i>Reduced level of planting in extent and height - allows open areas, trees</i>	3. No Planting OR No Further Action in PBW <i>Grass only, no planting</i>
Tangata Whenua: Meetings/ Cultural Plans Cultural values/ relationships/ reputation	Gives full effect to Cultural Management Plans: <ul style="list-style-type: none"> • Varied CSC conditions • Cultural values, cultural recognition and activity restored to area Relationship + reputation not affected	Partially gives effect to Cultural Management Plans: However feedback from Tangata Whenua project partners is supportive Relationship + reputation unlikely to be affected	Cultural Management Plans not given effect to: <ul style="list-style-type: none"> • Varied CSC conditions • Cultural values, cultural recognition and activity not restored to area Relationship + reputation likely to be affected Likely legal action taken against Council
BOPRC	Full compliance with CSC conditions	Potential compliance issues – but unlikely based on recent BoPRC feedback	Non-compliance - for reasons as described in point 25. of this report.

Residents Reps/Residents	Continued complaints	Potential for complaints	Unlikely to receive complaints
Ecological Outcomes	<p>Gives effect to: NPS – FM* and Te Mana o te Wai by prioritising the health and wellbeing of water bodies over “other uses” based on cultural recognition through indigenous planting.</p> <p>NPS – FM policies by enhancing habitats of indigenous freshwater species and improving a degraded water body</p>	Reduces effectiveness at this location for improving water + habitat quality and cultural recognition.	<p>Be contrary to:</p> <ul style="list-style-type: none"> - NPS – FM requirements - all 3 Cultural Management Plans and will not give effect to cultural recognition, - Landscape Plan design specifications which deliver the intent and specific requirements of the consent conditions, <p>No improvement to water/habitat quality</p>

FINANCIAL CONSIDERATIONS

28. Budget to implement any of the options is already provided. There is no further funding sought in this report.

LEGAL IMPLICATIONS / RISKS

29. There are risks to Council if either **Option 2 (Partial - Amended Plan)** or **Option 3 (No Planting)** was selected. These risks relate to those of enforcement action that could be taken by BoPRC should they deem that the conditions and intent of the Papamoa CSC (RC63636) have not been met, and also potential legal action taken by Tangata Whenua project partners for the same reason.
30. For **Option 2 (Partial – Amended Plan)**, these risks have largely been mitigated through recent engagement with the Tangata Whenua project partners and their favourable responses. The risks remain for **Option 3 (No Planting)**.

SIGNIFICANCE

31. 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.
32. 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 decision.
 - the capacity of the local authority to perform its role, and the financial and other costs of doing so.
33. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the matter is of low significance.
34. Taking into consideration the above assessment, that the matter is of low significance, staff are of the opinion that the engagement described above is sufficient to enable a decision regarding planting within the PBW area to be made.

NEXT STEPS

35. If Council endorses implementation of **Option 2 - Partial – Amended Planting Plan in PBW**, the following timeline is anticipated:

- a. A planting contractor and the plants/trees would be procured to enable planting within PBW to commence in May/June 2022. If enough plants and trees could not be sourced to complete planting, then some may be deferred until the 2023 planting season (April/May).
- b. Planting in Areas 4 and 5 would also commence following feedback received from tangata whenua partners and residents with timing of planting dependent on the ability to source plants.

ATTACHMENTS

1. **Plan Implementation and Location of Palm Beach West - A12904906** [↓](#)
2. **Te Ara ō Wairākei Area 2A Revised Planting Concept - A13335893** [↓](#)
3. **Te Ara ō Wairākei Revised Area 2 Wairākei Landscape Plan Detailed Design April 2022 - A13384541** [↓](#)

ATTACHMENT 1: Plan Implementation (Including Location of Palm Beach West – Areas 1 and 2)



TE ARA O WAIRAKEI RESERVE - UPDATED CONCEPT [JAN 2022]

(AREA 2A - SANTA BARBARA DRIVE TO PALM BEACH SECTION)

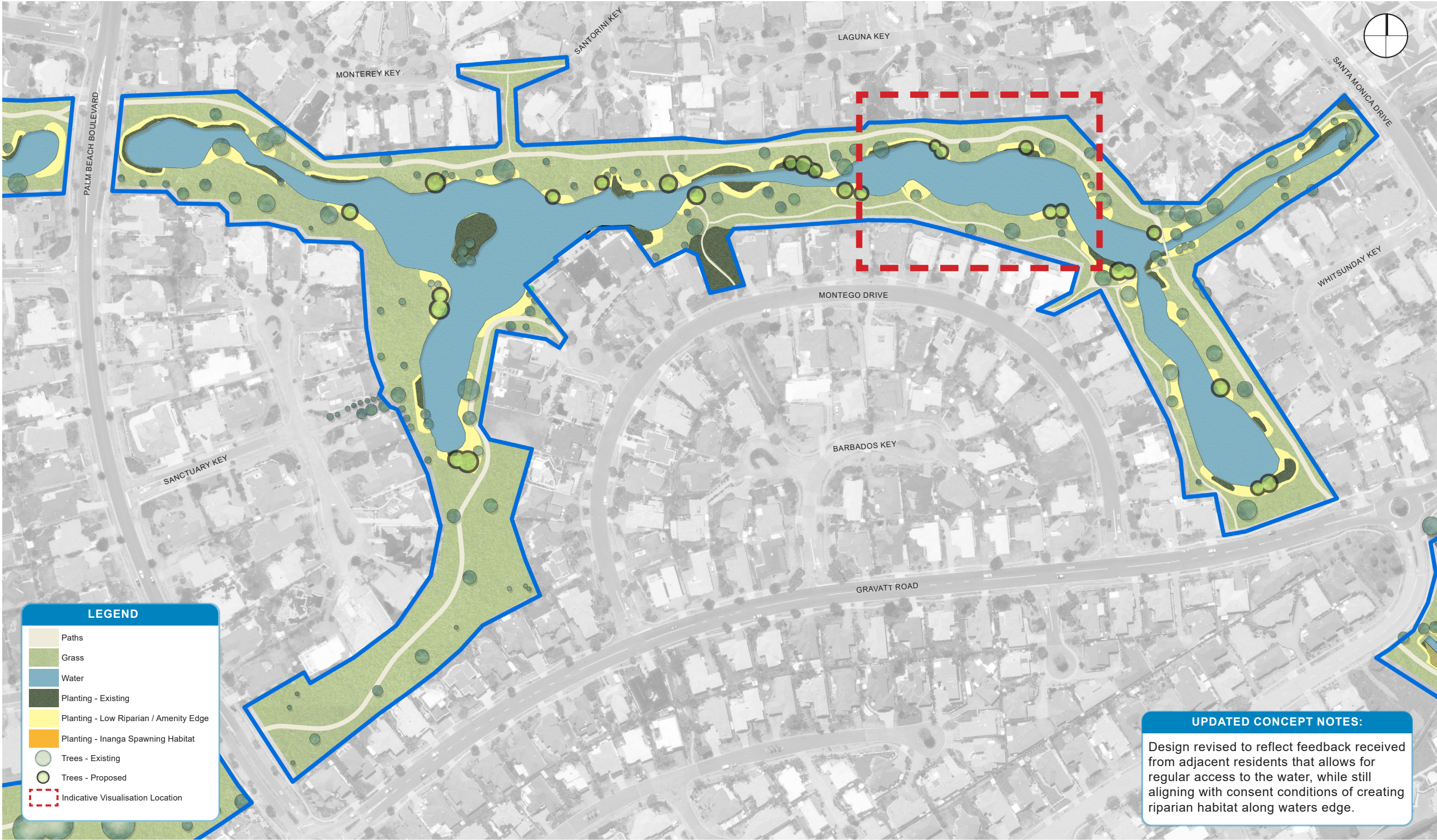
DRAFT - FOR DISCUSSION



TE ARA O WAIRAKEI RESERVE - UPDATED CONCEPT [JAN 2022]

(AREA 2A - PALM BEACH TO GRAVATT ROAD SECTION)

DRAFT - FOR DISCUSSION



TE ARA O WAIRAKEI RESERVE - UPDATED CONCEPT (VISUALS)

DRAFT - FOR DISCUSSION



NEW PLANTING EDGE TO EXISTING PLANTED AREAS



NEW PLANTING (WITH NEW TREE IN CENTRE)



INDICATIVE VISUALISATION

TE ARA O WAIRAKEI RESERVE - UPDATED PLANT LIST (RIPARIAN)
(AREA 2A - SANTA BARBARA DRIVE TO GRAVATT ROAD)

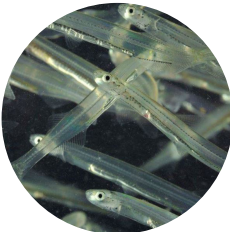
DRAFT - FOR DISCUSSION



RIPARIAN PLANTING BENEFITS:

- WATER QUALITY**
- Wetland plants improve water quality. As water moves into a wetland, plants help decrease the flow rate, allowing particles to settle out.
 - Wetland plants act as filters, absorbing heavy metals, nutrients, solids and other contaminants.
 - Wetland plants provide shade to the water body. This helps reduce the overall water temperature.
- WILDLIFE HABITAT**
- Wetlands provide an array of different habitats for numerous different native plants and wildlife.
 - Some of our endangered species depend totally on wetlands. This is why there are so many different plant species used, as it increases biodiversity and improves ecosystem resilience.
- RECREATION AND EDUCATION**
- Wetlands offer many recreation opportunities and also many interesting education opportunities, especially for our youth.

RIPARIAN & EDGE PLANTS PROVIDE HABITAT FOR THESE SPECIES + MANY MORE:



Whitebait



Eels



Freshwater snail



Bullies



Dragon fly



Honey bee



Copper skink



Common duck



Pukeko



Heron



Kingfisher



Little shag

RIPARIAN PLANTING PALETTE:



Carex comans 'Frosted Curls'
NZ Hair Sedge



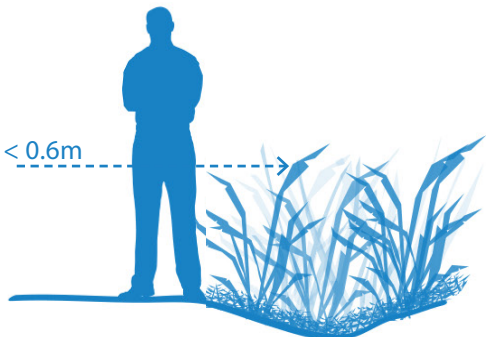
Carex flagellifera
Glen Murray Tussock



Carex testacea
Speckled Sedge



Muehlenbeckia complexa
Small-leaved Pohuehue



TE ARA O WAIRAKEI RESERVE - UPDATED PLANT LIST (LOW EDGE + SPECIMEN TREE)

(AREA 2A - SANTA BARBARA DRIVE TO GRAVATT ROAD)



DRAFT - FOR DISCUSSION

LAWN EDGE PLANTING BENEFITS:

STRUCTURE AND AMENITY

- Some plants have berries and flowers attractive to native birdlife and bees encouraging pollination opportunities for adjoining residential gardens
- Provides a low growing, tidy edge to wetland and shrubland planting behind
- No more grass clippings covering the water bodies after mowing
- Amenity shade trees added (where suitable) next to paths and reserve seating to provide shade and entice further birdlife

MAINTENANCE

- Large areas planted were not mowable in winter due to high water table, creating an untidy look.
- Hardy and mostly native plants selected to handle the harsh coastal and dry conditions
- Provides for a tidy edge that mowers can run against
- Reduces future operating costs due to decreased area requiring mowing

NATIVE TREE PALETTE:



Knightia excelsa
Rewarewa



Metrosideros excelsa 'Maori Princess'
Pohutukawa



Meryta sinclairii
Puka



Sophora microphylla
Kowhai



Alectryon excelsus
Titoki

LAWN EDGE PLANTING PALETTE:



Grevillea lanigera 'Mt Tamboritha'
Spider Flower



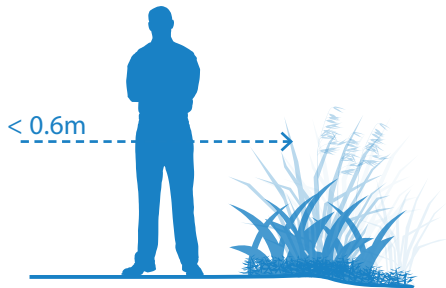
Chionochloa flavicans
Miniature Toetoe



Poa cita
Silver Tussock



Metrosideros carminea
Carmine Rātā



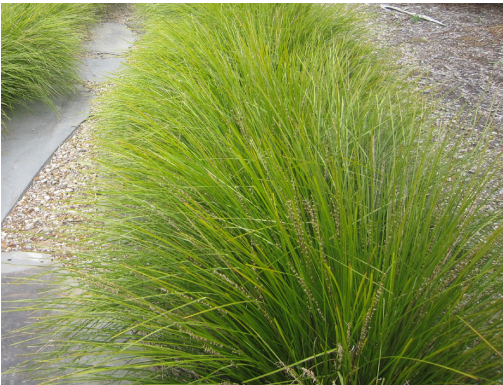
Muehlenbeckia complexa
Small-leaved Pohuehue



Coprosma 'Poor Knights'
Prostrate coprosma



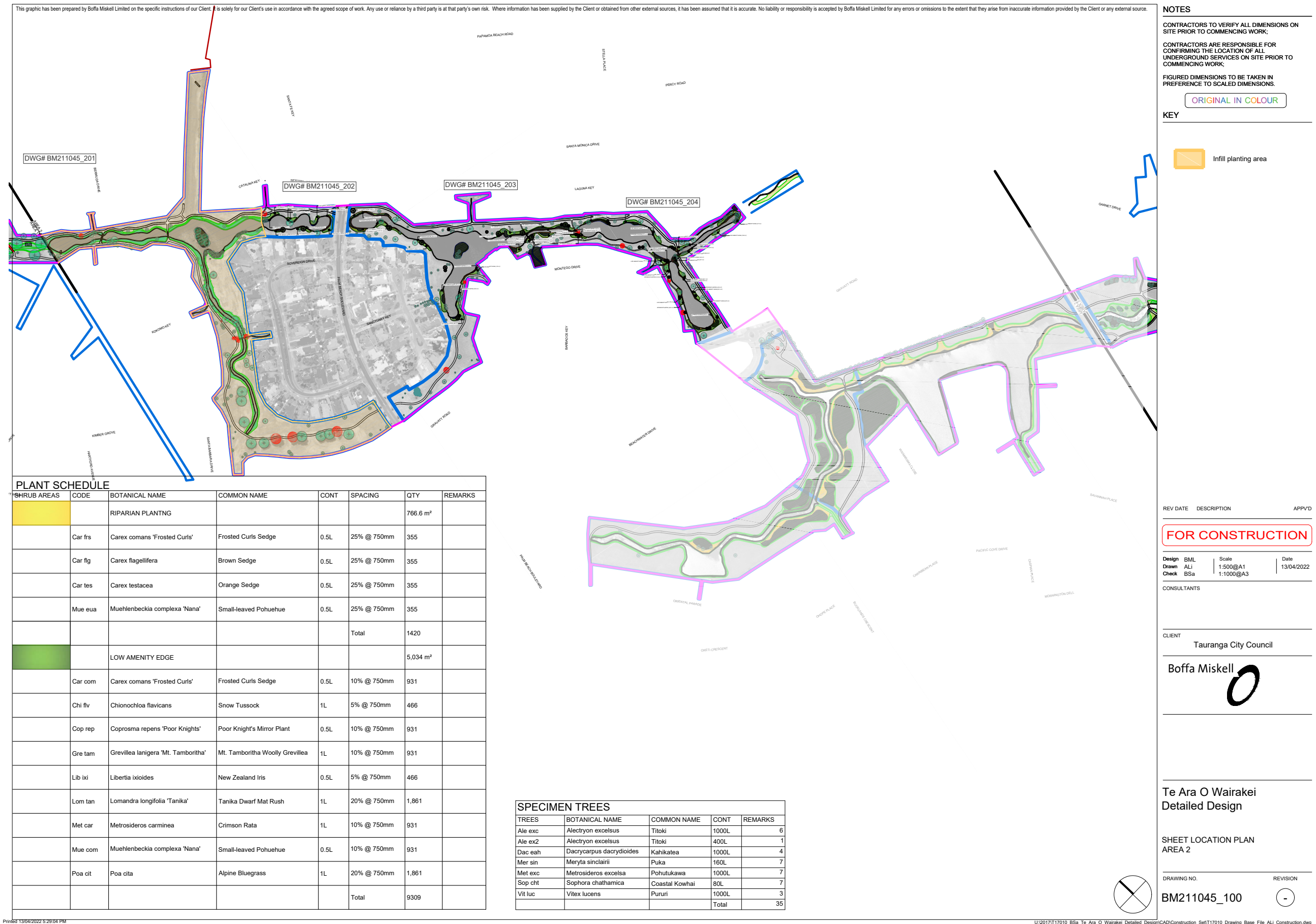
Libertia ixioides
NZ Iris

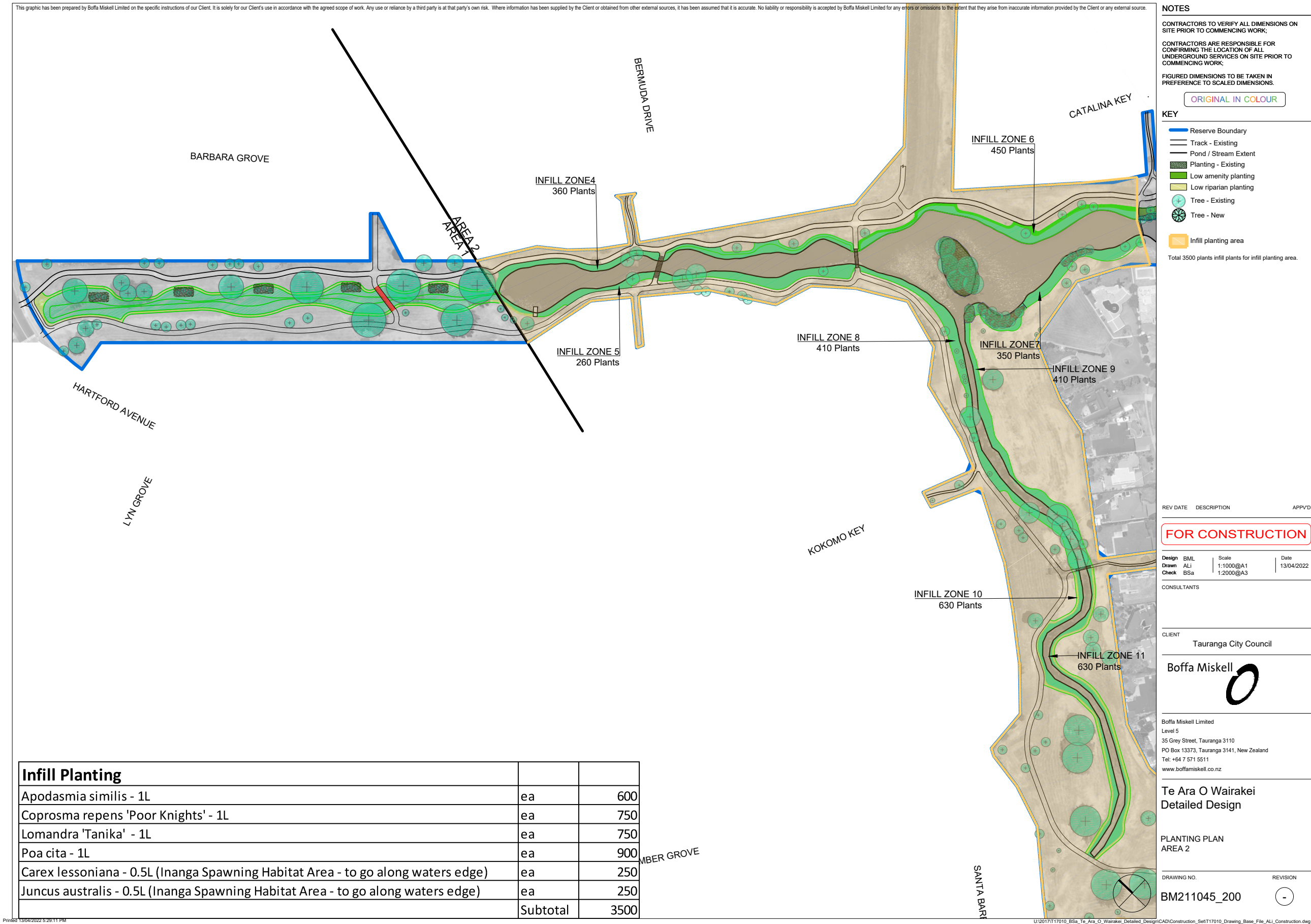


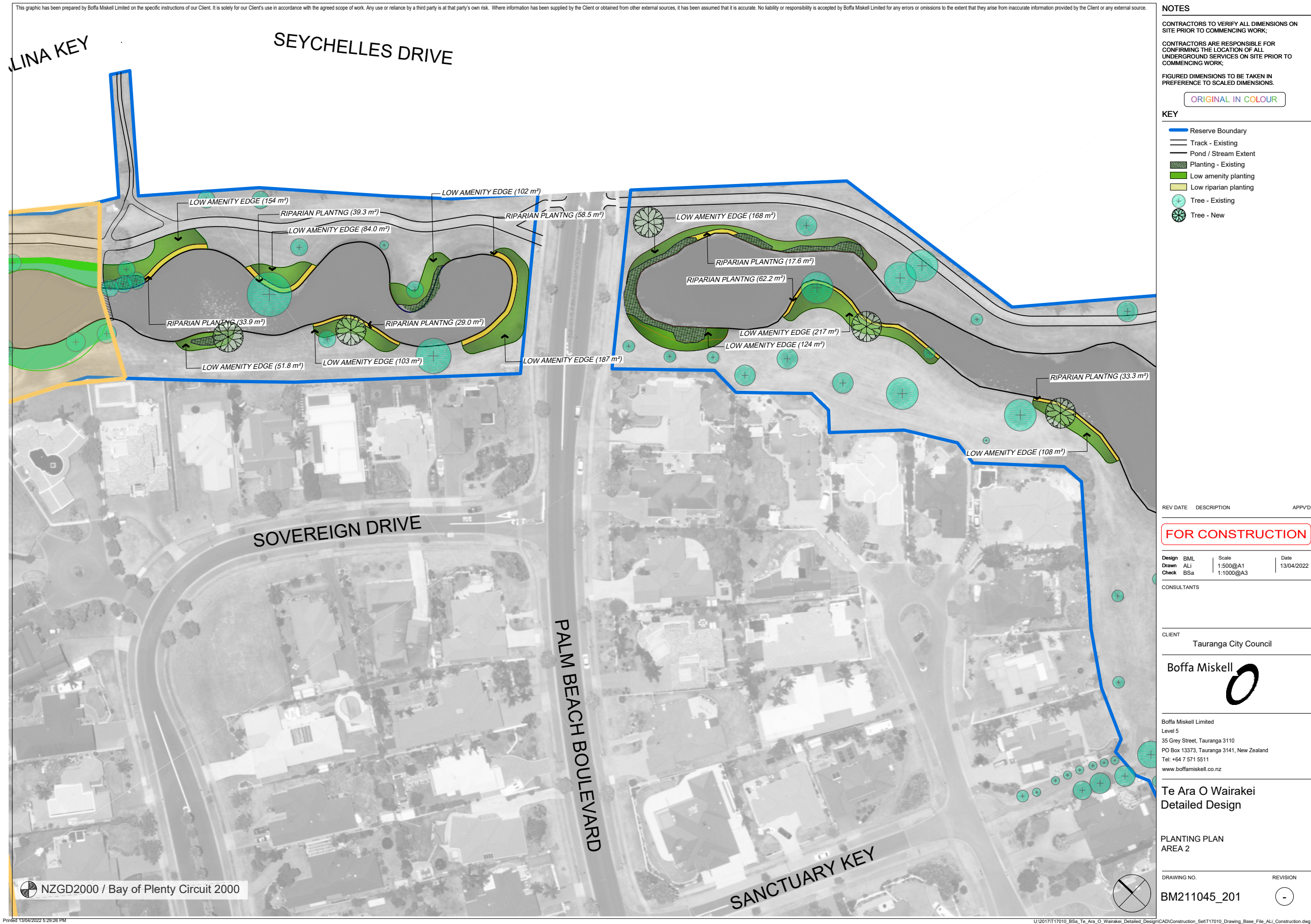
Lomandra 'Tanika'
Lomandra



Carex comans 'Frosted Curls'
NZ Hair Sedge

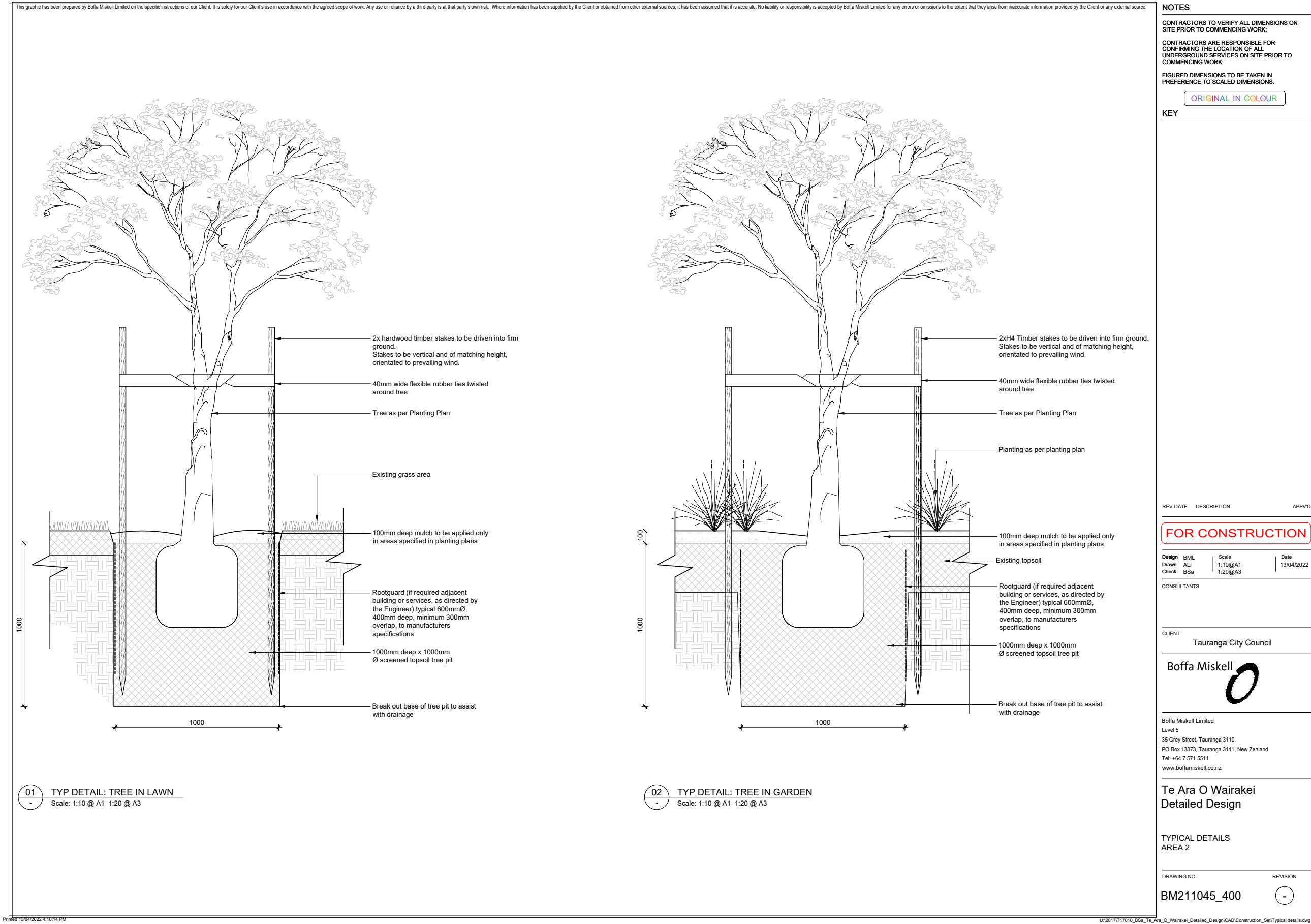


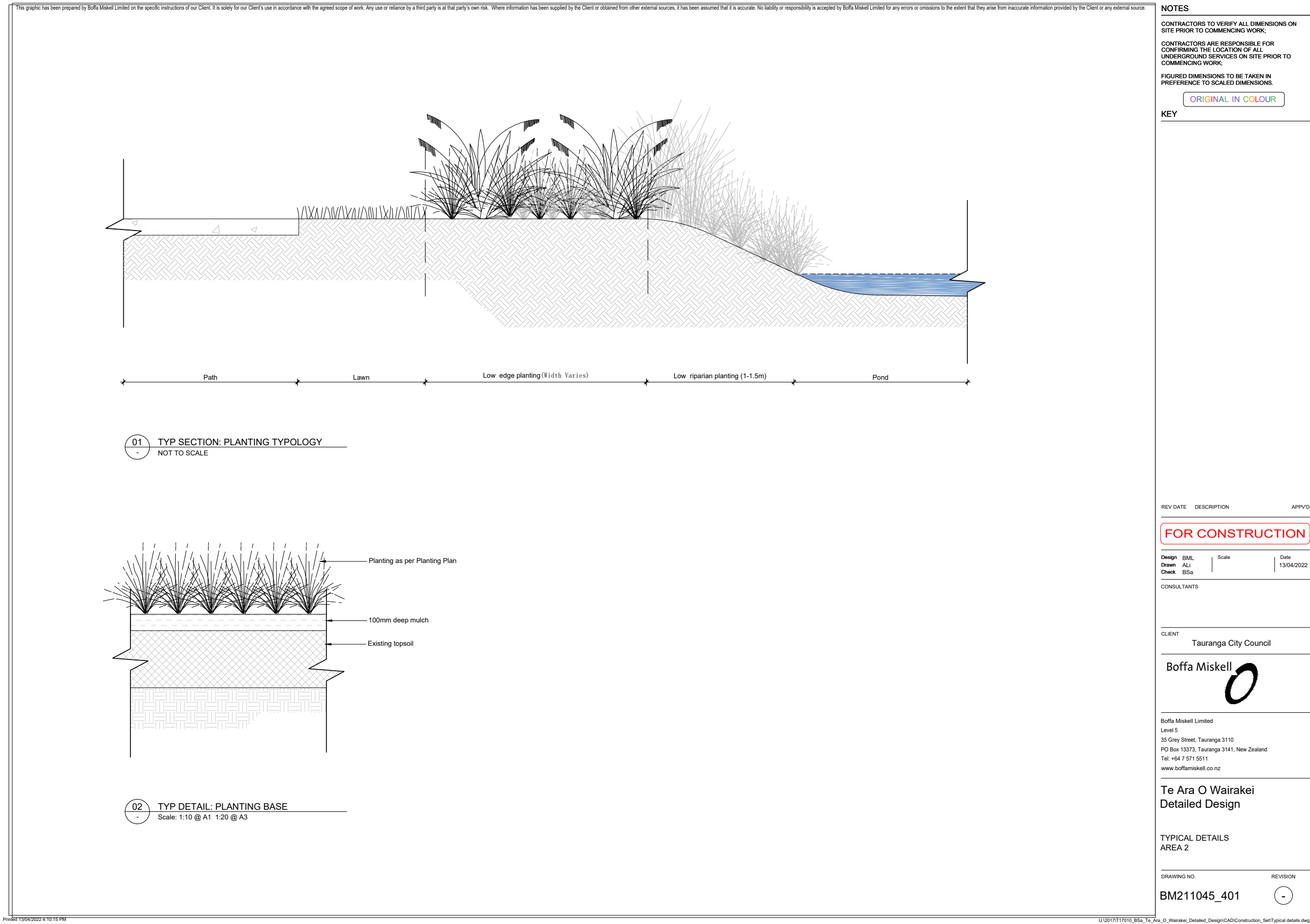












11.2 Delegations relating to Civil Defence Emergency Matters

File Number: A13384709

Author: Coral Hair, Manager: Democracy Services
Cindy Gillman-Bate, Corporate Solicitor

Authoriser: Paul Davidson, General Manager: Corporate Services

PURPOSE OF THE REPORT

1. To delegate powers to declare a state of local emergency, or give notice of a local transition period, to Commission Chair Anne Tolley, and in her absence, Commissioner Bill Wasley. To appoint Commission Chair Anne Tolley as the Council's representative, and Commissioner Bill Wasley as her alternate, to the Bay of Plenty Civil Defence Emergency Management Group.

RECOMMENDATIONS

That the Council:

- (a) Receives the report "Delegations relating to Civil Defence Emergency Matters."
- (b) Pursuant to its powers under clause 32(1) of Schedule 7 of the Local Government Act 2002, delegates to Commission Chair Anne Tolley, and in her absence Commissioner Bill Wasley, the powers conferred under section 25(5) of the Civil Defence Emergency Management Act 2002 (CDEMA) to declare a state of local emergency, or give notice of a local transition period, that covers the district of Tauranga City Council.
- (c) With reference to section 13(4) of the CDEMA, appoints Commission Chair Anne Tolley as the Tauranga City Council representative, and Commissioner Bill Wasley as her alternate, to the Bay of Plenty Civil Defence Emergency Management Group.

EXECUTIVE SUMMARY

2. The previous Commission delegated the functions and powers conferred on the mayor by the Civil Defence Emergency Management Act 2002 (CDEMA) to Commission Chair Anne Tolley, and Commissioner Bill Wasley in her absence. The termination of the previous Commission and the establishment of a new Commission by the Minister of Local Government Nanaia Mahuta effective 26 April 2022 means that the functions and powers conferred on the mayor by the CDEMA now sit with the newly established Commission (all four Commissioners acting collectively). Although the same Commission Chair and Commissioners have been reappointed to the new Commission, it is a new entity. This means the functions and powers conferred on the mayor by the CDEMA need to be delegated by the new Commission.

BACKGROUND

3. Under the CDEMA the mayor (or an elected member authorised to act for them in their absence) is Council's representative on the Bay of Plenty Civil Defence Emergency Management Group (the Group) and has the power to declare a state of local emergency, or give notice of a local transition period, for Council's district.

4. With the appointment of the previous Commission that commenced 9 February 2021, these functions and powers of the mayor under the CDEMA sat with the Commission as a whole (all four Commissioners acting collectively). This was considered unduly cumbersome and, as such, the Commission appointed Commission Chair Anne Tolley, and Commissioner Bill Wasley as her alternate, as Council's representative on the Group¹, and delegated authority to her, and Commissioner Wasley in her absence, to declare a state of local emergency, or give notice of a local transition period, for Council's district.²
5. The Minister of Local Government has terminated the previous Commission and appointed a new Commission effective 26 April 2022 with a new Terms of Reference. Although the same Commission Chair and Commissioners have been reappointed to the new Commission, it is a new entity. As such, the functions and powers conferred on the mayor by the CDEMA now sit with the new Commission (all four Commissioners acting collectively). This means the new Commission is required to delegate the functions and powers conferred on the mayor under the CDEMA to the Commission Chair, or other Commissioner.

STRATEGIC / STATUTORY CONTEXT

6. Section 13(4) of the CDEMA states:

Each local authority that is a member of a Group with other local authorities must be represented on the Group by 1, and only 1, person, being the mayor ... of that local authority or an elected person from that local authority who has delegated authority to act for the mayor ...

7. Section 25(5) CDEMA states:

Despite subsections (1) to (4), the mayor of a territorial authority, or an elected member of that territorial authority designated to act on behalf of the mayor if the mayor is absent, may declare a state of local emergency, or give notice of a local transition period, that covers the district of that territorial authority.

8. Council can have only one representative on the Group under section 13(4), and the power under section 25(5) must be exercised by one person.
9. The Chair of the Commission is not individually empowered to exercise the functions and powers specifically conferred on the mayor in legislation (such as sections 13(4) and 25(5) CDEMA). It is the Commission as a whole (i.e. all four commissioners acting collectively) that must perform any functions and exercise any powers directly conferred on the mayor by or under any enactment.
10. This is based on an analysis of sections 258F(4)-(5) and 258H(2)-(4) of the Local Government Act 2002, which state:

Section 258 F

- (4) *A Commission must perform the functions and duties and exercise the powers of the local authority, and its members, under this Act and any other enactment,—*
 - (a) *to the exclusion of the members of the local authority; but*
 - (b) *subject to—*
 - (i) *section 258H; and*
 - (ii) *any limits on its authority set out in the terms of reference.*
- (5) *To avoid doubt, a Commission—*
 - (a) *must perform any functions or exercise any powers directly conferred on the mayor or chairperson, or any other member, of a local authority by or under any enactment; and*
 - (b) *may exercise all the powers of the local authority to set, assess, and collect rates and charges within the district or region and expend their proceeds; and*

¹ At the Council meeting on 22 February 2021.

² At the Council meeting on 8 March 2021.

- (c) *may appoint members of the local authority to a committee or subcommittee established under Schedule 7 of this Act.*

Section 258H

- (2) *This Act and any other enactment applies, with any necessary modifications, as if the Commission were the governing body of the local authority and responsible for the decision-making of the local authority.*
- (3) *Without limiting subsection (2), clauses 31, 32, and 32A of Schedule 7 apply as if the members of the Commission were elected members of the local authority.*
- (4) *A document that is required to be executed under the seal of the local authority may be executed under the seal and verified by the signature of the chairperson of the Commission, or the Commission, if there is no chairperson.*
11. The Commission's Terms of Reference also do not suggest that the Chair should, acting individually, step into the role of mayor.
12. The wording of section 13(4) allows for an elected member to be appointed as an alternate to mayor on the Group.
13. The wording of section 25(5) allows for another elected member to be designated to act on behalf of the mayor in their absence. As such, clause 32(1) Schedule 7 of the Local Government Act 2002 enables the Council (the Commission) to delegate the power under section 25(5) CDEMA to a commissioner.
14. It is recommended that the Council delegate to Commission Chair Anne Tolley (and Commissioner Bill Wasley in her absence) the powers under section 25(5) CDEMA and appoint her (and Commissioner Wasley as her alternate) to the Group, as this would be consistent with the previous decision.

FINANCIAL CONSIDERATIONS

15. There are no financial considerations in relation to this report.

LEGAL IMPLICATIONS / RISKS

16. The power under section 25(5) CDEMA may only be exercised by one person. If the recommended delegation is not made, this power will continue to sit with the Commission as a whole. This may cause legal issues if a state of local emergency needs to be declared, or a notice given of a local transition period, covering the Tauranga City Council district. Under section 13(4) CDEMA, only one person may represent Council on the Bay of Plenty Civil Defence Emergency Management Group and as such, the Commission must appoint a Commissioner as Council's representative (and an alternate is recommended in the event the appointee is unable to attend).
17. There are a number of matters in the CDEMA that require the Minister to seek and consider comment from the mayor unless it is impractical in the circumstances (namely under sections 94B(7)), 94D(5) and 94E(4)). These sections do not have the wording (that sections 13(4) and 25(5) do) to allow for another person to be designated to act on behalf of the mayor. As such, the Minister would need to consult with the Commission as a whole in these circumstances. However, it seems unlikely this will create any particular issues (unlike with the case of declaration of a local emergency under section 25(5)).

SIGNIFICANCE

18. 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.

19. 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 matter.
 - (c) the capacity of the local authority to perform its role, and the financial and other costs of doing so.
20. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the matter is of low significance.

ENGAGEMENT

21. 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.

Click here to view the [TCC Significance and Engagement Policy](#)

NEXT STEPS

22. Notify the other councils in the Bay of Plenty Civil Defence Emergency Management Group of the decision through report to the next Joint Committee meeting.

ATTACHMENTS

Nil

11.3 Meetings schedule May to December 2022

File Number: A13352621

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

Authoriser: Tony Aitken, **Acting General Manager:** People and Engagement

PURPOSE OF THE REPORT

1. This report recommends the adoption of a meetings schedule for the period May-December 2022.

RECOMMENDATIONS

That the Council:

- (a) Receives the report "Meetings schedule May to December 2022".
- (b) Adopts Attachment 1 as the meetings schedule for the period May to December 2022.

BACKGROUND

2. The Council may adopt a schedule of meetings to cover any future period the Council considers appropriate.
3. In November 2021, the Council adopted a meetings schedule for the period January to September 2022. This timeframe coincided with the anticipated end of the Commission's term and an election on 8 October 2022.
4. In March 2022 the Minister of Local Government, the Hon Nanaia Mahuta, announced her intention to extend the Commission until July 2024.
5. It is recommended that the Council adopts a meetings schedule for the period May to December 2022, as included in Attachment 1, to extend the meetings schedule until the end of the year.
6. The meetings schedule has been updated with the Annual Plan/Long Term Plan Amendment meetings dates in May 2022, along with joint committee dates and Local Government New Zealand meeting dates for 2022.
7. The schedule is based on the same governance structure and sets out a three-weekly Council meeting cycle generally, with the Strategy, Finance and Risk Committee meetings to be held generally every six-weeks and the other two committees and advisory groups held every two or three months.
8. Public notices and any advertising of meetings will highlight the dates and venues.

STRATEGIC / STATUTORY CONTEXT

9. Clause 19(6) of Schedule 7 of the Local Government Act 2002 provides for the Council to adopt a meetings schedule to cover any future period.

OPTIONS ANALYSIS

Option 1 – Adopt the meetings schedule for May-December 2022 (preferred option)

10. The Council has the option of adopting a meetings schedule for the period May-December 2022.

11. This option enables the Commissioners, staff and the public to know when meetings are scheduled for the remainder of the year.
12. The Council has previously adopted a year's meetings schedule and this decision would be consistent with this practice. For these reasons this option is preferred.

Option 2 – Adopt a meetings schedule for a different time period

13. The Council has the option of adopting a meetings schedule for a different time period; for example, three months.
14. This option would still provide for certainty; however, a reduced timeframe can potentially make it more difficult to schedule meetings later in the year. For these reasons this option is not preferred.

FINANCIAL CONSIDERATIONS

15. There are no financial considerations to adopting a meetings schedule.

LEGAL IMPLICATIONS / RISKS

16. The legislation provides for the adoption of a schedule of meetings.

SIGNIFICANCE

17. 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.
18. 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.
19. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the decision is of low significance.

ENGAGEMENT

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

Click here to view the [TCC Significance and Engagement Policy](#)

NEXT STEPS

21. Meetings schedule to be available on the Council's website.
22. Calendar requests sent out.

ATTACHMENTS

1. **Meetings schedule May to December 2022 - A13350463** [↓](#)

Tauranga City Council - Revised Meeting Schedule May-December 2022

	January	February	March	April	May	June	July	August	September	October	November	December	
Mon								1 Strategy, Finance & Risk – 10.00am-3pm					Mon
Tue		1	1					2			1		Tue
Wed		2	2			1 Wastewater Mgt Review – 1-5pm		3 Ngā Poutiriao o Mauao 9.30am-12pm			2		Wed
Thu		3	3			2		4	1 SmartGrowth Leadership Group – 8.30am-12.30pm		3	1	Thu
Fri		4	4	1 UNISA – Mayor & Chairs		3 UNISA – CE	1 UNISA – Mayor & Chairs	5	2		4 Zone 2	2	Fri
Sat	1 New Year's	5	5	2		4	2	6	3	1	5	3	Sat
Sun	2 New Year's	6 Waitangi Day	6	3	1	5	3	7	4	2	6	4	Sun
Mon	3 New Year's Day observed	7 Waitangi Day observed	7	4	2 Council – 10.00am-4pm	6 Queen's Birthday	4	8	5 Council – 10.00am-4pm	3 Council – 10.00am-4pm	7 Council – 10.00am-4pm	5 Strategy, Finance & Risk – 10.00am-3pm	Mon
Tue	4	8 Council – 10.30am-4pm	8	5	3	7	5	9	6	4	8	6	Tue
Wed	5	9 Ngā Poutiriao o Mauao - 9.30am-12pm	9 Waiari Kaitiaki AG – 9.30 am-12pm	6	4 Ngā Poutiriao o Mauao - 9.30am-12pm	8 BOP Mayoral Forum	6	10 Waiari Kaitiaki AG – 9.30 am-12pm	7	5	9 Ngā Poutiriao o Mauao 9.30am-12pm	7	Wed
Thu	6	10	10	7	5	9	7	11	8	6	10	8	Thu
Fri	7	11	11 Mayoral Forum	8	6	10	8 Civil Defence Emergency Management Group	12 Regional Transport	9 BOP Mayoral Forum	7	11	9 SmartGrowth Leadership Group – 8.30am-12.30pm	Fri
Sat	8	12	12	9	7	11	9	13	10	8	12	10	Sat
Sun	9	13	13	10	8	12	10	14	11	9	13	11	Sun
Mon	10	14 Strategy, Finance & Risk – 10.30am-3pm	14	11 Council – 10.00am-4pm	9 Council – Annual Plan Hearings 9am-7:30pm	13 Council – 10.00am-4pm	11 NO MEETINGS	15 Council – 10.00am-4pm	12 Strategy, Finance & Risk – 10.00am-3pm	10	14 Strategy, Finance & Risk – 10.00am-3pm	12 Council – 10.00am-4pm	Mon
Tue	11	15	15 Regional Transport	12 Tauranga Public Transport Joint Committee	10 Council – Annual Plan Hearings 9am-7:30pm	14 SmartGrowth Leadership Group – 8.30am-12.30pm	12 NO MEETINGS	16	13	11	15	13	Tue
Wed	12	16 Tangata Whenua / TCC (Formal) – 9.30am-12pm	16 SmartGrowth Leadership Group – 8.30am-12.30pm	13 Tangata Whenua / TCC – 9.30am-12pm	11 Council – Annual Plan Hearings 9am-6pm	15	13 NO MEETINGS	17 SmartGrowth Leadership Group – 8.30am-12.30pm	14	12	16 Waiari Kaitiaki AG – 9.30 am-12pm	14	Wed
Thu	13	17	17 Public Transport	14	12	16	14 NO MEETINGS	18	15	13	17	15	Thu
Fri	14	18 CDEMG	18 Easter Friday	15	13	17 Tauranga Moana AG	15 NO MEETINGS	19 Te Maru o Kaituna	16 Tauranga Moana AG	14	18	16 CDEMG TBC	Fri
Sat	15	19	19	16	14	18	16	20	17	15	19	17	Sat
Sun	16	20	20	17	15	19	17	21	18	16	20	18	Sun
Mon	17	21	21 Council – 10.00am-4pm (includes adoption of AP) Tauranga Public Transport Joint Committee	18 Easter Monday	16 Strategy, Finance & Risk – 10.30am-3pm	20 Strategy, Finance & Risk – 10.30am-3pm	18	22 Tauranga Public Transport Joint Committee	19	17	21	19	Mon
Tue	18	22	22	19 No Meetings	17	21	19	23	20	18	22	20	Tue
Wed	19	23 Wastewater Mgt Review – 1-5pm	23	20 No Meetings	18 Waiari Kaitiaki AG – 9.30am-12pm	22	20 LGNZ Conference	24 Tangata Whenua / TCC – 9.30am-12pm	21	19	23 Tangata Whenua / TCC 9.30am-12pm	21	Wed
Thu	20	24	24	21 No Meetings	19 Regional Transport Committee	23 Public Transport Committee	21 LGNZ Conference	25	22 Public Transport	20	24	22	Thu
Fri	21	25 Te Maru o Kaituna	25 Zone 2 and Tauranga Moana Advisory Group	22 No Meetings	20 Te Maru o Kaituna	24 Matariki	22 LGNZ Conference	26	23 CDEMG	21	25	23	Fri
Sat	22	26	26	23	21	25	23	27	24	22	26	24	Sat
Sun	23	27	27	24	22	26	24	28	25	23	27	25	Sun
Mon	24	28 Council – 10.30am-4pm	28 Strategy, Finance & Risk – 10.00am-3pm	25 Anzac Day	23 Council – 10.00am-4pm	27 Council (adopt annual plan) 10:00am-1pm	25 Council – 10.00 am-4pm	29	26	24 Labour Day	28 Council – 10.00am-4pm	26 Boxing Day	Mon
Tue	25		29	26 No Meetings	24 Council – Annual Plan Deliberations 9am-4pm	28	26	30	27	25	29 SmartGrowth Leadership Group – 8.30am-12.30pm	27 Christmas Day observed	Tue
Wed	26		30	27 No Meetings	25 Council – Annual Plan Deliberations 9am-12pm	29 Tangata Whenua / TCC – 9.30am-12pm	27 Tauranga Public Transport Joint Committee	31 Wastewater Mgt Review – 1-5pm	28	26	30 Wastewater Mgt Review – 1-5pm	28	Wed
Thu	27		31	28 No Meetings	26 Council – Annual Plan Deliberations 9am-4pm Zone 2	30	28		29	27		29	Thu
Fri	28			29 No Meetings	27 Zone 2		29		30	28 UNISA – Mayor & Chairs		30	Fri
Sat	29			30	28		30			29		31	Sat
Sun	30				29		31			30			Sun
Mon	31 Anniversary Day				30					31			Mon
Tue					31								Tue
	January	February	March	April	May	June	July	August	September	October	November	December	

Objective ID: A13350463

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:

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
13.1 - City Beautification Services - Review of Service Delivery Model	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

14 CLOSING KARAKIA