



# **AGENDA**

## **Strategy, Finance and Risk Committee Meeting Monday, 1 August 2022**

**I hereby give notice that a Strategy, Finance and Risk Committee Meeting will be held on:**

**Date: Monday, 1 August 2022**

**Time: 9.30am**

**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](http://www.tauranga.govt.nz).*

**Marty Grenfell  
Chief Executive**



# Terms of reference – Strategy, Finance & Risk Committee

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## Membership

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<b>Chairperson</b>	Commission Chair Anne Tolley
<b>Deputy chairperson</b>	Dr Wayne Beilby – Tangata Whenua representative
<b>Members</b>	Commissioner Shadrach Rolleston Commissioner Stephen Selwood Commissioner Bill Wasley  Matire Duncan, Te Rangapū Mana Whenua o Tauranga Moana Chairperson Te Pio Kawe – Tangata Whenua representative Rohario Murray – Tangata Whenua representative Bruce Robertson – External appointee with finance and risk experience
<b>Quorum</b>	Five (5) members must be physically present, and at least three (3) commissioners and two (2) externally appointed members must be present.
<b>Meeting frequency</b>	Six weekly

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## Role

The role of the Strategy, Finance and Risk Committee (the Committee) is:

- to assist and advise the Council in discharging its responsibility and ownership of health and safety, risk management, internal control, financial management practices, frameworks and processes to ensure these are robust and appropriate to safeguard the Council's staff and its financial and non-financial assets;
- to consider strategic issues facing the city and develop a pathway for the future;
- to monitor progress on achievement of desired strategic outcomes;
- to review and determine the policy and bylaw framework that will assist in achieving the strategic priorities and outcomes for the Tauranga City Council.

## Membership

The Committee will consist of:

- four commissioners with the Commission Chair appointed as the Chairperson of the Committee
- the Chairperson of Te Rangapū Mana Whenua o Tauranga Moana
- three tangata whenua representatives (recommended by Te Rangapū Mana Whenua o Tauranga Moana and appointed by Council)
- an independent external person with finance and risk experience appointed by the Council.

## Voting Rights

The tangata whenua representatives and the independent external person have voting rights as do the Commissioners.

The Chairperson of Te Rangapu Mana Whenua o Tauranga Moana is an advisory position, without voting rights, designed to ensure mana whenua discussions are connected to the committee.

## Committee's Scope and Responsibilities

### A. STRATEGIC ISSUES

The Committee will consider strategic issues, options, community impact and explore opportunities for achieving outcomes through a partnership approach.

#### A1 – Strategic Issues

The Committee's responsibilities with regard to Strategic Issues are:

- Adopt an annual work programme of significant strategic issues and projects to be addressed. The work programme will be reviewed on a six-monthly basis.
- In respect of each issue/project on the work programme, and any additional matters as determined by the Committee:
  - Consider existing and future strategic context
  - Consider opportunities and possible options
  - Determine preferred direction and pathway forward and recommend to Council for inclusion into strategies, statutory documents (including City Plan) and plans.
- Consider and approve changes to service delivery arrangements arising from the service delivery reviews required under Local Government Act 2002 that are referred to the Committee by the Chief Executive.
- To take appropriate account of the principles of the Treaty of Waitangi.

#### A2 – Policy and Bylaws

The Committee's responsibilities with regard to Policy and Bylaws are:

- Develop, review and approve bylaws to be publicly consulted on, hear and deliberate on any submissions and recommend to Council the adoption of the final bylaw. (The Committee will recommend the adoption of a bylaw to the Council as the Council cannot delegate to a Committee the adoption of a bylaw.)
- Develop, review and approve policies including the ability to publicly consult, hear and deliberate on and adopt policies.

#### A3 – Monitoring of Strategic Outcomes and Long Term Plan and Annual Plan

The Committee's responsibilities with regard to monitoring of strategic outcomes and Long Term Plan and Annual Plan are:

- Reviewing and reporting on outcomes and action progress against the approved strategic direction. Determine any required review / refresh of strategic direction or action pathway.
- Reviewing and assessing progress in each of the six (6) key investment proposal areas within the 2021-2031 Long Term Plan.
- Reviewing the achievement of financial and non-financial performance measures against the approved Long Term Plan and Annual Plans.

## **B. FINANCE AND RISK**

The Committee will review the effectiveness of the following to ensure these are robust and appropriate to safeguard the Council's financial and non-financial assets:

- Health and safety.
- Risk management.
- Significant projects and programmes of work focussing on the appropriate management of risk.
- Internal and external audit and assurance.
- Fraud, integrity and investigations.
- Monitoring of compliance with laws and regulations.
- Oversight of preparation of the Annual Report and other external financial reports required by statute.
- Oversee the relationship with the Council's Investment Advisors and Fund Managers.
- Oversee the relationship between the Council and its external auditor.
- Review the quarterly financial and non-financial reports to the Council.

### **B1 - Health and Safety**

The Committee's responsibilities through regard to health and safety are:

- Reviewing the effectiveness of the health and safety policies and processes to ensure a healthy and safe workspace for representatives, staff, contractors, visitors and the public.
- Assisting the Commissioners to discharge their statutory roles as "Officers" in terms of the Health and Safety at Work Act 2015.

### **B2 - Risk Management**

The Committee's responsibilities with regard to risk management are:

- Review, approve and monitor the implementation of the Risk Management Policy, Framework and Strategy including the Corporate Risk Register.
- Review and approve the Council's "risk appetite" statement.
- Review the effectiveness of risk management and internal control systems including all material financial, operational, compliance and other material controls. This includes legislative compliance, significant projects and programmes of work, and significant procurement.
- Review risk management reports identifying new and/or emerging risks and any subsequent changes to the "Tier One" register.

### **B3 - Internal Audit**

The Committee's responsibilities with regard to the Internal Audit are:

- Review and approve the Internal Audit Charter to confirm the authority, independence and scope of the Internal Audit function. The Internal Audit Charter may be reviewed at other times and as required.
- Review and approve annually and monitor the implementation of the Internal Audit Plan.
- Review the co-ordination between the risk and internal audit functions, including the integration of the Council's risk profile with the Internal Audit programme. This includes assurance over all material financial, operational, compliance and other material controls.

This includes legislative compliance (including Health and Safety), significant projects and programmes of work and significant procurement.

- Review the reports of the Internal Audit functions dealing with findings, conclusions and recommendations.
- Review and monitor management's responsiveness to the findings and recommendations and enquire into the reasons that any recommendation is not acted upon.

#### **B4 - External Audit**

The Committee's responsibilities with regard to the External Audit are:

- Review with the external auditor, before the audit commences, the areas of audit focus and audit plan.
- Review with the external auditors, representations required by commissioners and senior management, including representations as to the fraud and integrity control environment.
- Recommend adoption of external accountability documents (LTP and annual report) to the Council.
- Review the external auditors, management letter and management responses and inquire into reasons for any recommendations not acted upon.
- Where required, the Chair may ask a senior representative of the Office of the Auditor General (OAG) to attend the Committee meetings to discuss the OAG's plans, findings and other matters of mutual interest.
- Recommend to the Office of the Auditor General the decision either to publicly tender the external audit or to continue with the existing provider for a further three-year term.

#### **B5 - Fraud and Integrity**

The Committee's responsibilities with regard to Fraud and Integrity are:

- Review and provide advice on the Fraud Prevention and Management Policy.
- Review, adopt and monitor the Protected Disclosures Policy.
- Review and monitor policy and process to manage conflicts of interest amongst commissioners, tangata whenua representatives, external representatives appointed to council committees or advisory boards, management, staff, consultants and contractors.
- Review reports from Internal Audit, external audit and management related to protected disclosures, ethics, bribery and fraud related incidents.
- Review and monitor policy and processes to manage responsibilities under the Local Government Official Information and Meetings Act 1987 and the Privacy Act 2020 and any actions from the Office of the Ombudsman's report.

#### **B6 - Statutory Reporting**

The Committee's responsibilities with regard to Statutory Reporting relate to reviewing and monitoring the integrity of the Annual Report and recommending to the Council for adoption the statutory financial statements and any other formal announcements relating to the Council's financial performance, focusing particularly on:

- Compliance with, and the appropriate application of, relevant accounting policies, practices and accounting standards.
- Compliance with applicable legal requirements relevant to statutory reporting.
- The consistency of application of accounting policies, across reporting periods.
- Changes to accounting policies and practices that may affect the way that accounts are presented.

- Any decisions involving significant judgement, estimation or uncertainty.
- The extent to which financial statements are affected by any unusual transactions and the manner in which they are disclosed.
- The disclosure of contingent liabilities and contingent assets.
- The basis for the adoption of the going concern assumption.
- Significant adjustments resulting from the audit.

### Power to Act

- To make all decisions necessary to fulfil the role, scope and responsibilities of the Committee subject to the limitations imposed.
- To establish sub-committees, working parties and forums as required.
- This Committee has **not** been delegated any responsibilities, duties or powers that the Local Government Act 2002, or any other Act, expressly provides the Council may not delegate. For the avoidance of doubt, this Committee has **not** been delegated the power to:
  - o make a rate;
  - o make a bylaw;
  - o borrow money, or purchase or dispose of assets, other than in accordance with the Long-Term Plan (LTP);
  - o adopt the LTP or Annual Plan;
  - o adopt the Annual Report;
  - o adopt any policies required to be adopted and consulted on in association with the LTP or developed for the purpose of the local governance statement;
  - o adopt a remuneration and employment policy;
  - o appoint a chief executive.

### Power to Recommend

To Council and/or any standing committee as it deems appropriate.



## Order of Business

<b>1</b>	<b>Opening karakia</b> .....	<b>11</b>
<b>2</b>	<b>Apologies</b> .....	<b>11</b>
<b>3</b>	<b>Public forum</b> .....	<b>11</b>
<b>4</b>	<b>Acceptance of late items</b> .....	<b>11</b>
<b>5</b>	<b>Confidential business to be transferred into the open</b> .....	<b>11</b>
<b>6</b>	<b>Change to order of business</b> .....	<b>11</b>
<b>7</b>	<b>Confirmation of minutes</b> .....	<b>12</b>
7.1	Minutes of the Strategy, Finance and Risk Committee meeting held on 16 May 2022.....	12
<b>8</b>	<b>Declaration of conflicts of interest</b> .....	<b>26</b>
<b>9</b>	<b>Business</b> .....	<b>27</b>
9.1	Waste Management and Minimisation Bylaw 2022 - Hearings .....	27
9.2	Waste Management and Minimisation Plan 2022-2028 - Hearings.....	32
9.3	Review of Public Art Policy.....	36
9.4	Submissions to the Exposure Draft on the National Policy Statement for Freshwater Management 2020 and National Environment Standard on Freshwater, the Exposure Draft on the National Policy Statement for Indigenous Biodiversity 2022 and Draft Regional Public Transport Plan 2022-2032.....	43
9.5	Open Space Provision - Policy Review to Assist City Growth Planning .....	129
9.6	Draft Use of Council Land Policy Adopt for Consultation Report .....	158
9.7	Tauranga City Council Draft Annual Results for the year ended 30 June 2022 ....	182
9.8	Audit New Zealand Report and Letter to Commissioners on the Long Term Plan Amendment.....	187
9.9	Revised Draft Local Alcohol Policy .....	203
9.10	Annual report and Q4 report for 2021/22 LGOIMA and Privacy requests .....	230
9.11	2022 Q4 Apr-Jun Health and Safety Report .....	236
<b>10</b>	<b>Discussion of late items</b> .....	<b>245</b>
<b>11</b>	<b>Public excluded session</b> .....	<b>246</b>
11.1	Public Excluded Minutes of the Strategy, Finance and Risk Committee meeting held on 16 May 2022 .....	246
11.2	Litigation Report.....	246
11.3	Internal Audit - Quarterly Update.....	247
11.4	Corporate Risk Register - Quarterly Update .....	247
<b>12</b>	<b>Closing karakia</b> .....	<b>248</b>



- 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 ORDER OF BUSINESS**

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## **7 CONFIRMATION OF MINUTES**

### **7.1 Minutes of the Strategy, Finance and Risk Committee meeting held on 16 May 2022**

**File Number:** A13686875

**Author:** Sarah Drummond, Committee Advisor

**Authoriser:** Sarah Drummond, Committee Advisor

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### **RECOMMENDATIONS**

That the Minutes of the Strategy, Finance and Risk Committee meeting held on 16 May 2022 be confirmed as a true and correct record.

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### **HEADING**

1. [Type text here](#)

### **ATTACHMENTS**

1. **Minutes of the Strategy, Finance and Risk Committee meeting held on 16 May 2022**



# **MINUTES**

## **Strategy, Finance and Risk Committee Meeting**

**Monday, 16 May 2022**

**Order of Business**

<b>1</b>	<b>Opening Karakia .....</b>	<b>3</b>
<b>2</b>	<b>Apologies .....</b>	<b>3</b>
<b>3</b>	<b>Public forum.....</b>	<b>3</b>
<b>4</b>	<b>Acceptance of late items .....</b>	<b>4</b>
<b>5</b>	<b>Confidential business to be transferred into the open.....</b>	<b>4</b>
<b>6</b>	<b>Change to order of business.....</b>	<b>4</b>
<b>7</b>	<b>Declaration of conflicts of interest .....</b>	<b>4</b>
<b>8</b>	<b>Business.....</b>	<b>4</b>
8.1	Review of Tauranga City Council Gambling Venues Policy .....	4
8.2	Review of Easter Sunday Shop Trading Policy- Issues and Options .....	4
8.3	Updated outline plan of Committee's upcoming workload.....	5
8.4	Strategic Framework Refresh - proposed framework structure .....	6
8.5	Residential intensification to give effect to Policy 3 in the National Policy Statement on Urban Development .....	6
8.6	Financial and Non-Financial Monitoring Report: Period ended 31 March 2022 .....	7
8.7	2022 Q3 Jan-Mar Health and Safety Report.....	8
8.8	Q3 2021/22 LGOIMA and Privacy Requests .....	9
8.9	Project Delivery Deep Dive .....	9
<b>9</b>	<b>Discussion of late items .....</b>	<b>10</b>
<b>10</b>	<b>Public excluded session .....</b>	<b>10</b>
10.1	Internal Audit - Quarterly Update .....	11
10.2	Corporate Risk Register - Quarterly Update .....	11
10.3	Litigation Report.....	11
<b>11</b>	<b>Closing Karakia.....</b>	<b>12</b>

**MINUTES OF TAURANGA CITY COUNCIL****STRATEGY, FINANCE AND RISK COMMITTEE MEETING  
HELD AT THE BAY OF PLENTY REGIONAL COUNCIL CHAMBERS, REGIONAL HOUSE,  
1 ELIZABETH STREET, TAURANGA  
ON MONDAY, 16 MAY 2022 AT 10AM**

**PRESENT:** Commission Chair Anne Tolley, Commissioner Shadrach Rolleston, Commissioner Stephen Selwood, Commissioner Bill Wasley, Mr Te Pio Kawe, Mr Bruce Robertson

**IN ATTENDANCE:** Marty Grenfell (Chief Executive), Tony Aitken (Acting General Manager: People & Engagement), Paul Davidson (General Manager: Corporate Services), Barbara Dempsey (Acting General Manager: Community Services), Nic Johansson (General Manager: Infrastructure), Christine Jones (General Manager: Strategy & Growth), Rebecca Gallagher (Policy Analyst), Nigel McGlone (Manager: Environmental Regulation), Sharon Herbst (Policy Analyst), Jeremy Boase (Manager: Strategy & Corporate Planning), Anne Payne (Strategic Advisor), Andy Mead, (Manager: City Planning & Growth), Janine Speedy (Team Leader: City Planning), Kathryn Sharplin (Manager: Finance), Mark Clifford, HS&W Business Partner, Robyn Garrett (Team Leader: Committee Support), Sarah Drummond (Committee Advisor), Anahera Dinsdale (Committee Advisor)

Elizabeth Hughes (Consultant)

**1 OPENING KARAKIA**

Commissioner Shadrach Rolleston gave the opening karakia, and noted a recent bereavement within the Maungatapu and Tauranga communities.

**2 APOLOGIES****COMMITTEE RESOLUTION SFR4/22/1**

Moved: Commissioner Bill Wasley

Seconded: Commissioner Stephen Selwood

That apologies from Dr Wayne Beilby, Ms Matire Duncan and Ms Rohario Murray be received and accepted.

**CARRIED**

**3 PUBLIC FORUM**

Nil

**4 ACCEPTANCE OF LATE ITEMS**

Nil

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

Nil

## 6 CHANGE TO ORDER OF BUSINESS

Nil

## 7 DECLARATION OF CONFLICTS OF INTEREST

Nil

## 8 BUSINESS

### 8.1 Review of Tauranga City Council Gambling Venues Policy

#### Staff

Christine Jones, General Manager: Strategy & Growth

#### Key points

- The Committee was advised and noted this report did not propose any substantive changes and was a straightforward paper that reconfirmed existing policy and provided for ongoing data and information collection.

#### Discussion points raised

- The policy will be brought back to the Committee in due course.

### COMMITTEE RESOLUTION SFR4/22/2

Moved: Commissioner Stephen Selwood

Seconded: Commissioner Bill Wasley

That the Strategy, Finance and Risk Committee:

- (a) Having completed a review of the Tauranga City Gambling Venues Policy, reconfirms the policy with no changes (as per Attachment 1).

**CARRIED**

### 8.2 Review of Easter Sunday Shop Trading Policy- Issues and Options

#### Staff

Christine Jones, General Manager: Strategy & Growth

#### Key points

- With the change in Covid 19 restrictions the city was expected to be busy in the 2023 Easter period as, after two years' disruption, the Jazz Festival would be held in 2023.
- Had engaged with a range of parties; the overall view was to retain the policy unchanged.
- Recommended a minor change to clarify that markets would be covered by the policy and be able to trade.

#### In response to questions

- The Committee confirmed the current policy with no changes and directed staff to begin the public consultation process as per the Statement of Proposal ( incorporating minor wording

changes of clarification).

**Discussion points raised**

- Further changes of legislation from central government were in progress and the policy would be brought back to the Committee in due course, once these legislative changes had been finalised.
- It was noted that at present all councils in the Bay of Plenty operated the same with unrestricted Easter trading.

**COMMITTEE RESOLUTION SFR4/22/3**

Moved: Commissioner Stephen Selwood

Seconded: Commissioner Bill Wasley

That the Strategy, Finance and Risk Committee:

- (a) Agrees to propose to continue with the current policy of allowing shops to trade on Easter Sunday if they wish to.
- (b) Adopts the Statement of Proposal appended at attachment 2 as the basis for the required public consultation process.

**CARRIED**

**8.3 Updated outline plan of Committee's upcoming workload**

**Staff** Jeremy Boase, Manager: Strategy & Corporate Planning

**Key points**

- Staff provided an outline of the current work programme of the Committee. Noted that as the Long-Term Plan Amendment and Annual Plan were implemented there would be changes to the programme, and that at present the timeline was a fluid document.
- The current proposed review of the Smokefree Places Policy was not a legislative requirement and the current timeframes could be extended to allow further consultation, or the policy review removed from the work programme. The current policy and timeline were approved in a previous term of Council. It was not a statutory policy, more to provide guidance to stakeholders.

**In response to questions**

- The timing around the adoption of the Local Alcohol Policy was queried. If further consultation on the off-licence provisions of the Local Alcohol Policy was required, there was room within the work programme schedule to enable this.
- As the strategic framework was signed off, the strategic implementation plan would start to populate into the Committee's work programme.
- An update on the marine strategy could be provided as needed.

**COMMITTEE RESOLUTION SFR4/22/4**

Moved: Commissioner Bill Wasley

Seconded: Commissioner Shadrach Rolleston

That the Strategy, Finance and Risk Committee:

- (a) Notes the updated work programme for the Committee (Attachment 1); and that the programme will be amended to remove the proposed review of the Smokefree Places Policy and to incorporate other minor amendments discussed at the meeting.

**CARRIED**

**8.4 Strategic Framework Refresh - proposed framework structure**

**Staff** Christine Jones, General Manager: Strategy & Growth  
Jeremy Boase, Manager: Strategy & Corporate Planning  
Anne Payne, Strategic Advisor  
Elizabeth Hughes, Consultant

A copy of the staff presentation for this item can be viewed on Tauranga City Council's website in the Minutes Attachments document for this committee meeting.

**Key points**

- Staff provided a PowerPoint presentation to share current thoughts on the proposed framework structure and where strategies and plans might sit within the framework.
- The Committee was advised that the current framework was still very much in a working draft state and that all work streams currently in place would continue. The refresh was designed to build on what was already in place, pull the different work strands together, show programmes' progress to date and streamline and simplify processes and documents.
- The timeline would be used in conjunction with other documents but was designed to be easy to use and would be a living document improved over time.
- The final framework would return to be considered at a Council meeting in September 2022, after community consultation and feedback. Work ongoing after September would be programmed to the framework.
- Older policies had been incorporated into the framework along with the new workstream.
- There was concern over the speed at which this work could be completed.

**Questions and discussion points**

- Further work was needed on how "sustainability" was used as a term and its meaning. There was no present clear definition of what it meant and how the term was being used and this created confusion. There needed to be further definition and clarity of terms.
- Council would provide direction to staff and identify priorities. Noted the need for the framework to be flexible and allow for new policies and projects to be included.
- Further communication was needed to ensure wide understanding that the framework would extend beyond the term of the current Commissioners/Council; strategies could be for 10-30 years and plans align with the life of a Long-term Plan.

**COMMITTEE RESOLUTION SFR4/22/5**

Moved: Commissioner Bill Wasley

Seconded: Mr Bruce Robertson

That the Strategy, Finance and Risk Committee:

- (a) Receives the report 'Strategic Framework Refresh – proposed framework structure'; and
- (b) Provides feedback on the proposed framework structure; and
- (c) Provides in principle endorsement of the proposed framework structure; and
- (d) Notes the next steps outlined in the project timeframes section of this report.

**CARRIED**

**8.5 Residential intensification to give effect to Policy 3 in the National Policy Statement on Urban Development**

**Staff** Janine Speedy, Team Leader: City Planning  
Andy Mead, Manager: City Planning & Growth

**Key points**

- Large new greenfield developments would not be progressed through this plan change., Going forward when rezoning the land would need to consider the requirements for town centres when looking at planning provisions.
- Need for planning around a town centre in Tauriko West – what it would look like will be for future changes; did not seem to have the requisite town centre focus at this stage to align with live/learn/play. Structure plan processes for Tauriko and Keenan Rd were still being worked through so there was uncertainty around commercial land distribution and rezoning for a town/local centre; consequently differing height requirements for development around the "centre" had not been defined.
- Given the size of Tauranga Crossing, hard to justify another town centre for Tauriko West. Would be further developed when picked up by all-of-city commercial hierarchy planning. Smaller centres could still be developed for smaller communities in that area.
- Private plan change process should not be the mechanism to determine where town centre areas were located e.g., the Crossing was not a town centre. There would need to be a 'Horses for courses' approach.

**In response to questions**

- Notification would require the revocation of Plan Change 26; to look at density through the proposed notification would require a 'building up not out' planning framework.
- All town centres would be contained within the new National Policy Statement (NPS) provisions, green spaces will sit outside of this area.

**Discussion points raised**

- Council was holding discussions with central government regarding funding and infrastructure.

**COMMITTEE RESOLUTION SFR4/22/6**

Moved: Commissioner Bill Wasley

Seconded: Commissioner Shadrach Rolleston

That the Strategy, Finance and Risk Committee:

- (a) Approves progressing with the enabling housing supply plan change to implement the Resource Management (Enabling Housing Supply and other Matters) Amendment Act to apply the Medium Density Residential Standards to residential zones and give effect to Policy 3 in the National Policy Statement on Urban Development.
- (b) Endorses that the approach set out in Plan Change 26 (Housing Choice) and the Te Papa Spatial Plan is reflected in the enabling housing supply plan change to enable at least 6 storeys within a walkable catchment of the city centre and along Cameron Road to give effect to Policy 3(c) and Policy 3(d) in the National Policy Statement on Urban Development.
- (c) Endorses the following principles for the application of Policy 3(d) in the National Policy Statement on Urban Development to enable height and density within and adjacent to identified neighbourhood, local and town centres:
  - (i) That centre type will be identified based on the land uses within and surrounding the commercial zone and the size of the commercial zone.
  - (ii) That discretion will be applied where there is a relevant strategy or spatial plan.
  - (iii) No additional Policy 3(d) intensification (beyond the application of zones containing the Medium Density Residential Standards) for commercial zones identified as neighbourhood centres.
  - (iv) Apply an accessible and walkable catchment of approximately 400 metres enabling greater height and density of four storeys in and around commercial centres identified as local centres.
  - (v) Apply an accessible and walkable catchment of approximately 800 metres enabling greater height and density of six storeys in and around commercial centres identified as town centres.
- (d) Notes that a walkable catchment is measured along public footpaths that are formed and well-lit for pedestrian safety.
- (e) Notes that where a commercial zone meets the principles set out above, there may be qualifying matters which justify lesser height and density.
- (f) Notes that staff will report back to the Strategy Finance and Risk Committee in June on the approach to give effect to Policy 3(a) in the National Policy Statement on Urban Development which relates to providing building heights within the City Centre Zone.
- (g) That when considering the development of the commercial hierarchy in the city plan, consideration be given to the potential identification of a town centre in the Western/Southern corridors that considers the development opportunities and catchments that are identified in the Urban Forum and Transport Initiative (UFTI) which are beyond the current Tauranga City Council boundary. This is to guide any future changes (Private or Tauranga City Council)

**CARRIED**

**8.6 Financial and Non-Financial Monitoring Report: Period ended 31 March 2022**

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

**Key points**

- This update report noted the projects and committed funding that would be carried over into next financial year through the Annual Plan process.
- Capital expenditure continued to be good and was at a record high level although this would be a hard month to replicate. Was not expected to continue at this level and the capex forecast remained at 80%.
- Interest rate changes would come through in Annual Plan deliberations; however, increases had been accounted for and was hedged well this year.
- Over half of the non-financial indicators were on track; of those not on track about half had been severely impacted by Covid.

**In response to questions**

- Maintenance and repair projects were expected to be back on schedule by the end of the financial year. Staff continued to make innovative and creative use of existing technology given supply difficulties and shortages of equipment.

**Discussion points raised**

- Staff training and the need to hire specialised emergency management had been noted as a concern moving forward.
- Planning on making TCC a preferred client with contractors would be part of a long-term deep dive into procurement processes and procedures. This would also cover pipeline timeframes and work commitments.
- Discussion around where costs of delay in development projects should sit e.g. Farmers; with the developer rather than ratepayers picking up costs. Noted the impact of ongoing development and construction works on CBD businesses.

**COMMITTEE RESOLUTION SFR4/22/7**

Moved: Mr Bruce Robertson

Seconded: Commissioner Bill Wasley

That the Strategy, Finance and Risk Committee:

- (a) Receives Report Financial and Non-Financial Monitoring Report: Period ended 31 March 2022.

**CARRIED**

**8.7 2022 Q3 Jan-Mar Health and Safety Report**

**Staff** Tony Aitken, Acting General Manager: People & Engagement  
Mark Clifford, HS&W Business Partner

**Key points**

Work was ongoing with contractors around education for site safety, incident numbers were showing no real change or variation. Need to balance TCC exercising appropriate due diligence without taking over accountability from contractors.

**COMMITTEE RESOLUTION SFR4/22/8**

Moved: Commissioner Shadrach Rolleston

Seconded: Mr Bruce Robertson

That the Strategy, Finance and Risk Committee:

- (a) Receives the 2022 Q3 Health and Safety Report
- (b) Receives the 2022 Q3 Mental Health and Wellbeing Report

**CARRIED**

**8.8 Q3 2021/22 LGOIMA and Privacy Requests**

**Staff** Tony Aitken, Acting General Manager: People & Engagement

**Key points**

- There were no significant changes; trends and numbers of LGOIMA requests continued as per the last report.
- Noted that charging for LGOIMAs was now starting to have some effect.

**COMMITTEE RESOLUTION SFR4/22/9**

Moved: Commissioner Stephen Selwood

Seconded: Commissioner Bill Wasley

That the Strategy, Finance and Risk Committee:

- (a) Receives the report Q3 2021/22 LGOIMA and Privacy Requests.

**CARRIED**

**8.9 Project Delivery Deep Dive**

**Staff** Nic Johansson, General Manager: Infrastructure  
Kelvin Hill, Manager: Water Infrastructure Outcomes  
Amanda Davies, Manager: Community Amenity Programme Delivery

A copy of the staff presentation for this item can be viewed on Tauranga City Council's website in the Minutes Attachments document for this committee meeting.

**Key points**

- Was a \$4.5b capital project delivery programme, very complex with a lot at stake. The need to deliver at pace created risk.
- Need to find a balance between pace, cost and quality in the delivery of capital projects.
- Examples of project delivery in the Places and Spaces and City Waters teams were outlined; including improvements to procurement processes, project reporting and contractor and stakeholder engagement.
- Capital Projects Assurance Division (CPAD) tools, framework and processes had provided consistency and best practice examples.

**Discussion points raised**

- Commended staff on the progress made in this area.
- Noted the improvement in telling the "why" of the various capital projects, emphasised the importance of storytelling.

**COMMITTEE RESOLUTION SFR4/22/10**

Moved: Commissioner Bill Wasley

Seconded: Mr Bruce Robertson

That the Strategy, Finance and Risk Committee:

- (a) Receives the Deep Dive – Capital Project Delivery Risk Report

**CARRIED**

**9 DISCUSSION OF LATE ITEMS**

Nil

**10 PUBLIC EXCLUDED SESSION**

**RESOLUTION TO EXCLUDE THE PUBLIC**

**COMMITTEE RESOLUTION SFR4/22/11**

Moved: Commissioner Bill Wasley

Seconded: Commissioner Stephen Selwood

That the public be excluded from the following parts of the proceedings of this meeting, with the exception of Nathan Speir, Rice Speir law firm, to remain for item 10.3.

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>10.1 - Internal Audit - Quarterly Update</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)(d) - The withholding of the information is necessary to avoid prejudice to measures protecting the health or safety of members of the public</p> <p>s7(2)(g) - The withholding of the information is necessary to maintain legal professional privilege</p> <p>s7(2)(j) - The withholding of the information is necessary to prevent the disclosure or use of official information for improper gain or improper advantage</p>	<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</p>
<b>10.2 - Corporate Risk Register - Quarterly Update</b>	<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>	<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</p>

<b>10.3 - Litigation Report</b>	<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)(g) - The withholding of the information is necessary to maintain legal professional privilege</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>	<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</p>
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**CARRIED**

At 1pm the meeting adjourned.

## **11 CLOSING KARAKIA**

Mr Te Pio Kawe closed the meeting with a karakia.

**The meeting closed at 2.35pm.**

**The minutes of this meeting were confirmed as a true and correct record at the Strategy, Finance and Risk Committee Meeting held on 1 August 2022.**

.....  
**CHAIRPERSON**

**8        DECLARATION OF CONFLICTS OF INTEREST**

## 9 BUSINESS

### 9.1 Waste Management and Minimisation Bylaw 2022 - Hearings

**File Number:** A13611632

**Author:** Josh Logan, Waste Planning Manager

**Authoriser:** Nic Johansson, General Manager: Infrastructure

#### PURPOSE OF THE REPORT

1. To provide submitters to Council's draft Waste Management and Minimisation Bylaw 2022 the opportunity to speak to their submission in public forum.

#### RECOMMENDATIONS

That the Strategy, Finance and Risk Committee:

- (a) Receives the report.
- (b) Receives the written submissions on the draft Waste Management and Minimisation Bylaw 2022 (**Attachment 1**).
- (c) Receives the verbal submissions from those submitters that wish to speak to their submission.

#### EXECUTIVE SUMMARY

2. On 28 March 2022, the Strategy, Finance and Risk Committee approved a draft Waste Management and Minimisation Bylaw 2022 for community consultation.
3. Submissions were sought from 7 June 2022 to 7 July 2022.
4. 15 submissions were received and are attached in **Attachment 1**. One submitter wished to speak to the Committee at the hearings today.
5. There was general support for the changes to the bylaw with respondents answering the set questions in the following way:

*Do you agree with the proposed changes to the Draft Waste Management and Minimisation Bylaw 2022?*

Answer	Count	%
I strongly agree with the proposed changes	4	36.36%
I agree with the proposed changes	6	54.55%
I disagree with the proposed changes	1	9.09%
I strongly disagree with the proposed changes	0	0.00%
Total	11	100%

*Construction and demolition site waste management plan - Do you agree with the proposed change to give Council the power to do this?*

Answer	Count	%
I strongly agree with the proposed changes	9	75.00%
I agree with the proposed changes	3	25.00%
I disagree with the proposed changes	0	0.00%
I strongly disagree with the proposed changes	0	0.00%
Total	12	100%

*Waste management plans and requirement for bin storage areas for Multi-Unit Developments*

Answer	Count	%
I strongly agree with the proposed changes	5	45.45%
I agree with the proposed changes	5	45.45%
I disagree with the proposed changes	1	9.09%
I strongly disagree with the proposed changes	0	0.00%
Total	11	100%

6. On reviewing the submissions Council staff have identified the following key issues from the consultation:
- (a) The bylaw in general
  - (b) Construction and demolition waste;
  - (c) Bin storage areas for multi-unit dwellings;
  - (d) Sub definition of waste streams
  - (e) Other topics including:
    - (i) targeted waste management systems for large producers of waste;
    - (ii) business waste;
    - (iii) data management & privacy;
    - (iv) event waste; and
    - (v) textile waste.

## BACKGROUND

- 7. The current Waste Management and Minimisation Bylaw is due for review. The Local Government Act 2002 (the LGA) requires all bylaws to be reviewed no later than 10 years after their last review.
- 8. The current Waste Management and Minimisation Bylaw was adopted in 2012 under the Local Government Act 2002 and the Waste Minimisation Act 2008. These Acts give Council the power to make a bylaw to regulate waste and protect public health.
- 9. On 28 March 2022, the Strategy, Finance and Risk Committee approved the Waste Management and Minimisation Bylaw 2022 and Statement of Proposal for community

consultation, in accordance with the Special Consultative Procedure. Consultation was carried out from 7 June 2022 to 7 July 2022.

10. The draft bylaw proposed the following changes from the 2012 bylaw:

- Be consistent with, and give support to, the policies and actions set out in the draft Waste Management and Minimisation Plan 2022-2028.
- Introduce controls that allow Council to make, amend or revoke regulations for the management and minimisation of waste throughout our city. This will allow Council to make a resolution to adopt specific controls, pursuant to the adopted Waste Bylaw, without requiring full public consultation each time.
- Improve waste operator licensing provisions so that there is better data collection and alignment with national legislative changes.
- Introduce a requirement that any person that is applying for a building consent for building work exceeding a set estimated value (yet to be determined) to submit a construction and demolition site waste management plan to the Council for approval as part of the building consent application process and prior to the commencement of any building work.
- Introduce of waste management plans and minimum requirements for waste bin storage areas and access for Multi-Unit Developments.
- Update the regulations associated with the management of waste at events and large public gathering events.
- Improve the actions that may be undertaken by Tauranga City Council to enforce and control litter and illegal dumping.

11. 15 submissions were received and are attached in **Attachment 1**. One of the submitters wished to speak to the Committee at the hearings today. Table one below provides the submitter speaking to the Committee. An updated schedule will be provided at the hearings.

**Table One**

Submission number	Submitter name or organisation
12	Deborah Crowe

12. The consultation was advertised widely on the website and through traditional and digital/social media.

13. The community was specifically asked:

- Do you agree with the proposed changes to the draft Waste Management and Minimisation Bylaw 2022?
- Construction and demolition site waste management plan - Do you agree with the proposed change to give council the power to do this?

*Introduce a requirement that any person that is applying for a building consent for building work exceeding a set estimated value (yet to be determined) to submit a construction and demolition site waste management plan to the Council for approval as part of the building consent application process and prior to the commencement of any building work.*

- Waste management plans and requirement for bin storage areas for Multi-Unit Developments - Do you agree with the proposed change to give council the power to do

this?

*Introduction of waste management plans and minimum requirements for waste bin storage areas and access for Multi-Unit Developments.*

14. Copies of the draft bylaw and Statement of Proposal were available at the Customer Service Centre, at the libraries and on the Council website. Staff were also advised that the consultation was occurring.
15. Targeted consultation was carried out in February 2022 with stakeholder groups (Waste operators, construction and demolition waste and other interested parties) to seek feedback prior to the bylaw coming to the Committee for approval in March for consultation. These stakeholders were all contacted via email on the day that the consultation opened and were encouraged to make a submission.
16. An email was sent on behalf of the Sustainability and Waste Team from Te Pou Takawaenga to all Te Rangapu members to inform them that the consultation for the bylaw was open and to provide any feedback prior to consultation closing.
17. Staff also made contact with Bay Venues Limited during the consultation period to listen to their concerns and feedback.

### STRATEGIC / STATUTORY CONTEXT

18. Currently Council is refreshing its strategic framework and developing a City Vision. This work will ensure Council has a current and cohesive strategic framework that provides a clear line of sight from Council activities and policies, to strategy documents and from there to the City's Vision and adopted Community Outcomes.
19. The bylaw is one tool in working towards Council's community outcome of 'a city that values and protects the environment'.
20. As noted above, a bylaw is required to be reviewed every 10 years.

### FINANCIAL CONSIDERATIONS

21. There are no financial considerations in receiving and listening to the submissions.

### LEGAL IMPLICATIONS / RISKS

22. The legal implications and risks are dependent on the changes if any made to the draft bylaw but at this stage the Committee is only receiving and listening to submissions.

### SIGNIFICANCE

23. 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.
24. 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.
25. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the issue is of high significance. However, the decision to receive and hear the submissions is of low significance.

**ENGAGEMENT**

26. 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 the Committee receiving the submissions.

**NEXT STEPS**

27. The Committee will deliberate on the issues raised by submitters on 15 August 2022.

**ATTACHMENTS**

1. **Draft Waste Management and Minimisation Bylaw 2022 Submissions 1-15 - A13642534 (Separate Attachments 1)** 

## 9.2 Waste Management and Minimisation Plan 2022-2028 - Hearings

**File Number:** A13611638

**Author:** Josh Logan, Waste Planning Manager

**Authoriser:** Nic Johansson, General Manager: Infrastructure

### PURPOSE OF THE REPORT

1. To provide submitters to Council's draft Waste Management and Minimisation Plan 2022-2028 the opportunity to speak to their submission in public forum.

### RECOMMENDATIONS

That the Strategy, Finance and Risk Committee:

- (a) Receives the report.
- (b) Receives the written submissions on the draft Waste Management and Minimisation Plan 2022-2028 (**Attachment 1**).
- (c) Receives the verbal submissions from those submitters that wish to speak to their submission.

### EXECUTIVE SUMMARY

2. On 28 May 2022, Strategy, Finance and Risk Committee adopted the draft Waste Management and Minimisation Plan for consultation.
3. Community consultation occurred between 7 June 2022 to 7 July 2022. 37 submissions were received (**Attachment 1**).
4. Three submitters have requested to be heard today.
5. There was general support for all of the changes to the plan with respondents answering the set questions in the following way:

*Do you think our draft Waste Minimisation and Management Plan focuses on the right key waste issues for Tauranga?*

Answer	Count	%
I strongly agree that the Draft Waste Minimisation and Management Plan focuses on the right key waste issues	3	11%
I agree that the Draft Waste Minimisation and Management Plan focuses on the right key waste issues	13	46%
I disagree agree that the Draft Waste Minimisation and Management Plan focuses on the right key waste issues	5	18%
I strongly disagree that the Draft Waste Minimisation and Management Plan focuses on the right key waste issues	3	11%
Other	4	14%
Total	28	100%

*What is your view on the proposed vision of “reduce waste to landfill”?*

<b>Answer</b>	<b>Count</b>	<b>%</b>
I strongly agree with the vision of “reduce waste to landfill”?	12	39%
I agree with the vision of “reduce waste to landfill”?	13	42%
I disagree with the vision of “reduce waste to landfill”?	1	3%
I strongly disagree with the vision of “reduce waste to landfill”?	2	6%
Other	3	10%
Total	31	100%

*What is your view on the draft plan’s goals, objectives, and targets?*

<b>Answer</b>	<b>Count</b>	<b>%</b>
I strongly agree with the draft plan’s goals, objectives, and targets	4	14%
I agree with the draft plan’s goals, objectives, and targets	17	59%
I disagree with the draft plan’s goals, objectives, and targets	4	14%
I strongly disagree with the draft plan’s goals, objectives, and targets	1	3%
Other	3	10%
Total	29	100%

6. On reviewing the submissions, Council staff have identified the following key issues from the consultation:
- (a) the plan in general
  - (b) improved waste facilities and the Te Maunga Resource Recovery Park;
  - (c) construction and demolition waste;
  - (d) commercial waste;
  - (e) packaging;
  - (f) product stewardship;
  - (g) working at the top of the waste hierarchy and toward a circular economy;
  - (h) learning from and collaborating with other councils and other partnerships;
  - (i) future planning
  - (j) waste education;
  - (k) new service offerings
  - (l) accountability measures;
  - (m) public health;
  - (n) waste to energy schemes;
  - (o) emission reductions;

- (p) illegal dumping;
- (q) waste management for disasters and unforeseen events;
- (r) data collection;
- (s) timing of actions in the action plan; and
- (t) clarifying terminology.

## BACKGROUND

7. Council is required to review the current Waste Management and Minimisation Plan every six years and prepare a new Waste Management and Minimisation Plan ('draft WMMP') in accordance with the Waste Minimisation Act 2008.
8. As a part of the review process, Council must consult and seek feedback from the community on the draft WMMP. This must be undertaken in accordance with the Local Government Act 2002, Special Consultative Procedure.
9. The draft WMMP outlines the current situation and issues and proposes a vision, goals, objectives, targets and a suite of actions to address these issues.
10. Community consultation opened on 7 June 2022 and closed a month later on 7 July 2022. Public notice inviting submissions was placed in the following locations:
  - (i) The Weekend Sun on 11, 18, 25 June 2022 and 2 July 2022
  - (ii) The Bay of Plenty times on 11, 17, 24 June 2022 and 2 July 2022
  - (iii) Tauranga City Council, Facebook page three times.
  - (iv) Three media advisories were circulated throughout the period encouraging submissions
  - (v) Other channels, such as: paid digital advertising from 4 - 7 July 2022, in article in City News, June Planning Panui and June Tauranga Toolbox.
11. Targeted consultation was carried out in February 2022 with stakeholder groups (Waste operators, construction and demolition waste and other interested parties) to seek feedback prior to the draft WMMP coming to the Committee for approval in March for consultation. These stakeholders were all contacted via email on the day that the consultation opened and were encouraged to make a submission.
12. An email was sent on behalf of the Sustainability and Waste Team from Te Pou Takawaenga to all Te Rangapu members to inform them that the consultation for the draft WMMP was open and to provide any feedback prior to consultation closing.
13. Copies of the draft WMMP were available at the Customer Service Centre, at the libraries and on the Council website. Staff were also advised that the consultation was occurring.
14. A total of 37 submissions were received. Full copies of the submissions are attached in **Attachment 1**. Three of the submitters wished to speak to the Committee at the hearings today. Table one below provides the submitters speaking to the Committee. An updated schedule will be provided at the hearings.

**Table One**

Submission number	Submitter name or organisation
25	Mary Rose
33	Cathryn Taylor (EnviroWaste)
36	Owen Douglas

## STRATEGIC / STATUTORY CONTEXT

15. Currently Council is refreshing its strategic framework and developing a City Vision. This work will ensure Council has a current and cohesive strategic framework that provides a clear line of sight from Council activities and policies, to strategy documents and from there to the City's Vision and adopted Community Outcomes.
16. The draft WMMP is one tool in working towards Council's community outcome of 'a city that values and protects the environment'.
17. As noted above, a WMMP is required to be reviewed every six years.

## FINANCIAL CONSIDERATIONS

18. There are no financial considerations in receiving and listening to the submissions.

## SIGNIFICANCE

19. 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.
20. 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.
21. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the issue is of high significance. However, the decision to receive and hear the submissions is of low significance.


## ENGAGEMENT

22. Taking into consideration the above assessment, that the decision is of high significance, officers are of the opinion that no further engagement is required prior to the Committee receiving the submissions.

## NEXT STEPS

23. The Strategy, Finance and Risk Committee will consider the submissions and deliberate on the draft Plan at its meeting on 15 August 2022.

## ATTACHMENTS

1. **Draft WMMP 2022-2028 Submissions 1-37 - A13640167 (Separate Attachments 1)** 

### 9.3 Review of Public Art Policy

**File Number:** A13241818

**Author:** James Wilson, **Manager: Arts & Culture**

**Authoriser:** Barbara Dempsey, **General Manager: Community Services**

#### PURPOSE OF THE REPORT

1. This report presents a new Public Art Framework to manage Council's involvement in the commissioning, development, funding, and management of public art

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#### RECOMMENDATIONS

That the Strategy, Finance and Risk Committee:

- (a) Receives the Report titled 'Review of Public Art Policy'.
- (b) Rescinds the existing Public Art Policy (2015).
- (c) Adopts in principle the structure of the Public Art Framework as outlined in paragraph 14.
- (d) Adopts the objectives of the framework as outlined in paragraph 15.
- (e) Adopts in principle the 'percent for art' funding mechanism as outlined in paragraphs 17-21, noting that this mechanism will be taken into the development of the 23/24 Annual Plan.

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#### EXECUTIVE SUMMARY

2. Staff are proposing that the existing Public Art Policy be rescinded, to be replaced with a new Public Art Framework to enable, encourage, and endorse a more strategic approach to public art. The existing Policy can be [viewed here](#).
3. The proposed framework introduces a new set of guidelines for public art and establishes a funding mechanism to support high quality public art outcomes. The framework seeks to make it easier for the community to engage with Council on the commissioning and delivery of public art.
4. The proposed framework seeks to build capability amongst Council staff who are engaging with public art as part of capital projects in the public realm.
5. The proposed framework reflects Council's commitment to supporting arts and culture, recognising the role that arts and culture plays in the social, economic, and cultural wellbeing of Tauranga. The framework has been developed in collaboration with mana whenua, practicing artists, and community organisations involved in the commissioning and development of public art in Tauranga.
6. The proposed framework articulates an ambitious vision for public art in Tauranga. It signals to artists, funders, and the community an aspiration for Tauranga to become recognised as a city that values artists, and a place where our cultural narratives, identity and creativity can be explored through a vibrant programme of public art.

#### BACKGROUND

##### Where we have come from

7. The current Public Art Policy is no longer fit for purpose, as it does not meet the aspirations of Council to enable and encourage vibrant public art. Since the adoption of the 2015 Public Art Policy, Council has predominantly taken a passive role in the commissioning of artworks

in public places. Proposals have been received on an ad hoc basis from individuals and organisations outside of Council. How to engage with Council to commission artworks has been confusing for the community. This has resulted in sporadic activity and potential opportunities for a wider more inclusive programme of works and representation of culture and stories are being lost.

8. Standalone and integrated artworks that are commissioned by Council as part of infrastructure projects are being initiated or briefed well into the project cycle, impacting resourcing for artworks and shortened timelines, placing pressure both on council project teams and artists. There is a lack of clarity and consistency in the way in which Council undertakes or responds to commissions, with no defined briefing or contracting process for artists or their representatives.
9. Application of the 2015 policy has been limited, with a lack of assessment criteria and operational guidelines meaning that staff are commissioning on a case-by-case basis.
10. To enable a programme of artistic and cultural excellence, a fresh approach to creating public art is required.

### **Why a framework is required**

11. Tauranga City Council staff and community stakeholders were interviewed to inform the scope for a new Public Art Framework. A range of common concerns were identified, with respondents noting that a policy alone would not result in capacity and capability growth for public art in Tauranga.
12. Common concerns from activity managers and staff were highlighted:
  - (a) A desire to establish a more 'enabling' environment to support public art projects.
  - (b) Access to subject matter (public art, curatorial, artistic) expertise was lacking.
  - (c) Confusion as to how projects are prioritised, briefed, assessed, and delivered.
  - (d) A lack of 'best practice' guidelines, resulting in lack of consistency across projects.
  - (e) Expectations for artworks being introduced too late in the project cycle, limiting meaningful engagement and opportunities for external funding.
  - (f) A lack of a funding mechanism to enable a planned programme of public art.
  - (g) Lack of 'wrap-around' support for public art, leading to missed opportunities for place making, public programming, and community engagement with artworks.
13. A selection of artists that have created works for public spaces in Tauranga (including mana whenua) were interviewed, along with organisations and individuals with an interest in and experience of commissioning public art, and reported common concerns:
  - (a) A desire for cultural narratives and stories of mana whenua to be recognised as foundational to the city.
  - (b) A greater inclusivity of artists to be involved in public art commissions, across cultures, age and gender, with a wider range of materials and practices to be supported (e.g. sculpture, murals, integrated works, stand-alone works)
  - (c) Opportunities and processes for commissions are unclear, with clarity and transparency sought to understand decision making for public art.
  - (d) A desire for better planned and more ambitious artworks, with artists recognised and compensated for their experience and skill level.

## Structure of the Public Art Framework

14. The proposed framework is comprised of the following elements:

	Component	Why it's important
A.	Public Art Guidelines	A clearly articulated set of guidelines to determine eligibility for council support, encouraging relevant and focused proposals that meet Council's desired public art outcomes.
B.	Public Art Toolkit	A need for capacity and capability building resources has been identified, to give practical support and information for the development and commissioning of public art projects. A published toolkit supported by a series of workshops is planned to encourage a best practice approach.
C.	Funding Mechanism	There is currently no dedicated budget for public art. There is no requirement for public art to be factored into project budgets. Council is currently dependent on external bodies coming to us with ideas and funding for public art. To 'enable, encourage and endorse' public art, there is a requirement to consider how we fund public art.
D.	Assessment Process	External parties have provided feedback that there is a lack of clarity to how Council assesses public art projects, and makes decisions to support projects. A clearly articulated process will help to identify projects which require further support or development; whilst also enabling a faster response to proposals with a low requirement for Council input. This process is intended to remove the perception that Council is slowing the progress of viable projects.
E.	Public Art Panel	A new public art panel would be convened, with sector representatives with suitable expertise in public art. The panel would offer expert advice and input to projects from commission to installation. The role of the panel would be to provide support and guidance to the artist throughout the project.
F.	Public programming and promotion	Once a public artwork is installed, pro-active public programming, interpretation, and publicity can greatly enhance how the community engages with a work. The recent positive media coverage for the Sarah Hughes work " <i>Midnight Sun</i> " was the direct result of a planned and targeted campaign to raise the profile of the work. Under the proposed framework, the arts and culture team would support public art projects with a community engagement and public programmes plan.

## Objectives of the Public Art Framework

15. The proposed Public Art Framework is intended to enable the following outcomes:

- (a) To enhance the public spaces of Tauranga by the introduction of artworks to the city environment, enhancing city and community identity and cultural wellbeing.
- (b) To support the expression of Māori whakapapa and history throughout the city through public art that celebrates and platforms traditional and contemporary Ngā toi Māori.
- (c) To promote the city as a centre of artistic and cultural excellence.

- (d) To celebrate and showcase the work of local and nationally recognised artists.
- (e) To enable the delivery and resourcing of a planned programme of public art for the city.
- (f) To encourage and enable public art through a partnership approach with Tauranga City Council.

### Public Art Guidelines

16. The proposed Public Art Framework will have a set of guidelines, which will define the role that public art can play for the city. The guidelines are intended to establish the principles of how Council will engage with public art and provide the community with details of what we will look for in potential public art projects. The guidelines will be further developed should the framework be adopted. A table summarising the proposed guidelines is provided below

#### **A. Bold and innovative public art transforms the city**

The city will be renowned for championing bold and innovative approaches to art and design. Tauranga will be known as a public art destination to rival Auckland and Wellington, showcasing our city and our artists.

#### **B. A masterplan guides planning and storytelling**

A Public Art Masterplan will enable an ambitious programme of public art commissioning to flourish. Opportunities for artists and for storytelling will be identified at the planning stage of projects.

#### **C. Public art will bring a sense of place and belonging to our community**

Tauranga's public art will reflect the diversity of its communities, the richness of the environment, culture, and histories of the city. Public Art enhances a sense of place, contribute to our unique identity and reflect Tauranga's character, people, places, stories, history and heritage.

#### **D. Māori whakapapa and history are expressed throughout the city**

Tauranga is of high cultural and regional significance to mana whenua. Public art gives agency and ownership of narratives to mana whenua. We encourage the creation of artworks and cultural markers that express whakapapa, mātauranga Māori and enable the sharing of histories.

#### **E. Citywide infrastructure projects integrate art and design**

Our natural and built environments make art accessible for everyone, every day. We encourage the integration of art concepts, features and artworks into infrastructure projects. We value the inclusion of public art expertise on projects from the outset.

#### **G. A programme of temporary public art brings the city centre alive**

Temporary public art invites people to experience our city in new and unexpected ways, building new cultural connections, memories, and vibrancy.

#### **H. Partnerships and collaboration enable works of ambition and scale**

Public art thrives on collaboration, with a shared vision and funding enabling stronger creative outcomes. We support projects that demonstrate partnership, collaboration and community support.

#### **I. Tauranga communities are involved in the development of public art**

Public art inspires participation and engagement, with our community able to be involved in the development and creation of works; or involved through their responses to work.

#### **J. Locals and visitors learn through public art**

Our public art creates opportunities to communicate with locals and visitors. A programme of way-finding initiatives, public programmes and activations encourage learning about and engagement with public art.

### **Funding of Public Art – A 'percent for art' model**

17. There is currently no dedicated budget for the funding of public art. Council currently relies on external bodies coming to us with ideas and funding for any public art project. With no requirement for public art to be factored into project budgets, the quality and execution of public art projects varies greatly between projects. We are currently dependent on external bodies coming to us with ideas and funding for public art.
18. Staff are proposing that a 'per cent for art' funding mechanism be introduced. A 'percent for public art' model would allocate 1% of capital budgets for above-ground council led projects to public art outcomes.
19. Similar funding mechanisms have been successful in other cities, with funding used as momentum to attract further external funding, both through private sponsorship and through central government funding (Creative New Zealand, Ministry of Culture and Heritage).
20. Successful 'percent for art' schemes have predominantly focused on above-ground, community facing projects. Staff are proposing that funds allocated under this scheme would be put into a 'public art fund', which can then be used to deliver public art outcomes across the city. This fund could be allocated in a way that supports a mix of integrated projects and stand-alone proposals. A contestable funding programme would determine allocation of funds for external projects. The public art panel would have a role in reviewing proposals, with assessment criteria to score applications.
21. If adopted, the 'percent for art' mechanism would be taken into the development of the 23/24 annual plan. Planning would be undertaken with project budget managers to identify qualifying infrastructure capital expenditure, noting that some projects have already allocated budget towards public art. Approximately \$300 Million of planned capital spend would qualify under this mechanism, creating a public art budget of \$3 Million in the 23/24 financial year. A detailed report on the proposed budget and how funds would be managed and allocated will be presented as part of the Annual Plan 23/24.

## STRATEGIC / STATUTORY CONTEXT

22. The proposed Public Art Framework will contribute to three key community outcomes identified in the 2021-31 Long Term Plan:
  - **An inclusive city:** through valuing the expression of culture and stories from across our community and region; build partnerships with tangata whenua; strengthen identity and grow pride in the city
  - **A well-planned city:** the inclusion of art in the design of 'compact centres', will build resilient infrastructure and create community-focused amenities
  - **A city that supports business and education:** public art plays an important role in attracting talent (a place where people want to live, work and play) and creating employment (for artists, suppliers, and associated practitioners).

## OPTIONS ANALYSIS

**Option One (recommended) – Rescind the existing Public Art Policy and adopt the structure, objectives and 'percent for art' funding mechanism of the proposed public Art Framework**

Advantages	Disadvantages
<p>Provides clear direction on the future direction of public art in Tauranga</p> <p>Recognises the input and feedback of arts sector stakeholders</p> <p>Recognises the benefits that well planned public art brings to the city</p> <p>Sends a clear message to other funding bodies that Council values public art, creating</p>	<p>Will require additional resourcing primarily in terms of staff time to implement and manage the framework.</p> <p>Will require budget managers of Council led projects to factor public art outcomes into their project budgets</p>

momentum to attract new external investment into public art. Provides a clear mechanism to fund public art.	
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**Option Two - Do not adopt the structure, objectives and 'percent for art' funding mechanism of the proposed public Art Framework**

Advantages	Disadvantages
No additional resourcing requirements	<p>Missed opportunities to respond to increased demand from creative sector and the community for clear direction on public art.</p> <p>Risk that ambitions and vision of improved public spaces is not matched by quality of public art projects.</p> <p>Risk that artists and arts organisations will become disillusioned by a lack of support for public art, leading to Tauranga missing out on high quality commissions.</p> <p>Lack of clear briefing guidelines for public art projects lead to poor quality outcomes.</p> <p>Missed opportunities to grow community pride and confidence in exploring the cultural narratives of Tauranga Moana.</p>

## FINANCIAL CONSIDERATIONS

23. Existing arts and culture budget resources will enable the design and implementation of the Public Art Framework.
24. The proposed funding mechanism for Public Art is a 'percent for art' model. This would require all Council-led above ground capital projects to allocated one percent of budget towards public art. It is acknowledged that should the framework be adopted, there will be a lead-in time required to factor this into project budgets. If the model is supported in principle, then staff will develop an implementation plan for the 'percent for art' funding programme to be introduced from the 23/24 financial year.
25. Whilst the requirement to include this budget allocation would not come into effect until the 23/24 financial year, it is likely that there will be some pilot projects where capacity already exists to allocate budget towards public art outcomes. If the framework is adopted, staff will work to identify such projects for consideration.

## CONSULTATION / ENGAGEMENT

26. Sector engagement took place in the first half of 2022 to inform development of the framework, as referenced in the background section of this report. This engagement included one-on-one interviews with artists and arts organisations, interviews with staff from other local authorities with successful public art plans; and a workshop between council staff and arts practitioners, facilitated by artist Kelcy Taratoa.

## SIGNIFICANCE

27. 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.
28. 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 city
  - (b) any persons who are likely to be particularly affected by, or interested in, the proposal.
  - (c) the capacity of the local authority to perform its role, and the financial and other costs of doing so.

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

## ENGAGEMENT

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

## NEXT STEPS

30. Establish public art advisory group to inform the development of the full Public Art Framework. August – September 2022.
31. Develop content of Framework, work with budget managers to identify qualifying capital expenditure for 'percent for art' and scope suitable initial public art projects. September – December 2022.
32. Design and publish the framework and include on Council's website. February 2023.
33. Implement actions and programmes in the framework. March 2023 onwards.

## ATTACHMENTS

**Nil**

#### **9.4 Submissions to the Exposure Draft on the National Policy Statement for Freshwater Management 2020 and National Environment Standard on Freshwater, the Exposure Draft on the National Policy Statement for Indigenous Biodiversity 2022 and Draft Regional Public Transport Plan 2022-2032**

**File Number:** A13655453

**Author:** Andy Mead, **Manager:** City Planning & Growth

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

#### **PURPOSE OF THE REPORT**

1. To report to the Committee on submissions lodged to the exposure draft on the National Policy Statement for Freshwater Management (NPS-FM) and National Environmental Standard on Freshwater (NES-F), the exposure draft on the National Policy Statement for Indigenous Biodiversity (NPS-IB) and draft Regional Public Transport Plan 2022-2032 (RPTP).

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#### **RECOMMENDATIONS**

That the Strategy, Finance and Risk Committee:

- (a) Receives the submission (Attachment 1) on the exposure draft on the National Policy Statement for Freshwater Management and National Environmental Standards on Freshwater lodged with Ministry for the Environment on 8 July 2022.
- (b) Receives the submission (Attachment 2) on the exposure draft on the National Policy Statement for Indigenous Biodiversity lodged with Ministry for the Environment on 21 July 2022.
- (c) Receives the submission (Attachment 3) on the draft Regional Public Transport Plan 2022-2032 lodged with Bay of Plenty Regional Council on 29 July 2022.

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#### **BACKGROUND**

##### **Exposure draft on the National Policy Statement for Freshwater Management (NPS-FM) and National Environmental Standard on Freshwater (NES-F)**

2. In September 2021, Ministry for the Environment (MfE) released a discussion document 'Managing our wetlands – A discussion document on proposed changes to the wetlands regulations'. Council provided a submission to this document on 27 October 2021. A key issue raised in this submission is Council's ability to deliver efficient urban growth areas to meet our requirements in the National Policy Statement on Urban Development.
3. On 31 May 2022, MfE released exposure drafts for changes to the NPS-FM and NES-F. The amendments proposed by MfE sought to provide for a consenting pathway for urban development in and around wetlands and remove the 'functional need test' for some activities that may affect wetlands.
4. The urban development must be within a 'well-functioning urban environment' which is defined in the National Policy Statement on Urban Development and identified in an operative regional and district plan, but not zoned rural. The exposure drafts did identify specific exemptions for urban growth Tauranga recognising that areas like Tauriko West are not yet zoned for urban development but are essential to meeting NPS-UD development capacity requirements.

5. There were other proposed changes such as providing a new definition for natural wetlands to exclude artificially constructed wetlands and certain induced wetlands; as well as providing a consenting pathway for quarrying, mining and cleanfills.
6. Council supports the amendments proposed in both the NPS-FM and NES-F in principle, particularly to provide a consenting pathway for urban development in planned growth areas, as well as changes to the functional need gateway test, and definition of natural wetlands to avoid unintended outcomes.
7. Council's submission was lodged with MfE on 8 July 2022. The submission identified the amendments proposed within the exposure draft which are supported by Council, and where further changes are in our opinion still required.
8. Council's submission identified that even with the amendments made to the NPS-FM and NES-F, there would still be a high likelihood of large-scale development projects such as Te Tumu and Tauriko West being subject to significant risk, further delay and potentially unable to proceed.
9. The submission included a 'worked example' to demonstrate how problematic the proposed consenting pathway would (still) be; as well as providing the preferred wording sought for inclusion in the NPS-FM policies and definition, and for the NES-F regulations.
10. Key issues identified included:
  - (a) Definition of 'natural wetland' requires changes particularly to exclude induced wetlands, address highly mobile threatened species, the national list of exotic species, and a minimum threshold size.
  - (b) Application of the 'no practicable alternative location' test to urban development as it is considered unworkable. Providing for a 'best practicable location' is preferred.
  - (c) Remove inconsistencies on activity status to provide for urban development works within 100m of a wetland, as well as construction of specified infrastructure and stormwater discharged from completed urban development – all as restricted discretionary activities (RDA).
  - (d) Supporting the special exemption provided to Tauranga's 'planned growth areas', with revision such that that Bay of Plenty Regional Council (BOPRC) is directed to include these exceptions in their regional plan (without the Schedule 1 RMA plan change process); and
  - (e) Amendments to language such as 'no further loss' should be replaced by 'no net loss', and the 'functional need' test for specified infrastructure should be replaced with 'operational need'.
11. The submission period closed on 10 July 2021, prior to the Strategy Finance and Risk Committee meeting on 1 August 2022. As a result, the submission was finalised by staff and lodged with MfE on 8 July 2022.

#### **Exposure draft on the National Policy Statement for Indigenous Biodiversity (NPS-IB)**

12. In November 2019, MfE sought feedback on the introduction of a NPS-IB. Council lodged a submission as part of the process which supported the intent of the NPS-IB, but raised significant concerns with its implementation.
13. MfE released the exposure draft on the NPS-IB on 9 June 2022 for targeted feedback. Key changes to the NPS-IB in response to previous feedback include:
  - (a) Providing for activities which are important for peoples' economic wellbeing, such as farming, forestry and the provision of infrastructure and energy
  - (b) Identifying indigenous biodiversity which is significant, and clearly outlines the process for managing effects on it without requiring Significant Natural Areas (SNA) to be split into 'high' and 'medium' categories

- (c) Recognising tangata whenua as kaitiaki and allows for development of Māori land in partnership with tangata whenua, including Māori landowners
  - (d) Outlines management for geothermal areas and public land which previously only had placeholders.
14. Keys issues and challenges identified included:
- (a) The complex interactions between this NPS and other national policy statements such as NZ Coastal Policy Statement, NPS-FM and NPS-UD which appear to be in conflict and/or lack integration of policy direction.
  - (b) The proposed criteria and methodology for identifying SNA will likely result in there being additional areas impacted by this NPS, including areas not currently identified in our existing urban growth areas.
  - (c) Specified adverse effects on SNAs of any new subdivision, use or development are to be avoided and there is no ability to apply the proposed effects management hierarchy to address adverse effects. This creates uncertainty on how these activities can be undertaken, particularly in planned urban growth areas like Te Tumu and Tauriko West, as there will be no pathway to consider offsetting to achieve a 'net gain'.
  - (d) The NPS-IB requires Councils to change their plans to manage both 'irreversible' and other adverse effects on indigenous biodiversity resulting from subdivision, use and development in areas outside of identified SNAs. Such an approach is considered problematic as it may direct councils towards blanket protection of indigenous biodiversity.
  - (e) Lack of clarity and implementation issues associated with mapping and thereafter managing adverse effects of new subdivision, use and development on highly mobile fauna areas; and
  - (f) The resourcing required is significant across councils and technical expertise and timing to complete the implementation appears to be inefficient use of resources.
15. It is proving difficult for TCC to deliver on all of the national policy directives (NPSIB, NPSFM, NPSUD) as there is no hierarchy of importance and no clear guidance on how trade-offs are to be managed. It is becoming evident that there is simply not enough land within the TCC jurisdiction to meet the NPSUD requirements given the direction in the various NPS documents and other requirements (including recognition of cultural and archaeological sites, and addressing natural hazards).
16. The submission period closed on 21 July 2021, prior to the Strategy Finance and Risk Committee meeting on 1 August 2022. As a result, the submission was finalised by staff and lodged with MfE on 21 July 2022.

#### **Draft Regional Public Transport Plan 2022-2032**

17. The Regional Council released the draft Regional Public Transport Plan (RPTP) for submissions on 4 July with submissions due by 29 July.
18. Regional Council have led the development of the draft RPTP over the past 12-15 months. The RPTP is a higher-level policy document that has a 10-year outlook but is required to be reviewed every 3-years following adoption of the Regional Land Transport Plan.
19. Tauranga City Council (TCC) has been involved in the development of the draft RPTP with representation at the Regional Council Project team level. In addition, as the draft Plan has been developed key sections have been workshopped with the Regional Public Transport Committee members. This has resulted in an iterative development process where TCC has been able to provide feedback and seek changes at both the Project team and Committee level. This has meant that most key matters already raised by TCC are reflected in the draft RPTP. There are however a few remaining matters which the draft submission requested changes to or clarified of. These relate to:

- Funding Challenges – Currently there is no discussion that acknowledges the issue of affordability of public transport (services and infrastructure). Significant funding will be required to successfully deliver central government direction and aspiration and local intent (expressed through UFTI/TSP) but there is no discussion of the challenges associated with confirming necessary funding and this being affordable to all who should pay (central government; regional and local councils; those using public transport). The submission requests this issue be acknowledged in the RPTP.
  - Objectives – the draft lacks clarity of how its targets align to those established by UFTI & TSP. The submission requests that alignment between regional (as expressed in the RPTP) and sub-regional (as expressed in UFTI/TSP) targets be clearly shown to ensure there is consistency between higher level regional policy documents and place-based sub-regional/city level delivery programmes.
  - Monitoring and Review – the submission identifies TCC's support of a clear monitoring and review framework being included in the RPTP but requests clarification of how this relates to other processes established by SmartGrowth and UFTI/TSP. This is to ensure that there is an efficient and targeted monitoring and review framework in place (and not duplicated) between regional and sub-regional / city level planning processes to then support local level planning and delivery.
20. The submission period closed on 29 July 2022, prior to the Strategy Finance and Risk Committee meeting on 1 August 2022. As a result, the submission was finalised by staff and lodged with Bay of Plenty Regional Council on 29 July 2022.

## NEXT STEPS

### **Exposure draft on the National Policy Statement for Freshwater Management and National Environmental Standards on Freshwater (NES-F)**

21. MfE will analyse all the submissions received, and report to the Minister. Those changes accepted will then be gazetted as Amendment No 1 to the NPS-FM and NES-F provisions later this year. MfE have not provided a specific timeframe for when this will be gazetted.
22. The Tauranga exemption is for the planned growth areas identified in SmartGrowth UFTI Connected Centres Programme, and is available for a limited period of 5 years from the date the amendment comes into effect (i.e. when gazetted). However, the NPS-FM states that BOPRC may include the Tauranga exemption, which infers a decision-making process would be required prior to BOPRC confirming that such an exemption can indeed be included in the regional plan. This raises much uncertainty and a risk of time delays, eating into the 5-year horizon available. Hence the TCC submission sought that BOPRC be directed to include these exceptions in their regional plan (without the Schedule 1 RMA plan change process).
23. The BOPRC submission is concerned that the Tauranga exemption is not an appropriate mechanism, and did not support it in its current form. BOPRC is concerned with large scale earthwork applications (as Restricted Discretionary Activity) being able to proceed ahead of the RMA process for a plan change (with all the associated public engagement/feedback, community and tangata whenua input, structure plan preparation, wetland identification, assessment, etc.).
24. BOPRC did, however note that if this clause is to remain, then certain amendments are proposed; including that BOPRC be required to include the Tauranga exemption (by replacing may with must), and that it only applies to 'planned urban growth areas' under SmartGrowth – on land zoned for housing/business in either an operative or proposed district (city) plan.




**Exposure draft on the National Policy Statement for Indigenous Biodiversity (NPS-IB)**

25. MfE will use the feedback provided to help inform the final NPS-IB. MfE have advised that the NPS-IB will be gazetted this year. The current timeframes within the exposure draft are that by 2025, regional councils have initiated the production of a regional biodiversity strategy and territorial authorities have identified, mapped and notified Significant Natural Areas by 2027.
26. It is expected that the NPS-IB is transitioned in the National Planning Framework of the new resource management system.

**Draft Regional Public Transport Plan (RPTP)**

27. A summary of submissions on the RPTP is expected to be released in early August 2022, with hearings scheduled for 17, 19, 22 August and deliberations on 31 August and 1 September 2022. The submission identifies that TCC would like to be heard at the hearing in support of its submission.
28. The Hearings Subcommittee report will be considered by the Public Transport Committee on 22 September 2022.

**ATTACHMENTS**

1. **TCC Submission - NPS-FM & NES-F amendments - 8 July 2022 - FINAL COMBINED pdf copy - A13669384** [↓](#) 
2. **TCC Submission on Exposure Draft on NPS Indigenous Biodiversity - A13671770** [↓](#) 
3. **Regional Public Transport Plan submission - A13640177** [↓](#) 

8 July 2022



Ministry for the Environment

Email: [WetlandsTeam@mfe.govt.nz](mailto:WetlandsTeam@mfe.govt.nz)

Citizen Space: <https://consult.environment.govt.nz/>

Submission Link: <https://consult.environment.govt.nz/freshwater/npsfm-and-nesf-exposure-draft/>

Dear Wetlands Team

**Exposure draft of proposed changes to the NPS-FM and NES-F (including wetland regulations)**

Tauranga City Council ("TCC") welcomes the opportunity to provide feedback to the Ministry for the Environment's exposure draft of the proposed amendments to both the National Policy Statement for Freshwater Management 2020 (NPS-FM) and the Resource Management (National Environmental Standards for Freshwater) Amendments Regulation (No2) 2022 (NES-F).

Please find TCC's detailed feedback attached to this letter.

We are happy to discuss our submission further with you or provide additional information and evidence that would be of assistance. Enquires should be directed to:

Richard Harkness  
City & Infrastructure Planning  
M: 027 272 1505  
E: [Richard.Harkness@tauranga.govt.nz](mailto:Richard.Harkness@tauranga.govt.nz)

Yours sincerely

A handwritten signature in black ink, appearing to read "Christine Jones".

Christine Jones  
**General Manager**  
**Strategy, Growth & Governance**

M: 027 4672334  
E: [Christine.Jones@tauranga.govt.nz](mailto:Christine.Jones@tauranga.govt.nz)



**Exposure draft of amendments to the National Policy Statement for  
Freshwater Management 2020 (NPS-FM)**

**and**

**Exposure draft of changes to the National Environmental Standards  
for Freshwater 2020 (NES-F)**

**Tauranga City Council Feedback**

**8 July 2022**

Amendments to the NPS-FM and NES-F

Tauranga City Council Feedback

## Executive Summary of Key Issues for Tauranga City Council:

Tauranga City Council (TCC) supports the intent of the NPS-FM policies and NES-F regulations protect the freshwater environment but is also required to address the requirements of the National Policy Statement on Urban Development (NPS-UD) and progress urban development at pace and scale for the benefit of our community.

Unfortunately, as drafted, the amended provisions of the NPS-FM and NES-F will continue to delay, negatively impact, or even prevent urban development in Tauranga at the pace and scale required.

Our key issues in relation to each of the relevant proposed amendments are summarised below:

- **Amendment 1: Definition of 'natural wetland'** – although the changes proposed to the definition are generally supported, changes are required to ensure:
  - wetlands which form around artificial watercourses or structures are excluded
  - the reference to threatened species is refined to exclude transient fauna
  - the list of exotic pasture species is updated to include all common species and fodder crops
  - a minimum size threshold is applied to natural wetlands
- **Amendments 2B & 6C: Application of the 'no practicable alternative location' test to urban development** – TCC supports the inclusion of a new policy for urban development, and in particular the absence of a 'functional need' gateway test. However, the new test for urban development to demonstrate there is 'no practicable alternative location' is not workable - a 'best practicable location' approach is preferred. Additional changes are also required to ensure the new policy is applied consistently and unintended outcomes are avoided.
- **Amendment 6A: Provide a restricted discretionary consent pathway for urban development** – The new consenting pathway for urban development as a restricted discretionary activity under the NES-F is welcome. However, changes are required to remove inconsistencies and ensure the following activities are also classed as a restricted discretionary activity:
  - works within 100m of a wetland (non-complying as drafted)
  - construction of specified infrastructure (discretionary as drafted)
  - stormwater discharge from completed urban development (non-complying as drafted)
- **Amendment 6B: Define urban development for the scope of the proposed consent pathway (including special provision for Tauranga)** - TCC supports the proposed exception for urban development in Tauranga. However, changes are required to ensure that:
  - The regional council is directed to include the exception without making a decision
  - The exception can be included in the regional plan without a plan change process
  - The scope of the exception is refined to only the 'planned growth areas' under UFTI
  - The timeframe of the exception is extended to 10 years to protect against delays
- **Policies 6 and 7 and Clauses 3.22 and 3.24 NPS-FM** – the directive language of 'no further loss' should be replaced by 'no net loss', and the 'functional need' test for specified infrastructure should be replaced with 'operational need'.

These key issues, along with other clarifications and amendments, are discussed in the body of our submission.

8 July 2022

3

Amendments to the NPS-FM and NES-F

Tauranga City Council Feedback

## 1.0 Introduction

Tauranga City Council (TCC) welcomes the opportunity to provide feedback to the Ministry for the Environment's exposure draft of the proposed amendments to both the National Policy Statement for Freshwater Management 2020 (NPS-FM) and the Resource Management (National Environmental Standards for Freshwater) Amendments Regulation (No 2) 2022 (NES-F).

We are happy to discuss our submission further with you or provide additional information and evidence that would be of assistance. General enquires should be directed to:

Richard Harkness, City & Infrastructure Planning  
027 272 1505  
[Richard.Harkness@tauranga.govt.nz](mailto:Richard.Harkness@tauranga.govt.nz)

Or

Christine Jones, General Manager: Strategy, Growth and Governance  
027 4672334  
[christine.jones@tauranga.govt.nz](mailto:christine.jones@tauranga.govt.nz)

TCC has proactively engaged with Ministry for the Environment (MfE) on the freshwater national directions and guidance documents released by MfE in recent times; and appreciates the opportunities provided during this process, for direct engagement between TCC Commissioners and staff and government representatives.

As previously noted, TCC supports the protection of wetlands and rivers, as embodied within the NPS-FM policies and NES-F regulations - while also seeking to address Tier 1 urban environment requirements under the National Policy Statement on Urban Development 2020 (NPS-UD). In this regard, TCC does have a difficult task meeting both NPS-UD obligations for urban development in planned growth areas, and addressing the NPS-FM requirements for freshwater bodies.

More than ten years ago, TCC's City Plan provided special ecological areas (SEA) to protect areas of significant fauna and flora, many of which are wetland areas both inland and along the coast. TCC's commitment to protecting wetlands is recognized through over 550 hectares of SEA Category 1 and 2 in the City Plan, including Carmichael Reserve, Wairakei Stream, Waimapu Stream Wetland, Kopurererua Wetlands to name a few. Continuing in this vein, the intention for Te Tumu and Tauriko West growth areas is to achieve a superior outcome for the wetland margins of the Wairoa and Kaituna Rivers through offsetting and enhancement works.

Accordingly, TCC supports the amendments proposed in both the NPS-FM and NES-F in principle, particularly to provide a consenting pathway for urban development in planned growth areas, with a specific exception for Tauranga, as well as changes to the functional need gateway test, and definition of natural wetlands to avoid unintended outcomes. This submission identifies those NPS-FM and NES-F amendments proposed that TCC supports - and also sets out where, in our view, further changes are still required. Even with the proposed amendments, there would still be a high likelihood of essential large-scale urban development projects like Te Tumu and Tauriko West being subject to significant risk, further delay, and potentially not being able to proceed. Similar concerns have been raised by other parties and industry sectors.

TCC's concerns primarily relate to the ability to deliver efficient urban growth at scale and pace, in TCC's two key planned urban growth areas - Te Tumu and Tauriko West. Both are priority areas for

8 July 2022

4

Amendments to the NPS-FM and NES-F

Tauranga City Council Feedback

urban development, and are being progressed, along with other intensification projects, to meet the requirements of the NPS-UD.

To support the points set out in our submission, we have provided a worked example (**Attachment 1**), based on one of the growth areas – and using a likely scenario for the earthworks required to address flood hazard levels (climate change and resilience) as well as showing possible impacts on natural wetlands. This test case shows what risks and unintended outcomes are still present with the current amendments proposed to the NPS-FM and NES-F; and thus, demonstrates why further changes are required. The changes, therefore, sought by TCC are set out below, and listed in the order of the submission template and questions provided by MfE at the submission link:

<https://consult.environment.govt.nz/freshwater/npsfm-and-nesf-exposure-draft/>

The context for the TCC submission is set out in **Attachment 2**, particularly in relation to the NPS-UD requirements for Tauranga as a Tier 1 urban environment; as well as setting out how the SmartGrowth partnership has developed a settlement pattern for the western Bay of Plenty and identified urban growth areas, both planned in the shorter to medium term, as well as envisioned growth areas for the longer period, 30 years +. All such growth areas are well known to the public.

The background to the preparation of the Urban Form and Transport Initiative (**UFTI**) Connected Centres Programme is also provided - UFTI being a joint initiative prepared by Tangata Whenua, Smartgrowth, BOPRC, TCC, Western Bay of Plenty District Council, Waka Kotahi NZTA, MHUD, and Kāinga Ora. Te Tumu and Tauriko West are identified in UFTI, and more recently, both urban growth areas have been identified as 'Priority Development Areas' (PDA) within the Western Bay Sub-region.

Both Te Tumu and Tauriko West are identified as 'planned growth areas' in the SmartGrowth UFTI Connected Centres Programme, being recognised as key to the provision of the much needed housing supply, required under the NPS-UD in the short term. Te Tumu has been subject to previous plan change procedures involving public participation, and Tauriko West recently required public consultation on the LGC led boundary reorganisation for TCC to include this area for urban development and BOPRC led changes to urban limits through an RMA plan change process.

## 2.0 Proposed amendments to NPS-FM and NES-F: General feedback

TCC supports the consenting pathway provided for urban development as a restricted discretionary activity. However, this should apply to activities within wetlands and within the 10m setback (as proposed), as well as within the 100m setback where they are likely to affect the wetland drainage.

TCC supports the exception for Tauranga growth areas which have not (yet) been re-zoned for urban development but are identified in the SmartGrowth UFTI Connected Centres Programme, so that the plan change and consenting processes can be run in parallel and avoid further delay to urban development in Tauranga. To achieve this, we submit that the exception must be included in the regional plan without delay in accordance with s55(2A) of the Resource Management Act 1991 (**RMA**) - ,i.e. without a Schedule 1 RMA plan change process. Regional councils should not be faced with a choice, nor risks of further delays determining whether to include this exception.

TCC also seeks that only the 'planned growth areas' under SmartGrowth UFTI Connected Centres Programme be included, such as Tauriko West and Te Tumu – being anticipated in the shorter to medium term timeframe. There is no need to include the 'envisioned growth areas' in the SmartGrowth UFTI Connected Centres Programme as they will not be developed for the next 30 years

8 July 2022

5

## Amendments to the NPS-FM and NES-F

## Tauranga City Council Feedback

or so. A 10 year period for the exception is also preferred, in case of significant delays for the rezoning to become operative eg protracted appeal processes that are outside Council's control.

TCC supports the removal of the 'functional need' gateway test for urban development; however, the requirement to demonstrate there is "no practicable alternative location" is problematic and fails to provide the best practicable outcome - which better reflects how wetland enhancement can be achieved, including offsetting for a superior wetland outcome, as well as meeting NPS-UD requirements for a well-functioning urban environment.

For example, a consent authority may determine that if natural wetlands are avoided, and the remaining (surrounding) land used for a very high density, this could be deemed a practicable alternative location which on paper delivers a similar yield. This may be unrealistic for developers in relation to the difficulty and cost for infrastructure and roading access, and potentially result in poor urban form outcomes – and the development will unlikely proceed, thereby failing to assist in delivering urban development at scale and pace.

The changes proposed for the definition of natural wetlands are generally supported by TCC, provided that all wetlands that develop in or around any deliberately constructed watercourses are excluded. TCC notes that the use of the wording, 'water body' may limit this to rivers, streams and modified watercourses (only) using the RMA definitions for 'water body' and 'river', but does not include an artificial watercourse such as a farm drain. Wetlands that develop in or around deliberately constructed culverts (possibly undersized), access roads and sediment ponds should also be excluded, i.e. the wording should be amended to read, "...a deliberately constructed watercourse or structure...".

The definition of natural wetlands now refers to threatened species, however some fauna are highly mobile, passing through many areas, but not necessarily being present long term for nesting or breeding. TCC seeks this be amended to read, "...contain resident and/or breeding and/or juvenile rearing threatened species."

There are other provisions which also need to be amended in our opinion including the policy framework for wetlands and river beds (Policies 6 and 7 NSP-FM) for a 'no net loss' approach, instead of 'no further loss'; as well as replacing the 'functional need' test for specified infrastructure and urban development impacting river beds with 'operational need', and the consenting pathway for urban development should include 'stormwater management' for discharges within wetlands and the 100m wetland setback to address management of stormwater runoff from the final urban form. These aspects are addressed in greater detail below, and the amended wording sought for the respective NPS-FM and NES-F requirements is also provided to show the changes requested by TCC; as well as addressing the standard question for each of the respective amendments proposed:

**Set question for all amendments:**

Are these proposed amendments clearly drafted? Does the drafting achieve the intent of the amendments (as set out in the attached policy rationale document)? Are there unintended consequences of this drafting?

These standard questions are addressed below, as well as any specific question raised in the MFE link, as appropriate.

Amendments to the NPS-FM and NES-F

Tauranga City Council Feedback

### 3.0 Amendment 1: Definition of 'natural wetland'

**Specific Question:** "In particular, we welcome your feedback on this list of 'exotic pasture species', in particular commentary on any missing species, and whether the list would work when applied in your region."

- **Amendment 1A:** Replace 'improved pasture' with 'pasture' and delete the defined term 'improved pasture'
- **Amendment 1B:** Delete 'at the commencement date'
- **Amendment 1C:** Replace 'is dominated by (that is more than 50% of) exotic pasture species' with 'has ground cover comprising more than 50% exotic pasture species' and Policy rationale for exposure draft amendments 2022 11 incorporate by reference into the NPS-FM a national list of exotic pasture species.

**Methodology for assessing pasture exclusion**

- **Amendment 1D:** Remove 'and is subject to temporary rain-derived water pooling'.
- **Amendment 1E:** Clarify what is a 'wetland constructed by artificial means'.
- **Amendment 1F:** Provide for the protection of threatened species by disapplying part (c) of the definition where threatened species are known to be present.

The changes to the natural wetland definition are generally supported in principle, subject to the following changes sought by TCC.

**Amendment 1C: national list of exotic pasture species**

TCC commissioned Boffa Miskell to undertake further assessment of the National List of Exotic Pasture Species, and a copy of their report is in **Attachment 3** to this submission.

TCC understands that the purpose of listing exotic pasture species is to help identify whether an area of pasture should be excluded from the definition of natural wetlands, this being where there is more than 50% ground cover of exotic pasture species. Therefore, any list provided in the NPS-FM should reflect common species of pasture, including wet-tolerant and non-forage species, to enable routine farm operations such as cultivation and pasture management. We consider that further work needs to be undertaken to compile a list that is representative of pasture communities throughout New Zealand, taking into account regional variations.

**AMENDMENT 1C - CHANGES REQUESTED:**

Ensure that the national list of exotic pasture species listed in Clause 3.21 NPS-FM (natural wetlands definition) is updated to recognise all common species, including wet-tolerant and non-forage species; i.e. all exotic pasture species used for routine farm operations such as cultivation, grazing stock and pasture management.

**Amendment 1E: Clarify what is a 'wetland constructed by artificial means'.**

Under the amended definition, wetlands that have developed in or around a deliberately constructed water body (i.e. induced wetlands) are not 'natural wetlands'; however under the RMA, a 'water body' includes a 'river', and a 'river' includes streams and modified watercourses, but does not include an artificial watercourse such as a farm drain. Therefore, only those areas where wetlands have developed around a modified watercourse (and rivers/streams) are not included as natural wetlands, whereas wetlands that have developed alongside constructed farm drains are included.

8 July 2022

7

## Amendments to the NPS-FM and NES-F

## Tauranga City Council Feedback

TCC agrees that a natural wetland shouldn't include wet areas of vegetation that are the unintended result of construction activities, be those artificial drains, artificial segments of modified watercourses or the blockage/impeding of overland flow by structures such as roads/undersized culverts, sediment ponds, stormwater runoff and discharge areas, etc.

**AMENDMENT 1E - CHANGES REQUESTED:**

Add clarifying text to part (b) of the definition of "natural wetland" under Clause 3.21 of the NPS-FM as follows

***natural wetland** means a wetland (as defined in the Act) that is not:*

- (a) a deliberately constructed wetland, other than a wetland constructed to offset impacts on, or to restore, an existing or former natural wetland as part of giving effect to the effects management hierarchy; or*
- (b) a wetland that has developed in or around a deliberately constructed ~~water body~~ watercourse or structure, since the construction of the ~~water body~~ watercourse or structure; or*
- (c) ....*

**Amendment 1F: where threatened species are known to be present.**

The definition of 'natural wetlands' excludes wetlands (as defined in the RMA) in pasture which have ground cover comprising more than 50% exotic pasture species and is not known to contain threatened species. While this approach works for flora, it does not work well for highly mobile fauna – i.e. where certain threatened species might pass through this wetland once in a while, even briefly while dispersing and travelling around.

The risk is that either the applicant must undertake extensive surveys to prove there are no threatened species 'contained' therein, or the significance of the natural wetland area is elevated on the premise that threatened species might visit briefly – even if just once in a while (i.e. they are highly mobile and travel all over the place). This uncertainty and risk could be avoided if the definition referred to 'containing resident and/or breeding and/or juvenile rearing threatened species'. Alternatively, the definition should make it clear whether incidental visits by transient individuals is part of the life cycle.

The definition should also exclude tiny areas of wetlands of relatively little ecological significance, and ensure protection of larger wetlands that can be restored. Without any minimum size threshold, this will trigger protection of small areas with no ecological function, value or quality – resulting in the complete avoidance of any development in and around these areas, and costs that far exceed benefits. The inclusion of a minimum size threshold for natural wetlands will ensure a better balance between necessary urban development and ecological values and protection. This would also avoid the risk of very small areas being scattered through a development, possibly left to degrade over time if they are simply avoided, or not vested in council, or each tiny area fenced off.

TCC seeks that a minimum size be determined by expert ecological judgement using such factors as wetland integrity, edge effects and connectivity, and whether there is a critical threshold size needed to support resident threatened species. Given that the NPS-FM requires a size threshold of 0.05 hectares for mapping and monitoring natural wetlands, this could be a starting point for such expert judgement to determine such a minimum size.

Amendments to the NPS-FM and NES-F

Tauranga City Council Feedback

**AMENDMENT 1F - CHANGES REQUESTED:** Add clarifying text to part (d)(iii) and a new sub-section (e) of the definition of “natural wetland” under Clause 3.21 of the NPS-FM as follows:

***natural wetland** means a wetland (as defined in the Act) that is not:*

(d) a wetland that:

(iii) is not known to contain resident and/or breeding and/or juvenile rearing threatened species; or

(e) a wetland that is less than 0.05 hectares in extent, and is not known to contain resident and/or breeding and/or juvenile rearing threatened species

#### 4.0 Amendment 2: The tests of ‘national and/or regional benefit’ and ‘functional need’

- **Amendment 2A:** Apply the ‘national and/or regional benefit’ test to quarries, fills (cleanfill, landfill) and mining. It continues to apply to specified infrastructure.
- **Amendment 2B:** New test for landfills, cleanfills and urban development of ‘no practicable alternative location’.

##### **Amendment 2B: New test for urban development of ‘no practicable alternative location’.**

TCC supports removal of the ‘functional need test’ from the supporting policy for urban development which is to be inserted into regional plans, as described in Clause 3.22(1)(c) of the NPS-FM. However, TCC does not support the proposed gateway test (Amendment 2B) requiring that there be either no practicable alternative location for the activity, or that every other practicable location would have equal or greater adverse effects on a natural inland wetland. This would require a significant amount of work which is fraught with failing to actually prove there is no practicable alternative, given that any other alternative which is possible (even at significant cost, lower quality of urban form, or much reduced yield) could be deemed to be a practicable alternative.

Under the RDA matters to which discretion is restricted, Regulation 56(b) NES-F already requires that a similar assessment of practicable alternatives be undertaken to avoid the wetlands – although this assessment forms part of a comprehensive approach including the social, economic, environmental and cultural benefits that are likely to result from the proposed activity (Regulation 56(g) NES-F). Essentially, an applicant will still need to address practicable alternative locations, and the effects management hierarchy, all as part of the assessment of environmental effects and any offsetting proposal for the wetlands. It does not need to be elevated to a gateway test in the supporting policy.

The gateway test proposed in the policy described in Clause 3.22(1)(c)(iv) is not specifically a ‘best practicable location’ (BPL<sup>1</sup>) approach which is the preferred approach for TCC. The BPL means the best location for an activity to be undertaken in, having regard to:

- The extent to which adverse environmental effects are avoided, minimised, remedied, offset or compensated; and
- A comparison of the effects on the natural inland wetland of the proposed activity and the effects on the environment in other locations; and

<sup>1</sup> BPL was recommended as Option 3 in MfE’s ‘Report, recommendations and summary of submissions’ showing the analysis of submissions to the ‘Discussion Document – Managing our wetlands’. [May 2022]

Amendments to the NPS-FM and NES-F

Tauranga City Council Feedback

- The extent to which development is required to meet development capacity under the NPS-UD.

#### **Other gateway tests – Clause 3.22(1)(c) NPS-FM**

The policy described in Clause 3.22(1)(c)(ii) NPS-FM requires that the activity occurs on land identified for urban development in an operative regional or district plan; however, the regional policy statement (RPS) should also be named, given how there are various requirements for the RPS pursuant to the NPS-UD in relation to urban growth areas, development capacity, housing supply and urban form (Policies 3, 4, 5 & 7 NPS-UD).

This enhances greater compatibility at the national policy statement level and consistency between the NPS-FM and NPS-UD, while also providing local authorities the flexibility to include the identification of areas for urban development in whichever planning document best suits their existing policy framework for managing urban growth.

An adopted Future Development Strategy (FDS) should also be included to ensure future urban growth areas are appropriately identified as well. Further, it can take considerable time for urban rezoning through a plan change or new district plan to become operative, therefore, requiring a proposed / operative district plan is preferable too.

Effectively, as soon as the rezoning of the land for urban purposes becomes operative in the district (city) plan, it is no longer zoned rural. There is no advantage requiring this 'rural zone' as a gateway test under Clause 3.22(1)(c)(iii) NPS-FM – and should be deleted accordingly.

#### **AMENDMENT 2B - CHANGES REQUESTED:**

Amend the policy described in Clause 3.22(1)(c) to:

- Add "regional policy statement", "future development strategy", and "proposed" district or regional plan to Clause 3.22(1)(c)(ii).
- Delete Clause 3.22(1)(c)(iii).
- Replace the gateway test referring to 'practicable alternative locations', with a requirement for "best practicable location" under Clause 3.22(1)(c)(iv)

as follows:

(c) *the regional council is satisfied that:*

- (i) *the activity is necessary for the purpose of urban development that contributes to a well-functioning urban environment (as defined in the National Policy Statement on Urban Development); and*
- (ii) *the activity occurs on land identified for urban development in an operative regional policy statement, regional plan, future development strategy or a proposed/operative district plan; and*
- ~~(iii) *the activity does not occur on land that is zoned in a district plan as general rural, rural production, or rural lifestyle; and*~~
- (iv) *the location of the activity is the best practicable location for that activity ~~there is either no practicable alternative location for the activity, or every other practicable location would have equal or greater adverse effects on a natural inland wetland;~~ and*
- (v) *the effects of the activity are managed through applying the effects management hierarchy and, if aquatic offsetting or aquatic compensation is applied, the offsetting or compensation will be maintained and managed over time; or*

8 July 2022

10

Amendments to the NPS-FM and NES-F

Tauranga City Council Feedback

## 5.0 Amendment 6: New consent pathway for activities necessary for urban development

### Amendment 6: New consent pathway for activities necessary for urban development

- **Amendment 6A:** Provide a restricted discretionary consent pathway for urban development
  - Urban development listed in district plans
- **Amendment 6B:** Define urban development for the scope of the proposed consent pathway
  - Special provision for Tauranga
- **Amendment 6C:** Application of the 'no practicable alternative location' test to urban development

TCC supports the consenting pathway policies provided in Clause 3.22(1)(c) NPS-FM in principle, subject to certain changes required to the gateway tests, as described in relation to Amendment 2B above. TCC also supports Clause 3.34 NPS-FM with a special provision for Tauranga, however this exception should be included at the same time as other regional plan changes pursuant to s55(2A) RMA; i.e. without requiring a Schedule 1 RMA process, nor any other process of deliberation or decision-making by the regional council under the LGA or RMA.

### Amendment 6A: Provide a restricted discretionary consent pathway for urban development

TCC supports the consenting pathway for urban development as a restricted discretionary activity in Regulation 45C NES-F, provided that urban development related activities within the 100m wetland setback are also restricted discretionary activities (and not non-complying). Currently, Regulation 45C provides for activities necessary for urban development (vegetation clearance, earthworks and land disturbance) as a restricted discretionary activity within wetlands and within the 10m setback; however, such activities become non-complying under Regulation 52 within the 100m setback if it results, or is likely to result, in the complete or partial drainage of all or part of a natural wetland.

This appears to be an unintended consequence of the proposed amendments, whereby activities within or close to a wetland have a lower activity status than those located between 10-100m setback from the wetland. For consistency, Regulation 45C NES-F should be amended to include urban development within, or within a 10 m setback from a natural inland wetland, or within a 100m setback from a natural inland wetland if there is an impact on the wetland drainage – all as a restricted discretionary activity. Including this activity in Regulation 45C would prevent it defaulting to a non-complying activity under Regulation 52.

The discharge of water within, or within a 100 m setback from, a natural inland wetland is also a restricted discretionary activity for constructing urban development. Clarification is required to ensure this provision includes stormwater runoff from the final urban form – particularly where there is a hydrological connection between the discharge and a natural inland wetland. The specified infrastructure supporting urban development should also be a restricted discretionary activity, to ensure a consistent approach here.

8 July 2022

11

Amendments to the NPS-FM and NES-F

Tauranga City Council Feedback

**AMENDMENT 6A - CHANGES REQUESTED:**

Amend the following regulations under the NES-F to:

- Amend the title of Regulation 45 to classify specified infrastructure in a wetland as a restricted discretionary activity (not a discretionary activity)
- Amend Regulation 45C(3) to include a new sub-part to classify activities within a 100m setback of a wetland as a restricted discretionary activity (not Non-complying)
- Amend Regulation 45C(5) to include stormwater management from urban development

as follows:

***Construction of specified infrastructure***

45 Restricted discretionary activities

***Urban development***

45C Restricted discretionary activities

- (1) *Vegetation clearance within, or within a 10 m setback from, a natural inland wetland is a restricted discretionary activity if it is for the purpose of constructing urban development.*
- (2) *Earthworks or land disturbance within, or within a 10 m setback from, a natural inland wetland is a restricted discretionary activity if it is for the purpose of constructing urban development.*
- (3) *Earthworks or land disturbance outside a 10 m, but within a 100 m, setback from a natural inland wetland is a restricted discretionary activity if it—*
  - a. *is for the purpose of constructing urban development; and*
  - b. *results, or is likely to result, in the complete or partial drainage of all or part of the natural inland wetland*
- (4) *The taking, use, damming, or diversion of water within, or within a 100 m setback from, a natural inland wetland is a restricted discretionary activity if it is for the purpose of constructing urban development.*
- (5) *The discharge of water within, or within a 100 m setback from, a natural inland wetland is a restricted discretionary activity if—*
  - a. *it is for the purpose of constructing urban development or associated with stormwater runoff from the final urban form; and*
  - b. *there is a hydrological connection between the discharge and a natural inland wetland; and*
  - c. *there are likely to be adverse effects from the discharge on the hydrological functioning or the habitat or the biodiversity values of a natural wetland.*

***Matters to which discretion restricted***

- (6) *The discretion of a consent authority is restricted to the matters set out in regulation 56.*

**Amendment 6B: Special provision for Tauranga**

TCC supports Clause 3.34 of the NPS-FM which provides for Bay of Plenty Regional Council (BOPRC) to include an exception for urban development in Tauranga, in relation to the policy and gateway tests outlined in the policy described in Clause 3.22(1)(c) NPS-FM – this being available for 5 years from

8 July 2022

12

## Amendments to the NPS-FM and NES-F

## Tauranga City Council Feedback

when the amendments to the NPS-FM are gazetted. For ease of reference, the exception is referred to here as the Tauranga exception.

However, Clause 3.34 NPS-FM states the regional council 'may' include this additional exception in the regional plan. It follows, therefore, that BOPRC will be required to follow due process under the LGA and RMA in determining:

- Firstly, whether or not to include this exception in the regional plan; and
- Secondly, whether or not this can be inserted into the regional plan without a Schedule 1 RMA process.

This wording is highly problematic, and fundamentally will fail to provide the benefit of urban development related activities commencing in parallel with the re-zoning plan change process. The potential advantage of providing for this exception will be lost, despite significant efforts by a number of government and local authority parties to unlock land for housing at scale and pace in Tauranga in accordance with the NPS-UD.

The purpose of Clause 3.34 is to provide an early exception for urban development in Tauranga to avoid further delays to the development of planned urban growth areas. Therefore, Clause 3.34 should simply require BOPRC to include the exception in the regional plan (using section 55(2A) of the RMA and avoiding a schedule 1 process) alongside the proposed amendments to clause 3.22(1)(c) of the NPS-FM which support the proposed consenting pathway for urban development in the first instance.

If the proposed drafting is not amended, problems could arise under several situations, which could cause significant time delays or prevent applications being considered. These include:

- The use of "may" rather than "must" in Clause 3.34, which requires BOPRC to make a decision on whether or not to include the Tauranga exception
- Lack of clarity around the application of section 55 RMA, or whether the Tauranga exception would need a Schedule 1 plan change process
- Uncertainty around the scope of the Tauranga exception and definition of planned growth areas in the Connected Centres Programme.

These issues are discussed below.

**Use of "May" instead of "Must" in Clause 3.34**

As noted above, Clause 3.34 of the NPS-FM states that BOPRC "may" include an additional policy exception for urban development in Tauranga in the regional plan. The use of the word "may" implies that BOPRC have to consider the information and make a decision on whether or not to include the exception. This decision will take time, is vulnerable to legal challenge, and may not result in the Tauranga exception being included in the regional plan.

BOPRC is required to follow due procedure for making decisions, and where there is public interest consider consultation to inform decision making, consideration of risk factors, and approval by elected members. This must be in accordance with Clause 3.6 (Transparent decision-making) NPS-FM relating to recording matters considered, decision reached and specifying the reasons.

Amendments to the NPS-FM and NES-F

Tauranga City Council Feedback

**Use of Section 55 RMA to include the Tauranga exception**

It is unclear whether this Tauranga exception could be included as an amendment to the regional plan under section 55(2A) of the RMA without going through a Schedule 1 plan change process. Clause 1.7 of the NPS-FM specifically lists those policies to which section 55(2A) RMA applies – including Clause 3.22(1) (which contains the urban development policies in relation to wetlands) but excludes Clause 3.34 (Tauranga).

The framing of Clause 3.34(1), where it states: “When inserting the policy described in clause 3.22(1) into its regional plan” implies that this Tauranga exception could be included in the regional plan as an amendment under s55(2A) of the RMA. However, the absence of Clause 3.34 from the list of policies to which s55(2A) applies under clause 1.7 of the NPS-FM leaves room for doubt and challenge. This uncertainty is exacerbated by the requirement for the regional council to make a decision whether or not to include the Tauranga exception, i.e. it appears that it is to be treated differently to the policy described in Clause 3.22(1).

If section 55(2A) were not able to be used, and a Schedule 1 plan change process under the RMA was required to include the Tauranga exception, this gives rise to a number of risks of delay:

- BOPRC may determine that the plan change to include the Tauranga exception in the regional plan should be fully notified, and this takes time to prepare the necessary documentation, supporting reports, undertake consultation and Tangata Whenua participation, and full council approval for the procedure – ready for notification.
- Should submissions in opposition be received, and objections mounted at the hearing, with subsequent appeals to the decision lodged with the Environment Court, then significant delays will arise.

Because of the uncertainty around whether or not section 55(2A) applies to Clause 3.34, there is also the risk of legal challenge if BOPRC did include the exception in the regional plan using section 55(2A) RMA.

**Scope of the Tauranga exception and definition of growth areas**

Clause 3.34 specifies that the additional exception for urban development in Tauranga only applies to activities which are specifically identified in the UFTI Connected Centres Programme. However, the UFTI Connected Centres Programme includes both “planned urban growth areas” and “envisioned growth areas – 30+ years”. Although the UFTI Final Report is not a statutory document, the “planned growth areas” are based on the SmartGrowth settlement pattern, which was most recently updated in 2016 and has been agreed by all SmartGrowth partners and is the de facto spatial plan for the western Bay of Plenty sub-region.

As drafted in Clause 3.34, the Tauranga exception could be interpreted to include both the planned and envisioned growth areas. This might raise the potential for large scale earthworks being applied for in the envisioned growth areas in the short term, despite these areas not being part of the agreed settlement pattern and not anticipated for development within the next 30 years.

For the purposes of implementing the Tauranga exception, TCC recommends that additional wording is added to specify that it applies only to the “planned urban growth areas” identified in the Connected Centres Programme (i.e. the agreed SmartGrowth Settlement Pattern) and not the “envisioned growth areas – 30+ years”. The envisioned growth areas will not be subject to development within the 5-year timeframe of the Tauranga exception, and so do not require inclusion anyway.

8 July 2022

14

Amendments to the NPS-FM and NES-F

Tauranga City Council Feedback

**Timeframe for the Tauranga exception**

Given that plan changes can often take longer than expected, or even face lengthy legal challenges, before finally becoming operative, the 5 year period should be extended to 10 years as a precaution. This 10 year period would ensure that there is no interruption to urban development, should there be significant delays for the rezoning to become operative, or for the identification of land for urban development to be included in the RPS, Regional/District Plan, or FDS.

**AMENDMENT 6B - CHANGES REQUESTED:**

Amend Clauses 1.7 and 3.34 of the NPS-FM to:

- include Clause 3.34 in the list of policies to which section 55(2A) applies contained in Clause 1.7(1) of the NPS-FM,
- direct BOPRC to include the Tauranga exception and remove the need for them to make a decision, and
- extend the timeframe within which the Tauranga exception applies from 5 to 10 years

as follows:

**1.7 Application of section 55(2A) of Act**

(1) *The changes to regional policy statements and regional plans required by the following provisions of this National Policy Statement are amendments referred to in section 55(2) of the Act (which, because of section 55(2A) of the Act, means that the changes must be made without using a process in Schedule 1 of the Act):*

- (a) *clause 3.22(1) (Natural inland wetlands)*
- (b) *clause 3.24(1) (Rivers beds)*
- (c) *clause 3.26(1) (Fish passage)*
- (d) *clause 3.34(1) (Urban development in Tauranga).*

(2) *See clause 4.3(3) about changes that merely update wording or terminology.*

**3.34 Urban development in Tauranga**

(1) *When inserting the policy described in clause 3.22(1) into its regional plan, the Bay of Plenty Regional Council ~~may~~ must include the following additional exception:*

- (a) *"the regional council is satisfied that:*
  - (i) *the activity is necessary for the purpose of urban development specifically identified as a planned urban growth area in the SmartGrowth Urban Form and Transport Initiative Connected Centres Programme; and ...*
  - (ii) *the effects of the activity are managed through applying the effects management hierarchy."*

(2) *The policy described in subclause (1) must no longer be applied on the date that is 5-10 years after the date on which the National Policy Statement for Freshwater Management 2020 Amendment No. 1 comes into effect.*

**Assessment of Potential Consequences of amending Clause 3.34 as requested**

There are certain issues that may arise if Clause 3.34 is amended by replacing 'may' with 'must' as requested, to direct BOPRC to include the Tauranga exception using section 55 of the RMA and remove the need for them to make a decision. These are assessed below:

8 July 2022

15

Amendments to the NPS-FM and NES-F

Tauranga City Council Feedback

**Issue 1:** Inclusion of the Tauranga exception allows large scale earthworks applications as restricted discretionary activities prior to the plan change process under the RMA, this being a process which provides for public engagement. The issue is that by the time the plan change is considered by the wider public, the earthworks will have already changed the landform, and where existing wetlands have been impacted, the developers will have already provided enhancements and offsets.

The concern might be that the public is somehow being denied an opportunity to be involved, during the process of identifying these growth areas as suitable for rezoning for urban development. However, it is well recognised that the process followed over the years by SmartGrowth has allowed much public involvement during the process to identify these growth areas; and in recent times, there has been greater recognition of the need for urban development as soon as possible – at scale and pace. This has been the focus of the Priority Development Areas (**PDA**) group comprising a number of government agencies, local authorities and key stakeholders with an interest in environmental and urban development outcomes.

In addition to SmartGrowth and PDA processes, the planned urban growth areas in the Western Corridor (Tauriko West, Lower Belk Industrial, and Keenan Road) were all subject to a local government boundary reorganisation through the Local Government Commission (**LGC**) in 2020 and 2021. This involved public consultation, while clearly indicating the extent of the future urbanisation of these areas. In addition, Tauriko West was also the subject of a publicly notified change to the RPS which extended the urban limits to include this planned urban growth area. Further, by way of the plan change process under the RMA involving the public, Te Tumu has a Future Urban Zone, in preparation for when development can proceed in this urban growth area.

These planned growth areas have already had much public involvement, tangata whenua participation, and clearly identify these areas for urban development.

**Issue 2:** Clause 3.34 would enable applications for large scale earthworks to be lodged prior to the district plan change to rezone the land and where possible, identify any management measures required to address the effects on the natural wetlands.

Whether the growth area is zoned for residential, business or not (i.e. still rural), any application to BOPRC for earthworks to which the Tauranga exception described in Clause 3.34 NPS-FM might apply, would still have to address the applicable gateway tests, including the effects management hierarchy, and guiding principles set out in Appendices 6 and 7 of the NPS-FM for aquatic offsetting and compensation for wetlands.

BOPRC would require a robust assessment of any effects on natural wetlands, and consideration of practicable alternative locations to protect wetlands, tangata whenua engagement and cultural values assessment, before accepting that offsetting may be appropriate to achieve a superior outcome for wetland replacement and enhancement.

Waiting for all the plan changes first, before then accepting earthworks consents to be lodged will most certainly delay houses being built until well after the plan change is operative, possibly two or more years thereafter where more than 12 months is required for site preparation activities, settlement, preloading and stabilisation works. Further, plan changes can take much longer than

8 July 2022

16

Amendments to the NPS-FM and NES-F

Tauranga City Council Feedback

expected, or even face lengthy legal challenges – hence, the 5 year period available for Clause 3.34 should be extended for 10 years.

In the absence of the Tauranga exception being provided quickly for planned growth areas, the policy described in Clause 3.22(1)(c) would apply and an application for earthworks within natural wetlands and the 10m/100m setbacks would be almost certainly declined on that basis. The whole purpose of an exception for Tauranga is lost.

**Amendment 6C - Application of the 'no practicable alternative location' test to urban development**

This is addressed above under Amendment 2B: New test for urban development of 'no practicable alternative location'. TCC does not support this gateway test of 'no practicable alternative location', and instead seeks that this be replaced with BPL (as defined in option 3 in MfE's 'Report, recommendations and summary of submissions' showing the analysis of submissions to the 'Discussion Document – Managing our wetlands' [May 2022]).

This avoids the unintended outcome of any possible option being used as a practicable alternative location; and ensures a more balanced approach of assessing effects, alternatives and NPS-UD requirements for identified urban growth areas.

**6.0 Amendment 7: Include water storage in the definition of 'specified infrastructure'**

TCC supports the inclusion of any water storage infrastructure in the definition of 'specified infrastructure' under Clause 3.21(1) NPS-FM.

**7.0 Amendment 8: Include aquatic offset/compensation principles**

TCC supports in principle the inclusion of Appendix 6: Principles for aquatic offsetting and Appendix 7: Principles for aquatic compensation in the NPS-FM, and the requirement for an applicant to have regard to them pursuant to Clause 3.22(3)(b) NPS-FM.

**8.0 Amendment 10: Clarify the take, use, dam, diversion, and discharge of water**

TCC supports the amendments proposed in principle, as TCC agrees that there are situations where an activity may have no physical connection to a wetland (for example, the activity could be in a neighbouring sub-catchment, or be a small-scale discharge downstream of a wetland). The amendments proposed for Regulations 52 and 53 NES-F to delete reference to discharges are supported, as well as the amendments proposed for Regulation 54 NES-F where there is a hydrological connection between the discharge and the natural wetland, which is likely to cause an adverse effect.

A similar approach to Regulation 54 NES-F is proposed for Regulation 47(3A) NES-F as a restricted discretionary activity for discharges related to specified infrastructure; as well as for Regulation 45C(4) NES-F for urban development related discharges. This approach is also supported by TCC.

8 July 2022

17

Amendments to the NPS-FM and NES-F

Tauranga City Council Feedback

## 9.0 Consenting

### Policy Direction: 'No further loss' of wetlands/river extent and values vs 'no net loss'

Protection for wetlands and rivers is driven by the NPS-FM, which contains overarching policies for wetlands and river beds (Policy 6 and 7 respectively), and Clauses 3.22 and 3.24 which require wetland and river bed policies to be inserted into regional plans. TCC's experience of the interpretation of these policies for urban development is that there can be no loss of any wetland areas (even if replaced/restored elsewhere) but that rivers/streams can be diverted, provided that there is no loss of river bed extent and values. TCC is also concerned that the functional need test for loss of river beds is problematic for urban development, and should be changed to operational need instead.

TCC's view is that a superior environmental outcome would be achieved by the NPS-FM and NES-F adopting a 'no net loss' approach for the extent and values of freshwater bodies. This enables lower value, marginal wetland areas (for example boggy grass areas, or channeled modified watercourses) to be developed on the proviso that this would necessarily be offset by the establishment and enhancement of equivalent freshwater bodies such as wetlands and/or rivers. This provides the opportunity for development to utilise land efficiently, while ensuring no net loss, and preferably a net gain, in the extent and values of the respective wetland or river /modified watercourse.

TCC seeks the following amendments to Policy 6, 7 and NPS-FM sections 3.22 and 3.24 for no net loss:

#### CHANGES REQUESTED:

1. That NPS-FM Policy 6 (Wetlands) and Policy 7 (River beds) be amended as appropriate to adopt a 'no net-loss' approach for the extent and values of freshwater bodies, and enable recreation and enhancement of freshwater bodies, to provide greater levels of opportunity for development to make maximum use of aquatic offsetting to achieve superior environmental outcomes.
2. That similar and subsequent changes be made to the policies directed by NPS-FM sections 3.22 and 3.24 for no net loss, as appropriate.
3. Replace the 'functional need' gateway test with an 'operational need' test under the policy described in Clause 3.24(1)(a) as follows:
  - (1) *The loss of river [bed] extent and values is avoided, unless the council is satisfied that:*
    - (a) *that there is an operational ~~functional~~ need for the activity in that location; and*
    - (b) *the effects of the activity are managed by applying the effects management hierarchy.*

## 10.0 Urban Development legislation and Specified Development Areas

The Urban Development Act 2020 (UDA) has been enacted and enables development to progress through a Specified Development Project (SDP) approach under that Act rather than a through an RMA District Plan rezoning process. The proposed Clause 3.22(1)(c) NPS-FM provisions around urban growth specifically refer to operative District Plans identifying land for urban development, and not being zoned rural. We believe this may be too narrow to capture future use of SDPs and we request the wording of this section is reviewed in conjunction with Kainga Ora who are responsible for SDPs. We note that the use of a SDP is under active consideration by TCC and Kainga Ora for Tauriko West and other urban growth areas that are part of UFTI.

8 July 2022

18

Amendments to the NPS-FM and NES-F

Tauranga City Council Feedback

**Attachment 1 - Resource Consent Pathway under Proposed Changes  
to NPS-FM and NES-F Framework – 8 July 2022**

**A worked example based on a hypothetical case study**

8 July 2022

19

Amendments to the NPS-FM and NES-F

Tauranga City Council Feedback

## ATTACHMENT 1 – WORKED EXAMPLE

Resource Consent Pathway for urban development under Proposed Changes to NPS-FM/NES-F Framework, based on a hypothetical case study<sup>2</sup>

### Key Assumptions of Process and Risk Outcomes in Consenting Process Proposed:

#### Context:

On 31 May 2022, the Ministry for the Environment (**MfE**) released the Exposure draft of amendments to the National Policy Statement for Freshwater Management 2020 (**NPS-FM**), and the Exposure draft of changes to the National Environmental Standards for Freshwater 2020 (**NES-F**) for submissions by 10 July 2022.

A 'case study' (worked example) has been prepared, based on the planned urban growth areas (**UGA**) within Tauranga, particularly for Tauriko West and Te Tumu UGAs. There is a new consenting pathway for urban development in the amended NES-F, which is guided by new policy in the amended NPS-FM and applies where offsetting is possible if there is 'no net loss' and preferably a net gain in the extent and values of the wetland. The activity must also contribute to a well-functioning urban environment, be located on a site that is identified for urban development in an operative district or regional plan and is not zoned rural, have no practicable alternative location, and address the Effects Management Hierarchy (**EMH**).

The planned UGAs in Tauranga do not meet all such requirements, although an exception for urban development in Tauranga is now provided for a limited 5 year period, as long as the regional council (firstly) chooses to provides for this; and (secondly) is able to do so without using a Schedule 1 process (i.e. without procedural delays or challenges). The exception applies where the activity is necessary for the purpose of urban development specifically identified in the SmartGrowth Urban Form and Transport Initiative (**UFTI**) Connected Centres Programme<sup>3</sup>, as well as addressing EMH requirements (referred to here as the Tauranga exception).

Unfortunately, the policy direction of 'no further loss' for both rivers and wetlands (instead of 'no net loss'), combined with the functional need gateway test for rivers and the practicable alternative location test for wetlands, amongst other gateway tests required (including applying the EMH) - are so problematic and fraught with difficulty, that the proposed consenting pathway for urban development (including the Tauranga exception for urban development in Tauranga) is not workable.

Further, if Bay of Plenty Regional Council (**BOPRC**) is unwilling to include the Tauranga exception in the regional plan (noting that proposed clause 3.34 of the NPS-FM says that the regional council "may" include the Tauranga exception, not that it "must"), then the consenting pathway for development of the planned UGAs would not be viable. It is also unclear whether the Tauranga exception could be included without going through a Schedule 1 plan change process<sup>4</sup>.

<sup>2</sup> All site ownership and property details have been kept confidential.

<sup>3</sup> UFTI is a joint initiative prepared by Tangata Whenua, Smartgrowth, BOPRC, TCC, WBOPDC, Waka Kotahi NZTA, MHUD, and Kāinga Ora. The UFTI Final Report outlines the Connected Centres Programme, which includes both "planned urban growth areas" (which includes the agreed SmartGrowth Settlement Pattern) and "envisioned growth areas – 30+ years".

<sup>4</sup> s55 of the Resource Management Act 1991 (RMA) requires a local authority to amend the regional plan or regional policy statement if a national policy directs so, without using a Schedule 1 RMA process, asap.

8 July 2022

20

Amendments to the NPS-FM and NES-F

Tauranga City Council Feedback

Failure to include the Tauranga exception would mean that the planned UGAs cannot be developed (i.e. no preparatory earthworks, settlement, or preload) until after the urban zoning required becomes operative through the future plan change process<sup>5</sup>, further delaying urban development in Tauranga.

### 1. Identified Growth Area:

Subject site is within an identified growth area that has been long identified by SmartGrowth as a priority area for urban development; and the activity is critical to the delivery of a planned UGA specifically identified in the recently adopted UFTI Connected Centres Programme. The site is also identified as a 'Priority Development Area' (PDA) within the Western Bay Sub-region<sup>6</sup>, and Tauranga City Council (TCC) is required to provide for a greater supply of developable land, both zone enabled and infrastructure ready to meet this growing demand for housing and urban development. The development, upon final completion will deliver approximately 3,600 new dwellings, possibly 4,000. The subject site is still zoned rural.

### 2. Natural Inland Wetland:

Subject site has multiple areas of natural wetland identified by the ecological assessment based on the new 'Wetland delineation hydrology tool for Aotearoa New Zealand'<sup>7</sup> in supporting evidence of the hydrophytic vegetation and hydric soils assessments undertaken in accordance with MfE guidelines; and using the proposed amendments to the 'natural wetlands' definition in the NPS-FM, as follows:

**natural wetland** means a wetland (as defined in the Act) that is not:

- (a) a deliberately constructed wetland, other than a wetland constructed to offset impacts on, or to restore, an existing or former natural wetland as part of giving effect to the effects management hierarchy; or
- (b) a wetland that has developed in or around a deliberately constructed water body, since the construction of the water body; or
- (c) a geothermal wetland; or
- (d) a wetland that:
  - (i) is within an area of pasture; and
  - (ii) has ground cover comprising more than 50% exotic pasture species (as identified in the National List of Exotic Pasture Species (see clause 1.8)); and
  - (iii) is not known to contain threatened species

<sup>5</sup> The Tauriko West Plan Change has been ON HOLD since the NPS-FM and NES-F framework became operative on 3 September 2020; and has been further delayed by the uncertainty of subsequent changes proposed by MfE. The Plan Change may take a long time to be operative, even with a streamlined planning process (SPP) under the RMA.

<sup>6</sup> the PDA forum is coordinated by MHUD in partnership with a number of government bodies and Bay of Plenty local authorities (through SmartGrowth) - being tasked with enabling housing and urban development to be delivered at scale and pace, given the significant growth pressures currently faced in Tauranga as a Tier 1 urban environment under the National Policy Statement on Urban Development 2020 (NPS-UD)

<sup>7</sup> Ministry for the Environment. 2021. *Wetland delineation hydrology tool for Aotearoa New Zealand*. Wellington. Ministry for the Environment (July 2021)

8 July 2022

21

Amendments to the NPS-FM and NES-F

Tauranga City Council Feedback

**3. Impact on wetlands and modified watercourse:**

The Flood Modelling and Risk Assessment<sup>8</sup> is based on developable land levels being raised to between 7m and 9m above sea level for future housing development. Large scale earthworks are, therefore, needed to raise the future residential building platforms above the identified flood risk levels, thereby addressing natural hazards, climate change and resilience requirements for the growth area. The earthworks are part of a larger scale development programme across a number of adjoining properties, and would be staged over more than one earthworks' season, until completion. The overall volumes estimated are significant and subject to final design and volume adjusted factors, top-soil management, as well as further detailed geotechnical assessment to determine preload volumes, settlement levels and timeframes.

The earthworks require up to 5m of fill to raise the future residential building platforms above the identified flood risk levels; and thereby impacting existing wetlands and watercourses to deliver on the requirements of Council Strategy and the National Policy Statement on Urban Development 2020 (**NPS-UD**). The wetlands, as identified under the proposed definition would be impacted with full or partial drainage of the wetland due to the earthworks proposed to achieve minimum building platforms (high enough) to provide for housing, and deliver a resilient community for Tauranga.

**4. Consenting Pathway provided under National Environmental Standards for Freshwater:**

Proposed Regulation 45C under Resource Management (National Environmental Standards for Freshwater) Regulations 2020 (NES-F) provides a consenting pathway as a **Restricted Discretionary Activity (RDA)** for earthworks or vegetation clearance associated with urban development within a wetland, or within a 10m setback from a wetland. Confusingly (as the works would be further from the wetland than those classified as an RDA), earthworks would be a **Non-complying Activity** under Regulation 52 where they occur within a 10m to 100m setback from a wetland.

Consideration of applications for resource consent under Regulations 45C and 52 must have regard to relevant provisions of a regional plan (as per s104 of the Resource Management Act 1991 (**RMA**)), which would include the proposed policy required to be included in a regional plan by Clause 3.22(1)(c), as follows:

**3.22 Natural Inland Wetlands**

(1) Every regional council must include the following policy (or words to the same effect) in its regional plan:

*"The loss of extent of natural inland wetlands is avoided, their values are protected, and their restoration is promoted, except where: ...*

*(c) the regional council is satisfied that:*

<sup>8</sup> Flood heights calculated on the basis of the 100-year 2130 Wairoa River flood event combined with a 20 year tidal event. Climate change assumptions are to be based in line with MFE Coastal Hazards and Climate Change Report (BOPRC, 2019), which requires the consideration of the RCP 8.5H+ (1.59m SLR & 3.68o temperature projection) sea level rise scenario for greenfield developments. Required to address natural hazards, climate change and resilience requirements. A 70% impervious land cover assumption has been applied to the growth area.

## Amendments to the NPS-FM and NES-F

## Tauranga City Council Feedback

- (i) *the activity is necessary for the purpose of urban development that contributes to a well-functioning urban environment (as defined in the National Policy Statement on Urban Development); and*
- (ii) *the activity occurs on land identified for urban development in an operative regional or district plan; and*
- (iii) *the activity does not occur on land that is zoned in a district plan as general rural, rural production, or rural lifestyle; and*
- (iv) *there is either no practicable alternative location for the activity, or every other practicable location would have equal or greater adverse effects on a natural inland wetland; and*
- (v) *the effects of the activity are managed through applying the effects management hierarchy and, if aquatic offsetting or aquatic compensation is applied, the offsetting or compensation will be maintained and managed over time; ...*

While application of this policy would not determine the consenting pathway or activity status, the directive wording of “avoid” and “protect” would have a significant bearing on whether or not the application would be granted. In this example, the proposed earthworks impacting the wetland would occur on a site that is not identified for urban development in an operative regional or district plan<sup>9</sup>, and is currently zoned rural. The activity would therefore be inconsistent with the above policy and would almost certainly be declined on that basis.

The construction of specified infrastructure (supporting urban development) is a **Discretionary Activity** under Regulation 45, provided the gateway tests can be met, which includes the significant hurdle of demonstrating how the ‘functional need’ test can be met (if at all)<sup>10</sup>.

Clause 3.34 of the NPS-FM states that, when inserting the policy described in Clause 3.22(1) into its regional plan, BOPRC “may” include an additional exception for urban development in Tauranga, as follows:

**3.34 Urban development in Tauranga**

- (1) *When inserting the policy described in clause 3.22(1) into its regional plan, the Bay of Plenty Regional Council may include the following additional exception:*
  - (a) *“the regional council is satisfied that:*
    - (i) *the activity is necessary for the purpose of urban development specifically identified in the SmartGrowth Urban Form and Transport Initiative Connected Centres Programme; and*
    - (ii) *the effects of the activity are managed through applying the effects management hierarchy.”*
- (2) *The policy described in subclause (1) must no longer be applied on the date that is 5 years after the date on which the National Policy Statement for Freshwater Management 2020 Amendment No. 1 comes into effect.*

<sup>9</sup> BOPRC’s Regional Policy Statement (RPS) does show urban limits including the growth area, however, this is not a regional plan as required in Clause 3.22(1)(c)(ii) NPS-FM. Section 43AA of the RMA makes a clear distinction between ‘regional plans’ and ‘regional policy statements’, with separate definitions for ‘district plans’ and ‘plans’, as well as defining the difference between ‘operative’ and ‘proposed’. The NPS-UD refers to the RPS and district plans (see Policies 3, 4, 5 & 7 NPS-UD), while the NPS-FM refers (only) to regional or district plans (see Clause 3.22 NPS-FM), not the RPS.

<sup>10</sup> **functional need** means the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment [NPS-FM clause 3.21(1)]

Amendments to the NPS-FM and NES-F

Tauranga City Council Feedback

While this exception would avoid the need to apply the policy described in Clause 3.22(1)(c) as discussed above, thereby enabling consent applications under the NES-F to be granted prior to the zoning becoming operative for housing, the inclusion of the exception in the regional plan is entirely dependent on BOPRC's willingness to do so.

#### **5. Ecological Assessment undertaken:**

The ecological assessment has identified natural wetland areas on the subject site, meeting the NPS-FM definition and comprising a mosaic of low-lying areas, springs and watercourse channels – this being where the area has been recently subject to grazing and harvesting. Further field work was required to ground-truth the actual extent of natural wetland in accordance with the NPS-FM definition and the Wetland delineation protocols<sup>11</sup>.

The ecological assessment also established that there is a combination of farm drains, artificial watercourses, and also part of the modified watercourse extent - based on meeting BOPRC's Regional Natural Resources Plan (**RNRP**) definition, particularly as this area used to have wetlands long before it was drained for farming purposes. The research indicates that there was likely to have been an historic natural stream channel within a larger wetland complex. While it is difficult to determine the actual path of the historic natural watercourse, the assessment has used the defined drainage channels that traverse the subject site between/surrounding the farm paddocks.

#### **6. Effects Management Hierarchy (EMH) and Recommended Aquatic Offsetting:**

An ecological assessment has been undertaken which addresses loss of value in terms of

- ecosystem health
- indigenous biodiversity
- hydrological functioning
- Māori freshwater values
- Amenity values

The ecological assessment addresses the impact of the proposal (on both the wetlands and modified watercourse) against the EMH. The effects are deemed to be more than minor residual adverse effects which cannot be avoided, minimised, or remedied, hence the assessment recommends aquatic offsetting to achieve no net loss for both the wetland and modified watercourse. This is provided for through the Discretionary Activity status for impacts on river beds, and RDA for earthworks within wetlands and within 10m setback, and non-complying within 100m setback under NES—F.

<sup>11</sup> Ecological assessment used new 'Wetland delineation hydrology tool for Aotearoa New Zealand' in supporting evidence of the hydrophytic vegetation and hydric soils assessments undertaken in accordance with MfE guidelines, based on new 'natural wetlands' definition (Exposure draft amendments for NPS-FM 2020 and NES-F 2020)

Amendments to the NPS-FM and NES-F

Tauranga City Council Feedback

**Key Processing Issues for the Working Example Application:****Processing Issue # 1 – Delayed provision of a consenting pathway for urban development (ahead of rezoning):**

The site is located within a defined urban growth area of the SmartGrowth Strategy, TCC Long Term Plan and BOPRC Regional Policy Statement. It is not zoned for urban development in the operative City Plan, or a proposed plan change yet, nor identified in a required Future Development Strategy (**FDS**) – as there is no adopted FDS in Tauranga. The proposal is to progress an earthworks consent by the developer, in line with higher order statutory documents and will deliver a significant contribution to housing.

The intention is to lodge the earthworks consent at the same time as TCC pursues the plan change and the comprehensive stormwater consent; i.e. the earthworks will likely progress ahead of rezoning being fully processed, and becoming operative. The site has been within the Urban Limits identified in BOPRC's regional policy statement (**RPS**), however this is not a regional plan as required under Clause 3.22(1)(c)(ii) NPS-FM, and more recently, BOPRC has initiated draft Change 6 to the RPS to remove all such Urban Limit plans from the RPS (as they are required to do so to implement the NPS-UD).

**Scenario A: Proposal unable to meet policy described in Clause 3.22(1)(c) of the NPS-FM – consent almost certainly declined**

Under Regulation 45C of NES-F, the application would be RDA within the wetlands and 10m setback, but Non-complying within the 100m setback.

However, the works to develop the new growth area will be contrary to a number of grounds under the new policy described in Clause 3.22(1)(c) of the NPS-FM - and the resource consent application would almost certainly be declined as a result of the directive wording to “avoid” and “protect” - because of the following:

- Land currently zoned rural;
- Not identified for urban development in an operative district or regional plan;

If BOPRC choose not to include the Tauranga exception in the regional plan (see discussion under Scenario B below), this situation will remain until such time as the growth area is no longer zoned rural, and (also) identified for urban development in an operative regional or district plan and other tests met relating to assessment of practicable alternative locations and the EMH – i.e. all (every one) of these criteria must be met.

Effectively, as soon as the rezoning of the land for urban purposes becomes operative in the district (city) plan, it is no longer zoned rural. There is no need (either) in requiring identification in a regional plan as an alternative to the district plan to meet this consenting pathway for urban development. There may be, however, some benefit to show where urban development has both local and regional recognition/benefits, and in this case, the RPS should also be named then. In this example, the RPS contains provisions related to urban growth management, whereas the regional plan does not. The RPS is a more logical home for the identification of growth areas for urban development. The policy should also refer to an adopted Future Development Strategy to ensure future UGAs are appropriately identified as well.

Clause 3.22(1)(c)(ii) of NPS-FM should also refer to the RPS in addition to ‘operative regional or district plan’ – particularly as the NPS-UD refers to the RPS – thereby ensuring consistency and compatibility at the national policy statement level.

8 July 2022

25

Amendments to the NPS-FM and NES-F

Tauranga City Council Feedback

**Scenario B: Failure (or delay) to include the Tauranga exception in Regional Plan under Clause 3:34 NPS-FM**

Clause 3.34 of the NPS-FM states that BOPRC “may” include an additional exception for urban development in Tauranga, which would avoid the need to apply the policy described in Clause 3.22(1)(c) within 5 years of the amendments to the NPS-FM being gazetted. Given that plan changes can often take longer than expected, or even face lengthy legal challenges, before finally becoming operative, the 5 year period should be extended to 10 years as a precaution. However, there is no certainty that this exception will be included in the regional plan in a timely manner – if at all.

The Tauranga exception will offer no time benefit if procedural delays or legal challenges hold up the process to include it in the regional plan. Essentially, should there be a delay of a few months to more than a year or two (or greater), then the whole purpose of an exception for Tauranga is lost. The policy described in Clause 3.22(1)(c) would apply and an application for works within wetlands would be almost certainly declined on that basis.

As noted above, Clause 3.34 of the NPS-FM states that BOPRC “may” include an additional policy exception for urban development in Tauranga in the regional plan. By requiring BOPRC to make a decision on whether or not to include the Tauranga exception, the proposed amendments to the NPS-FM raise a number of risks, as follows:

Risk of delay:

- BOPRC may prefer to delay until a Future Development Strategy (FDS) has been completed for Tauranga, thereby adding greater certainty to the identification of such growth areas (and this might add a year or two’s delay as the FDS is only required to be completed in time to inform the 2024 Long Term Plan).
- BOPRC may prefer to wait until the extent of the urban zoning is confirmed by the Plan Change and supporting evidence (i.e. instead of the proposed large scale earthwork applications being applied for by developers in advance – while still zoned rural).
- BOPRC might see a risk in approving large scale earthworks without the certainty of the City Plan rezoning proceeding until later (especially now that the Urban Limit plans are proposed to be removed from the RPS<sup>12</sup>).

Risk of Legal Challenge:

- A legal challenge might be raised against the BOPRC decision, which might question what level of detail is available for offsetting assessments, and whether avoidance of impacts on natural wetlands has been fully tested for the overall growth area before rezoning the site for urban development – even though Clause 3.34 NPS-FM specifically requires that the effects of the activity are managed through applying the effects management hierarchy (EMH).
- Such a threat may result in BOPRC seeking all such information upfront to inform its decision, creating further delays - instead of providing for developer driven earthwork application to demonstrate how this will be met in accordance with the NPS-FM and NES-F requirements for their specific resource consent.

<sup>12</sup> Draft Change 6 to the Bay of Plenty RPS proposes to remove all reference to urban limits from the objectives, policies, and methods of the RPS, along with the associated appendices containing maps of the planned growth areas and their indicative timing. Instead, Change 6 introduces new “responsive planning” policies as required by the NPS-UD (which set out the criteria under which, out of sequence or unanticipated development would be assessed) and makes a number of consequential amendments.

Amendments to the NPS-FM and NES-F

Tauranga City Council Feedback

It is also unclear whether the Tauranga exception described in Clause 3.34 could be included as an amendment to the regional plan under section 55 of the RMA without going through a Schedule 1 plan change process. As a result, there is a further risk of legal challenge if BOPRC did decide to include the exception in the regional plan using section 55.

#### **Processing Issue # 2 – Urban development consenting pathway is unworkable**

The amendments to the NES-F provide for an application for earthworks and vegetation clearance within a wetland and within the 10m setback as RDA under Regulation 45C (and Non-complying within the 100m setback under Regulation 52), supported by the new policy to be included in the regional plan under Clauses 3.22(1)(c) and 3.34 (if BOPRC decide to do so) of the NPS-FM.

However, the consenting pathway remains highly problematic and unworkable due to likely interpretation of the gateway tests and consenting requirements by the consenting authority. This is due to the manner in which the following factors are potentially addressed during consent processing:

##### **A. Definition of ‘natural wetland’ includes wetted land in paddocks and boggy land adjoining farm drains:**

The wetland delineation methodology adopted has used 2m x 2m quadrats as a grid across the whole growth area resulting in small patches of low-lying wetted paddocks and boggy banks alongside farm drains being identified as ‘natural wetlands’, where the ground cover in these small 4m<sup>2</sup> areas has 49% or less exotic pasture species. Some of these small quadrats are adjoining, but not all – however, when loosely identified near each other, the extent of wetland identified impacts on much of the low-lying paddocks used for stock grazing, as well as along the linear banks of some of the artificial watercourses constructed for farm drainage purposes<sup>13</sup>.

Wetlands that have developed in or around a deliberately constructed water body (induced wetlands) are not ‘natural wetlands’, however under the RMA, a ‘water body’ includes a ‘river’, and a ‘river’ includes streams and modified watercourses, but does not include an artificial watercourse such as a farm drain. This leads to a perverse outcome in that, areas where wetlands have developed around a modified watercourse are excluded from the definition of natural wetlands, but wetlands that have developed alongside constructed farm drains are included.

Accordingly, the proposed site for earthworks and vegetation clearance has a large number of small, fragmented patches of natural wetlands scattered across the paddocks, and alongside farm drains to be addressed in the application using the effects management hierarchy (EMH). Due to the widely scattered presence of tiny areas across the paddocks being described as natural wetlands, the extent of natural wetlands now looks considerable, and if it is shown that each of these isolated

<sup>13</sup> Note that under s2 (Interpretation) RMA 1991, a ‘river’ means a continually or intermittently flowing body of fresh water; and includes a stream and modified watercourse; but does not include any artificial watercourse (including an irrigation canal, water supply race, canal for the supply of water for electricity power generation, and farm drainage canal), and a ‘water body’ means fresh water or geothermal water in a river, lake, stream, pond, wetland, or aquifer, or any part thereof, that is not located within the coastal marine area. Therefore, induced wetlands from a constructed farm drain is not covered by reference to a ‘river’ or ‘waterbody’.

8 July 2022

27

Amendments to the NPS-FM and NES-F

Tauranga City Council Feedback

patches must be avoided (under the EMH), this will undermine the ability to provide a cohesive extent of developable land with an appropriate shape supportive of high density that can achieve a good urban form and the desired yield – this being in relation to the volume of earth-worked fill required, infrastructure needed, and cost of development.

**B. Highly mobile threatened species:**

The definition of ‘natural wetlands’ excludes wetlands (as defined in the RMA) in pasture which have ground cover comprising more than 50% exotic pasture species and is not known to contain threatened species. The ecological assessment undertaken did not identify any threatened species through the survey conducted, but noted certain rare species were present. It is not clear however, if a comment is made stating that certain threatened species might pass through this area once in a while (either by conjecture, or hearsay); and whether reference to ‘contain threatened species’ means any threatened species that are highly mobile and might come to this area briefly could meet this definition.

The risk is that either the applicant must undertake extensive surveys to prove there are no threatened species, or the significance of the natural wetland area is elevated on the premise that threatened species might visit briefly – even if just once in a while (i.e. they are highly mobile and travel all over the place). This uncertainty and risk could be avoided if the definition referred to ‘containing resident and/or breeding and/or juvenile rearing threatened species’.

**C. Assessment of practicable alternative locations open to interpretation:**

The gateway test contained in the policy described in Clause 3.22(1)(c)(iv) is not specifically a ‘best practicable location’ approach - but rather requires the applicant to demonstrate that there is either no practicable alternative location for the activity, or that every other practicable location would have equal or greater adverse effects on a natural inland wetland. This requires a significant amount of work which is fraught with failing to actually prove there is no practicable alternative given that any other alternative which is possible (even at significant cost, lower quality of urban form, or much reduced yield) could be deemed to be a practicable alternative<sup>14</sup>.

For example, it may be shown that there is still some land available for housing (left over) by keeping all the natural wetlands (identified across the development area) in their current state (be they low lying paddocks or boggy ground near farm drains). This would also require the existing ground level to be maintained for continued groundwater connectivity. However, this means a 1:6 (easily mowable) gradient being maintained from current ground level and up to 9m above sea level (in this example, for flood risk purposes required for habitable homes, natural hazards, climate change and resilience). The effect of this gradient is that for every 5m of increased height, a further 30m of stabilised slope is required (measured horizontally, right around the wetlands); and this is to surround every individual area protected at existing ground level as natural wetlands.

<sup>14</sup> Under the RDA matters to which discretion is restricted, Regulation 56(b) NES-F requires a similar assessment of practicable alternatives to avoid the wetlands. Essentially, the applicant will still need to address this requirement and the EMH as part of the assessment of environmental effects and any offsetting proposal.

Amendments to the NPS-FM and NES-F

Tauranga City Council Feedback

Further, additional land would be required for treatment of stormwater runoff, prior to discharge to these wetlands. Each wetland would (also) require a channel for drainage purposes, to manage large rainfall events, and the channel would require stabilised slopes at 1:6 gradients (on both sides) as well, for the corridor (linking with other wetland areas en-route) and ultimately, leading to the Wairoa River. Pumps may even be required.

Effectively, the fabric of the landform will result in a heavily incised and fragmented landform which will be difficult (costly) to access and service. Each wetland (remaining at ground level) will be required to continue to drain naturally while also not being inundated with increased stormwater runoff from developed areas. The (surrounding) raised 'housing area' will have pockets of land where high density may be possible, however, much of the land's integrity for a high yield is dramatically compromised - due to the fragmented edges, and services/roads having to circumnavigate around these 'holes' and 'incised corridors' (this being both difficult and expensive) – resulting in a lower quality of urban form and reduced residential amenity.

However, a consent authority could still argue that under the 'effects management hierarchy' these 'natural wetland patches' must be avoided, and the remaining balance land can still provide for some housing – even though the developable land extent is significantly reduced, bisected, or otherwise compromised. To further support that position, a consent authority could direct an applicant to focus on very high density as a way to bring the yield total up despite a smaller developable land extent. Hence, an alternative practicable location could be suggested as using all remaining land (avoiding wetlands) with a much higher density.

For example, where a staged area of say 60 hectares of consolidated developable land was (originally) proposed for earthworks, the potential yield at an average of 25 dwellings per hectare<sup>15</sup> would be 1,500 dwellings, possibly greater where the landform 'shape' was able to sustain higher densities within the urban form – possibly up to 40 dwellings per hectare on some sites, with townhouses, duplexes or apartments.

The landform can sustain very high densities with an attractive urban form where the 'shape' provides for a wide spacious extent of developable land; i.e. not thin strips of linear, or narrow horse shoe shaped or irregular areas of varying widths of land. Unfortunately, due to the extent of scattered wetlands identified well within the site area causing a fragmented and incised landform, this could see over half of the site area not being able to yield any housing - once all of the wetland and stream protection requirements and additional treatment devices are taken into account.

Should there only be, say 30 hectares remaining for housing, and this being spread thinly around the protected natural wetlands at a much higher elevation, the resulting yield is more like 10 – 15 dwellings per hectare near the sloping edge areas, and possibly up to 25 hectares in those locations where the shape factor supports higher density. If for example, there is 5 hectares at 10 – 15 dwellings/Ha (75 dwg yield), and 25 hectares at 25 dwellings/Ha (625 dwg yield), the total yield would be approximately in the order of 700 dwgs (compared to the original yield of 1,500 dwgs proposed). The extent of roading, and linear provision of water supply, wastewater and cables would be similar to what is required for the originally estimated 1,500 dwellings, although the capacity of pump stations and pipe size diameters may be reduced a little. Either way, the cost for infrastructure and access remains too high for only 700 dwellings (across 60 hectares), and the extent/cost of earthworks required to create 1:6 stabilised slopes also remains excessive.

<sup>15</sup> Note the yield might be lower in those areas adjoining escarpments and open space reserve slopes, but higher in larger areas with a good shape - hence the average of 25 dwgs/ha being applied.

8 July 2022

29

Amendments to the NPS-FM and NES-F

Tauranga City Council Feedback

Essentially, the economic feasibility of this reduced outcome would not stack up, and the development would fail to proceed. In this example, should any of this land be required for schools, community facilities and sports fields (all of which are essential for a well-functioning urban environment) or the future state highway upgrade corridor, then the estimated yield will be substantially lower than 700 dwellings.

Faced with such an obviously negative outcome, the consent authority could then run a different argument, insisting that all of the remaining 30 hectares of developable land should have a very high density of 40 dwellings per hectare to achieve a yield of 1,200 dwellings - even though this isn't realistic (practicable) for the developers to achieve; due to the resulting fragmented/incised landform, the diminishing shape factor, poor urban form, and numerous 3 storey walk up buildings, and apartment blocks (being 5 stories or higher with lifts)!

Nonetheless, the consent authority may argue that this would still constitute a 'practicable alternative location for the activity' in terms of applying the policy described in Clause 3.22(1)(c)(iv) – and which could be supported by the following factors/high level principles:

- 40 dwellings per hectare is seen as a more efficient use of land, taking up less space;
- The 'green' areas with large sloping grassed banks and natural wetland areas down below support 'low impact design' (LID) principles for stormwater management and treatment;
- The large 'green' areas enhance the amenity value, protect the extent of current wetlands identified and enhance indigenous biodiversity;
- Higher densities enhance more 'walkable communities' and the '15 minute city' concept;
- Higher densities lead to increased active transport (walking, scooters and cycling);
- Higher densities enhance increased public transport patronage;
- Higher densities facilitate modal shift to public and active transport more easily;
- The benefits of modal shift and decreased dependency on the private vehicle include a reduction in greenhouse gas emissions, and reduced 'vehicle kilometres travelled' (VKT), thereby supporting Carbon Zero initiatives and the Emission Reduction Plan (ERP).

The developers would argue that this is not a practicable alternative location, given the fragmented/incised effect, and the inefficiencies involved with extensive roading that does not have a consistent residential frontage, extensive services and significant earthworks - plus associated development cost increases, and the narrowness of the (remaining elevated) developable land, resulting in poor urban form for such a high density, as required for the proposed high density yield of approximately 1,200 dwellings. Further, this is a theoretical yield which will be reduced through the loss of developable land for the future state highway long term upgrade, sports fields and schools/community facilities.

To counter this position, the applicant would need to demonstrate how offsetting the impact on these wetlands (in the paddocks and farm drain banks) in accordance with Appendix 6 NPS-FM, and meeting the time period required by the policy described under Clause 3.22(1)(c)(vi) NPS-FM (for maintenance and management) would achieve a superior outcome with the enhancement of other wetlands – this being the preferred outcome.

Meanwhile, the consent authority might remain unconvinced – having identified how to completely avoid the extent of natural wetlands shown (across the paddocks and along farm drain banks), and achieve the environmental benefits set out above (LID, VKT, ERP, etc) with their example of a practicable alternative location and estimated high density yield of 1,200 dwellings!

8 July 2022

30

Amendments to the NPS-FM and NES-F

Tauranga City Council Feedback

In such a situation, the applicant is unable to demonstrate that they can provide a superior outcome for natural wetlands through offsetting; and worse, the economic feasibility of this alternative will not stack up financially, and the development will not proceed. The possibility of (ultimately) providing for 3,600 – 4,000 dwellings as a staged development in this growth area will be lost; and along with it, all the government funding secured to date to unlock large areas for housing at pace and infrastructure ready.

### Processing Issue # 3 – Risk that filling in modified watercourse with proposed recreated stream for aquatic offsetting fails to meet gateway tests

Policy IM P1A of the Bay of Plenty Regional Natural Resources Plan (RNRP) – as it would be amended by the proposed changes to the NPS-FM<sup>16</sup> - states that:

*IM P1A The loss of river [bed] extent and values is avoided, unless the council is satisfied:*

- (a) that there is a functional need for the activity in that location; and*
- (b) the effects of the activity are managed by applying the effects management hierarchy.*

*For the purposes of this policy, effects management hierarchy and loss of value have the meaning given by the National Policy Statement for Freshwater Management 2020 [and Amendment Number 1 to the NPS-FM 2022].*

The applicant must also address the impact on the modified watercourses (included in the definition of river under the RMA<sup>17</sup>), as well as on natural wetland. The applicant will have to show that after 5m of fill, the existing modified watercourses will be replaced by a recreated stream designed to flow at a higher elevation (above flood risk levels) – and ensure that the extent and values of the former watercourse (river bed) are maintained, as a minimum.

By retaining the same modified watercourse link to the Wairoa River, diverting the watercourse through the newly raised developable land area, maintaining groundwater connectivity, and riparian planting/habitat provision, the loss of extent and values will be avoided – and therefore, there would be no need to address any gateway tests. This approach avoids having to demonstrate functional need, assuming the consent authority accepts this position.

However, if the consenting authority does not accept this position, then proving functional need to fill in a 'river bed' in this location for housing development will be problematic, potentially even a fatal flaw. The consent authority will likely judge the merits of the case before it, and not place weight on case law unless it is exactly the same situation to the case in point. The consent authority may also place greater weight on the potential value of a modified watercourse than the applicant, by seeking a much greater offset than proposed.

<sup>16</sup> Exposure draft NPS-FM proposes that 'rivers' be amended to 'river beds' – additions identified with [ ].

<sup>17</sup> Section 2 Interpretation - RMA: **river** means a continually or intermittently flowing body of fresh water; and includes a stream and modified watercourse; but does not include any artificial watercourse (including an irrigation canal, water supply race, canal for the supply of water for electricity power generation, and farm drainage canal):

Amendments to the NPS-FM and NES-F

Tauranga City Council Feedback

**Key issues for impacts on a river / stream / modified watercourse:**

- Failure to meet functional need test for a modified watercourse being filled in at that location, and then relocated, means consent declined.
- Risk of potential value being determined on significant enhancement works, and a higher than necessary ratio being applied by the consent authority.

Note that the RNRP has an amendment required by the National Planning Standards 2019:

Definition of Terms - new term, 'functional need' inserted:

- ***Functional need*** - means the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment.

**Processing Issue # 4 – Risk that proposal is deemed to be contrary to the objectives and policies**

The amendments to the NES-F provide for an application for earthworks and vegetation clearance as a **Restricted Discretionary Activity** under Regulation 45C within the wetlands and 10m setback. However, the earthworks within 100m setback of the wetlands are **Non-complying** under Regulation 52 NES-F. This will require full assessment of the particular restrictions for non-complying activities under s104D RMA:

- The effects will be minor, OR
- The application for the activity will not be contrary to the objectives and policies of the relevant plan provisions.

In addition to the new urban development policy which is to be included in the regional plan under Clauses 3.22(1)(c) and 3.34 (if BOPRC decide to do so) of the NPS-FM (and discussed above), there are additional relevant provisions in the NPS-FM policy framework which would apply to this example – as follows:

**Policy 6:** *There is no further loss of extent of natural inland wetlands, their values are protected, and their restoration is promoted.*

**Policy 7:** *The loss of river bed extent and values is avoided to the extent practicable.*

**3.24 River beds**

(1) *Every regional council must include the following policy (or words to the same effect) in its regional plan(s):*

*“The loss of river bed extent and values is avoided, unless the council is satisfied that:*

- (a) that there is a functional need for the activity in that location; and*
- (b) the effects of the activity are managed by applying the effects management hierarchy.”*

8 July 2022

32

Amendments to the NPS-FM and NES-F

Tauranga City Council Feedback

The application is required to address both the (respective) s104D gateway tests for wetlands, and for river beds where modified watercourses are involved. At the same time the application must demonstrate that it is consistent with the NPS-FM policy direction of avoiding further loss; i.e. no further loss of extent for wetlands, and their values protected, etc. The policy framework uses language requiring the avoidance of loss and does not actually say, 'no net loss'.

*Note: If the applicant is able to follow the Effects Management Hierarchy and demonstrate (through full assessment of every step, from avoid to minimise, to remedy) that only aquatic offsetting is appropriate, then there is opportunity to demonstrate no net loss, even net gain.*

There is a risk that the consent authority might interpret aquatic offsetting as (only) being achieved where the existing wetland can still maintain the extent and values (through on-site enhancement works), i.e. the offsetting cannot be achieved by other (different) wetlands being constructed/enhanced elsewhere on the site or nearby.

The applicant is, therefore, required to build a case using S104(1)(ab) RMA - which states that the consent authority must, subject to Part 2, have regard to, "any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity". The application would also need to address any case law related matters relating to any Part 2 RMA assessment, and whether the RNRP provisions of 'no further loss' leave little room for Part 2 RMA to influence the consent authority's decision; i.e. these RNRP provisions have been properly prepared having regard to Part 2 RMA and the national direction set under the NPS-FM.<sup>18</sup>

**Key Issues:**

- The applicant faces uncertainty and the risk of a lengthy / costly process to (firstly) try to meet the Non-complying tests under s104D RMA for the wetlands impact within 100m setback, and (secondly) the functional need test for river beds - and be consistent with the policy framework of avoiding loss of extent and values, to then address the Effects Management Hierarchy, and then determine whether the application should be fully notified regarding any aquatic offset or compensation proposed for 'no net loss'; OR
- The consent authority deems the application to be contrary to the policy framework of no further loss, and consent is declined.

Note: The first Key Issue appears not possible to achieve so this step cannot be undertaken through the consent processing – and consent would be declined.

<sup>18</sup> On 21 August 2018 the Court of Appeal released its decision of *RJ Davidson Family Trust v Marlborough District Council* [2018] NZCA 316, which clarifies how Part 2 of the RMA should be considered in resource consent applications. The Court of Appeal agreed with the High Court that allowing plans to be rendered ineffective by general recourse to Part 2 is inconsistent with the scheme of the RMA, provided that the plans have been properly prepared having regard to Part 2. However, the High Court was incorrect to apply the reasoning in *King Salmon* with equal force to resource consent applications. Rather, the implications of *King Salmon* in resource consent applications are that proper application of relevant plans may leave little room for Part 2 to influence decisions.

8 July 2022

33

Amendments to the NPS-FM and NES-F

Tauranga City Council Feedback

**Processing Issue # 5 – Risk that Application is to be fully notified**

The result of the wetland delineation process (extent of scattered small patches of pasture wetlands and farm drain margins), and when considering the scale of earthworks proposed, and magnitude of potential loss in extent and values of wetlands requiring offsetting, as well as being challenged on whether there is no practicable alternative location (as described above) and therefore, not convincingly being able to step through all the gateway tests for wetlands, as well as the functional need test for rivers - will likely result in full public notification.

While the earthworks and vegetation clearance are a **Restricted Discretionary Activity** under Regulation 45C NES-F within the wetlands and 10m setback, the re-creation of a modified watercourse is a **Discretionary Activity** under Regulation 57 NES-F (reclamation of river beds), and the earthworks within 100m setback of the wetlands are **Non-complying** under Regulation 52 NES-F. Any bundling of the consent status applicable to this application would show that it is all deemed to be **Non-complying** as the most onerous consent trigger.

This seems contrary to the intent of providing a specific consenting pathway for well-planned urban development, supported by the new urban development policy to be included in the regional plan under Clauses 3.22(1)(c) and 3.34 (if BOPRC decide to do so) of the NPS-FM.

Notification places time, cost and risk on the progression of the development proposed; and may impact, if the consent cannot be granted, on the viability of the entire growth area. It may also affect Central Government and local authority funding of infrastructure already in place to progress with the planned UGA.

**Key issues:**

- No certainty of outcome;
- Risk to viability of structure plan and wider settlement pattern;
- Opens up process to wider parties, who may be opposed to urban growth or seek to provide significant levels of scrutiny on wetland protection and higher ratio offsetting;
- Risk of increased costs and timeframes;
- Likely opposition received to application, and use of existing policy approach to oppose project

8 July 2022

34

Amendments to the NPS-FM and NES-F

Tauranga City Council Feedback

## Attachment 2 – Context

Tauranga is New Zealand's fifth-largest city and subject to significant and rapid growth. As a Tier 1 urban environment under the NPS-UD, TCC is required to provide for a greater supply of developable land, both zone enabled and infrastructure ready to meet this growing housing and business land demand. The NPS-UD is administered by MfE, with support from Te Tūāpapa Kura Kāinga - Ministry of Housing and Urban Development (MHUD). The NPS-UD sets out the national direction for urban development under the Resource Management Act 1991 (RMA), and councils must give effect to these objectives and policies.

Tauranga's growth opportunity is significantly constrained by the topography and coastal setting – where city development is restricted to the east by the coast, and by multiple harbour estuaries which effectively spread the city out along northern, western and eastern corridors. Hence, opportunities for new urban growth areas are limited and faced with a number of key challenges / competing priorities. This includes the ability to increase the extent of developable land through large scale earthworks and land development, as well as to service the growth areas for housing and industrial/commercial development; in order to meet its short, medium and long-term obligations under the NPS-UD, while at the same time sustaining a quality natural environment.

TCC has two main future urban growth areas, Te Tumu and Tauriko West, currently within the Urban Limits set out in the Bay of Plenty Regional Council's (BOPRC) Regional Policy Statement (RPS); and both have been long-identified by SmartGrowth as priority areas for urban development, which are critical to the delivery of the recently adopted Urban Form & Transport Initiative (UFTI).

UFTI is a joint initiative prepared by Tangata Whenua, Smartgrowth, BOPRC, TCC, Western Bay of Plenty District Council, Waka Kotahi NZTA, MHUD, and Kāinga Ora. More recently, both urban growth areas have been identified as 'Priority Development Areas' (PDA) within the Western Bay Sub-region, along with other growth areas in Te Papa, Omokoroa and Rangiuru. The PDA forum is coordinated by MHUD in partnership with a number of government bodies and local authorities within this sub-region of the Bay, being tasked at enabling housing and business development areas to be delivered at scale and pace, given the significant growth pressures currently faced.

TCC is committed to delivering developable land within these growth areas as fast as possible, while ensuring a quality natural environment is maintained; and therefore, supports the direction of the NPS-FM and NES-FW provisions for protection and enhancement of New Zealand's remaining wetlands. However, this needs to be undertaken in a way that enables multiple objectives, including growth and environmental, to be met.

TCC's experience to date is that the NPS-FM and the NES-F have, in combination, created a significant impediment to the efficient development of Tauranga's two strategic growth areas: Te Tumu and Tauriko West. The NPS-FM and NES-F requirements currently bring into question the whole viability of these two growth areas; particularly when considering the natural inland wetland definition and the way extensive areas are likely caught through the wetland delineation methodology of 2m x 2m quadrat vegetation assessments, combined with a highly restrictive regime of Prohibited and Non-complying status for housing development works - that may affect wetland drainage both within the wetlands and their respective 100m setbacks.

It is noted that within Tauranga that TCC some ten years ago protected its special ecological areas (areas of significant fauna and flora), of which many are wetland areas. In stating this it needs to be recognised that TCC is not opposed to, but welcomes the continued protection of these areas, as

8 July 2022

35

## Amendments to the NPS-FM and NES-F

## Tauranga City Council Feedback

wetlands and other wetlands through New Zealand which have value, both in terms of size, significance and value. In regard to TCC's submission it is the smaller areas of relatively little ecological significance that are of concern, as well as the restrictive cascade of policy and environmental standards which result once an area is identified as a wetland, and how TCC is seeking a 'no net loss' approach to achieve superior outcomes through offsetting, enhancement and protection of the larger wetland areas established along river margins or gulley areas.

Amendments to the NPS-FM and NES-F

Tauranga City Council Feedback

**Attachment 3 - Memorandum: 'Proposed change to definition of natural wetland' by Boffa Miskell, dated 6 July 2022**

8 July 2022

37



## Memorandum

<input checked="" type="checkbox"/> <b>Auckland</b> Level 3, IBM Centre 82 Wyndham Street Auckland 1010 PO Box 91250 Auckland 1142 +649 358 2526	<input checked="" type="checkbox"/> <b>Whangarei</b> 35 Walton Street Whangarei 0110 +649 358 2526	<input type="checkbox"/> <b>Tauranga</b> PO Box 13373 Tauranga 3141 +647 571 5511	<input type="checkbox"/> <b>Hamilton</b> PO Box 1094 Hamilton 3240 +647 960 0006
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Attention:	Richard Harkness
Company:	Tauranga City Council
Date:	6 July 2022
From:	Boffa Miskell
Message Ref:	Proposed change to definition of 'natural wetland' in NPS-FM 2022
Project No:	T18140

### Introduction

Boffa Miskell have undertaken ecological and wetland assessments for two key growth areas within Tauranga City: Te Tumu Urban Growth Area; and Tauriko West Urban Growth Area. Following the gazettal of the National Policy Statement on Freshwater Management (NPS-FM), Boffa Miskell completed two key assessments ("the assessments"):

- Te Tumu urban growth area: Preliminary wetland survey. Report prepared by Boffa Miskell Limited for Tauranga City Council, version 1, 27 January 2021 (BML Te Tumu 2021).
- Tauriko West urban growth area: Preliminary wetland survey. Report prepared by Boffa Miskell Limited for Tauranga City Council, version 1, 31 March 2021 (BML Tauriko 2021).

"The Assessments" identified potential wetlands within both Urban Growth Area's which were likely to meet the definition of a natural inland wetland under the NPS-FM 2020. These assessments were revised following the release of the "discussion document" 'Managing our wetlands: A discussion document on proposed changes to the wetlands regulations'. The "discussion document" proposed changes to the definition of a natural inland wetland, which varies from that of the original definition currently provided for in the NPS-FM 2020. In addition, since the time of these assessments being completed a 'wetland delineation hydrology tool' (July 2021) has been released and is now available for use in identifying natural inland wetlands'.

In June 2022, MFE released a revised exposure draft of amendments to the NPS-FM 2020. Tauranga City Council (TCC) would now like to test the proposed amendments to the definition of a natural wetland against the work previously undertaken by Boffa Miskell to determine what the actual changes may mean in regard to the previously identified wetlands, their extent, and likelihood of these features being defined as natural inland wetlands under the proposed revised definitions. The outputs will be used to inform the TCC submission on the proposed amendments. The review work is a desktop-only assessment.

### National pasture species list

The definition of 'natural wetlands' excludes wetlands (as defined in the RMA) that occur '*within an area of pasture and has ground cover comprising more than 50% exotic pasture species (as identified in the National List of Exotic Pasture Species)*'.

The draft national list of exotic pasture species comprises commercially available grasses and legumes, a selection of plants historically sown as forage species, and a few species that may have productive potential as fodder plants but are not widely cultivated in New Zealand. All non-forage species that commonly occur in pasture are excluded, as are fodder crops (e.g., beets and brassicas) that could be cultivated in seasonally wet sites. All wet-tolerant (OBL or FACW) exotic grasses are excluded, including common and widespread species such as Mercer grass that were intentionally established to increase the productivity of seasonally wet sites.

In summary, evaluation using the draft list of specified pasture species will exclude substantial areas (both wet and dry) that are routinely used to graze livestock and would intuitively be regarded as pasture. Furthermore, the decision to leave all species tolerant of wet conditions off the list rather defeats the purpose of the 'pasture exclusion' to the natural wetland definition, as no sites that meet the definition of pasture using this list would qualify as wetlands.

We consider that the list of pasture species should reflect common species of pasture, including wet-tolerant and non-forage species, in order to avoid situations where landowners technically in breach of NES regulations in the course of routine farm operations such as cultivation and pasture management. We consider that further work needs to be undertaken to compile a list that is representative of pasture communities throughout New Zealand, taking into account regional variations.

### Threatened species

The definition of 'natural wetlands' excludes wetlands (as defined in the RMA) in a *pasture which have ground cover comprising more than 50% exotic pasture species ..... and is not known to contain threatened species*.

We note that 'threatened species' is defined in the NPS-FM (clause 1-4) but note also that the definition requires that a threatened species '*relies on water bodies for at least part of its life cycle*'. The term 'life cycle' is not defined but can be considered to mean 'the series of changes and developments that it passes through from the beginning of its life until its death'<sup>19</sup>. Essentially this means at any single, some or all stages of life from hatching/rearing/juvenile growth/dispersion/adulthood/reproduction/nesting may be applicable.

We are concerned that the term 'contain' is ambiguous and will be subject to different and potentially conflicting interpretations. Whilst we accept 'contain' as purposeful for resident flora (permanently growing and present), it is a much more difficult term to apply to fauna that may disperse amongst a variety of different locations and ecosystem types. Thus, a transient or occasional visitor for a short period (or a series of short periods) for feeding or dispersal purposes would potentially be accepted as 'contain' for the purpose of defining a natural wetland.

Furthermore, the ambiguity of 'not known to contain' is equally vexed. The risk is that either the applicant must undertake extensive surveys to prove there are no threatened species, or the significance of the natural wetland area is elevated on the premise that threatened species might visit briefly. Indeed, incidental sightings of threatened birds in transit are common in many wetland areas and wet pasture (and incidentally in constructed wetlands).

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<sup>19</sup> Collins dictionary

We suggest that part (iii) of the wetland exclusion would be better expressed with more specificity to make it clear whether incidental visits by transient individuals is part of the life cycle OR to specify 'contain resident and/or breeding and/or juvenile rearing' threatened species.

**Induced wetlands caused by constructed farm drains are still caught by the natural wetlands definition**

The NPS-FM clarifies that wetlands that have developed in or around a deliberately constructed water body or since the construction of the waterbody are excluded as a 'natural wetland'. However, under the RMA, a 'water body' includes a 'river', and a 'river' includes streams and modified watercourses but does not include an artificial watercourse such as a farm drain (deliberately constructed).

We consider that there is inconsistency and a lack of clarity with exclusion (b). Only those areas where wetlands have developed around a deliberately constructed waterbody meet the exclusion from natural wetlands, whereas those that have developed within or alongside equally deliberately constructed artificial farm drains (but not a modified waterbody) would fail the exemption.

We consider that the exclusion (b) should be consistently applied to all deliberately constructed watercourses and not just those that meet the definition of a waterbody under the RMA.

**Advise if under the new (proposed) wetland definition, which intentionally excludes constructed wetlands and induced wetlands, means that some of the (desk top wetland) areas might no longer be included anymore, i.e. where identified in the desk top assessment as being induced from artificially constructed drains – and confirm if any more of the low to moderate probability sites may well now be excluded on this basis**

Following the gazettal of the National Policy Statement on Freshwater Management (NPS-FM), Boffa Miskell completed two key assessments ("the assessments"):

- Te Tumu urban growth area: Preliminary wetland survey. Report prepared by Boffa Miskell Limited for Tauranga City Council, version 1, 27 January 2021 (BML Te Tumu 2021).
- Tauriko West urban growth area: Preliminary wetland survey. Report prepared by Boffa Miskell Limited for Tauranga City Council, version 1, 31 March 2021 (BML Tauriko 2021).

These "Assessments" identified potential wetlands within both Urban Growth Area's which were likely to meet the definition of a natural inland wetland under the current NPS-FM and following the "discussion document" 'Managing our wetlands: A discussion document on proposed changes to the wetlands regulations'. The assessments identified potential wetland features at the two locations with a low to high assessment of likelihood of meeting the criteria as a natural inland wetland.

**Te Tumu Urban Growth Area Natural Wetland Area Review**

The proposed Te Tumu urban growth area is comprised of 740 ha of land between Pāpāmoa East and the Kaituna River mouth. Our most recent revised assessment retained four features and complexes as having a high likelihood with a further three retained at medium likelihood of meeting the proposed NPS-FM natural wetland definition. However, four features and complexes have been moved to medium likelihood with a further two re-classified from medium to low likelihood due to the prevalence of pasture species.

We do not anticipate any changes resulting from the revised clarification of what constitutes a deliberately constructed wetland (or the potential for a farm drain to be included in this definition). We note that farm drains were not typically included as wetlands in our previous assessment.

Any changes in assessment of wetland status at Te Tumu is likely to arise from the mix of pasture species assessed from a delineation and compared to the national list of pasture species, especially

at the sites with low to medium likelihood of meeting the NPS-FM wetland definition. In the absence of specific information on the pasture species present at each of the features, our assessment of the likelihood of a feature meeting a wetland definition remains unchanged.

#### **Tauriko West Urban Growth Area Natural Wetland Review**

Tauriko West urban growth area is comprised of 340 ha of rolling hills, gullies and low-lying floodplains of the Wairoa River. Our re-assessment of vegetation assemblages retained three features and complexes as having a high likelihood with four retained at medium likelihood of meeting the proposed NPS-FM natural wetland definition. However, two features and complexes were moved to medium likelihood with a further three re-categorised from medium to low likelihood due to the prevalence of pasture species.

We do not anticipate any changes to our most recent desktop classification resulting from the revised clarification of what constitutes a deliberately constructed wetland (or the potential for a farm drain to be included in this definition). We note that farm drains were not typically included as wetlands in our previous assessment.

Any changes in assessment of wetland status at Tauriko West is likely to arise from the mix of pasture species assessed from a delineation and compared to the national list of pasture species, especially at the sites with low to medium likelihood of meeting the NPS-FM wetland definition. In the absence of specific information on the pasture species present at each of the features, our assessment of the likelihood of a feature meeting a wetland definition remains unchanged.



**Submission to the Ministry for the  
Environment**

**Exposure Draft for the National Policy  
Statement for Indigenous Biodiversity**

**July 2022**

## Executive Summary

Tauranga City Council (TCC) supports the intent of the National Policy Statement on Indigenous Biodiversity (NPSIB) to protect, maintain, and restore indigenous biodiversity. TCC is committed to identifying and protecting indigenous biodiversity and is already doing so through existing regulatory and non-regulatory tools and investment.

With expected population growth of 66,900 over the next thirty years, TCC is required to provide sufficient development capacity under the National Policy Statement on Urban Development (NPSUD). Despite extensive planning for intensification of existing urban areas and new urban growth areas in conjunction with SmartGrowth partners and central government, TCC currently has a significant shortfall in urban development capacity.

TCC is concerned that, as drafted, the NPSIB is likely to delay, negatively impact, or even prevent urban development in Tauranga at the pace and scale required to meet the requirements of the NPSUD. Details of these concerns are discussed in our submission, and summarised below:

- There is significant uncertainty around application of the NPSIB and consistency with existing national direction under the Resource Management Act 1991 (RMA), including the New Zealand Coastal Policy Statement (NZCPS) and the National Policy Statement for Freshwater Management (NPSFM). Guidance on how to resolve conflicts between NPSs is critical.
- The criteria for identifying Significant Natural Areas (SNAs) uses subjective terminology and terms that are too broad, ill-defined and open to interpretation, which could lead to large areas of marginal vegetation and habitat requiring protection under these provisions. These should be better defined to improve accuracy and reduce costs in relation to identifying SNAs.
- Flexibility is required to enable adverse effects on SNAs from activities associated with urban development to be considered through the effects management hierarchy (as per the NPSFM), removing the directive policy requirement to “avoid” specific adverse effects on SNAs which could prevent development of TCCs planned urban growth areas.
- Greater certainty is required around the management of highly mobile fauna areas and biodiversity outside SNAs using the effects management hierarchy, particularly where multiple species, with differing behaviours and requirements, will be present across the same area. Maps and descriptions of these areas must be included in the relevant plans to allow for clarity on what areas are affected.
- Roles and responsibilities of regional and district councils must be more clearly defined to reduce complexity and double-up in the implementation of the NPSIB. The planning process must also reflect the hierarchy of national planning instruments and the timeframes required.
- The NPSIB should be aligned with the emerging resource management reform programme and the consolidation of national direction into a National Planning Framework (noting that this is likely to take place during the first phases of NPSIB implementation).
- There is a lack of adequate funding and non-financial support from central government to implement the requirements of the NPSIB, including resourcing tangata whenua to actively participate in the processes.

It is proving difficult for TCC to deliver on all of the national policy directives (NPSIB, NPSFM, NPSUD) as there is no hierarchy of importance and no clear guidance on how trade-offs are to be managed. It is becoming evident that there is simply not enough land within the TCC jurisdiction to meet the NPSUD requirements given the direction in the various NPS documents and other requirements (including recognition of cultural and archaeological sites, and addressing natural hazards).

TCC would welcome the opportunity to work directly with Ministry for Environment (MfE) officials and collaborate on the implications this NPSIB has for Tauranga.

## Introduction

1. Tauranga City Council (TCC) welcomes the opportunity to submit on the Exposure Draft for the National Policy Statement for Indigenous Biodiversity (NPSIB). TCC is happy to discuss this submission, or to provide additional information that would be of assistance. Please direct any enquiries to:

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2. TCC supports the overall intent of the NPSIB and its objective to protect, maintain, and restore indigenous biodiversity.
3. However, TCC has identified several issues under this NPS that raise concern and that it considers will impact on its ability to meet obligations set out within other national direction documents. As part of its feedback on the NPSIB, TCC commissioned Boffa Miskell Ltd (BML) to undertake a review of the provisions of the NPSIB and to consider the proposed provisions to TCCs urban growth areas in Te Tumu and Tauriko West. This review is attached as Appendix 1 to this submission.
4. TCCs submission also provides feedback on the questions asked by the Ministry for the Environment (MfE) on the provisions.

## Context for TCC's submission

### Focus and investment in indigenous biodiversity

5. TCC is committed to identifying and protecting its indigenous biodiversity. In June of 2022, the Council endorsed and adopted a vision for Tauranga "*Tauranga, together we can*". This was developed from the input of over 10,000 community members. One of the five community outcomes is "*a city that values, protects and enhances the environment*". To achieve this outcome, a draft environment strategy "*Tauranga Taurikura 2022-2032*" has been developed and is currently out for consultation<sup>1</sup>.

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<sup>1</sup> Tauranga Taurikura 2022-2032 - [https://www.tauranga.govt.nz/Portals/0/data/future/strategic\\_planning/strategic\\_focus/files/tauranga-taurikura.pdf](https://www.tauranga.govt.nz/Portals/0/data/future/strategic_planning/strategic_focus/files/tauranga-taurikura.pdf)

6. Tauranga Taurikura 2022-2032 sets out TCCs goals and actions to achieve a valued, protected, and enhanced environment. This draft strategy advances many of the concepts that the NPSIB seeks to achieve, particularly the actions that sit under Goal 1 on *“thriving nature and biodiversity at the heart of our communities”*.
7. This goal not only reflects the strong community feedback on the need to protect and preserve our green spaces, natural environment, and trees, but it also confirms the need to continue the significant investment that TCC makes in maintaining and enhancing indigenous biodiversity. TCC continues to invest over \$1.5 million per annum in revegetation, ecological management and maintenance works across the city. As of 2020, 71% of the city’s public parks and open space areas were identified and protected as Significant Ecological Areas (SEAs) within the Tauranga City Plan. The goal is to increase this by 2% annually.
8. TCC has an existing regulatory framework in place that identifies, protects, maintains, and enhances SEAs. SEAs are categorised as “best-quality or only representative examples” for Category 1 SEAs and “good-quality representative examples” for Category 2 SEAs. In addition, there are provisions to maintain and enhance the factors and values of areas of indigenous vegetation not already identified as SEAs. Currently, around 552 ha of land within the city’s boundaries (and above mean high water springs) has SEA status.
9. Other areas across the city that also contribute significantly to overall biodiversity include land zoned as Conservation, which can also include areas identified as Outstanding Natural Features and Landscapes (ONFL). These areas total around 841 ha.
10. In addition to the above, Tauranga enjoys an outstanding and diverse coastal environment. In conjunction with its partner councils, TCC undertakes and contributes significant investment in ecological improvement works in and around the coastal marine area (CMA), waterbodies, and freshwater ecosystems.

#### TCC is a high-growth council

11. Tauranga is New Zealand’s fourth smallest territorial authority by land area. Tauranga has experienced exponential growth driven by a range of factors, with this growth expected to continue in the future. According to Statistics NZ Estimated Resident Population (ERP) as of 30 June 2018, Tauranga had an estimated population of around 142,100 people<sup>2</sup>. Over the next thirty years, this is expected to increase by 66,900 to a population of 202,000.
12. Under the National Policy Statement for Urban Development (NPSUD), TCC is required to provide at least sufficient development capacity in new and existing urban areas, for both standalone and attached dwellings, in the short, medium, and long-term. In September 2021, TCC Commissioners wrote to the Minister for the Environment advising that Tauranga had insufficient zoned development capacity to meet the requirements of the NPSUD<sup>3</sup>.

<sup>2</sup> The latest available Stats NZ ERP for Tauranga City is 155,200 people as of 30 June 2021.

<sup>3</sup> Tauranga City Council Ordinary Meeting of Council, Monday, 13 September 2021 - [https://infocouncil.tauranga.govt.nz/Open/2021/09/CO\\_20210913\\_AGN\\_2362\\_AT.htm#PDF2\\_ReportName\\_11387](https://infocouncil.tauranga.govt.nz/Open/2021/09/CO_20210913_AGN_2362_AT.htm#PDF2_ReportName_11387)

13. TCC is progressing with actions to address these development capacity shortfalls. These actions include supporting spatial planning and intensification of existing urban areas through plan changes, and structure planning and rezoning of greenfield growth areas. However, Tauranga's growth opportunity is significantly constrained by its topography and coastal setting. Development is restricted to the east by the coast, and multiple harbour estuaries spread Tauranga out along northern, western and eastern corridors. Therefore, opportunities for new urban growth areas are limited and face numerous challenges and competing priorities. These include:
- Natural hazard considerations and adaptation to climate change
  - Expectations around the delivery of transit orientated development to support mode shift and reduced emissions
  - The ability to maximise the extent of developable land through large scale earthworks and land development
  - The ability to service the growth areas for housing and industrial/commercial development.
14. TCC has identified, and is currently structure planning, two large greenfield urban growth areas: Te Tumu (6,000 homes) and Tauriko West (3,600-4,000 homes). Both sit within the existing urban limits set out in Bay of Plenty Regional Policy Statement (BoPRPS) and have been identified by SmartGrowth as priority areas for urban development as part of our urban growth partnership with the Government.
15. The urban growth areas are critical to the delivery of the recently adopted Urban Form and Transport Initiative (UFTI) Connected Centres Programme. UFTI is a joint initiative prepared by Tangata Whenua, SmartGrowth, Bay of Plenty Regional Council (BoPRC), TCC, Western Bay of Plenty District Council, Waka Kotahi NZTA, Ministry of Housing and Urban Development (MHUD), and Kāinga Ora.
16. More recently, both urban growth areas have been identified as 'Priority Development Areas' (PDAs) within the Western Bay of Plenty Sub-region. The PDA forum is tasked with enabling housing and business development areas to be delivered at scale and pace.
17. TCC is committed to delivering these urban growth areas at pace and scale to ensure development capacity is enabled, while maintaining the quality of the natural environment. This is reflected in the structure planning of these urban growth areas. Large areas have been identified for protection given their high cultural, ecological and landscape values. Areas for maintenance and enhancement opportunities have also been identified.
18. Therefore, whilst TCC supports the overarching direction of the NPSIB, it is considered that achieving its objective should not come at the expense of meeting the requirements set by other national direction.
19. Unfortunately, as drafted, the lack of clarity and consistency in the proposed NPSIB will likely result in unintended outcomes. This may include the absolute protection of large areas of marginal vegetation and habitat on land that is identified for urban development. Or it may prevent the ability to adequately consider the scale and severity of adverse effects, including the significant benefits associated with biodiversity compensation and offsetting to deliver a net gain in biodiversity values. This will inevitably delay, negatively impact, or even prevent the

delivery of housing and urban development in Tauranga at the pace and scale required to meet the needs of our community.

## Identification of the key issues and challenges relating to the Exposure Draft for the NPSIB

20. In addition to providing feedback on the specific questions by MfE, TCC would like to raise the following issues for further consideration:
- Significant uncertainty around application of the NPSIB relative to other NPSs, including the New Zealand Coastal Policy Statement (NZCPS)
  - Improvements to Appendix 1 terminology necessary for identifying Significant Natural Areas (SNAs)
  - Flexibility required in managing adverse effects on SNAs for a wider range of activities
  - Implementation issues associated with managing highly mobile fauna areas and areas outside of SNAs
  - Uncertainty on how the NPSIB integrates with the resource management reform programme and the proposed consolidation and alignment of national direction into a National Planning Framework (NPF)
  - Inefficient and resource heavy process and timeframes for implementing the NPSIB across the range of statutory and non-statutory documents
  - Lack of adequate funding from central government to implement the requirements of the NPSIB, including resourcing tangata whenua to actively participate in the processes.
21. TCC notes that whilst this submission focuses on the matters set out above, there may be other issues that arise that have not yet been identified given the tight timeframe for providing feedback. TCC would welcome the opportunity to work directly with MfE officials and collaborate on the implications this NPSIB has for Tauranga.

## Uncertainty on application of NPSIB and integration with other national direction

22. The NPSIB sets out at Clause 1.3(1) that it *“applies to indigenous biodiversity throughout Aotearoa New Zealand, other than indigenous biodiversity in the coastal marine area and aquatic indigenous biodiversity”*. However, at subclause (2) there is a requirement to consider the *“coastal marine area”* and *“waterbodies”* when addressing specified highly mobile fauna, and *“wetlands”* when addressing restoration. In addition, it has been noted that the NPSIB is to apply *“in the terrestrial coastal environment”* which creates further interpretation issues in terms of how terrestrial and other parts of the coastal environment will be differentiated.
23. It is considered that clarification is required to address how the NPSIB is to be applied to freshwater features such as rivers and their margins; wetlands; lakes and their margins; other freshwater environments; and the coastal environment. It is not clear, given the references made to freshwater or coastal ecosystems, whether these would be required to be classified as SNAs (Subpart 2 – SNA) under the NPSIB.

24. Whilst it would appear the intention is for freshwater and coastal ecosystems to be excluded from being identified as SNA, this exclusion appears to be an unintended outcome as it would create a significant gap in managing indigenous biodiversity in these ecosystems. This gap is further exacerbated by the fact that the NPSFM and NZCPS do not provide for indigenous biodiversity or consider the attributes that have been set out within the NPSIB.
25. This highlights a significant lack of integration between these policy statements and creates concern over whether these ecosystems are intended to, or will by default, need to be identified as SNAs and managed under the NPSIB. If this is to occur, then these areas would then be subject to the relevant provisions at Clause 3.10 of the NPSIB. TCC has concerns over this clause as outlined in the section on “Managing adverse effects inside SNAs” below.
26. Including these areas as SNAs, or as areas to be managed outside of SNAs under the NPSIB would create additional layers of provisions that would significantly comprise TCC’s delivery of its urban growth areas and impact on its requirement to meet housing capacity requirements under the NPSUD.

#### Recommendations

- 27. Provide further clarification and detail that confirms how the provisions of the NPSIB will apply to freshwater and coastal ecosystems and whether these areas will be considered SNAs.**

#### Terminology for classification of SNAs

28. There is concern that the criteria and principles set out within the NPSIB for identifying SNAs include terms that are too loosely defined creating uncertainty and resulting in areas comprising marginal vegetation and habitat being identified as SNAs. Use of terminology such as “*moderate size*”, “*compact shape*” and “*moderate diversity*” could be open to interpretation and are very broadly encompassing.
29. TCC supports the need for the protection of indigenous biodiversity and recognises its importance and relationship to the wider environment and communities. Further, TCC understands that the SEAs currently recognised in the Tauranga City Plan will need to be reviewed in line with the direction in the NPSIB (noting the comments above about the application to aquatic ecosystems). However, there is concern this terminology will result in additional time and cost and create uncertainty and inefficiencies associated with the identification of SNAs.
30. Significant work has been undertaken in identifying SEAs, both around the city and more recently within the planned growth areas of Te Tumu and Tauriko West. Additional SNAs within planned greenfield areas will create significant delivery issues in these growth areas that will be made far greater if subjective terms are not removed. TCC submits that high levels of accuracy are essential when identifying SNAs, particularly given the high bar set for avoiding adverse effects on these SNA prescribed in this NPS. Terminology that avoids uncertainty and improves clarity is considered essential in this regard.

**Recommendations:**

- 31. Remove subjective terminology and terms that are too broad, and ill-defined and replace these with better defined terms to improve accuracy in relation to identifying SNAs.**

**Managing adverse effects inside SNAs**

32. TCC understands that Clause 3.10 provides direction on how adverse effects on SNAs are to be addressed. However, there is concern that the specific adverse effects listed at subclause (2)(a)-(e) impose a very high test for avoidance and do not adequately allow for the scale and severity of a proposed activity to be considered. This list of effects is so wide that they encompass most of the potential adverse effects that could occur on an SNA.
33. Given the broad nature of effects set out under subclause (2)(a)-(e), there is concern that activities associated with delivering a well-functioning urban environment will not be able to utilise the effects management hierarchy despite it being provided for at Clause 3.10(3).
34. It has been identified that although disturbance within an SNA may be achievable, that this would still result in at least one of specified adverse effects. Therefore, that activity would not meet the directive test of avoidance, and any resource consent application for that activity would be refused. By way of example, the use of many of the wetland areas as habitat for specified highly mobile fauna, particularly in Te Tumu, will mean it is extremely challenging for urban development in and around these areas to avoid effects on fragmentation, buffers, and connections between and within SNAs. TCC is particularly concerned at the impacts this approach to managing adverse effects could have in enabling the delivery of planned greenfield growth areas in the city.
35. TCC considers that there may be a range of ways to address this issue. One option is to widen the list of exempted activities at Clause 3.11. This could include the delivery of urban development within planned growth areas to recognise and better align the NPSIB with the requirements under the NPSUD (and the proposed amendments to the NPSFM). In this way, activities associated with urban development are still required to be tested against the effects management hierarchy but allows for a range of outcomes to be explored.
36. However, TCC notes that if this option was pursued a revision to other terminology within Clause 3.11 would be beneficial. For example, this could include the term "*no practicable alternative location*" being replaced with "*best alternative location*", which would allow for a greater comparison of effects across the range of activities.
37. TCC would welcome the opportunity to explore revised wording with MfE to secure an improved outcome in respect of this issue.

**Recommendations**

- 38. Make greater allowance for the scale and severity of adverse effects on SNAs from certain activities to be considered through the effects management hierarchy.**

- 39. Consider the inclusion of urban development as an activity under Clause 3.11 and other consequential changes to that clause to recognise the responsibilities that TCC, and other tier 1 local authorities, have under the NPSUD.**

#### Implementation of highly mobile fauna areas

40. TCC recognises the importance of providing for the management of high mobile fauna. However, further consideration is needed on how this is to be implemented given that the information and time to record and adequately map these areas will be both time consuming and costly. TCC also has concerns over the extent of land that would need to be mapped to appropriately recognise the wide habitat of many of these species.
41. The NPSIB expects that adverse effects on these areas are to be managed, however it uses terminology such as “*viable populations*” and “*natural range*” as measures. TCC understands that management requirements between such species will vary and there is concern that the expectation on managing these areas will potentially result in conflicting or escalating objectives, policies, and methods.
42. TCCs planned urban growth areas will be habitat for a range of highly mobile fauna species given their locations near waterways and their undeveloped state. For example, Te Tumu has been identified as likely to qualify as a highly mobile fauna area for several highly mobile species, and a range of objectives, policies and/or methods may be required to address how these areas are to be managed.
43. TCC has concerns around the uncertainty created in this scenario where the presence of these species, in different locations around the city (not only just in Te Tumu), would mean that an area would qualify either as an SNA (given that it would meet at least one of the criteria in Appendix 1), or would otherwise require management in accordance with Clause 3.16 (maintaining indigenous biodiversity outside of SNAs) and require effects to be managed through the effects management hierarchy.

#### Recommendations

- 44. TCC considers that at a minimum, maps and descriptions of these highly mobile fauna areas must be included in RPSs to allow for clarity on what areas are affected.**
- 45. Greater certainty is required around the management of highly mobile fauna areas and the requirement for these to be SNAs or managed using the effects management hierarchy.**

#### Inefficient planning process

46. TCC understands from the requirements of Clause 4.1(1)-(3) that the planning requirements to implement the NPSIB are:

- a. In 5 years from commencement date:
    - i. Regional councils must make or change the RPS and plans to identify existing activities and include objectives, policies, and methods that give effect to Part 3, Subpart 2 and Clause 3.24
    - ii. Territorial authorities must make or change plan to include identified SNAs and objectives, policies and methods that give effect to Part 3, Subpart 2 and Clause 3.24
  - b. In 8 years from commencement date:
    - i. Regional councils must identify highly mobile fauna areas outside SNAs and make or change RPS and plans to include objectives, policies, and methods to give effect to all other parts of the NPSIB
    - ii. Territorial authorities must identify taonga and make or change plan to include objectives, policies, and methods to give effect to all other parts of the NPSIB
  - c. In 10 years from commencement date:
    - i. Regional councils must prepare a regional biodiversity strategy
47. This process does not clearly define the roles between regional and territorial authorities and requires multiple changes to RPSs, regional plans and district plans while failing to recognise the hierarchy of planning documents and the timeframes associated with each.
48. Further, based on the 10-yearly plan review cycle, it is unlikely that the regional biodiversity strategy will be given effect to in RPSs, regional plans and district plans until 18 years after commencement given these documents have been updated at both the 5- and 8-year marks. This could cause significant delays in restoring indigenous vegetation and the habitat of indigenous fauna, given the regional biodiversity strategy is the document that sets the strategy to promote the landscape-scale restoration of the region's indigenous biodiversity.
49. Finally, the implementation plan is silent on how the NPSIB will be integrated into the RMA reforms and what this will mean for councils trying to meet their statutory requirements (either under the RMA or future resource management system). For example, the drafting of the first NPF under the future system would appear to require extensive revision to existing and emerging national direction under the RMA to ensure alignment and consistency. Based on suggested timeframes for the new legislation, the first NPF is likely to be adopted sooner than the timeframe to implement the NPSIB by regional and district councils.

#### **Recommendations:**

- 50. More clearly define the roles and responsibilities of regional and territorial authorities to reduce complexity and double-up in the implementation of the NPSIB.**
- 51. Realign the planning process to take account of the hierarchy of national planning instruments and the timeframes required to implement each, with the regional biodiversity strategy the first requirement.**
- 52. Make it clear in the Implementation Plan if/when the NPSIB will be updated to align with the resource management reform changes.**

### Resourcing and funding requirements

53. Notwithstanding the above, the NPSIB requires significant resourcing to implement. However, there remains a considerable capacity and capability shortfall within councils, particularly territorial authorities, which will have nationwide implications for implementation of the NPSIB. The current lack of capability and capacity relates to all aspects of implementing the NPSIB including, identification of SNAs, maintaining schedules and databases, planning and policy development, consent processing, consent compliance monitoring and reporting, and biodiversity/land management officers. In addition, the limited availability of both consultant ecologists to undertake reporting for consenting requirements and council expert staff to assess and evaluate ecological reports will be challenging.
54. We acknowledge the need for and support the existing and intended implementation support measures (as set out in the Draft Implementation Plan). However, we are doubtful that the funding allocated to assist councils (as indicated in the Draft Implementation Plan) will be sufficient to address the resourcing requirements and this will likely lead to delays in the implementation of the NPSIB.
55. Furthermore, adequate, and appropriate resourcing for mana whenua involvement in policy and plan development, along with design and implementation of monitoring and biodiversity strategies, will be critical. The implementation plan for the NPSIB states councils and mana whenua will receive \$19m, which is unlikely to be sufficient to address the resourcing requirements of mana whenua, especially in areas such as Tauranga, which includes the rohe of numerous iwi and hapu.
56. In addition to financial assistance, non-financial investment from central government will be needed for the successful implementation of the NPSIB. The Exposure Draft retains some ambiguity, and the intended development of detailed guidance (Phase 2, Draft Implementation Plan) and examples of best practice will be critical. We recommend that the delivery of this guidance is provided at the time of the NPSIB gazetting.
57. TCC also has significant concerns regarding the ongoing work programme Central Government is progressing across the resource management system, which impacts upon the ability of the local government sector to respond in a meaningful way. There are significant challenges to accumulating sufficient land to efficiently deliver the required levels of development capacity in accordance with the NPSUD, and to enabling the delivery of higher density and transit orientated development to support mode shift in our urban environments, as anticipated within the Land Transport Government Policy Statement. The initiation of the NPSIB is yet another piece of significant work which Councils need to respond to and implement. This is over and above the following process which are underway:
- Resource Management Reform;
  - Implementation of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 and NPSUD;
  - Freshwater Reform, and introduction of the National Policy Statement Freshwater (and associated National Environmental Standards), including the review of wetland provisions;
  - National Policy Statement on Highly Productive Land;

Exposure Draft of the National Policy Statement on Indigenous Biodiversity

Tauranga City Council Submission

58. It is proving difficult for TCC to deliver on all of these national policy directives as there is no hierarchy of importance and no clear guidance on how trade-offs are to be managed. It is becoming evident that there is simply not enough land within the TCC jurisdiction to meet the NPS-UD requirements given the direction in the various NPS documents and other requirements (including recognition of cultural and archaeological sites, and addressing natural hazards).
59. There is a lack of alignment between all these processes and lack of resourcing provided by Central Government to support Councils in its implementation.

**Recommendations:**

60. **Provide increased and adequate funding and non-financial investment from central government to implement the requirements of the NPSIB.**
61. **Provide guidance on how priorities and trade-offs are to be considered and assessed when the NPSIB, or any other national direction, has a direct impact on the delivery of another National Policy Statement.**

21 July 2022

11

Exposure Draft of the National Policy Statement on Indigenous Biodiversity

Tauranga City Council Submission

## Detailed feedback on the provisions

Provision	Issue	Feedback	Relief Sought
1. Do you have any feedback on the workability of provision 1.3: Application?			
Clause 1.3: Application		Refer to section: Uncertainty on application of NPSIB and integration with other national direction (paragraphs 22 to 27).	
2. Do you have any feedback on the workability of provision 1.5: (2) Te Rito o te Harakeke?			
No.			
3. Do you have any feedback on the workability of provision 1.5: (3) Maintenance of indigenous biodiversity?			
Clause 1.5(3): Maintenance of indigenous biodiversity	<i>The maintenance of indigenous biodiversity requires at least no reduction, as from the commencement date, in the following:</i> <i>(a) the size of populations of indigenous species:</i> <i>(b) indigenous species occupancy across their natural range:</i> <i>(c) the properties and function of ecosystems and habitats:</i> <i>(d) the full range and extent of ecosystems and habitats:</i> <i>(e) connectivity between, and buffering around, ecosystems:</i> <i>(f) the resilience and adaptability of ecosystems.</i>	<p>TCC supports the maintenance and enhancement of indigenous biodiversity but notes that the requirements for “<i>at least no reduction</i>” across the full range of matters listed at (3)(a)-(f) requires a high level of understanding/data relating to the specified aspects. There is risk in not establishing this level of understanding prior to the commencement date and having no measurable baseline. Further, much of this indigenous biodiversity will be on private land for which the Council does not have control.</p> <p>In the Draft Implementation Plan accompanying the NPSIB, funding to councils from central government as part of the NPSIB package is limited to assistance for SNA identification and mapping; and increasing biodiversity funds to support indigenous biodiversity on private land. Furthermore, this funding package is just \$19 million, which must be stretched further than just funding to councils.</p>	<p>TCC seeks support from central government to help undertake the research needed to be able to meet the “<i>no reduction</i>” requirements.</p> <p>TCC seeks clarification on the collection of indigenous biodiversity data on private land.</p>

21 July 2022

12

Exposure Draft of the National Policy Statement on Indigenous Biodiversity

Tauranga City Council Submission

Provision	Issue	Feedback	Relief Sought
		TCC considers that without additional funding support from central government to undertake the research required to understand the current state of indigenous biodiversity it will be difficult to determine whether indigenous biodiversity is being reduced, maintained, or improved.	
4. Do you have any feedback on the workability of provision 1.5: (4) Effects management hierarchy?			
Clause 1.5(4): Effects management hierarchy	<p><i>The effects management hierarchy is an approach to managing the adverse effects of an activity. It requires that:</i></p> <ul style="list-style-type: none"> <li><i>(a) adverse effects are avoided where practicable; and</i></li> <li><i>(b) where adverse effects cannot be demonstrably avoided, they are minimised where practicable; and</i></li> <li><i>(c) where adverse effects cannot be demonstrably minimised, they are remedied where practicable; and</i></li> <li><i>(d) where more than minor residual adverse effects cannot be demonstrably avoided, minimised, or remedied, biodiversity offsetting is provided where possible; and</i></li> <li><i>(e) where biodiversity offsetting of more than minor residual adverse effects is not demonstrably possible, biodiversity compensation is provided; and</i></li> <li><i>(f) if biodiversity compensation is not appropriate, the activity itself is avoided.</i></li> </ul>	TCC supports the inclusion of the effects management hierarchy but recognise that this sets a very high bar for adverse effects to satisfy. In addition, we note that terminology used, such as “more than minor residual adverse effects” will always be open to argument in both defining “more than minor” and “residual effect”. We understand that the meaning and implementation of these terms is often not agreed amongst practitioners and the NPSIB would benefit from greater clarity of these terms. A further example is “not demonstrably possible”, which is a vague term that will be open to much challenge from all stakeholders, and arguably lead to a continuing and potentially endless need to demonstrate compliance with the hierarchy. It does not appear in the effects management hierarchy wording in the gazetted NPSFM.	<p>TCC seeks further clarification on managing adverse effects of an activity through the effects management hierarchy, especially the clarification of the terms “more than minor residual adverse effects” and “not demonstrably possible”.</p> <p>We suggest that the effects management hierarchy wording in the NPSIB is consistent with that in the NPSFM, to ensure consistency and alignment of the concept across terrestrial and aquatic ecosystems.</p>
5. Do you have any feedback on the workability of provision 1.6: Interpretation?			
Clause 1.6: “highly mobile fauna area”	<b>highly mobile fauna area</b> means an area outside an SNA that is identified under clause 3.20 as an area used by specified highly mobile fauna	To identify a “highly mobile fauna area” requires regional councils to record areas outside SNAs that are “highly mobile fauna areas” by working	TCC seeks clarification of the definition for “highly mobile fauna area”, in

21 July 2022

13

Exposure Draft of the National Policy Statement on Indigenous Biodiversity

Tauranga City Council Submission

Provision	Issue	Feedback	Relief Sought
Clause 3.20: Specified highly mobile fauna		<p>together with tangata whenua (in the manner required by Clause 3.3), territorial authorities in its region, and the Department of Conservation under Clause 3.20.</p> <p>TCC notes the ambiguity in what constitutes a “highly mobile fauna area”, and in particular, what encompasses an “area”.</p>	particular what encompasses an “area”.
Clause 1.6: “SNA, or significant natural area”	<p><b>SNA, or significant natural area, means:</b></p> <p>(a) any area that, on the commencement date, is identified in a policy statement or plan as an area of significant indigenous vegetation or significant habitat of indigenous fauna (regardless of how it is described); and</p> <p>(b) any area that, after the commencement date, is notified or included in a district plan as an SNA following an assessment of the area in accordance with Appendix 1</p>	<p>Our concerns with how these areas identified is set out in the main body of this submission.</p> <p>It is noted however that many areas currently identified in the Tauranga City Plan as SEA (Category 1 or 2) include wetlands areas or relate to aquatic indigenous biodiversity. If these areas are to become SNA on the commencement date as defined, then they will be subject to the provisions of this NPS until the time of a future plan change to remove them (see main submission on concerns around application of this NPS). This is a significant issue given the requirement to avoid effects on these areas under the Clause 3.10.</p>	TCC seek clarification on what is expected to occur from the commencement date for those areas currently identified in a plan as being areas of significant indigenous vegetation or habitat of indigenous fauna but are located in wetland or other aquatic ecosystems where the NPSIB is not intended to apply.
<p>Clause 1.6: “SNA, or significant natural area”</p> <p>Clause 3.8(4): Assessing areas that qualify as</p>	<p><b>SNA, or significant natural area, means:</b></p> <p>(a) any area that, on the commencement date, is identified in a policy statement or plan as an area of significant indigenous vegetation or significant habitat of indigenous fauna (regardless of how it is described); and</p>	<p>TCC has invested considerably into maintaining and enhancing indigenous biodiversity through Significant Ecological Areas (SEAs). SEAs are categorised as “best-quality or only representative examples” for Category 1 SEAs and “good-quality representative examples” for Category 2 SEAs. The use of the term “regardless of how it is described” is ambiguous as to whether this relates to the name of the area, or</p>	TCC seeks clarity to ensure it can utilise Clause 3.8(4) and not have to re-survey and re-assess its SEAs in line with Clause 3.8(1)-(2) and Appendix 1, which would be complex, costly, and largely superfluous, given SEAs are already

21 July 2022

14

Exposure Draft of the National Policy Statement on Indigenous Biodiversity

Tauranga City Council Submission

Provision	Issue	Feedback	Relief Sought
significant natural areas		how the area is described, or both (see feedback above in relation to identifying any area within the plan).	known and many are managed.
Clause 1.6: “specific infrastructure”	<p><b>specific infrastructure means any of the following:</b></p> <p>(a) infrastructure that delivers a service operated by a lifeline utility (as defined in the Civil Defence Emergency Management Act 2002);</p> <p>(b) regionally significant infrastructure that is identified as such in a regional policy statement or regional plan;</p> <p>(c) any public flood control, flood protection, or drainage works carried out:</p> <p>(i) by or on behalf of a local authority, including works carried out for the purposes set out in section 133 of the Soil Conservation and Rivers Control Act 1941; or</p> <p>(ii) for the purpose of drainage, by drainage districts under the Land Drainage Act 1908;</p> <p>(d) defence facilities operated by the New Zealand Defence Force to meet its obligations under the Defence Act 1990</p>	<p>There is inconsistency between the NPSIB and NPSFM related to infrastructure. The NPSIB refers to “specific infrastructure”, whereas the NPSFM refers to “specified infrastructure”, with the definitions differing between the two National Policy Statements.</p> <p>Given there is no definition for freshwater ecosystems, it is unclear whether works within riparian margins fall under this legislation or under the NPSFM. This is of huge concern for stormwater projects, many of which use riparian margins for water treatment. If they do fall under the NPSIB, the inability to work within and maintain riparian margins specifically planted for water quality outcomes will be a huge disincentive for undertaking such works in the future and drastically affect the maintenance of current green assets.</p>	<p>Align the terms and definitions used for specific/specified infrastructure in the NPSIB and NPSFM by utilising “specified infrastructure” as per the gazetted NPSFM.</p> <p>TCC seeks a definition for “freshwater ecosystems” is included in Clause 1.6 and clarification is provided that riparian margins fall under the controls set out under NPSFM.</p>
6. Do you have any feedback on the workability of provision 2.1: Objective?			
No.			
7. Do you have any feedback on the workability of provision 2.2: Policies?			
Policy 2	<p>Tangata whenua are recognised as kaitiaki, and enabled to exercise kaitiakitanga for indigenous biodiversity in their rohe, including through:</p> <p>(a) enabling tangata whenua to manage indigenous biodiversity on their land; and</p>	<p>These provisions oblige local authorities and tangata whenua to work in partnership when implementing the NPSIB. TCC strongly supports a partnership approach and acknowledges the significant input that will be needed from tangata whenua and Māori in the role of kaitiaki of indigenous biodiversity.</p>	<p>TCC seeks adequate funding and non-financial investment to support tangata whenua’s capacity to engage with the requirements of the NPSIB.</p>

21 July 2022

15

Exposure Draft of the National Policy Statement on Indigenous Biodiversity

Tauranga City Council Submission

Provision	Issue	Feedback	Relief Sought
	<i>(b) the identification and protection of indigenous species, populations and ecosystems that are taonga.</i>	<p>The Tauranga area is made up a number of iwi and hapū. TCC submits that substantial resourcing will be needed to ensure the participation of tangata whenua groups and the realisation of positive indigenous biodiversity outcomes from partnerships between tangata whenua and local authorities. TCC is aware that tangata whenua capacity to engage in resource management matters is often occupied by resource consent application processes.</p> <p>Therefore, resourcing to ensure tangata whenua has capacity to participate will be critical. It is unlikely that the support package of \$19 million, with the numerous demands on it, will adequately support the requirements of tangata whenua to engage.</p>	
Policy 7	<i>SNAs are protected by avoiding and managing adverse effects from new subdivision, use and development.</i>	<p>Policy 7 must be considered in conjunction with Clause 3.10 on managing adverse effects on SNAs of new subdivision, use and development.</p> <p>TCC supports managing adverse effects to protect and maintain SNAs, however the requirement to consider all adverse effects, no matter the magnitude has wide-ranging implications on development. For example, how would territorial authorities deal with the adverse effects of light pollution, domestic animals (particularly cats) and use of bird scarers.</p>	TCC seeks improvements to considering the scale and severity of effects inside SNAs.
8. Do you have any feedback on the workability of provision 3.2: Te Rito o te Harakeke?			
No.			

21 July 2022

16

Exposure Draft of the National Policy Statement on Indigenous Biodiversity

Tauranga City Council Submission

Provision	Issue	Feedback	Relief Sought
9. Do you have any feedback on the workability of provision 3.3: Tangata whenua as kaitiaki?			
No.			
10. Do you have any feedback on the workability of provision 3.4: Integrated approach?			
No.			
11. Do you have any feedback on the workability of provision 3.5: Social, economic, and cultural wellbeing?			
No.			
12. Do you have any feedback on the workability of provision 3.6: Resilience to climate change?			
Clause 3.6(1)(c): Resilience to climate change	(1) Local authorities must promote the resilience of indigenous biodiversity to climate change, including at least by: [...] (a) maintaining and promoting the enhancement of the connectivity between ecosystems, and between existing and potential habitats, to enable migrations so that species can continue to find viable niches as the climate changes.	The absence of a definition for “potential habitats” means there is an almost limitless area that could be considered to have potential to enable migrations, especially for highly mobile fauna.  This lack of guidance has significant, wide-ranging implications for local authorities and development proponents.	TCC seeks clarification of what encompasses “potential habitats” and how this can be implemented.
13. Do you have any feedback on the workability of provision 3.7: Precautionary approach?			
No.			
14. Do you have any feedback on the workability of provision 3.8: Assessing areas that qualify as significant natural areas?			
Clause 3.8(3)	If requested by a territorial authority, the relevant regional council must assist the territorial authority in undertaking its district-wide assessment.	TCC is supportive of the requirement for regional councils to support territorial authorities in their district-wide assessment but considers that it is unclear what level of assistance the regional council is required to provide.	TCC seeks clarification on the level of assistance the regional council would provide to a territorial authority, if requested, with regards to the identification of SNAs and the inclusion of them within district plans and policy statements.

21 July 2022

17

Exposure Draft of the National Policy Statement on Indigenous Biodiversity

Tauranga City Council Submission

Provision	Issue	Feedback	Relief Sought
Clause 3.8(4): Assessing areas that qualify as significant natural areas	<i>A territorial authority need not comply with subclause (1) in respect of any SNA referred to in paragraph (a) of the definition of SNA (ie, an area already identified as an SNA at the commencement date) if, within 4 years after the commencement date, a suitably qualified ecologist confirms that, and how, the area qualifies as an SNA under the criteria in Appendix 1.</i>	<p>Clause 3.8(4) must be interpreted in light of sub-clause (a) of the definition for SNA in clause 1.6, which states:</p> <p><i>any area that, on the commencement date, is identified in a policy statement or plan as an area of significant indigenous vegetation or significant habitat of indigenous fauna (regardless of how it is described);</i></p> <p>TCC has invested considerably in maintaining and enhancing indigenous biodiversity through Significant Ecological Areas (SEAs). SEAs are categorised as “best-quality or only representative examples” for Category 1 SEAs and “good-quality representative examples” for Category 2 SEAs. The use of the term “<i>regardless of how it is described</i>” is ambiguous as to whether this relates to the name of the area, or how the area is described, or both.</p>	TCC seeks clarity to ensure it can utilise Clause 3.8(4) and not have to re-survey and re-assess its SEAs in line with Clause 3.8 (1-2) and Appendix 1, which would be complex, costly, and largely superfluous, given SEAs are already known and many are managed through an existing regulatory framework.
<b>15. Do you have any feedback on the workability of provision 3.9: Identifying SNAs in district plans?</b>			
Clause 3.9: Identifying SNAs in district plans		Refer to section: Inefficient planning process.	
<b>16. Do you have any feedback on the workability of provision 3.10: Managing adverse effects on SNAs of new subdivision, use, and development?</b>			
Clause 3.10(1) and (2)	<p><i>(1) This clause applies to all SNAs, except as provided in clause 3.11.</i></p> <p><i>(2) Local authorities must make or change their policy statements and plans to include objectives, policies, and methods that require that the following adverse effects on SNAs of</i></p>	TCC is concerned that the avoidance policies of Clause 3.10(2) will significantly affect TCC’s ability to meet its requirements under the NPSUD, particularly in relation to the delivery of identified urban growth areas. Providing a viable consenting pathway through the effects	TCC seeks the ability to consider a wider range of activities under Clause 3.11(2) from urban development through to

21 July 2022

18

Exposure Draft of the National Policy Statement on Indigenous Biodiversity

Tauranga City Council Submission

Provision	Issue	Feedback	Relief Sought
	<p><i>any new subdivision, use, or development are avoided:</i></p> <p><i>(a) loss of ecosystem representation and extent:</i></p> <p><i>(b) disruption to sequences, mosaics, or ecosystem function:</i></p> <p><i>(c) fragmentation of SNAs or the or loss of buffers or connections within an SNA:</i></p> <p><i>(d) a reduction in the function of the SNA as a buffer or connection to other important habitats or ecosystems:</i></p> <p><i>(e) a reduction in the population size or occupancy of Threatened, At Risk (Declining) species that use an SNA for any part of their life cycle.</i></p>	management hierarchy should be considered for identified urban growth areas in Clause 3.11(2) in order for the planned urban growth areas of Te Tumu and Tauriko West to proceed via Clause 3.10(1).	<p>maintaining existing infrastructure.</p> <p>Further consequential changes should also be considered such as inclusion of “best practicable location”.</p>
Clause 3.10(3) and (4): Managing adverse effects on SNAs of new subdivision, use, and development	<p><i>(3) Local authorities must make or change their policy statements and plans to require that all adverse effects on SNAs of new subdivision, use, or development, other than the adverse effects identified in subclause (2), must be managed by applying the effects management hierarchy.</i></p> <p><i>(4) Every local authority must make or change its plan to ensure that, where adverse effects on an SNA are required to be managed by applying the effects management hierarchy, an application is not granted unless:</i></p> <p><i>(a) the decision-maker is satisfied that the applicant has demonstrated how each step of the effects management hierarchy will be applied; and</i></p> <p><i>(b) any consent is granted subject to conditions that apply the effects management hierarchy.</i></p>	See commentary in section: Managing adverse effects within SNAs. TCC is concerned that the list of specific adverse effects that are to be avoided within Clause 3.10 will mean there are no other effects that will qualify here.	See submission comments in section: Managing adverse effects within SNAs.

21 July 2022

19

Exposure Draft of the National Policy Statement on Indigenous Biodiversity

Tauranga City Council Submission

Provision	Issue	Feedback	Relief Sought
Clause 3.10(4): Managing adverse effects on SNAs of new subdivision, use, and development	<i>(4) Every local authority must make or change its plan to ensure that, where adverse effects on an SNA are required to be managed by applying the effects management hierarchy, an application is not granted unless: (a) the decision-maker is satisfied that the applicant has demonstrated how each step of the effects management hierarchy will be applied; and (b) any consent is granted subject to conditions that apply the effects management hierarchy.</i>	Clause 3.10(4) requires that an applicant has demonstrated how each step of the effects management hierarchy has been applied. While TCC supports the need to address each step of the effects management hierarchy, it will be difficult to demonstrate each item, and may require more extensive data collection, observations or modelling to achieve this requirement and not result in those steps being met.	TCC seeks improvements in the consistency of how the effects management hierarchy is applied across activities.
<b>17. Do you have any feedback on the workability of provision 3.11: Exceptions to clause 3.10?</b>			
3.11(2): Exceptions to clause 3.10	<i>Clause 3.10(2) does not apply, and all adverse effects on an SNA must be managed instead in accordance with clause 3.10(3) and (4): (a) if a new use or development is required for the purposes of any of the following; (i) specific infrastructure that provides significant national or regional public benefit; or (ii) mineral extraction that provides significant national public benefit that could not otherwise be achieved domestically; or (iii) aggregate extraction that provides significant national or regional public benefit that could not otherwise be achieved domestically; and (b) there is a functional or operational need for the new use or development to be in that particular location; and</i>	There is no definition for the qualifier under the 3.11(2)(a)(i) for “significant national or regional public benefit”, which could result in smaller infrastructure works with local benefit not being allowed.  TCC seeks the ability to consider a wider range of activities under this clause including the delivery of urban development within planned growth areas. This would still require consideration of the effects management hierarchy and may require consideration of “best practicable location” rather than “no practicable alternative location”.	TCC seeks that the qualifier be removed from Clause 3.11(2)(a)(i) to provide for infrastructure of local benefit.  Amend Clause 3.11(2)(c) to “best practicable location” and undertake subsequent amendments to ensure Clause 3.11(2) is applied consistently.

21 July 2022

20

Exposure Draft of the National Policy Statement on Indigenous Biodiversity

Tauranga City Council Submission

Provision	Issue	Feedback	Relief Sought
	<i>(c) there are no practicable alternative locations for the new use, or development.</i>		
3.11(2): Exceptions to clause 3.10		There is no clear provision for operations, maintenance, upgrade, and replacement activities for specified infrastructure to fall under the effects management hierarchy under the legislation. There is provision for “existing activities” under Clause 3.15, as long as they do not extend their footprint, and new use and development under Clause 3.11, but these are vague with respect to other infrastructure related activities, which means they are at risk of not being allowed to proceed.	Include a provision in Clause 3.11(2)(a) to provide “for the operation, maintenance, replacement, and upgrade of specific infrastructure (and auxiliary works such as inspections)”.
18. Do you have any feedback on the workability of provision 3.12: SNAs on Māori lands?			
No			
19. Do you have any feedback on the workability of provision 3.13: Geothermal SNAs?			
No.			
20. Do you have any feedback on the workability of provision 3.14: Plantation forests with SNAs?			
No.			
21. Do you have any feedback on the workability of provision 3.15: Existing activities affecting SNAs?			
Clause 3.15: Existing activities affecting SNAs?	<p><i>(1) Regional councils must identify in their policy statements the existing activities, or types of existing activities, that this clause applies to.</i></p> <p><i>(2) Local authorities must make or change their plans to ensure that the existing activities identified in relevant regional policy statements may continue as long as the effects on any SNA (including cumulative effects):</i></p> <p><i>(a) are no greater in intensity, scale, or character over time than at the commencement date; and</i></p>	Providing for existing activities is supported, but note that the conditions in (2) may be difficult to achieve “over time” and will default the activity to being assessed under Clause 3.10 (see above feedback on the specific adverse effects to be avoided)	TCC seeks improved recognition for existing activities.

21 July 2022

21

Exposure Draft of the National Policy Statement on Indigenous Biodiversity

Tauranga City Council Submission

Provision	Issue	Feedback	Relief Sought
	<p><i>(b) do not result in the loss of extent or degradation of ecological integrity of the SNA.</i></p> <p><i>(3) If an existing activity does not meet the conditions described in subclause 2), the adverse effects of the activity on the relevant SNA must be managed in accordance with clause 3.10.</i></p>		
<b>22. Do you have any feedback on the workability of provision 3.16: Maintaining indigenous biodiversity outside SNAs?</b>			
Clause 3.16: Maintaining indigenous biodiversity outside SNAs	<p><i>(1) This clause applies to all areas outside SNAs, other than Māori lands (because clause 3.18 applies instead).</i></p> <p><i>(2) Local authorities must take steps to maintain indigenous biodiversity in areas to which this clause applies, including by making or changing their policy statements and plans to:</i></p> <p><i>(a) apply the effects management hierarchy to any adverse effects on indigenous biodiversity of a new subdivision, use, or development that may be irreversible; and:</i></p> <p><i>(b) providing appropriate controls to manage other adverse effects on indigenous biodiversity of a new subdivision, use and development.</i></p>	<p>TCC is concerned that there is no guidance on how to implement Clause 3.16. For example, at what scale are effects considered “irreversible”, and what are considered “appropriate controls”.</p> <p>Without a threshold of effects, Clause 3.16 could provide blanket protection for anything that falls with the definition of indigenous biodiversity, such as trees, resulting in a very complex and potentially litigious exercise.</p>	TCC seeks a threshold of effects is included and further guidance is provided on how to implement Clause 3.16.
<b>23. Do you have any feedback on the workability of provision 3.17: Maintenance of improved pasture?</b>			
Clause 3.17 Maintenance of improved pasture	<p><i>(1) This clause applies to the maintenance of improved pasture where it may affect an SNA.</i></p> <p><i>(2) Local authorities must allow the maintenance of improved pasture to continue if:</i></p> <p><i>(a) there is adequate evidence to demonstrate that the maintenance of improved pasture is</i></p>	<p>TCC is concerned that because the term “adequate evidence” is not defined, nor is there any guidance on what the threshold for “adequate evidence” is, there is no methodological certainty about when Clause 3.17 should be applied.</p>	TCC believes Clause 3.17 could be improved with improved clarification and guidance on the term “adequate evidence”.

21 July 2022

22

Exposure Draft of the National Policy Statement on Indigenous Biodiversity

Tauranga City Council Submission

Provision	Issue	Feedback	Relief Sought
	<i>part of a regular cycle of periodic maintenance of that pasture; and [...]"</i>		
24. Do you have any feedback on the workability of provision 3.18: Māori lands?			
No.			
25. Do you have any feedback on the workability of provision 3.19: Identified taonga?			
No.			
26. Do you have any feedback on the workability of provision 3.20: Specified highly mobile fauna?			
Clause 3.20: Specified highly mobile fauna	<p>(1) Every territorial authority must work together with tangata whenua (using an agreed process) to determine the indigenous species, populations, and ecosystems in the district that are taonga; and these are acknowledged taonga.</p> <p>(2) If it will help manage specified highly mobile fauna, regional councils must include in their regional policy statements (where possible) a map and description of each highly mobile fauna area in its region.</p> <p>(3) Local authorities must include objectives, policies, or methods in their policy statements and plans for managing the adverse effects of new subdivision, use, and development on highly mobile fauna areas, in order to maintain viable populations of specified highly mobile fauna across their natural range.</p>	<p>Clause 3.20 needs to be interpreted in conjunction with the definition of a “highly mobile fauna area” as outlined in Clause 1.6, which states:</p> <p><b>highly mobile fauna area</b> means an area outside an SNA that is identified under clause 3.20 as an area used by specified highly mobile fauna</p> <p>However, Clause 3.20 provides little guidance on what encompasses an “area”.</p> <p>Furthermore, there are overlaps with the NPSFM 2020 and its wetland requirements.</p> <p>See specific feedback in section: Implementation of highly mobile fauna areas.</p>	<p>TCC seeks further clarification and guidance on Clause 3.20. In particular, what encompasses an “area” in relation to a “highly mobile fauna area”.</p> <p>TCC also seeks clarification on the precedence between the NPSIB and NPSFM.</p>
27. Do you have any feedback on the workability of provision 3.21: Restoration?			
Clause 3.21 Restoration	<p>(1) Local authorities must include objectives, policies, and methods in their policy statements and plans to promote the restoration of indigenous biodiversity, including through reconstruction of areas.</p>	<p>It is unclear what is deemed to constitute:</p> <ul style="list-style-type: none"> <li>• A “degraded” SNA; or</li> <li>• An area providing “important connectivity or buffering functions”. While, “buffer” and</li> </ul>	<p>TCC seeks further guidance on the scope and the thresholds of effect on those matters that would trigger this requirement.</p>

21 July 2022

23

Exposure Draft of the National Policy Statement on Indigenous Biodiversity

Tauranga City Council Submission

Provision	Issue	Feedback	Relief Sought
	<p>(2) <i>The objectives, policies, and methods must prioritise all the following for restoration:</i></p> <p>(a) <i>SNAs whose ecological integrity is degraded:</i></p> <p>(b) <i>threatened and rare ecosystems representative of naturally occurring and formerly present ecosystems:</i></p> <p>(c) <i>areas that provide important connectivity or buffering functions:</i></p> <p>(d) <i>wetlands whose ecological integrity is degraded or that no longer retain their indigenous vegetation or habitat for indigenous fauna:</i></p> <p>(e) <i>any national priorities for indigenous biodiversity protection.</i></p> <p>(3) <i>Local authorities must consider providing incentives for restoration in priority areas referred to in subclause (2), and in particular where those areas are on Māori lands, in recognition of the opportunity cost of maintaining indigenous biodiversity on that land.</i></p> <p>(4) <i>Local authorities must consider imposing or reviewing restoration or enhancement conditions on resource consents and designations relating to activities in areas prioritised for restoration.</i></p>	<p>“connectivity” are defined, the threshold for “importance” is unknown.</p> <p>Therefore, is a “degraded” SNA subject to the management provisions of Clause 3.10?</p> <p>It is unclear what extent of reduction would warrant prioritisation for the values listed at sub-clauses 3.21(2)(a)-(d).</p> <p>Further, it is unclear what level of investment into restoration or enhancement is required by the NPSIB. Will local authorities’ obligations be discharged by the implementation of new plan provisions that “promote” restoration and enhancement in accordance with Clause 3.21(1)?</p> <p>Or does the provision oblige works programmes to be initiated? In the case of restoration on private land, it is unclear whether the prompt for commencement of restoration works arises at the making of an application for a resource consent affecting the environmental features in question, and where the costs incurred by restoration should fall.</p> <p>Clause 3.21(2)(d) captures wetlands that are excluded from the NPSFM (Exposure Draft 2022) and will contribute to confusion and conflicting focus of the two National Policy Statements.</p>	

21 July 2022

24

Exposure Draft of the National Policy Statement on Indigenous Biodiversity

Tauranga City Council Submission

Provision	Issue	Feedback	Relief Sought
28. Do you have any feedback on the workability of provision 3.22: Increasing indigenous vegetation cover?			
3.22(3): Increasing indigenous vegetation cover	<i>Regional councils must:</i> (a) <i>set a target of at least 10% indigenous vegetation cover for any urban or non-urban environment that has less than 10% cover of indigenous vegetation; and</i> (b) <i>consider setting targets of higher than 10% for other areas, to increase their percentage of indigenous vegetation cover; and</i> (c) <i>include any indigenous vegetation cover targets in their regional policy statements.</i>	TCC supports the use of a target as it reconfirms the work TCC does to improve vegetation cover each year. The ability to include wetlands in this target as per Clause 1.3 is supported on the basis that it allows consideration of the large areas of wetland areas inside the CMA and riparian zone that TCC actively manages and protects.  However, TCC considers that central government should provide guidance and support to councils to understand the different scenarios and environments where differential targets could be set to achieve enhanced biodiversity outcomes.  TCC also recommends clarifying what constitutes urban and non-urban environments. While urban environment is defined through reference to the NPSUD, non-urban environment is not. The scale to which the 10% indigenous cover applies – either at the specific land environment level or across all non-urban environment, such as the coastal environment, in a region – is unclear.	TCC requests the provision of guidance and support to councils to understand the different scenarios where differential indigenous forest cover targets could be set.  TCC seeks greater clarity around the application of the 10% target, in particular, it considers that cover within the coastal environment and aquatic ecosystems should be provided for in these targets.
29. Do you have any feedback on the workability of provision 3.23: Regional biodiversity strategies?			
Clause 3.23: Regional biodiversity strategies		Refer to section: Inefficient planning process.	
30. Do you have any feedback on the workability of provision 3.24: Information requirements?			
Clause 3.24(1): Information requirements	(1) <i>Every local authority must make or change its policy statements or plans to require that if a resource consent application is required in</i>	TCC supports the recognition that indigenous biodiversity considerations extend beyond SNAs. However, Clause 3.24 is potentially onerous on	TCC seeks further guidance on the scope of an “indigenous biodiversity

21 July 2022

25

Exposure Draft of the National Policy Statement on Indigenous Biodiversity

Tauranga City Council Submission

Provision	Issue	Feedback	Relief Sought
	<p><i>relation to an indigenous biodiversity matter, the application is not considered unless it includes a report that:</i></p> <p><i>(a) is prepared by a qualified and experienced ecologist; and</i></p> <p><i>(b) complies with subclause (2); and</i></p> <p><i>(c) is commensurate with the scale and significance (to indigenous biodiversity) of the proposal.</i></p>	<p>implementation. Further guidance is required as to the scope intended by “<i>in relation to an indigenous biodiversity matter</i>”, and on the thresholds of effects that would trigger this requirement.</p> <p>In Clause 3.24(1)(a) it is unclear what is meant by “<i>a qualified and experienced ecologist</i>” and this wording potentially limits who can undertake consent reporting. This will have implications for availability of ecologists to undertake this work.</p>	<p><i>matter</i>” and suggests that the wording in Clause 3.24(1)(a) is amended to “suitably qualified ecologist”.</p>
31. Do you have any feedback on the workability of provision 3.25: Monitoring by regional councils?			
No.			
32. Do you have any feedback on the workability of the provisions under Part 4: Timing?			
Clause 4.1: Timing generally	<p><i>(1) Every local authority must give effect to this National Policy Statement as soon as reasonably practicable.</i></p> <p><i>(2) Local authorities must publicly notify any changes to their policy statements and plans that are necessary to give effect to this National Policy Statement within 8 years after the commencement date.</i></p>	<p>TCC understands from the requirements of Clause 4.1(1)-(3) that:</p> <ul style="list-style-type: none"> <li>In 5 years from commencement date: <ul style="list-style-type: none"> <li>Regional councils must make or change the RPS and plans to identify existing activities and include objectives, policies, and methods that give effect to Part 3, Subpart 2 and Clause 3.24</li> <li>Territorial authorities must make or change plan to include identified SNAs and objectives, policies and methods that give effect to Part 3, Subpart 2 and Clause 3.24</li> </ul> </li> <li>In 8 years from commencement date: <ul style="list-style-type: none"> <li>Regional councils must identify highly mobile fauna areas outside SNAs and make or change RPS and plans to include objectives, policies, and methods to give effect to all other parts of the NPSIB</li> </ul> </li> </ul>	<p>TCC seeks a reconsideration of the stages and timing of NPSIB requirements to recognise the hierarchy of planning documents, capacity, and resourcing requirements, and provide greater clarity on the roles and responsibilities of regional and territorial authorities.</p>
Clause 4.2: Timing for planning provisions for SNAs	<p><i>(1) Local authorities must publicly notify any policy statement or plan or changes to these necessary to give effect to subpart 2 of Part 3 (Significant Natural Areas) and clause 3.24 (Information requirements) within 5 years after the commencement date.</i></p>		
Clause 4.3: Timing for regional	<p><i>(1) A regional council that, at the commencement date, has or is in the processes of preparing a regional biodiversity strategy must update or</i></p>		

21 July 2022

26

Exposure Draft of the National Policy Statement on Indigenous Biodiversity

Tauranga City Council Submission

Provision	Issue	Feedback	Relief Sought
biodiversity strategies	<p><i>complete the strategy within 10 years after the commencement date.</i></p> <p><i>(2) A regional council that, at the commencement date, has not prepared or begun to prepare a regional biodiversity strategy must initiate reparation of a strategy within 3 years after the commencement date, and must complete it within 10 years after the commencement date.</i></p>	<ul style="list-style-type: none"> <li>○ Territorial authorities must identify taonga and make or change plan to include objectives, policies, and methods to give effect to all other parts of the NPSIB</li> <li>● In 10 years from commencement date: <ul style="list-style-type: none"> <li>○ Regional councils must prepare a regional biodiversity strategy</li> </ul> </li> </ul> <p>This is a complex and resource heavy process, which requires multiple changes to RPSs and plans, does not consider the hierarchy of planning documents and the timeframes associated with each, and does not clearly define the roles between regional and territorial authorities.</p> <p>Further, as RPSs and plans have been updated at both the 5- and 8-year marks, it is unlikely that the regional biodiversity strategy will be given effect to in these documents until 18 years after commencement, based on the 10-yearly plan review cycle.</p> <p>Finally, how this timeframe integrates into the RMA reforms, and what this will mean for councils trying to meet their statutory requirements is of major concern.</p>	
<b>33-36. Do you have any feedback on the workability of provisions A-D: Representativeness criterion?</b>			
Appendix 1: Criteria for identifying areas that		See specific comments in section: Identification of the key issues and challenges relating to the Exposure Draft for the NPSIB.	

21 July 2022

27

Exposure Draft of the National Policy Statement on Indigenous Biodiversity

Tauranga City Council Submission

Provision	Issue	Feedback	Relief Sought
qualify as significant natural areas			
37. Are there any species which should or shouldn't be on the specified highly mobile fauna list?			
No.			
38/39. Do you have any feedback on the workability of Appendix 3: Principles for biodiversity offsetting and Appendix 4: Principles for biodiversity compensation?			
Appendix 3: Principles for biodiversity offsetting and Appendix 4: Principles for biodiversity compensation		<p>The effects management hierarchy provides for biodiversity offsetting and compensation, and principles for each of these are provided in Appendix 3 and 4 respectively. The NPS-IB is clear that these principles must all be complied with to qualify as biodiversity offset or compensation. TCC considers that a high bar to achieve, and whilst we acknowledge the need to address each of the principles, it is likely that there will be occasions where not all principles can be met. It would be preferable to envisage a 'weight of evidence' approach that meets the acceptability of the offset or compensation.</p> <p>TCC also note that Appendix 3(2) reflects a standard of acceptability for demonstrating and then achieving a net gain in biodiversity values. TCC supports this intention but considers that the standards (a)-(c) of the principle are likely to be ineffectual amongst arguments regarding such concepts as "irreplaceability", "vulnerability", and "acceptable timeframes".</p> <p>TCC support the requirement for a net gain in biodiversity values and acknowledge that this is</p>	<p>TCC seeks that a 'weight of evidence' approach is utilised in Appendix 3 and 4.</p> <p>TCC seeks further clarity is provided in Appendix 3 and 4, particularly regarding "irreplaceability", "vulnerability" and "acceptable timeframe" in sub-clause's (2).</p>

21 July 2022

28

Exposure Draft of the National Policy Statement on Indigenous Biodiversity

Tauranga City Council Submission

Provision	Issue	Feedback	Relief Sought
		<p>an attempt to improve upon the current situation for biodiversity in New Zealand. However, Appendix 3(3) introduces the <i>"like-for-like quantitative loss/gain calculation"</i> to demonstrate net gain. Experience of loss/gain calculations in New Zealand suggests that the models in use require large amounts of quantitative data to function well, and even then, there is some doubt of their fitness for the purpose of offset calculations. Therefore, their application has often been one of informed (or otherwise) estimates and untested assumptions. TCC is concerned that this approach will amplify the conclusion that offsets are not achievable, when there may be a simple solution that is acceptable to all parties involved and that provides for the biodiversity benefits sought.</p> <p>TCC are also concerned that the requirement to deliver a quantitative net gain results in less benefit than an applicant may be willing to offer, leading to a peculiarly perverse outcome.</p>	
40. Do you have any feedback on the workability of Appendix 5: Regional biodiversity strategies?			
No.			

21 July 2022

29

Exposure Draft of the National Policy Statement on Indigenous Biodiversity

Tauranga City Council Submission

Appendix 1: Memorandum from Boffa Miskell Ltd – Comments on  
Exposure Draft of the NPS-IB pertaining to TCC Urban Growth Areas

21 July 2022

30



## Memorandum

<input checked="" type="checkbox"/> <b>Auckland</b> Level 3, IBM Centre 82 Wyndham Street Auckland 1010 PO Box 91250 Auckland 1142 +649 358 2526	<input type="checkbox"/> <b>Whangarei</b> 35 Walton Street Whangarei 0110 +649 358 2526	<input type="checkbox"/> <b>Tauranga</b> PO Box 13373 Tauranga 3141 +647 571 5511	<input type="checkbox"/> <b>Hamilton</b> PO Box 1094 Hamilton 3240 +647 960 0006
<input type="checkbox"/> <b>Wellington</b> PO Box 11340 Wellington 6142 +644 385 9315	<input type="checkbox"/> <b>Christchurch</b> PO Box 110 Christchurch 8140 +643 366 8891	<input type="checkbox"/> <b>Dunedin</b> 49 Water Street Dunedin 9016 +643 470 0460	<input type="checkbox"/> <b>Queenstown</b> PO Box 1028 Queenstown 9348 +643 441 1670

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Attention:	Bradley Bellamy
Company:	Tauranga City Council
Date:	19 July 2022
From:	Boffa Miskell
Message Ref:	Comments on the exposure draft of the NPS-IB
Project No:	T18140

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### Introduction

Boffa Miskell have undertaken ecological and wetland assessments for two key urban growth areas within Tauranga City: Te Tumu Urban Growth Area; and Tauriko West Urban Growth Area. Following the release of the exposure draft of the National Policy Statement for Indigenous Biodiversity (NPS-IB), Tauranga City Council have commissioned Boffa Miskell Ltd. (BML) to undertake a review of the provisions of the NPS-IB and test the proposed amendments to the two proposed urban growth areas as well as more generally in application in the environment. The outputs will be used to inform the TCC submission on the proposed exposure draft. The review work is a desktop-only assessment. Our review is informed by the following:

- Te Tumu Wetlands: Assessment of Ecological Values. Report prepared by Boffa Miskell Limited for Tauranga City Council, version 1, 1 May 2020 (BML Te Tumu 2020).
- Bay of Plenty sub-regional Australasian bittern survey: Spring 2019. Report prepared by Boffa Miskell Limited, version 2, 12 October 2020.
- Te Tumu urban growth area: Preliminary wetland survey. Report prepared by Boffa Miskell Limited for Tauranga City Council, version 1, 27 January 2021 (BML Te Tumu 2021).
- Tauriko West urban growth area: Preliminary wetland survey. Report prepared by Boffa Miskell Limited for Tauranga City Council, version 1, 31 March 2021 (BML Tauriko 2021).

Te Tumu Urban Growth Area encompasses coastal dunelands bounded by the Kaituna River to the south and east, and intersected by Wairakei Stream. Wetlands and floodplains surround Wairakei Stream and the Kaituna River. Several wetland and duneland features are identified as “special ecological areas” in the Tauranga City Plan, and are known to support a variety of indigenous flora and fauna, including Threatened and At Risk species.

Tauriko West Urban Growth Area is situated in the hinterland east of the Kaimai Range, southwest of Tauranga City, bounded by Wairoa River to the west and SH29 to the east. Wairoa River valley is identified as a priority restoration corridor in Tauranga City Council's SmartGrowth Strategy (SmartGrowth 2007). A DOC publication on ecosystem services of protected areas and ecological corridors within the Kaimai-Tauranga Catchments (DOC 2010) described the Wairoa River and its tributaries as nationally important for biodiversity, noting that “most of the Wairoa catchment is within an Acutely Threatened land environment and there is considerable opportunity to protect additional areas of high value indigenous vegetation”. Other

than the Wairoa River, few indigenous ecological features are present within the Tauriko West Urban Growth Area, however Boffa Miskell's review of wetland extent using the NPS-FM delineation protocols identified a number of prospective wetland features.

#### **Overview of relevant NPS-IB provisions pertaining to Urban Growth Areas**

The NPS-IB seeks to halt the decline of indigenous biodiversity in Aotearoa, by way of explicitly protecting indigenous species populations, habitats and ecosystems, including the processes and functions of ecosystems. Tangata whenua are recognised as kaitiaki with a central role in the management of indigenous biodiversity.

While identification and protection of significant natural areas at a local scale remains the primary mechanism for achieving intended policy outcomes, the NPS-IB includes a lot of specific detail as to how SNAs are identified, how effects on values are evaluated and addressed, and how biodiversity is to be identified and managed both within and outside SNAs. This review focuses on specific provisions likely to have implications for the implementation of Te Tumu and Tauriko Urban Growth Areas, including the following matters:

- Relationship with other policy instruments (Section 1.3)
- Assessing areas that qualify as SNAs (sections 3.8, 3.9 and Appendix 1)
- Requirement that specific adverse effects on SNAs of any new subdivision, use, or development are avoided, *and* must be managed by applying the effects management hierarchy (Section 3.10)
- Specified highly mobile fauna (Section 3.20)
- Principles for biodiversity offsetting and compensation (Appendix 3 & 4)

#### **NPS-IB Application (s. 1.3)**

Section 1.3 specifies that the NPS-IB *"applies to indigenous biodiversity throughout Aotearoa New Zealand, other than indigenous biodiversity in the coastal marine area and aquatic indigenous biodiversity"*.

We consider that further clarification as to the application of the NPS-IB to freshwater features such as rivers and their margins, wetlands, lakes and their margins, and other freshwater environments, and to coastal environments is required. Whilst section 1.3 notes that the NPS-IB applies to geothermal ecosystems, specified highly mobile fauna and restoration of wetlands, it is not clear whether such freshwater or coastal ecosystems will fall into the categorisation as 'Significant Natural Areas' (SNA, subpart 2). Likewise, Section 1.4 notes that the NPS-IB applies *"in the terrestrial coastal environment"*, but it is unclear how terrestrial and other parts of the coastal environment will be differentiated.

Our reading of the current NPS-IB is that such freshwater and coastal ecosystems are excluded from consideration as an SNA. However, we would be surprised if the intent of the NPS-IB is to exclude these freshwater and wetland features from being included as SNAs and therefore subject to the provisions of the NPS-IB accorded that classification.

While the provisions of the NPS-FM including the National Objectives Framework (NOF) for freshwaters prohibit or limit the loss of wetlands and the extent of rivers, and set environmental limits for freshwaters, the NPS-FM and the Coastal Policy Statement do not provide for indigenous biodiversity (directly or indirectly) and the provisions therein do not consider the attributes of biodiversity widely canvassed for management in the NPS-IB (such as, but not limited to, fragmentation, connectivity, highly mobile fauna, presence of ecotones). We consider that this is a significant gap and that there is a significant lack of integration of the policy direction and statements across these proposed policy statements.

Categorisation as an SNA (as per the criteria set out in Appendix 1 of the NPS-IB) would expose such freshwater and coastal features to these provisions.

We consider that this is likely to lead to confusion, gaps in biodiversity protection and management, and widely disparate re-interpretation of the policy intent, and does not provide a comprehensive implementation of the Resource Management Act section 6(c) that requires '*the protection of areas of significant vegetation and significant habitats of indigenous fauna*' as a matter of national importance.

#### **Relevance to TCC and the Te Tumu and Tauriko West urban growth areas**

Notwithstanding the classifications of the wetlands provided for in the NPS-FM, clarification of whether wetlands would be included as SNAs under the NPS-IB is sought. If wetland features are included as SNAs, then an additional layer of objectives, policies and methods will lie across these features in the proposed subdivisions.

#### **Assessing areas that qualify as SNAs (s. 3.8, 3.9 and Appendix 1)**

The NPS-IB sets out the criteria and principles for identifying SNAs (s. 3.8, Appendix 1), and how they should be identified in district plans (s. 3.9). Only one of the four attributes must be met to qualify as an SNA, and qualifying characteristics include indigenous vegetation and/ or fauna assemblages typical of the Ecological District (including regenerating vegetation and exotic vegetation that provides fauna habitat), or contains "moderate diversity", or "indigenous ecotones, complete or partial gradients or sequences".

We note that the ecological significance criteria (and other parts of the NPS-IB, such as fundamental concepts and definitions in Section 1.5) use loosely defined terminology and ecological concepts (e.g., ecological integrity, moderate size, compact shape, moderate diversity) that are open to interpretation, and/ or are very broadly encompassing if strictly applied. Similarly, attributes such as the 'type locality of an indigenous species' Appendix 1 C(6)(f) really has little to do with rarity or distinctiveness (perhaps unless it has a high threat status), as the species may in fact be widespread; and the type locality is more of historical relevance to science than an attribute of rarity or distinctiveness.

#### **Relevance to TCC and the Te Tumu and Tauriko West urban growth areas**

We understand that currently TCC has a schedule of significant ecological areas broken down into category 1 and category 2 types (based on criteria from the BOP Regional Policy Statement (Appendix F – Set 3). We note that an earlier draft of the NPS-IB did set out criteria and provisions to establish proposed category 1 and 2 SNAs. We have not undertaken any specific assessments but considering the TCC requirements for SEAs, we anticipate that both category 1 and Category 2 SEAs will most likely meet the requirements for SNA (as set out in Appendix 1 of the NPS-IB). We would expect that other features within the TCC boundaries would be similarly classified.

#### **Managing adverse effects on SNAs (s. 3.10)**

Section 3.10 of the NPS-IB provides for managing effects on SNAs from new subdivision, use and development. Section 3.10(2) provides that:

- (2) *Local authorities must make or change their policy statements and plans to include objectives, policies, and methods that require that the following adverse effects on SNAs of any new subdivision, use, or development are avoided:*
  - (a) *loss of ecosystem representation and extent:*
  - (b) *disruption to sequences, mosaics, or ecosystem function:*
  - (c) *fragmentation of SNAs or the or loss of buffers or connections within an SNA:*
  - (d) *a reduction in the function of the SNA as a buffer or connection to other important habitats or ecosystems:*
  - (e) *a reduction in the population size or occupancy of Threatened, At Risk (Declining) species that use an SNA for any part of their life cycle.*

These provisions are a high test for avoidance, and in our view, most new activities (being subdivision, use, or development) could likely to meet at least one if not all of the provisions listed in section 3.10(2) and would therefore fail the avoidance test. We conclude this as we consider that whilst avoidance of disturbance within the boundaries of an SNA is achievable, the remaining attributes such as disruption to sequences and

mosaics, fragmentation, and the reduction in the population size or occupancy of threatened species are more difficult to demonstrate.

Furthermore, s.3.10(4) provides that where adverse effects are identified (other than those listed in s.3.10(2)) then an applicant must demonstrate how each step of the effects management hierarchy has been applied. However, effects (a- e) essentially rule out any encroachment or disturbance as any adverse effects will effectively always result in or be a component of one of the adverse effects listed. Whilst these 'other' (non-listed) effects can use the effect management hierarchy, it is difficult to consider what 'other' effects that would apply that wouldn't be included or a component of those listed in s.3.10(2). It seems to us that this 'disabling' of the use of the effects management hierarchy has no regard for the scale or severity of the effects listed and will likely result in perverse outcomes, both environmental and social/ economic.

In addition, whilst we support the need to address each step of the effects management hierarchy, in our experience, it is often difficult to demonstrate each item of the hierarchy, and may require more extensive data collection, observations or modelling to achieve this requirement.

#### ***Relevance to TCC and the Te Tumu and Tauriko West urban growth areas***

As indicated above, the provisions of s. 3.10 are a high bar for avoidance, and in our view, if several features at Te Tumu and Tauriko West meet the criteria as SNAs, then additional risks may apply to these proposed growth areas. Most SNAs will meet at least one if not all of these provisions for avoidance. For example, below we note the presence and use of wetland features at Te Tumu by specified highly mobile fauna. Avoidance of fragmentation, buffers and connections between and within SNAs is likely to be challenging to achieve in the design and operation of the proposed subdivision.

#### **Specified highly mobile fauna (s. 3.20)**

The NPS-IB requires that every regional council must record areas outside of SNAs that are highly mobile fauna areas, including, where helpful for management, maps and description of each area. We support the inclusion of provisions for management of highly mobile fauna.

The availability of sufficient data and information on populations of the specified highly mobile fauna is very limited for most, if not all, of the species listed. In addition, it is likely to take a considerable length of time, perhaps many years, to truly understand the viability of the populations of these species sufficient to inform the policy direction.

Furthermore, we would expect that very little of any region would not be habitat for at least one of the species listed (ranging from transient use for overflights, temporary feeding, roosting, and resting, to more sensitive behaviours including seasonal feeding and breeding). Areas are likely to cover the same areas, overlap and sit on top of each other in many cases. We also note that management requirements for different species may vary and there is a risk of conflicting or escalation of objectives, policies and methods.

We consider that maps (as well as description) of the area of highly mobile fauna should be mandatory to provide greater certainty with regard of the likely area subject to specific management.

#### ***Relevance Te Tumu and Tauriko West urban growth areas***

Ecological observations (of the Wairakei and Elizabeth wetlands) at Te Tumu recorded the presence of the matuku (Australasian bittern, Threatened, Nationally Critical, identified as a specified highly mobile fauna in Appendix 2 of the NPS-IB). Other species for which there are local Ornithological Society records that may use Wairakei Elizabeth Wetlands that are also listed in Appendix 2 of the NPS-IB are: mātātā (fernbird, At Risk - Declining), pūweto (spotless crane, At Risk - Declining), koitāreke (marsh crane, At Risk - Declining), and mohu pererū (banded rail, At Risk - Declining). During a site visits in December 2018 and November 2019, matuku were observed flying between Elizabeth Wetland and both arms of the Wairakei Wetlands. This behaviour matches a known characteristic of bittern ecology for using a mosaic of wetland types in the landscape, rather than inhabiting a single habitat. Given the short distance between habitats, it is likely that bittern and most other wetland bird species use the Wairakei and Elizabeth Wetland, as well as the Kaituna

River margin wetlands, the Kaituna Wetland, Maketu estuary and Little Waihi estuary as part of a wetland mosaic with use altering seasonally as resources change or in association with breeding and nesting activity.

What this means is that the Te Tumu area at least will almost certainly qualify as an area of several highly mobile species, and a range of objectives, policies and/or methods will be applied to the area for managing the adverse effects of subdivision, use and development (s. 3.20(3)).

The presence of these species also means that the Te Tumu and Tauriko West will meet at least one criterion of Appendix 1, and thus qualify as an SNA; and in any case s. 3.16 would also apply.

#### **Effects Management Hierarchy (s. 1.5(4))**

The NPS-IB sets out the Effects Management Hierarchy as follows:

- a) adverse effects are avoided where practicable; and
- b) where adverse effects cannot be demonstrably avoided, they are minimised where practicable; and
- c) where adverse effects cannot be demonstrably minimised, they are remedied where practicable; and
- d) where more than minor residual adverse effects cannot be demonstrably avoided, minimised, or remedied, biodiversity offsetting is provided where possible; and
- e) where biodiversity offsetting of more than minor residual adverse effects is not demonstrably possible, biodiversity compensation is provided; and
- f) if biodiversity compensation is not appropriate, the activity itself is avoided.

We support the inclusion of the effects management hierarchy, but emphasise the following about the proposed language:

- 'more than minor residual adverse effects' will always be open to argument in both defining 'more than minor' and 'residual effect'. Our experience is that the meaning and implementation of these terms is often not agreed amongst practitioners and the NPS-IB will benefit from greater clarity of these terms.
- 'not demonstrably possible' is a rather vague term that will be open to much challenge from all stakeholders, and arguably lead to a continuing and potentially endless need to demonstrate compliance with the hierarchy.

We comment specifically on the terms and principles of 'biodiversity offset' and 'biodiversity compensation' below.

#### **Principles for biodiversity offsetting (Appendix 3) and compensation (Appendix 4)**

The effects management hierarchy provides for biodiversity offsetting and compensation, and principles for each of these are provided in appendix 3 and 4 respectively. The NPS-IB specifies that "*these principles represent a standard for biodiversity offsetting and must be complied with*" to qualify as biodiversity offset or compensation. We consider that a high bar to achieve, and whilst we acknowledge the need to address each of the principles, it is likely that there will be occasions where not all principles can be met. It would be preferable to envisage a 'weight of evidence' approach that meets the acceptability of the offset or compensation.

We also note that principle 2 for both biodiversity offsetting (Appendix 2 of the NPS-IB) and compensation (Appendix 3 of the NPS-IB) reflects a standard of acceptability for demonstrating and then achieving a net gain in biodiversity values. We support this intention, but we consider that the standards a) to c) of the

principle, which include undefined concepts such as irreplaceability, vulnerability, and acceptable timeframes, are likely to result in uncertainty and protracted debate.

We support the requirement for a 'net gain' in biodiversity values (as opposed to only a 'no net loss') and acknowledge that this is an attempt to improve upon the current situation for biodiversity in New Zealand. However, the requirement in principle 3 for a 'like-for-like quantitative loss/ gain calculation' to demonstrate net gain is not feasible, in our view, as quantitative measurement of many components of biodiversity is not straightforward or even feasible with available methods, while attempting to do so would frequently require intensive data collection and analysis over long timeframes. Moreover, our experience of loss/ gain calculations in New Zealand is that the models in use do not have a transparent method to translate quantitative data into universal "currency" which can be used to calculate net gain. Therefore, their application has often relied on subjective estimates and untested assumptions. We are concerned that this approach will amplify the conclusion that offsets are not achievable, when in fact there may be a simple solution that is acceptable to all parties involved and that provides for the biodiversity benefits sought.

We are also concerned that the requirement to deliver a quantitative net gain results in less benefit than an applicant may be willing to offer, leading to a peculiarly perverse outcome.

### References

Department of Conservation 2010: Ecosystem Services of Protected areas and Ecological Corridors within the Kaimai-Tauranga Catchments. Technical report series 2. Authors: A. van Meeuwen-Dijkgraaf, W.B. Shaw, F. Mazziere Wildland Consultants Ltd. East Coast Bay of Plenty Conservancy, New Zealand Department of Conservation. 103 pp.

SmartGrowth 2007: The Western Bay of Plenty sub-region, 50-year strategy and implementation plan. Tauranga City Council, Western Bay of Plenty District Council & Environment Bay of Plenty. 265 pp.

18 July 2022



Bay of Plenty Regional Council Toi Moana  
Attn: Transport Planning Team  
PO Box 364  
Wkakātāne 3158

*Via email: [rptp@boprc.govt.nz](mailto:rptp@boprc.govt.nz)*

Dear Sir/Madam,

**Tauranga City Council Submission to the draft Regional Public Transport Plan 2022-2032**

Thank you for the opportunity to submit on the draft Bay of Plenty Regional Public Transport Plan 2022 – 2032 (the draft RPTP).

Tauranga City Council (TCC) would like to acknowledge the significant amount of work lead and undertaken by the Bay of Plenty Regional Council (BoPRC) to develop the draft RPTP. We have appreciated and supported the collaborative approach that has been applied to the development of the draft RPTP at the Project team and Regional Public Transport Committee levels. This approach has led to the draft RPTP already reflecting many of the key topics of interest and relevance to TCC.

Overall, TCC considers that the draft RPTP reasonably clearly sets out the Challenges, Vision, Objectives, Focus areas, Future strategy, Policies, Actions, Monitoring and Review for public transport at a broader regional and then more focussed sub-regional western Bay of Plenty and Tauranga city level. This is achieved through the inclusion and alignment of content from the Urban Form and Transport Initiative (UFTI) and the Western Bay of Plenty Transport System Plan (TSP) in the draft RPTP.

There are however parts of the draft RPTP which TCC considers require further development and amendment to reflect how public transport can support quality urban development, and improved accessibility, mode shift and environmental outcomes for Tauranga City. The following sets out those parts of the draft RPTP and the changes requested.

**Section 2.2: Pūtea Funding & Section 2.3 Ngā wero me ngā kōwhiringa Challenges and Opportunities**

The draft RPTP identifies key 'Challenges' facing public transport and describes how these apply across the region. For the western Bay of Plenty and Tauranga City the draft RPTP includes a description of the contextual factors identified by UFTI facing a successful public transport system. These include the dispersed land use pattern, traffic growth, reliability and

convenience of the service, ongoing roadworks / corridor improvements and the disruption this causes, and safety and security of passengers and drivers.

TCC agrees with the Challenges already identified in the draft RPTP. However, TCC considers that an additional Challenge that acknowledges the issue of affordability of public transport (both services and infrastructure) is included in the RPTP. It is noted that 'Section 2: Funding' and 'Section 2.3.1 Covid 19' discuss key matters (e.g. sources of funding; patronage) that relate to affordability. However, these sections and the Challenge section generally lacks discussion of the significant funding that will be required to deliver the objectives of the RPTP and its affordability for those who are responsible for its funding (i.e. Central Government, Regional and Local Councils, Public transport users through fares).

In addition, the central government direction and aspiration and the local intent (including agreed through UFTI and TSP) for public transport is high. However, at this time the full extent of funding required and the sources of this are still to be confirmed. While there are workstreams underway (e.g. Waka Kotahi business case development; investigation of new and alternative funding sources with government) they are still to be fully confirmed.

On the basis of the above, TCC considers that it is appropriate for the RPTP to include an additional Challenge which discussed the issue of the affordability of public transport for the region and for places like Tauranga City.

## **Section 2.2: Ngā whāinga Objectives**

The draft RPTP identifies seven key objectives with targets to guide delivery of public transport over the 10-year life of the RPTP. It is unclear how the targets identified in the draft RPTP align to and are consistent with those already agreed through existing sub-regional planning processes like UFTI and the TSP. It is noted that footnotes for the targets refer to 'baselines' but the source of the baseline isn't recorded. If these are from UFTI, the TSP or some other planning process or document then it would be helpful to record this. If the draft RPTP targets vary from those agreed through UFTI or the TSP then the RPTP should acknowledge this and explain the rationale and implications of this.

It is noted that the draft RPTP acknowledges the recent release of New Zealand's first Emissions Reduction Plan (ERP) and that the Regional Council and its partners are undertaking work to understand its implications to public transport provision in the region. TCC support a collaborative and evidenced-based approach to considering the implications of the ERP and look forward to continuing to work with BoPRC and other partners on the response to the ERP.

## **Part 5: Te aroturukitanga me te arotakenga Monitoring and review**

Section 5 identifies that BoPRC will gather performance measurement information including related to service utilisation, reliability, the cost and revenue of services, customer feedback and experience, emissions, and service access and coverage.

TCC is supportive of the BoPRC implementing a robust monitoring approach to support the RPTP. TCC is keen to continue to work with BoPRC and the wider SmartGrowth, UFTI and TSP partners to understand how the RPTP monitoring framework is able to integrate with other performance measurement frameworks in place at a local / sub-regional level. This will help to ensure that the information that is gathered can be used to also support other processes like Waka Kotahi business case development, local level spatial or structure planning, or network operational decisions.

Again, thank you for the opportunity to submit on the draft RPTP. Should you wish to discuss any of the matters identified in our submission please contact Peter Siemensma, Senior Strategic Transport Planner, [peter.siemensma@tauranga.govt.nz](mailto:peter.siemensma@tauranga.govt.nz), or 02720 08418.

Please note that we do wish to be heard at the hearing in relation to the TCC submission.

Yours sincerely

Christine Jones  
General Manager, Strategy, Growth & Governance

07 577 7063 | 027 467 2334  
[christine.jones@tauranga.govt.nz](mailto:christine.jones@tauranga.govt.nz)

## 9.5 Open Space Provision - Policy Review to Assist City Growth Planning

**File Number:** A13320297

**Author:** Sharon Herbst, Policy Analyst

Clare Abbiss, Open Space & Community Facilities Planner

**Authoriser:** Barbara Dempsey, General Manager: Community Services

### PURPOSE OF THE REPORT

1. This report requests that the Committee adopt for consultation an amendment to the quantity standard of the Open Space Level of Service Policy, to assist with city growth planning in new greenfield developments.

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### RECOMMENDATIONS

That the Strategy, Finance and Risk Committee:

- (a) Adopts for consultation an amended Open Space Level of Service Policy (Attachment 1) with:
  - (i) A revised open space quantity standard for the Open Space Level of Service Policy, of 1.7 hectares per 1000 persons for New Comprehensive Development Areas and New Urban Growth Areas, that removes the requirement that at least 50% of that quantity must comprise neighbourhood reserves, provided that the accessibility standards in the policy are still achieved for neighbourhood area open space.
  - (ii) Minor policy reformatting amendments to align with the current council policy template, update definitions and correct cross references.

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### EXECUTIVE SUMMARY

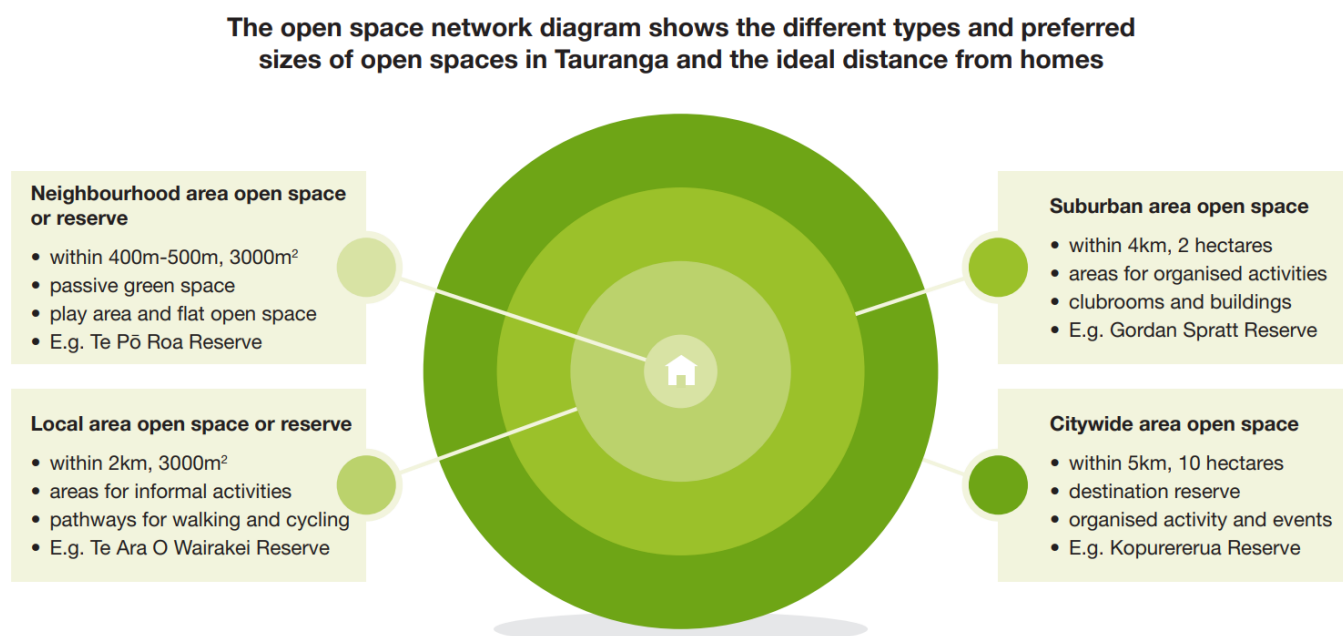
2. Council's Open Space Level of Service Policy (the policy) aims to ensure existing and new communities in Tauranga have open spaces (parks and reserves) that are accessible, high quality, and deliver a range of functions. This ensures all residents can access a range of different experiences within certain distances from their home.
3. To achieve this, the policy prescribes standards for accessibility, quality, function and quantity. Application of these standards results in the provision of a network of open space across the city.
4. While planning for open space provision in new greenfield areas, it has become clear that applying the existing quantity standard created practicality issues, mainly because the current policy assumed a housing density of 15 dwellings per hectare, and new developments are now seeking much higher densities. Application of the current policy would not support good urban design and would not support the provision of more housing.
5. Staff identified an opportunity to refresh the policy format and some wording, noting it had not been reviewed in over ten years. Therefore, in addition to the proposed amendments required to address the issues identified at paragraph 4 above, a refresh is recommended to align with the current council policy template, and to update definitions and cross references.
6. To address these issues, a minor amendment to the policy is proposed, detailed at **Attachment 1**, to provide more flexibility in the provision of open space in new greenfield developments. The recommended amendment is to change the quantity standard for neighbourhood reserves, provided that the accessibility standard can still be achieved.

7. The proposed amendment will enable a pragmatic approach to be taken to accommodate higher density housing and maximise the open space development opportunities afforded by the existence of areas of land unsuitable for housing development.
8. In particular, the proposed amendment will assist the Tauriko West plan change process, including structure plan development, and enable us to deliver a well-planned greenfield development. Any changes to the policy will ideally be adopted by December 2022 to align with the scheduled plan change process timeline for Tauriko West.
9. Preliminary consultation has been undertaken with some key stakeholders and the wider community. Feedback generally supports a revised policy, whilst noting the value of open space in new developments and the importance of ensuring that it is well planned and provides for the community's needs. It is considered that this proposed policy amendment will not adversely affect the ability to provide well planned open space networks in new greenfield developments that meet the community's needs.

## BACKGROUND

10. To help achieve Council's strategic direction on the provision of open space in Tauranga, the policy was adopted in 2009 and introduced a standards-based approach for provision, to ensure that people have good access to a **network** of quality open spaces:
11. In summary the standards provide for:
  - Accessibility – how far someone should travel to reach an area of open space
  - Function – the different types of open space experiences we want to provide
  - Quality – the level of quality all open spaces should attain
  - Quantity – how much open space we should have.
12. The accessibility, function and quality standards apply across the whole city, except Rural and Rural Residential Zones, Marae, Marae Rural and Ngati Kahu Papakainga Zones, and Intensification Areas.
13. The quantity standard applies only to greenfield housing developments outside of existing growth areas. It establishes a minimum quantity of neighbourhood and local reserves, based approximately upon the amount that exists in the established and developed areas of the city. The aim is to ensure new areas of the city include at least as much open space as the existing areas of the city, per capita.
14. The network of open spaces promoted by the policy is represented in **Figure 1** below:

**Figure 1: Diagram showing the open space network**



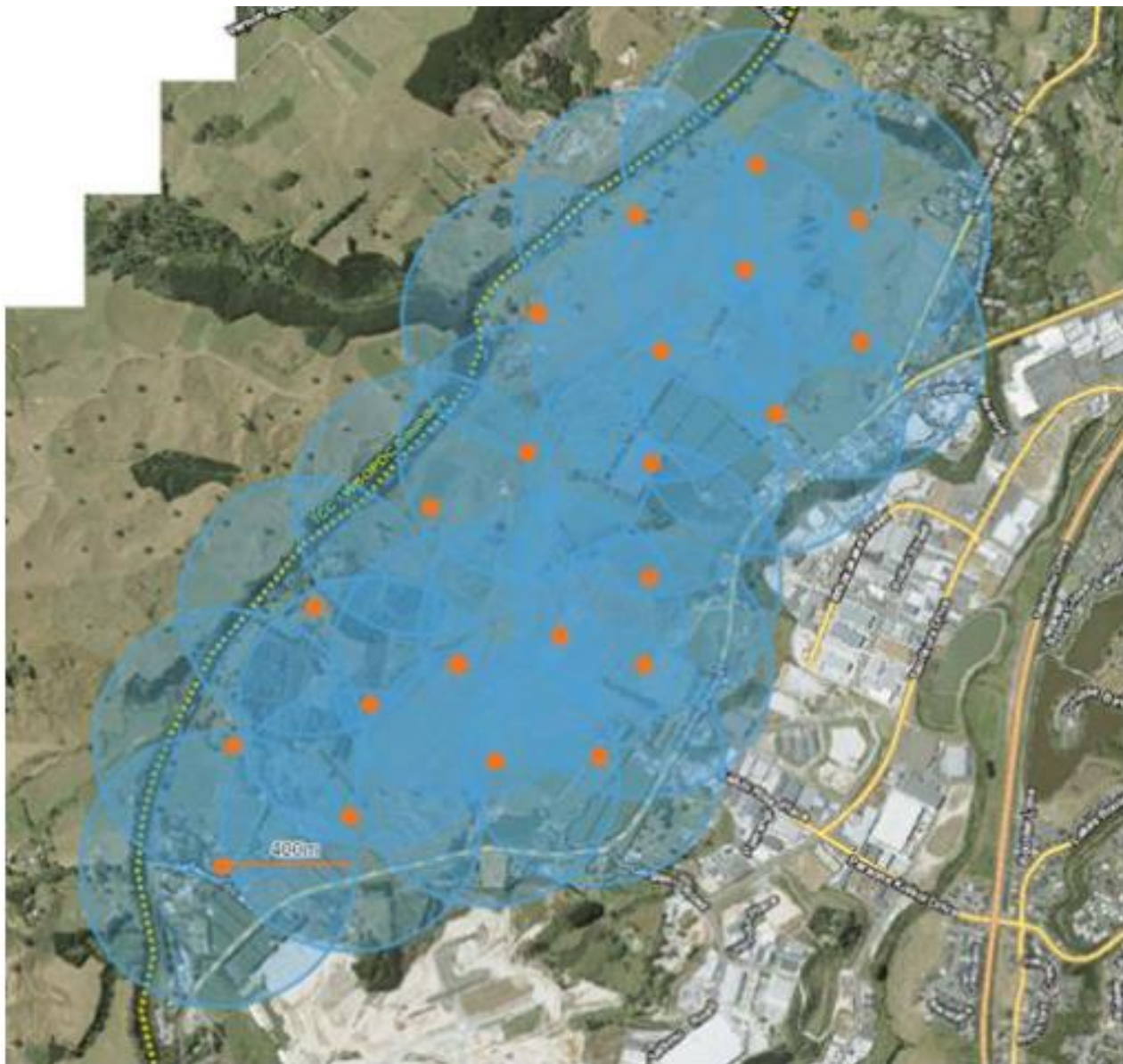
15. A standards-based approach to open space provision is best practice both locally and internationally. For example, Hamilton and Auckland Councils have similar standards for accessibility to neighbourhood reserves (Hamilton requires a “minimum of one park within 500m walking distance of all residential households”. Auckland requires neighbourhood reserves to be a radial distance of 400 to 600 metres from dwellings). Both councils also have similar open space function and quality standards to this council’s policy. Noteworthy is the fact that neither council however has a quantity standard of open space per population.
16. The policy is a key tool used in the planning for the new greenfield developments. It provides a clear benchmark for council to work with developers to ensure quality open space outcomes are delivered. A public open space schedule must be developed to outline how the standards in the policy are proposed to be met, and what the quantity standard is comprised of. This is incorporated into the structure plan for the area. The outcome of this planning informs development contribution policy for local reserves, and/or is used to prepare agreements with developers for the provision of open space in lieu of collecting development contributions. It also informs resource consent conditions for the provision of open space through the subdivision consent process.

### ISSUE 1 - APPLICATION OF CURRENT POLICY TO NEW GREENFIELD DEVELOPMENTS

17. The current policy was written when greenfield developments were aiming to achieve the SmartGrowth development density of 15 dwellings per hectare. New greenfield developments in the city are now aiming to achieve much higher densities than this.
18. Application of the current quantity standard in areas of higher density results in very large quantities of neighbourhood reserves, spaced in very close proximity, built on land that is ideally suited for housing.
19. To illustrate this issue, the current policy has been applied to the structure planning process in Tauriko West, and the result is shown in **Figure 2** below. This assumes a housing density of 25 dwellings per hectare. Applying the current policy quantity standard of 1.7ha of neighbourhood and local reserves, with at least 50% being neighbourhood reserves, would require approximately 22 neighbourhood reserves, which would need to be spaced approximately 150m apart from each other. This would result in neighbourhood reserves being 75m, or about half a minute walk, away from most houses. This is significantly higher than the policy’s aim of neighbourhood reserves within 400m or a 10-minute walk from most houses.

**Figure 2: Example of neighbourhood reserve requirements when applying current policy on quantity\*. The orange circles represent neighbourhood reserves. The blue circles represent approximately a 10 minute walk (400m)**

\*Based on 25 dwellings per hectare.



20. In addition, the policy doesn't acknowledge the fact that there are likely to be areas within greenfield developments that are not suitable for housing development, due to them having certain values (e.g. cultural, landscape, ecological) or constraints (geotechnical, flooding), and that these areas are likely very suitable for development as locally accessible open space.
21. In summary, the quantity standard in the current policy does not help support the achievement of a well-planned city, does not support higher density housing outcomes, and does not maximise the open space development opportunities afforded by the existence of areas of land unsuitable for housing development.
22. Consequently, an amendment to the policy is sought to address these issues.

## ISSUE 2 – OUTDATED POLICY FORMAT AND UPDATING

23. Staff identified an opportunity to refresh the policy format and some wording, noting it had not been reviewed in over ten years.
24. Therefore, in addition to the proposed amendments required to address the issues identified at paragraphs 17 to 22, a refresh is recommended to align with the current council policy template, and to update definitions and cross references.

## DIRECT RELATIONSHIP TO CURRENT GROWTH PLANNING IN TAURIKO WEST

25. The proposed policy change will particularly assist the current growth planning that is being undertaken for Tauriko West. We are working with the major developers to ensure quality open space outcomes are delivered, undertaking integrated planning of a network of reserves.
26. Tauranga City Council is preparing a plan change to the Tauranga City Plan. This includes the completion of a structure plan. Council seeks to have the plan change notified to rezone Tauriko West from rural to urban in early-2023.
27. The policy requires open space provision to be provided as part of growth planning. It is therefore prudent that any change to the policy be adopted by December 2022 to align with the plan change timeframe and SPP application for Tauriko West.

## OPTIONS ANALYSIS

28. Options to address the issues are discussed in the table below:

Issue 1 – Application of current policy to new greenfield developments			
Option Description		Pros	Cons
1	<p>For new greenfield developments, <u>retain</u> the minimum requirement for 1.7ha/1000 population of neighbourhood and local areas reserves, but <u>remove</u> the requirement for at least 50% to comprise neighbourhood reserves, providing that the accessibility standard of 400m to most houses is still met.</p> <p>Refer <b>Attachment 2</b> for an illustration of the outcome of this option on the location of neighbourhood reserves in Tauriko West.</p> <p><b>(Recommended)</b></p>	<ul style="list-style-type: none"> <li>Provides clear direction to developers and the community, thereby assisting with efficient and consistent decision making for inter-related processes (plan change, structure planning, subdivision consents).</li> <li>Promotes good urban design outcomes for open space provision, aligned to UFTI and SmartGrowth direction, the current accessibility standard, national and international best practice.</li> <li>Supports community outcome of a well-planned city.</li> <li>Retains the current accessibility requirements to neighbourhood reserves.</li> <li>Minimises the amount of developable land that is required for neighbourhood reserves, thereby supporting increased housing density.</li> <li>Maximises the open space development opportunities on areas of land unsuitable for</li> </ul>	<ul style="list-style-type: none"> <li>Smaller quantity of neighbourhood reserves.</li> </ul>

Issue 1 – Application of current policy to new greenfield developments			
Option Description		Pros	Cons
		housing development. <ul style="list-style-type: none"> <li>General support received through initial round of engagement on the suggested policy change.</li> </ul>	
2	Status Quo – quantity standard of 1.7 ha/1000 people of neighbourhood and local reserves, at least 50% comprising neighbourhood reserves <b>(not recommended)</b>	<ul style="list-style-type: none"> <li>Same quantity of neighbourhood reserves.</li> </ul>	<ul style="list-style-type: none"> <li>Unlikely to be able to be practically delivered, therefore does not provide clear direction to developers and the community, and does not assist with efficient and consistent decision making for inter-related processes (plan change, structure planning, subdivision consents).</li> <li>Does not promote good urban design outcomes for open space provision, aligned to UFTI and SmartGrowth direction.</li> <li>Does not support community outcome of a well-planned city.</li> <li>Does not minimise the amount of developable land that is required for neighbourhood reserves, to support increased housing density.</li> <li>Does not maximise the open space development opportunities afforded by the existence of areas of land unsuitable for housing development</li> </ul>

Issue 2 – Outdated Policy format and Updating			
Option Description		Pros	Cons
3	Reformat the policy to align with current council policy template, and update definitions and cross references. <b>(recommended)</b>	<ul style="list-style-type: none"><li>Assists policy interpretation and implementation.</li></ul>	<ul style="list-style-type: none"><li>Nil</li></ul>
4	Do not reformat the policy to align with the current council policy template, and do not update definitions and cross references that are factually incorrect. <b>(not recommended)</b>	<ul style="list-style-type: none"><li>nil</li></ul>	<ul style="list-style-type: none"><li>Does not assist policy interpretation and implementation.</li></ul>

29. Should the Committee agree to the recommended options for Issue 1 and Issue 2, the suggested policy changes are shown as track changes to the draft amended policy in **Attachment 1**.

### STRATEGIC/STATUTORY CONTEXT

30. Currently Council is refreshing its strategic framework, and has recently adopted the Vision for Tauranga ‘Tauranga, together we can’, which has three pillars of prioritising the environment, lifting up our communities, and fuelling opportunities. Council’s strategic framework outlines Council’s response to the vision for Tauranga. The framework will allow both the organisation and the community to see how Council’s day to day operations deliver on strategic outcomes for the city.
31. Policies, such as the open space provision policy, are an intrinsic part of the chain, ensuring that higher level strategic goals are operationalised in a consistent and transparent manner.
32. The proposed policy amendment aligns with the direction of Urban Form and Transport Initiative (UFTI) to ensure residents can access local social/community opportunities within a 15-minute journey time.
33. This proposed policy amendment is consistent with the strategic direction provided by SmartGrowth as it facilitates practical planning in greenfield developments and takes into account the need for open space to provide for those future communities.
34. When the strategic framework and associated strategies and action and investment plans are completed, a thorough review of the entire policy may be needed to ensure it continues to align with the new strategies.

### FINANCIAL CONSIDERATIONS

35. The Local Government Act 2002 (LGA 02) allows for Councils to enter into development agreements that require developers to provide infrastructure (including parks and reserves) in lieu of paying development contributions. Council has used such agreements for development in Pyes Pā West and Wairakei resulting in no local reserve development contributions for those developers who have entered into agreements. It is anticipated that similar agreements will be entered into for future greenfield developments, and no local contributions will be collected through the development contributions policy.
36. Therefore, no financial implications are anticipated as a result of the recommended change.

## LEGAL IMPLICATIONS / RISKS

37. There are no legal implications arising from the recommended changes.
38. The recommendations in this report mitigate any risk of the growth planning process for new greenfield developments not taking account of open space requirements.

## CONSULTATION

### Developers

39. Since 2017, staff have been speaking to potential developers of Te Tumu and Tauriko West regarding the issue with the current quantity standard and proposed options. Feedback has generally been supportive to amending the policy to provide more flexibility to the delivery of neighbourhood reserves, in accordance with the recommended option in this report.

### Te Kauae a Roopu

40. Since 2018, early in the plan change process for Tauriko West, Te Kauae a Roopu (TKAR) was established as a partnership between Ngai Tamarawaho, Ngati Hangarau, Ngati Kahu, Ngati Pango, Ngati Rangi, Pirirakau, Tauranga City Council, Bay of Plenty Regional Council, Western Bay of Plenty District Council, and Waka Kotahi. The partnership was established to provide a framework to work collaboratively as equal partners specifically for the Tauriko for Tomorrow project. The six Hapu were recognised as being mana whenua, and TKAR has met regularly, as a partnership, throughout the plan change preparation process since 2018.
41. Staff engaged with TKAR in June 2022 on the recommended policy change option in this report. The overall feedback emphasised that areas of cultural significance need to be identified and appropriately protected. The development of local open space reserves may aid in protecting and celebrating culturally significant areas.
42. In response, the proposed policy amendment will not affect processes by which areas of cultural significance are identified and protected through the development of Tauriko West.

### Te Rangapū Mana Whenua o Tauranga Moana

43. Staff engaged with Te Rangapū Mana Whenua o Tauranga Moana in June 2022. The recommended policy change in this report was presented to the hui explaining that it could support reserves in more appropriate locations, recognising that some land has higher values than others. The feedback was that all land has value to tangata whenua, and there is no land with minimal cultural value. Development of all reserves needs to consider a tangata whenua perspective of the whenua.
44. Overall feedback supported the policy change as it seemed practical to provide fewer neighbourhood reserves. Several members of Te Rangapū acknowledged and appreciated the ongoing engagement already in Tauriko West with mana whenua through TKAR. They emphasised how important it is for mana whenua to engage early with developers through the resource consent process. Strong relationships between mana whenua and developers would support developers to consider the placement and appropriate development of reserves to protect and enhance culturally significant sites such as wāhi tapu and respect the overall cultural value of the whenua.
45. Other Te Rangapū members suggested that these areas with higher density housing could provide opportunities for residents to grow and access food, through the provision of community gardens, maara kai, fruit trees, and feijoa hedges. These new developments could also provide reserve naming opportunities. It was also questioned if the policy supported overall environmental sustainability and aligns with the new city vision. Considerations of environmental aspects can also align well with cultural aspects.
46. In response, the proposed policy amendment will not affect the processes by which land with cultural values will be identified and developed. The provision of community gardens, maara kai, fruit trees, and feijoa hedges in reserves is supported through council policies on the use and development of reserves. Through the resource consent process, developers would be encouraged to work with mana whenua to identify reserve naming opportunities. The policy

supports protection and enhancement of environmental values and aligns with the new city vision.

### **Wider Community**

47. Public pre-consultation on the suggested revised quantity standard was undertaken in May and June 2022 in conjunction with pre-consultation on the Tauriko West plan change. Of the 21 who responded to the suggested change to the policy, 4 strongly agreed, 12 agreed, 3 disagreed and 2 strongly disagreed. The overall comments from those who disagreed was the need to ensure adequate green spaces are provided for higher density housing, not just parks for children, but spaces for all ages to enjoy, including a space appropriate for markets to occur. One was concerned the areas proposed are too small. Another commented on the importance of footpaths and cycleways to link the houses to the green spaces, especially from cul-de-sacs. The importance of native reserves, walkways and playgrounds was raised by another, and one person suggested that at least the Lakes level of provision should be provided.
48. Other comments on the draft land use plan for Tauriko West are also relevant to consider. Four people commented about the importance of access and usability of the Wairoa River for walking, cycling and other recreation like kayaking. One commented on the importance of sustainability, and another on the importance that any effects on the river and wetlands are mitigated. One person suggested that there should be reserve corridor connections to the river (with planting not just fenced footpaths), and another person commented that there is an overall need for more green space.
49. The proposed policy amendment will not reduce the total amount of open space required to be provided through the quantity standard. Nor will it affect the need to provide a range of open spaces with different functions e.g. community events, pathways, natural areas, and playgrounds.

### **Others**

50. Sport Bay of Plenty support the “localised/landscape appropriate” approach and are supportive of the development of more walkways, pathways and cycleways which are being seen across new housing developments. They support the concept of play, without the traditional model of a playground, but support and encourage community consultation on what community needs for play and active recreation in these spaces are so they are effectively used. However, they raised concern about the shortfalls of active reserves in the city and that new developments like Tauriko West and Te Tumu could massively support the network of active reserves. Communities, clubs and sporting organisations have been awaiting these developments for some time and have plans ready for these developments. Ultimately their position is against this change because housing and smaller reserves are the priority and therefore reducing access to play, active recreation and sport on large reserves.
51. In response to the points raised by Sport BOP, it is important to note that the delivery of active reserves in the city is not affected by this suggested policy change, and opportunities are being investigated by the council to purchase land for an active reserve in Tauriko West.
52. The Ministry of Education and Toi Te Ora Public Health were contacted but at the time of writing had not provided any feedback.

### **SIGNIFICANCE**

53. 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.
54. 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.
55. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the matter is of medium significance. However, it is noted that growth planning for the area is of high significance.

## ENGAGEMENT

56. Taking into consideration the above assessment, that the matter is of medium significance, officers are of the opinion that consultation in accordance with section 82 of the Local Government Act 2002 is appropriate.

## NEXT STEPS

57. If the Committee agrees to adopt for consultation the proposed change, then this draft policy will proceed to formal consultation.
58. The consultation will be for four weeks in August/September with hearings scheduled for October/November. This approach will enable analysis and reporting back to the Committee, subsequent amendment, if required, and final adoption in November/December 2022.
59. If the Committee decide that other changes are required to the policy, then these changes will be prepared for the Committee to approve in September, followed by formal consultation.

## ATTACHMENTS

1. **Attachment 1 - Draft Open Space Level of Service Policy Change for consultation - A13655272** [!\[\]\(7419b1fc60c11e98284a5125649c7c78\_img.jpg\) !\[\]\(d1027fc9612d1f046c0b2a7164d60aca\_img.jpg\)](#)
2. **Attachment 2 - Illustration of recommended policy when applied to Tauriko West - A13634942** [!\[\]\(516744a94e228f7310ff31ac600d9d92\_img.jpg\) !\[\]\(f2ca22557b80500a9479fe7975cccda6\_img.jpg\)](#)

# OPEN SPACE LEVEL OF SERVICE POLICY



## COUNCIL SUPPORTING POLICY

### **POLICY TITLE: OPEN SPACE LEVEL OF SERVICE POLICY**

**Lead Policy:** Levels of Service

**Minute Ref:** M10/43.4 (previously M09/41)

**Date of Adoption:** 5 June 2009 (TCC Ref 2519598)

**Date of Adoption:** 9 June 2010 (due to amendments to historic reserves)

<u>Policy type</u>	<u>City</u>		
<u>Authorised by</u>	<u>Council</u>		
<u>First adopted</u>	<u>5 June 2009</u>	<u>Minute reference</u>	<u>M09/41</u>
<u>Revisions/amendments</u>	<u>9 June 2010</u>	<u>Minute reference</u>	<u>M10/43.4</u>
	<u>XXX 2022</u>	<u>Minute reference</u>	<u>MXX/XXX</u>

### **1. POLICY OBJECTIVES/PURPOSE**

1.1 To identify how Council is going to work towards achieving the vision, principles and goals of the Open Space Strategy (2006).

1.2 To outline how Council is responding to the different growth needs of the city through addressing the quantity, quality, accessibility and function of the ~~Open Space~~ ~~Network~~.

~~To provide a clear approach and level of service standards for Council's approach to the provision and development of the open space network.~~

### **2. SCOPE**

2.1 This policy provides a clear approach and level of service standards for the provision and development of the Council's Open Space Network.

### 3. DEFINITIONS

Term	Definition
Best Practice Guide for Open Space	A document adopted by Council in 2007 that outlines best practice approaches and success factors for the planning, development and management of open space within Tauranga city.
<u>Existing</u> Comprehensive Development Areas	<p><del>are the</del> The urban growth areas of Pyes Pa West, Papamoa East Stage 1 (Wairakei), and Papamoa East Stage 2 (Te Tumu) where:</p> <ul style="list-style-type: none"> <li>• There is a clearly defined geographic area which is/will be identified in the <del>District City</del> Plan and is being comprehensively planned as an urban growth area; and</li> <li>• The <del>District City</del> Plan has distinct and separate provisions relating to subdivision, development and services of the area; and</li> <li>• The area meets the Smartgrowth requirements of a minimum average development yield of 15 lots per hectare.</li> </ul> <p><del>Other Comprehensive Development Areas could be added entirely at Council's discretion at a later date. Existing Comprehensive Development Areas could also include intensification Areas (as defined below) within them.</del></p>
<u>New Comprehensive Development Areas</u>	<p><u>The urban growth areas of Tauriko West and Te Tumu, where:</u></p> <ul style="list-style-type: none"> <li>• <u>There is a clearly defined geographic area which is/will be identified in the City Plan and is being comprehensively planned as an urban growth area; and</u></li> <li>• <u>The City Plan has distinct and separate provisions relating to subdivision, development and services of the area; and</u></li> <li>• <u>The area meets the Smartgrowth requirements of a minimum average development yield of 15 lots per hectare.</u></li> </ul> <p><u>Other New Comprehensive Development Areas could be added entirely at Council's discretion at a later date. New Comprehensive Development Areas could also include Intensification Areas (as defined below) within them.</u></p>

<u>Council</u>	<u>Tauranga City Council – the elected member body representing Tauranga City.</u>
Criteria	<u>The</u> criteria applied to assess the quality of the <del>e</del> Open <del>s</del> Space <del>n</del> Network. the criteria are identified in the Best Practice Guide for Open Space 2007 and outlined further in this policy under the quality standards.
<u>Existing</u> Urban Growth Areas	<del>are</del> <u>The</u> six growth areas identified in the Tauranga <del>City</del> <del>district</del> Plan and development contributions policy as bethlehem, west bethlehem, pyes pa, pyes pa west (outside of the lakes area), ohauti, welcome bay and papamoa, <del>and any urban growth areas identified in the future.</del> <u>Existing</u> Urban Growth Areas could also include <del>i</del> ntensification <del>a</del> Areas within them.
<u>New Urban Growth Areas</u>	<u>The urban growth areas identified by council, other than the six Existing Urban Growth Areas and two in Growth Areas identified in the Tauranga City Plan and Development Contributions Policy. New Urban Growth Areas could include Intensification Areas (as defined below) within them.</u>
<u>Historic Reserve</u>	<u>An area of land identified through a City Plan change process or resource consent process as possessing historic values.</u>
Infill Growth Areas	The two growth areas identified in the Tauranga <del>District</del> <del>City</del> plan and Development Contributions Policy as Mount Maunganui and Tauranga, and any <del>i</del> nfill <del>g</del> rowth <del>a</del> Areas identified in the future.
Intensification Areas	<u>A</u> reas that provide greater opportunity for medium density, high density, or mixed use types of development within a defined area. these areas are generally defined by Council through specific intensification projects and subsequent <del>district</del> <del>City</del> Plan changes.
<u>Marae Urban, Marae Rural and Ngati Kahu Papakainga Zoned land</u>	<u>Land zoned Marae Urban, Marae Rural and Ngati Kahu Papakainga In the Tauranga City Plan.</u>
Open Space Network	<del>means a</del> Areas of land (mainly parks and reserves) that are maintained by council and that the community have a level of physical access to. In most circumstances these areas will be connected to each other in some way (e.g. using the street

	network or other areas of open space). <u>Comprises neighbourhood, local, suburban and citywide areas.</u> Attachment B provides an explanation of the different types of open space included in the <u>Open sSpace nNetwork</u> .
<u>Rural and Rural Residential Zoned Land</u>	<u>Land zoned as Rural and Rural Residential in the Tauranga City Plan.</u>

## 24. PRINCIPLES

### 4.1 In implementing this Policy Council will:

- Primarily focus on the access to and use of the Open sSpace nNetwork.
- Focus on making the most of the Open sSpace nNetwork.
- Seek to ensure there is a fair and reasonable distribution of open space across all areas of the city.
- Seek to ensure that the open space level of service is able to be provided into the future as population growth occurs.

### 4.2 Council will also recognise:

- The role of the Open sSpace nNetwork in achieving good urban development outcomes by providing community focal points, pedestrian and open space connections, high levels of amenity and feelings of openness, and a range of recreational opportunities.
- The role of the Open sSpace nNetwork in providing opportunities for recreation (active and passive), conservation (protection of natural and cultural features), amenity (greening of the urban environment and spatial settings for housing), and utilities (stormwater management, ecological corridors, buffers etc).
- The role of the Open sSpace nNetwork in achieving a number of Council's strategic objectives (eg transport, stormwater, open space objectives).
- That the value of open space can be measured by a variety of means including utilisation, existence value and amenity.
- That the level of service for open space needs to be achievable from a cost and practicality point of view.
- That the benefits of the Open sSpace nNetwork are received by both the existing population and the future growth population.
- That there are different sectors of the community that have different needs in terms of access to the Open sSpace nNetwork.

## 3. DEFINITIONS

**Best Practice Guide for Open Space** is a document adopted by Council in 2007 that outlines best practice approaches and success factors for the planning, development and management of open space within Tauranga city.

**Comprehensive Development Areas** are the urban growth areas of Pyes Pa West, Papamoa East Stage 1 (Wairakei), and Papamoa East Stage 2 (Te Tumu) where:

- There is a clearly defined geographic area which is/will be identified in the District Plan and is being comprehensively planned as an urban growth area; and
- The District Plan has distinct and separate provisions relating to subdivision, development and services of the area; and
- The area meets the Smartgrowth requirements of a minimum average development yield of 15 lots per hectare.

Other Comprehensive Development Areas could be added entirely at Council's discretion at a later date. Comprehensive Development Areas could also include intensification areas (as defined below) within them.

**Criteria** means criteria applied to assess the quality of the open space network. The criteria are identified in the Best Practice Guide for Open Space 2007 and outlined further in this Policy under the Quality Standards.

**Infill Growth Areas** are the two growth areas identified in the Tauranga District Plan and Development Contributions Policy as Mount Maunganui and Tauranga, and any infill growth areas identified in the future.

**Intensification Areas** are areas that provide greater opportunity for medium density, high density, or mixed use types of development within a defined area. These areas are generally defined by Council through specific intensification projects and subsequent District Plan changes.

**Open Space Network** means areas of land (mainly parks and reserves) that are maintained by Council and that the community have a level of physical access to. In most circumstances these areas will be connected to each other in some way (eg using the street network or other areas of open space). Attachment B provides an explanation of the different types of open space included in the open space network.

**Urban Growth Areas** are the six growth areas identified in the Tauranga District Plan and Development Contributions Policy as Bethlehem, West Bethlehem, Pyes Pa, Pyes Pa West (outside of the Lakes area), Ohauiti, Welcome Bay and Papamoa, and any urban growth areas identified in the future. Urban Growth Areas could also include intensification areas within them.

## **4. BACKGROUND**

### **4.1 Previous reserves level of service approach**

In 2003 Council adopted a level of service of 3.45 hectares reserve land for every thousand people. The quantity only standard was based on the average provision of active, neighbourhood and community building reserve land in 2001 and the general community satisfaction with this. The level of service provided a direct link to growth and determined the development contributions required to

~~fund the purchase and development of new reserves required to meet the level of service.~~

~~The level of service worked reasonably well in new greenfield areas but was difficult to apply for practical reasons to infill and existing urban growth areas. The level of service did not include the provision of other types of open space such as harbour, coastal and passive reserves. The quantity standard provided a good benchmark of what we have and what we want to continue to provide as the city grows but did not consider other standards that provide a greater understanding and recognition of what we want to achieve from our open space network.~~

#### **4.2 — Open Space Strategy**

~~In 2005 Council adopted the Open Space Strategy with a vision to protect, develop and enhance a network of open spaces. The strategy has five key goals that address the quantity, quality, function, accessibility and protection of the open space network.~~

~~The strategy signals a shift from a level of service approach that only considers the amount of open space required, to a broader level of service approach that aims to achieve good quality open spaces, accessible open spaces, and a variety of open space experiences. This Policy reflects this new approach.~~

#### **4.3 — New open space level of service approach**

~~It is recognised that each geographic area of the city has different characteristics, communities, development patterns, and levels of existing open space provision. To this extent it is difficult to achieve one consistent standard across the city. Therefore the Open Space Level of Service outlined in this Policy is an average target that we want to achieve across the city. The make up of the level of service is different in each area; however the key open space outcomes Council requires are the same across the city and in each geographic area.~~

~~The time at which the level of service is achieved is generally defined by the adopted planning period for each growth area of the city and the rate at which level of service projects are implemented. The Policy seeks to achieve an appropriate balance between the provision of new open space and the enhancement of existing areas of open space.~~

~~Community feedback through many Council planning processes has highlighted the importance that the community places on the existing open space network and the need to retain open space values into the future. This Policy aims to ensure that this occurs by focusing on the quality, accessibility and function of the open space network and ensuring that future growth areas provide for these values.~~

#### **4.4 — Total amount of open space in Tauranga**

~~In 2009 the population of Tauranga has access to over 3390 hectares of open space. This includes coastal reserves, subregional parks, stormwater reserves, active reserves and neighbourhood parks. The total amount equates to approximately 30 hectares of open space per thousand people at 2009. This level of service will change as the population grows and as more land is provided for open space in the future.~~

## **5. POLICY STATEMENT**

### **5.1 Open Space Level of Service Framework**

#### **5.1.1 Standards**

The open space level of service promotes a standards based approach.

The standards are designed to ensure that people have good access to the eOpen sSpace nNetwork and the variety of open space experiences that it provides while ensuring that the eOpen sSpace nNetwork is highly valued by the community and is the outcome of good design and best practice.

The standards are:

- Accessibility – how far people should have to travel to reach a particular type of open space.
- Quality – the level of quality which all open spaces should attain to.
- Function – the different types of open space experiences we want to provide.
- Quantity – how much open space we should have.

Section 5.2 provides further information on these standards.

### 5.1.2 Areas

An area based approach has been used to help determine the standards for accessibility, function and quantity. What this means is that people should be able to travel a certain distance to access certain types of experiences from their home. For example, most people should be able to walk 10-15 minutes from their home to get to an area of open space that provides play opportunities, passive spaces, vegetation and amenity. This is the Neighbourhood Area Open Space and can be provided through a variety of reserve types such as neighbourhood reserves, active reserves, and stormwater reserves, as long as the function standards are met.

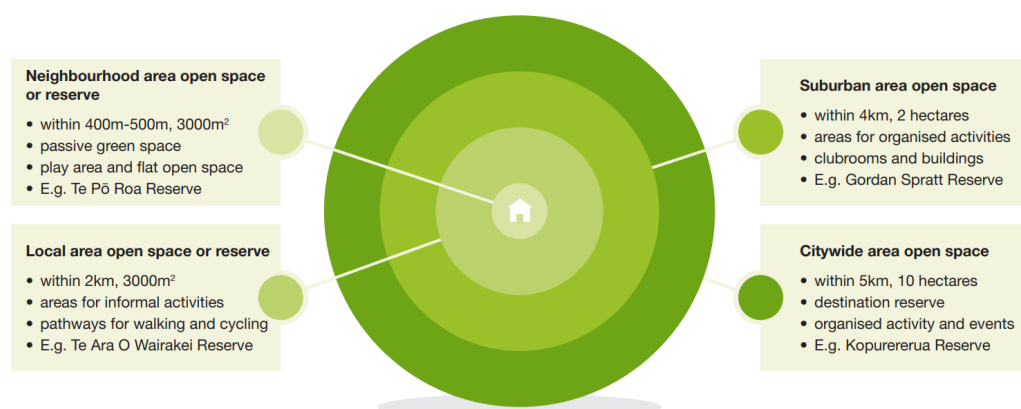
The hierarchy then moves up to Local Area Open Space, Suburban Area Open Space, and then Citywide Area Open Space. To illustrate this if you were to start at one point in the city you would see a series of concentric circles working their way out from that point to identify the different open space experiences that would be provided and the distances required to travel to these open spaces.

The overall Open Space Network is shown in the figure below (the house indicates a home):

### 5.1.3 Application

The Policy recognises that some areas of the city must be considered on an

**The open space network diagram shows the different types and preferred sizes of open spaces in Tauranga and the ideal distance from homes**



individual basis in order to tailor the most appropriate range, quality and quantity of open space to achieve good urban development outcomes. With this in mind, application of the standards recognises different development patterns within the city and different [CityDistrict](#) Plan zones in some cases (see Section 5.3).

#### 5.1.4 Reserve Types

A description of the general types of open space is included in Attachment B. While the type of open space is not the driver for the standards (which had been the case under the previous level of service) a description is provided for each reserve type to highlight the different areas that contribute to the make up of the [Open Space Network](#).

## 5.2 Open Space Level of Service Standards

### 5.2.1 Accessibility Standards

The accessibility standards are outlined in Attachment A.

The aim of accessibility standards is to ensure that everyone has reasonable access to the [Open Space Network](#) and the variety of experiences that it provides. The standards reflect our analysis on what are acceptable and reasonable distances for people to travel to get to different open space experiences. For Neighbourhood Area Open Space the expectation is that people are able to walk 10-15 minutes to access these areas. For Local, Suburban and Citywide Open Space Areas people could access these utilising a variety of transport options (including walking).

When applying the accessibility standards:

- Physical barriers such as main roads, railways, steep topography, and inaccessible areas will be taken into account and will require the provision of additional areas of open space if these barriers inhibit physical accessibility. This recognises that the 500m and 400m requirement is “as the crow flies” and that in some situations it may not be a realistic measure of actual accessibility.
- The type of open space must be able to accommodate the function and experiences outlined in Attachment A to a satisfactory level. For example, if a stormwater reserve provides the Neighbourhood Open Space Area requirements then it must be able to be developed with play facilities, passive spaces (seats, shade etc), vegetation and landscaping, and this function must not be compromised by the primary purpose of the reserve for stormwater. If this cannot be achieved then an additional area of open space will be required.
- If it is considered impractical to achieve the accessibility standards because of the nature of the built environment or the cost involved in doing this (for example, in an existing residential area where there is limited opportunity to purchase land or the cost is determined by Elected Members to outweigh the benefits of doing this) then the priority will be on increasing the accessibility, visibility and quality of the nearest existing open spaces.
- It is recognised that in some cases the accessibility standards may be exceeded, that is, one person may have more access to a number of open space areas within close proximity to their home. This is often a product of the historical provision of open space or geographical characteristics of an area, and can often be reflected in the property values of these areas (eg higher value properties along the coastal strip).

- The distances are intended to reflect the furthest a person would have to travel to get to a particular type of open space; in some cases it may be that the open space will be closer.
- The ideal size of open space has been specified. This is to ensure that the function standards and base development requirements are met however there is some flexibility in this size requirement if it can be illustrated that the base development requirements are still being achieved.

The accessibility standards will be achieved in Tauranga when most people have access to neighbourhood, local, suburban and citywide open space in accordance with the distances outlined in Attachment A. Council's mapping systems are able to analyse accessibility standards both as the crow flies and through actual accessibility using distances along the street and [Open Space Network](#).

### 5.2.2 Quality Standards

The quality standards are determined through compliance with criteria included in the Best Practice Guide for Open Space.

The aim of quality standards is to provide good quality open spaces that contribute to the recreational and social needs of the community. The quality of open spaces is about people – our [Open Space Network](#) needs to be developed so that people know that its there, people feel safe using it, so that it responds to a variety of recreational needs from all ages, and so that it is valued by people.

The Best Practice Guide criteria are:

- **Location** – open space should be located in a central, prominent area that relates strongly to surrounding catchment, land use and activities, maximises street and public frontage, and connect to existing open space network and surrounding residential catchment (need to ensure appropriate edge treatments are in place).
- **Landform** – ensure site topography is compatible with the intended purpose of the open space, promote clear visibility within the reserve, locate to ensure good solar access, avoid overly exposed sites.
- **Proportion** – ensure open space meets minimum requirements for use and function, include buffer zones if appropriate, avoid overly elongated, narrow and irregular shapes.
- **Access** – open space should be located at the intersection of movement corridors, and where a high level of use is anticipated, and near transport routes, safe and distinct pedestrian accessways will be provided through the open space.
- **Visibility** – open space will be highly visible and have a good proportion of direct road frontage to the street network and other public edges, avoid solid fences or planting which limits passive surveillance into and through the reserve, avoid dense planting in areas that will block visibility, ensure entry and access points are clearly visible and signage is strategically located.
- **Identity** – where possible locate open space to protect heritage sites, views, or mature vegetation, utilise planting schemes and materials that reflect and enhance site identity and incorporate interpretive features such as signage and sculpture where appropriate.
- **Wellbeing** – provide shade by way of clear stemmed specimen trees, locate facilities in prominent, visible locations, ensure all structures are

designed to safety codes, avoid use of vegetation that presents health issues.

- **Public Use** – ensure that activities reflect needs of user groups, create activity nodes to encourage desirable social interaction, encourage a sense of ownership of the open space.
- **Adaptability** – consider ways that the open space might adapt to users at different times of the day or year, select materials that are suited to the site conditions, where space permits provide flat unobstructed areas, avoid unnecessary barriers that might impede use.

For a full analysis of the criteria and its application refer to the Best Practice Guide for Open Space available on Council's website [www.tauranga.govt.nz](http://www.tauranga.govt.nz).

When applying the quality standards:

- The location of neighbourhood and local area open space should be considered as part of or adjacent to neighbourhood and town centres as a first priority to maximise usage, with larger parks being located on the edge.
- The location of neighbourhoods and local area open space within residential areas of higher densities should be considered to provide relief from the built environment and provide additional amenity for these areas.
- In some cases, where appropriate and practical Council will consider the further acquisition and development of land to increase the quality of existing areas of open space.
- In circumstances where an area of existing open space is significantly unable to meet the Best Practice Guide for Open Space criteria, Council, in consultation with the community, may consider selling and replacing the land, exchanging the land, or purchasing additional land adjacent to the open space area, all with the intent of meeting best practice criteria.
- It is recognised that the delivery of projects that help to achieve the quality standards is subject to the [LTCCP long-term plan and annual plan](#) prioritisation process. This may mean that the delivery of projects occurs over a longer period of time than originally anticipated through a reserve management plan process or other planning process.

The quality standards are more difficult to measure than accessibility standards. This means that it is difficult to measure at what point in time the quality standards are fully achieved. Community needs, perceptions, use, existing provision, project timing, and topography all impact on the ability to achieve quality open spaces. It is recognised that from a practical point of view not all existing areas will fully achieve the criteria however the aim is to achieve an overall average of 70% compliance. All new open space areas are required to achieve the criteria as close as practicable with an aim for 100% compliance.

~~Council staff assessed all areas of open space against the best practice criteria. From this a number of projects have been identified that will improve the quality of the existing open space network (note a number of this projects are from existing reserve management plans). This assessment will be reviewed every LTCCP to see how we are tracking in meeting the quality standards. Council will also aim to ensure maintenance standards for the open space network reflect the purpose and function of the area of open space to maintain quality open spaces into the future.~~

### 5.2.3 Function Standards

The function standards are outlined in Attachment A

The aim of the function standards is to ensure that a variety of open space and recreational experiences are provided from the ~~o~~Open ~~s~~Space ~~n~~Network, and provide a balance between small neighbourhood parks and larger suburban and citywide parks.

#### 5.2.4 Quantity Standards

##### Infill Growth Areas and Existing Urban Growth Areas

The previous level of service approach only considered the amount of open space required which was expressed as a hectares of reserve land per population standard (ha/1000). This meant that more people = more open space. This level of service now shifts the focus to accessibility, quality and function of open spaces. This approach is more suited to ~~i~~Infill ~~g~~Growth ~~a~~Areas and ~~e~~Existing ~~u~~Urban ~~g~~Growth ~~a~~Areas where most of the development has already occurred. This ensures that the focus is on making the most of what we have (as per the principles of this Policy). The outcome of this is that the majority of levels of service projects focus on the development of open spaces, with fewer projects requiring additional land purchase in existing areas of the city.

In some ~~e~~Existing ~~u~~Urban ~~g~~Growth ~~a~~Areas land purchase may be required where the area is currently undeveloped. In these circumstances the requirement for a open space is only triggered by the development of that area, in other words if the area was not developed then there would be no requirement for additional open space.

For ~~e~~Existing ~~u~~Urban ~~g~~Growth ~~a~~Areas and ~~i~~Infill ~~g~~Growth ~~a~~Areas the level of service expressed as a hectares per thousand standard **will only be used** to identify how much open space we have and how this is tracking as the population grows, and for comparison against other local authorities.

##### Existing Comprehensive Development Areas and New Comprehensive Development Areas and New Urban Growth Areas

While the change in approach works well in existing residential areas of the city, for new undeveloped areas (such as Existing Comprehensive Development Areas and New Comprehensive Development Areas and New Urban Growth Areas) there is a need for a quantity based level of service that links in with the quality, accessibility and function standards outlined in this Policy.

The reason for this is to:

- provide a starting point and certainty to developers of the open space requirements,
- enable a link to be made to growth and subsequent development contributions,
- achieve fair and reasonable distribution of open space across the city (a Principle of this Policy),
- recognise that Existing Comprehensive Development Areas and New Comprehensive Development Areas have areas of higher density than standard residential developments as these areas aim to achieve, as an average minimum the SmartGrowth development yield of 15 lots per hectare (compared to a standard yield of 10-11 lots per hectare). The role of open space becomes even more important the higher the densities are; and
- provide a better ability to achieve live, work, play environments when developing a greenfield site.

On this basis quantity standards will only be applied to New Urban Growth Areas ~~and Existing Comprehensive Development Areas and New Comprehensive Development Areas~~. The quantity standard is 1.7 hectares of neighbourhood and local open space per 1000 people. Criteria provide further detail on how this can be achieved to try and ensure a balance between the provision of different reserve types, and between open space that can be used

and open space that provides amenity but has limited physical use. Section 5.3 provides an explanation of the criteria and how this is to be applied. The 1.7ha/1000 standard is based on the average provision of local reserves as at 2001.

In circumstances where land is offered to Council that is above the open space level of service standards this will be taken at Council's discretion. This includes discretion relating to payment for the land, the area required, and development and ongoing maintenance costs of the land.

### 5.3 Application of Open Space Level of Service

It is recognised that different areas of the city have different characteristics, communities, development patterns, and levels of existing open space provision. Application of the Open Space Level of Service standards needs to recognise and respond to the differences within the city. To this extent the following information outlines how the level of service will be applied to different growth areas within the city.

#### 5.3.1 ~~Existing Comprehensive Development Areas and new Urban Growth Areas~~

The accessibility, quality and function standards will apply to these areas.

The following quantity standards will also apply as follows:

A standard of 1.7 hectares neighbourhood and local area open space per 1000 people subject to the following criteria:

- a minimum of 50% of this will comprise neighbourhood reserve (see Attachment B for a definition) distributed throughout the development.
  - this can also incorporate linear walkway reserves to achieve connectivity and create walkable neighbourhoods
  - this can also incorporate ~~Historic~~ ~~Reserves~~ (as long as function standards are met)
  - this could incorporate land provided by other organisations as long as it meets the quality, function and accessibility standards outlined in the Policy and is developed in a way that ensure the space is accessible to the community
- up to 50% of this will include a proportion of other areas of open space (eg stormwater ~~management reserves~~, active reserves, subregional reserves) and/or open space provided by other organisations where the community will gain benefit from the amenity and be able to access the area for recreational purposes. To ensure that the Policy objectives and principles are achieved, this requirement must be located equitably throughout the development area. For example, this requirement could not be made up of one large reserve in one location of the development as this limits the ability to achieve the accessibility and function standards.

As part of the planning for the growth area a public open space schedule must be provided to outline how the level of service standards have been met and what the quantity standard is comprised of. This will need to be incorporated into the structure plan and urban development plan for the area.

In some areas Council will work with the developers to see if agreement can be reached on vesting and developing the ~~eOpen sSpace nNetwork~~ without the requirement for financial or development contributions.

For ~~existing~~ ~~comprehensive development areas in existence~~ (as at 2008) the open space level of service will occur in accordance with the relevant Plan Change for that area.

### **5.3.2 New Comprehensive Development Areas and New Urban Growth Areas**

The accessibility, quality and function standards will apply to these areas.

The following quantity standards will also apply as follows:

A standard of 1.7 hectares neighbourhood and local area open space per 1000 people subject to the following criteria:

- a minimum of 50% of this will comprise neighbourhood reserve (see Attachment B for a definition) distributed throughout the development. If factors, such as increased housing density, make this proportion impractical, then some of the 50% requirement can be replaced with local area space, as long as the accessibility standard is met that requires neighbourhood area open space within 400 metres of most residents.
  - this can also incorporate linear walkway reserves to achieve connectivity and create walkable neighbourhoods
  - this can also incorporate Historic Reserves (as long as function standards are met)
  - this could incorporate land provided by other organisations as long as it meets the quality, function and accessibility standards outlined in the Policy and is developed in a way that ensure the space is accessible to the community
- up to 50% of this will include a proportion of other areas of open space (eg stormwater, active reserves, subregional reserves) and/or open space provided by other organisations where the community will gain benefit from the amenity and be able to access the area for recreational purposes. To ensure that the Policy objectives and principles are achieved, this requirement must be located equitably throughout the development area. For example, this requirement could not be made up of one large reserve in one location of the development as this limits the ability to achieve the accessibility and function standards.

As part of the planning for the growth area a public open space schedule must be provided to outline how the level of service standards have been met and what the quantity standard is comprised of. This will need to be incorporated into the structure plan and urban development plan for the area.

In some areas Council will work with the developers to see if agreement can be reached on vesting and developing the Open Space Network without the requirement for financial or development contributions.

### **5.3.2.3 Intensification Areas**

As part of ongoing planning for Intensification Areas, an evaluation will be undertaken to determine the types of open space available, the quality of these spaces, and the function that they provide. This will occur through spatial planning and subsequent open space planning for these areas.

As part of the planning process for the area, consideration will be given to community perceptions about their open space environment. Strengths and weaknesses will be identified and consideration will be given to a range of options available to address identified issues. These options could include:

- improving the quality of open spaces (refer to quality standards)
- improving the function of open spaces (refer to function standards)
- improving connections between open spaces (using streets, accessways, cycle ways etc)
- improving the amenity values of the Open Space Network

- provision of additional areas of open space
- enhancement of streetscape to provide amenity and recreational opportunities
- recognition of open spaces provided by schools, churches, marae and other organisations
- consideration of provision of on-site open space
- contribution of town centres and civic spaces

~~Outcomes of the spatial planning and subsequent open space planning will be integrated into the Urban Development Plan and Infrastructure Plans for these areas, and be used to establish a specific level of service relevant to the area identified, with associated projects and costs.~~

#### ~~5.3.3~~ **5.3.4 Existing Urban Growth Areas and Infill Growth Areas**

The accessibility, quality, and function standards will apply to these areas.

#### ~~5.3.4~~ **5.3.5 Rural and Rural Residential Zoned Land**

The Neighbourhood Area Open Space level of service standards are not required in these zones (unless there is insufficient provision in adjacent areas). This is on the basis that the section sizes are sufficient to provide the function and experiences outlined in the open space level of service standards. Local, Suburban and Citywide areas are still required to be accessible for people in these zones. If the zone is to change in the future or a smaller lot development is proposed the neighbourhood area standards will apply.

#### ~~5.3.5~~ **5.3.6 Marae Urban, Marae Rural Zoned Land and Ngati Kahu Papakainga Zoned Land Zones**

Open space provided or planned to be provided in these zones is excluded from the Open Space Level of Service. There is no requirement for Marae Zoned land to provide open space in accordance with this Policy. It is however recognised that open space and recreational needs will be assessed and responded to through the development of iwi and hapu Tangata Whenua management plans for these areas. ~~(refer to SmartGrowth Strategy and Implementation Plan May 2007).~~

#### ~~5.3.6~~ **5.3.7 Historic Reserves**

The following policy statement is relevant to an area identified through a Plan Change process or resource consent process as possessing historic values and that is **above** the level of service requirements specified in this policy. ~~Council's Open Space Level of Service requirements:~~

- If Council ownership is required, land that is less than 1 hectare in size will be vested in Council free of charge.
- Land that is over 1 hectare in size requires a report to Council for direction on Council's potential approach to acquiring the land. The report will need to include information on:
  - the tangata whenua relationship with the land as identified through the relevant iwi/hapu management plan and/or through discussions with relevant iwi/hapu groups
  - historic values of the site
  - management and maintenance issues/options and associated costs (note consideration could be given to co-management opportunities)
  - New Zealand Historic Places Trust comments on the site
  - all potential future opportunities of the land

- all potential interests in the land.

The development and maintenance costs of the land will be funded through general rates or targeted rates where this already exists or is planned for the development area and is determined to be an appropriate source of funding through the Level of Service Policy.

#### 5.4 Implementation Plan

The schedule of projects required to meet the Open Space Level of Service is ~~agreed through long-term plan and annual included in the Open Space Area Plan and Implementation Plans. This will be reviewed for every Long Term Council Community Plan (and potentially through Annual Plan processes)~~ and reflected in ~~annual and long-term plans the Long Term Council Community Plan~~ (ie projects, funding and timeframes) and Financial or Development Contributions Policy.

#### 5.5 Land Acquisition Process

Procedures will be developed to outline how land acquisition for open space required to meet the Open Space Level of Service will occur. Timeframes and budget required for purchase will be subject to the Annual Plan and Long Term Council Community Plan processes.

### 6. RELEVANT DELEGATIONS

The Chief Executive and ~~their sub-delegate his/her nominee~~ has ~~delegated~~ authority for the implementation of this policy.

### 7. REFERENCES AND RELEVANT LEGISLATION

SmartGrowth  
Open Space Strategy 2006~~5~~  
Tauranga City Plan  
Development Contributions Policy  
Infrastructure Development Code  
Level of Service Policy  
Best Practice Guide for Open Space 2007  
Local Government Act 2002  
Reserves Act 1977  
[Property Acquisitions and Disposals Policy](#)

### 8. ATTACHMENTS

- [8.1 Attachment A: Open Space Level of Service Accessibility and Function Standards](#)
- [8.2 Attachment B: Different Types of Open Space in the Open Space Network](#)

**Attachment A: Open Space Level of Service Accessibility and Function Standards**

Open Space Area	Function Standards	Quantity Standards	Base Development Requirements	Examples of Open Space Types that could achieve this
Neighbourhood Area Open Space	<ul style="list-style-type: none"> <li>Areas for play (particularly young children)</li> <li>Passive spaces</li> <li>Green environment</li> <li>Amenity</li> </ul>	<ul style="list-style-type: none"> <li>Within 500m (400m in CDA's) of most residences (95%)</li> <li>Ideal size of 3000m<sup>2</sup></li> </ul>	Playground (see LOS) Area of open space Seats and shade Vegetation/landscaping Mow to low levels	Neighbourhood reserves Stormwater reserves Coastal reserves Active reserves Destination parks
Local Area Open Space	<ul style="list-style-type: none"> <li>Areas for walking</li> <li>Areas for unorganised activity</li> <li>Open space</li> <li>Amenity</li> </ul>	<ul style="list-style-type: none"> <li>Within 2km of most residences (95%)</li> <li>Include a large area of unobstructed space (of approximately 3000m<sup>2</sup>)</li> </ul>	Open space area Pathways Seats and shade Vegetation/landscaping	Walkway reserves Stormwater reserves Coastal reserves Active reserves Destination parks
Suburban Area Open Space	<ul style="list-style-type: none"> <li>Areas for organised activity</li> <li>Social and community use</li> <li>Local events</li> <li>Themed landscape</li> </ul>	<ul style="list-style-type: none"> <li>Within 4km of most residences (95%)</li> <li>Ideal size of 2 hectares</li> </ul>	Open space areas Picnic/BBQ facilities Vegetation/landscaping  Optional: Toilet facilities Buildings/clubrooms Skateparks Themed landscaping	Active reserves Stormwater reserves Coastal reserves Destination parks Passive reserves
Citywide Area Open Space	<ul style="list-style-type: none"> <li>Destination areas</li> <li>Green and natural areas</li> </ul>	<ul style="list-style-type: none"> <li>Within 5km + of most residences (95%)</li> <li>Ideal size of 10 hectares +</li> </ul>	Higher LOS provided for play equipment and structures	Destination parks Active reserves Passive reserves

**Attachment B: Types of Open Space**

This is not an exhaustive list but is intended to provide information on the main types of reserve included in the eOpen sSpace nNetwork.

Reserve Type	Primary Function	Description	Examples
Neighbourhood Reserve	Informal Recreation and Open Space	Generally small areas of space that provide for use by local communities for casual recreation, relaxation, community activity, and amenity. They also play a role in providing relief from the built environment.	<ul style="list-style-type: none"> <li>Lees Park</li> <li>Kings Ave Reserve</li> <li>Wells Ave Reserve</li> <li>Pelorous Reserve</li> </ul>
Active Reserve	Formal Recreation and Open Space	Generally large parks primarily used for organised sports and events. They also provide large areas of open space and are used for passive purposes.	<ul style="list-style-type: none"> <li>Mitchell Park</li> <li>Pemberton Park</li> <li>Blake Park</li> <li>Tauranga Domain</li> </ul>
Community Building Reserve	Community Buildings	Land used primarily for community facility purposes (eg libraries, halls, community centres, clubrooms etc). Generally located within town or neighbourhood centres.	<ul style="list-style-type: none"> <li>Welcome Bay Reserve (Waitaha Reserve)</li> <li>Bethlehem Community Hall Reserve</li> </ul>
Historic Reserve	Cultural or Historic Protection	Land provided to protect areas of cultural and/or historic significance. These areas can also provide for passive recreation (eg walking) and open space.	<ul style="list-style-type: none"> <li>Osprey Drive Reserve</li> <li>Otumoetai Pa Reserve</li> </ul>
Passive Reserve	Various Purposes	Generally large areas of land that provide for a variety of purposes including amenity, conservation, preservation, access, recreational use, natural environments etc.	<ul style="list-style-type: none"> <li>Kopurererua Valley</li> <li>Matua Saltmarsh</li> </ul>
Esplanade (Harbour) Reserve	Harbour access and conservation	Land that provides access to harbour areas and also protect conservation values of harbour margins. Often these reserves provide walkway linkages.	<ul style="list-style-type: none"> <li>Waikareao Estuary reserves</li> </ul>
Walkway Reserve	Walkway Linkages	Land that provides walkway linkages within the eOpen sSpace nNetwork. Generally of a sufficient width to provide for dual use and also amenity and open space to the surrounding areas.	<ul style="list-style-type: none"> <li>Sherwood Vale Walkway Reserve</li> </ul>

Coastal Reserve	Coastal access and conservation	Land that provides access to coastal areas and also protects conservation values of coastal land.	<ul style="list-style-type: none"> <li>▪ Mount Main Beach</li> <li>▪ Papamoa Beach</li> </ul>
Destination Park	Destination point for recreational experiences	Parks that provide a unique experience that people will drive to get to and that provide a higher level of service than other parks.	<ul style="list-style-type: none"> <li>▪ Memorial Park</li> </ul>
Stormwater Reserve	Stormwater collection	Areas of land required for stormwater collection purposes but also able to provide significant amenity and recreational values.	<ul style="list-style-type: none"> <li>▪ Wairakei Drainage Reserve</li> <li>▪ Carmichael's Reserve</li> </ul>
Subregional Parks	Variety of purposes as outlined in Joint Subregional Parks Policy	Large areas of land that provide for the subregional population and provide a variety of recreational experiences as well as protecting significant landscapes, heritage, ecological, and cultural areas.	<ul style="list-style-type: none"> <li>▪ Huharua Harbour Park</li> <li>▪ TECT All Terrain Park</li> </ul>



0      0.25      0.5      1 Kms      1:12,500 @ A3  
 1 cm = 125 m



**9.6 Draft Use of Council Land Policy Adopt for Consultation Report****File Number: A13457861****Author: Vicky Grant-Ussher, Policy Analyst****Authoriser: Barbara Dempsey, General Manager: Community Services****PURPOSE OF THE REPORT**

1. This report reports on previous decisions made on the Use of Council Land Policy and seeks direction on outstanding issues following further engagement. Approval is sought to consult on the draft Use of Council Land Policy (Attachment 1: Draft Policy) which incorporates prior decisions and recommended options from this report.

**RECOMMENDATIONS**

That the Strategy, Finance and Risk Committee:

- (a) Agrees that the Draft Use of Council Land Policy is to include the following:
  - (i) Updated purpose and principles.
  - (ii) Principles of the policy being utilised as a decision-making framework while retaining operational discretion.
  - (iii) A provision regarding high-performance sport use of sports fields
  - (iv) Retention of the current selection process for commercial activities.
  - (v) A termination clause in lease agreements for council land.
- (b) Approves the draft Use of Council Land Policy (Attachment 1) for consultation.

**EXECUTIVE SUMMARY**

2. Following on from the direction given at the 13 December 2021 and 14 February 2022 Strategy Finance and Risk Committee (the committee) meetings, staff have prepared a draft consolidated policy (attached). We have engaged with stakeholders on some of the outstanding issues and provided recommended options for consideration in this report which are reflected in the draft policy.
3. The principles of the policy have been further refined into five key outcome principles and five approaches to managing council land. These changes help clarify the direction for the use and management of council land and align with the recently endorsed City Vision.
4. On further exploration and engagement with stakeholders, the option given in December to prioritise activities on high use spaces using prioritisation criteria has been reconsidered. Instead, an approach using the principles of the policy as a decision-making framework while retaining operational discretion in the draft policy is preferred. Key issues that have underpinned a change in approach are outlined in the report.
5. Further work has also been done on sports fields, commercial activities, and lease agreements. Options are provided for consideration on each of these issues.
6. Following direction on options, and agreement to approve a draft policy for consultation, consultation with the community will commence. Following consultation, the hearings will be scheduled for late 2022.

**BACKGROUND**

7. The council began a process in 2021 to merge 10 existing policies regarding the use of council land into one consolidated policy.

8. On 13 December 2021 the committee provided direction on thirteen issues and options that have now been incorporated into a consolidated draft Use of Council Land Policy (refer attachment 2 for summary of prior decisions). Several issues were highlighted as needing extra engagement and consideration before an option could be finalised, these included the:
  - purpose and principles of the policy
  - prioritisation of high-profile parks, reserves
  - prioritisation of sports fields
  - maximum length of leases on council land.
9. On 14 February the committee gave additional direction on the issue of mobile shop trading, including:
  - an agreement to consider mobile shops alongside other commercial uses of council land through the Use of Council Land Policy review
  - the direction to pitch the policy at a more strategic level, such as setting principles to guide the maximum number of commercial traders in parks and reserves but having the maximum numbers decided operationally in accordance with the principles
  - the desire to consider ways of encouraging greater stability of tenure for quality operators, to encourage investment in their business and improve the offering available to the community.

#### STRATEGIC / STATUTORY CONTEXT

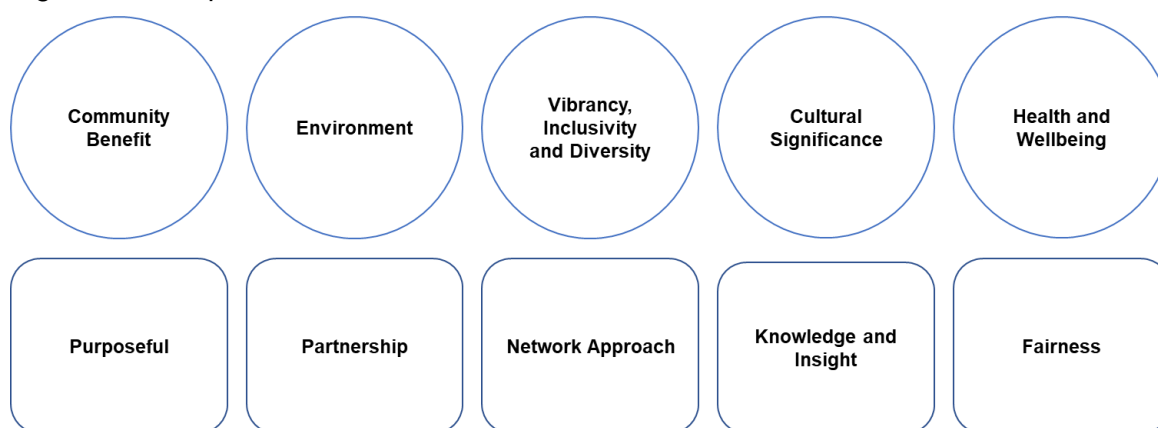
10. Policies, such as those which guide use of council's land, are an intrinsic part of ensuring that higher level strategic goals are operationalised in a consistent and transparent manner and providing staff with delegated authority where appropriate. The principles in this policy link closely with the themes from the City Vision and the implementation of this policy will support the future direction for the city of Tauranga.
11. Council land holds key strategic functions for Tauranga because they are places where the community gathers for events, activities, and celebrations and some are our city's most prized environmental spaces. How council land is used and managed holds huge potential for the environment, for vibrancy and community and inclusivity, which is core to the City Vision. The five outcome principles are designed to align and support the City Vision.
12. There has also been increased investment in spaces and places to address demand for more spaces to play, exercise and connect including:
  - master planning processes on Tauranga Domain, Wharepai Domain, Gordon Spratt Reserve and Blake Park to collaboratively manage pressure on sites
  - investment in lighting and drainage on sports fields that will give greater capacity on sports fields to meet demand
  - investment for improvements in our spaces and places such as the Memorial Park upgrade, City Centre redevelopment, and other targeted improvements.

## OPTIONS ANALYSIS

### UPDATED PURPOSE AND PRINCIPLES

13. On 13 December the Committee agreed to consult key stakeholders on the 19 draft purpose and principles statements and provided some feedback on amendments and inclusions to the statements themselves.
14. Staff have significantly reworked the purpose statements to be functional descriptions of the policy content, and these are included in the attached draft policy in section one.
15. The principles statements have been reworked and refined to reflect feedback received from key staff and stakeholders, including the Department of Conservation (DoC), event and market organisers, Te Rangapū, Envirohub, and community groups using council land.
16. The principles statements have been designed to set benchmarks for what the policy seeks to achieve. These are outlined in full in section three of the draft policy and summarised in Figure 1, below. Five principles (in circles) relate to the outcomes we are seeking to achieve through the use and management of council land, and five principles (in squares) relate to our approach to managing council land.

Figure 1: Principles for the Use of Council land:



### PRIORITISATION OF HIGH-PROFILE PARKS AND RESERVES

17. In Dec 2021 staff recommended developing bespoke prioritisation criteria to manage the increasing demands/pressures on our high-profile parks, reserves and sports fields through prioritising certain types of offerings/activities within these sites in a policy. This was considered a way to give certainty and clear direction on the use of spaces. Since then and following further discussions with stakeholders, we are recommending a change in direction from a specific prioritisation to a high-level framework for decision-making.
18. Key developments since December informing this change in approach include significant new or planned investment in key spaces and places (as outlined in paragraph 12), further clarification of the problem definition with stakeholders, and feedback that a balance of outcomes is needed.
19. The new direction will use the principles of the policy as a high-level framework for decision-making, while enabling contextual factors and operational discretion to be considered when deciding which activity to prioritise. Now the policy requires decisions on the use of council land to:
  - reflect the principles council is wanting to achieve as outlined in Figure 1 of this report and section 3 of the policy
  - be made robustly, with access to agreed review and appeal procedures
  - include consideration of available information, community and stakeholder feedback and are evidence informed.

20. We will take a range of actions to support the implementation of the principles of the policy including:
- developing supporting guidance to assist staff to consider how the activity would contribute to / or impact on the achievement of those outcomes
  - undertaking quarterly monitoring to determine whether the use of council land is meeting the outcome principles<sup>1</sup>
  - cataloguing bookable spaces, their specifications such as ground area, facilities, parking arrangements, and conditions or features of the site to help event organisers and the community use more marginal spaces and taking pressure off more highly used spaces
  - increasing community knowledge of spaces' environmental and cultural values and the appropriateness of sites for certain activities.

### PRIORITISATION FOR SPORTS FIELDS

21. As noted in paragraph 12, there is significant work and investment underway in our active reserve network to meet demand. As such we have largely retained the existing prioritisation of sports activities from the outdoor spaces booking policy to allow time for this planning, investment and delivery of the work programme.
22. An issue that has been raised as potentially benefiting from a policy approach is high-performance sport training (including training games) on sports fields. Currently high-performance sport is accommodated on council land due to the benefits of raising the profile of sports, showing pathways into elite sports for young people, and offering opportunities for the community to view high-level national teams in action.
23. Given Tauranga's climate, proximity to other regions in the central North Island, and lack of pitch fees, increasing numbers of requests have been coming in for space for high-performance sport training that are less closely linked to these benefits. As high-performance sport requires quality pitch levels, this often displaces community teams from their home pitch to less suitable sports fields.
24. To manage this conflict, we are suggesting including policy clause 6.23 in the draft policy clarifying that if high performance sporting trainings or non-event fixtures do not align to the benefit sought, that community sport will have priority.
25. Should the Committee wish to include criteria for high performance sport, as recommended, we will approach Sport BOP, High Performance Sport NZ, Bay Venues Ltd for targeted feedback, ahead of wider consultation with sport clubs and the community.

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<sup>1</sup> Information on activities we approve is held across different activity groups such as booking systems, asset management systems and lease information. We also do not collect information on the activities on sites that are not required to book, such as peak site visitor numbers, and informal use information. To address this gap work is underway to standardise and centralise the way we currently measure the use of these spaces and to develop ways of measuring informal uses.

**Table One: sports field prioritisation**

	Option	Advantages	Disadvantages
1	Keep current prioritisation of sports fields (status quo)	<ul style="list-style-type: none"> <li>Retains current settings while investment and changes have time to embed</li> </ul>	<ul style="list-style-type: none"> <li>May result in displacement of community sport by high performance sport trainings if high quality sport field capacity remains constrained</li> </ul>
2	<b>Amend current prioritisation of sports fields to include criteria for high performance sport (recommended)</b>	<ul style="list-style-type: none"> <li>Gives direction for the priority of community sport versus lower value high performance sport trainings</li> <li>Likely to result in less disruption of community sport fixtures</li> </ul>	<ul style="list-style-type: none"> <li>May reduce Tauranga's appeal as a home for high performance sport</li> </ul>

**SELECTION PROCESS FOR COMMERCIAL ACTIVITIES**

26. On 14 February 2022 regarding the mobile shop review, the committee asked staff to consider:
- a principles-based approach to determine the appropriate number of operators on sites, with delegated authority to the council to set maximum number
  - ways of encouraging greater tenure stability for quality operators to encourage investment in their business and improve the offering available to the community.
27. The attached draft policy provides principles-based criteria for consideration by the committee in clause 7.10. Staff would look to refine these criteria following consultation with operators and the community on the draft policy.
28. Staff have provided options to increase stability for operators in Table Two. Some of these options would represent a significant departure from the existing approach to managing commercial operators. Targeted consultation will be undertaken with operators to ensure we capture their feedback and can ensure any operational considerations are factored into the implementation of the policy.

**Table Two: Commercial activities options**

	Option	Advantages	Disadvantages
1	No maximum limit Operators can trade in parks and reserves as allowed by the Reserve Management Plan	<ul style="list-style-type: none"> <li>Competitive model, highly transparent</li> <li>May result in high coverage and competition for customers (as operators have no limits on trade)</li> </ul>	<ul style="list-style-type: none"> <li>May result in crowding of mobile shops in parks and reserves</li> <li>May result in poor behaviour from traders competing for spots</li> <li>No ability to set higher quality standards for certain sites</li> </ul>
2	<b>Mix of maximum limit and tendered licences at high demand sites (Status Quo, recommended)</b>  Run a tender process for high-demand sites  First available basis for	<ul style="list-style-type: none"> <li>Strikes a balance between open access to trade and the need to manage traders competing in areas of high demand.</li> <li>Gives ability to set higher quality standards for high demand sites</li> </ul>	<ul style="list-style-type: none"> <li>Outside of the tendered sites operators have limited security of tenure which may limit investment in business</li> <li>Less continuity of operator for the community</li> <li>No ability to set higher quality standards for sites not identified</li> </ul>

	other sites	• Limits administrative burden	as high-demand
3a	Mix of maximum limit and operator selected sites  First available basis for sites within a maximum limit but if an operator requests a permit for a particular site - <i>consider request based on criteria for selection with no market test</i>	<ul style="list-style-type: none"> <li>• Allows continuity of operator for community</li> <li>• Gives operators certainty to invest in their business</li> <li>• Gives ability to set higher quality standards for certain sites</li> <li>• Lower administrative burden compared to option 3b</li> </ul>	<ul style="list-style-type: none"> <li>• Allowing more exclusive use may create a barrier to new entrants</li> <li>• May result in lower coverage for customers*</li> <li>• Not as transparent as 3b and limits competition and may result in a lower quality offering compared to what would be available through an open tender</li> <li>• Transition may be difficult to manage and may result in waitlists for sites</li> </ul>
3b	As above but if an operator requests a permit for a particular site - <i>run a tender process to select operator</i>	<ul style="list-style-type: none"> <li>• As above but with more competition and transparency than 3a</li> <li>• May improve quality of offering</li> <li>• Easier transition compared with 3a</li> </ul>	<ul style="list-style-type: none"> <li>• As above but higher administrative burden than 3a</li> </ul>
4	Mix of maximum limit and council selected operators  First available basis for sites within a maximum limit but the council may choose to offer a permit to an operator through a request for proposal process for sites if desired.	<ul style="list-style-type: none"> <li>• Gives the council the ability to proactively select specific operators for spaces to activate spaces</li> <li>• Allows continuity of operator for the community</li> <li>• Gives operators certainty to invest in their business</li> <li>• Gives ability to set higher quality standards for certain sites</li> </ul>	<ul style="list-style-type: none"> <li>• Not as transparent and may be difficult to identify interested parties in a fair and consistent way resulting in a higher administrative burden</li> <li>• Does not align with the council procurement requirements for other services</li> <li>• Allowing more exclusive use may create a barrier to new entrants by reducing first available operator spots</li> <li>• Limits competition</li> <li>• May result in lower coverage for customers*</li> </ul>

\* *Experience from less popular tender sites suggests that if operators do not need to be present to secure spots their coverage reduces, and other operators are unable to use the site*

## MAXIMUM LENGTH OF LEASES ON COUNCIL LAND

29. When considering the maximum length of leases on operational<sup>2</sup> council land it was clear that there were distinct trade-offs between the need for groups to be able to plan and fund for their activities and the possibility that the council may at some point in the future reassess plans for a site and want to reallocate the land to meet another purpose.

<sup>2</sup> land which is currently used for council services or an infrastructural project e.g. recreation reserve, park or stormwater reserve.

30. Originally, a shorter maximum length of the lease term was intended to allow for reallocation of the land. However, we now propose that leases include a termination clause that can be used if the land is required to meet another purpose, or the community group are no longer meeting their agreed performance measures. Indications from recent lease processes suggest that the inclusion of termination clauses have not affected community groups' abilities to leverage finance in the same way that a shorter lease-term would. However, including a termination clause in a lease may reduce the value of the lease.

**Table Three: Lease options**

	Option	Advantages	Disadvantages
1	No maximum lease length and no termination clause in leases (defaults to Reserves Act 33 or 35 year lease)	<ul style="list-style-type: none"> <li>Retains the ability for community groups to leverage finance</li> <li>Gives ability to charge full value of the lease</li> </ul>	<ul style="list-style-type: none"> <li>No ability for the council to reallocate land for 33 or 35 years</li> </ul>
2	<b>Set 33-year maximum lease length and include termination clause in leases (recommended)</b>	<ul style="list-style-type: none"> <li>Retains the ability for community groups to leverage finance</li> <li>Allows council to reallocate land if required</li> </ul>	<ul style="list-style-type: none"> <li>May reduce the value of the lease</li> <li>Reduces certainty of tenure</li> </ul>
3	Select 10-year maximum lease length with termination clause in lease	<ul style="list-style-type: none"> <li>Gives certainty of tenure to community groups</li> <li>Allows council to reallocate the land at 10-year intervals</li> </ul>	<ul style="list-style-type: none"> <li>Reduces the ability for community groups to leverage finance</li> <li>May reduce the value of the lease</li> </ul>

## FINANCIAL CONSIDERATIONS

31. There are no capital expenditure implications from this policy.
32. There is likely to be operational expenditure implications. The options outlined in this report will increase workload pressures for staff in Spaces and Places, Events, and Regulatory and Compliance due to the increased expectation for vetting and ongoing monitoring. Staff are scoping the expected impact of these changes, which includes considering if functions within existing business processes can be consolidated, automated, or streamlined.
33. If the Committee choose to include a termination clause in leases this may result in a reduction of revenue.

## LEGAL IMPLICATIONS / RISKS

34. Legal advice from Holland Beckett has highlighted risk around restricting use of public land and the need to ensure sufficient evidence that any restriction is required and proportionate to the issue to be addressed. Given these constraints this policy seeks to embed a knowledge- and insight-based approach to the management of council land to ensure that decisions made are well informed and incorporate opportunities for review and appeal of decisions.

## SIGNIFICANCE

35. 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.

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

## ENGAGEMENT

38. Taking into consideration the above assessment, that the issue is of medium significance, officers are of the opinion that the following consultation is suggested under the Local Government Act.
39. In addition to online engagement, targeted consultation will be undertaken with lease holders, licence holders, event organisers, permit holders and community groups that use the land. Staff will continue to consult with DoC and Te Rangapū. Information on the draft policy will be provided in libraries and service centres.
40. If the Committee selects Option Two for the sports field prioritisation issue we will engage with Sport BOP, High Performance Sport NZ, and Bay Venues Ltd ahead of the wider consultation with sports clubs and the community. This is likely to require additional lead time given the number of other consultative processes underway with these stakeholders.
41. The consultation will be scheduled to commence mid- September and run to mid-October (although as noted in paragraph 41, lead times may need to be adjusted if pre-engagement is required).

## NEXT STEPS

42. Following direction on options, and agreement to approve a draft policy for consultation, consultation in accordance with paragraphs 39-41.
43. Following consultation, hearings will be scheduled for late 2022.

## ATTACHMENTS

1. **Draft Use of Council Land Policy - A13667732** [!\[\]\(6a91490612ee75bd1431e1f5efeb5f15\_img.jpg\)](#) 
2. **Prior Decisions Use of Council Land Policy - A13667950** [!\[\]\(ef1c966b6706a723e66a200278071270\_img.jpg\)](#) 

## USE OF COUNCIL LAND POLICY 2022



<b>Policy type</b>	City		
<b>Authorised by</b>	Council		
<b>First adopted</b>	6 December 2005	<b>Minute reference</b>	M05/140
<b>Revisions/amendments</b>	9 May 2016 X xxx 2022	<b>Minute references</b>	M16/25.3
<b>Review date</b>	3 years		

### 1 PURPOSE

- 1.1 To provide a consistent approach to the management and use of Tauranga City Council (council) owned and administered land.
- 1.2 To set clear expectations about how council land may be used.
- 1.3 To give direction on specific activities on council land.
- 1.4 To provide a decision-making framework for the management and use of outdoor spaces.
- 1.5 To give effect to the principles of the Treaty of Waitangi.

### 2 SCOPE

- 2.1 This policy applies to:
  - the management and use of council-owned and/or administered strategic or operational land except where specifically excluded below
  - the use of roadways and road berms by mobile shops.
- 2.2 This policy excludes:
  - the management and use of indoor facilities on council land
  - the management and use of Mauao
  - the use of roadways and road berms (except by Mobile Shops as outlined above).

### 3 PRINCIPLES

#### Outcomes sought from the use of council land

- 3.1 **Community Benefit** - council land is primarily for community use; however council land may be used for private or commercial purposes where this provides a public benefit, and is consistent with relevant plans, strategies and policies.
- 3.2 **Environment** - council recognises and protects the environmental values associated with council land. Areas with high ecological and landscape value are recognised, valued, and protected.

- 3.3 **Vibrancy, Inclusivity and Diversity** - council recognises the role of council land in providing for a range of uses and activities that contribute to community connection, vibrancy, and diversity.
- 3.4 **Cultural Significance** - council recognises the customary and traditional connection that mana whenua has to the land. Council will work with mana whenua on the management and use of council land to give effect to the principles of the Treaty of Waitangi, and the relationship protocols it has with iwi and hapū. Areas with high cultural, archaeological, and historical value are recognised, valued, and protected.
- 3.5 **Health and Wellbeing** - council recognises the role of council land in promoting and supporting health, wellbeing, and active communities.

#### Approaches to managing council land

- 3.6 **Purposeful** - council-owned and administered land will be managed and used for its stated purpose, as outlined in the Tauranga Reserve Management Plan, the Reserves Act and the Long-Term Plan and Annual Plan.
- 3.7 **Partnership** - council will work in partnership with users of the land, mana whenua and key stakeholders to achieve the outcomes of this policy.
- 3.8 **Network Approach** - council applies a network approach to the development, management and use of outdoor spaces to ensure that activities are accommodated on the most suitable space for the type of use, and to minimise the impact on infrastructure, the environment, and other users.
- 3.9 **Knowledge and Insight** - council will actively monitor the use of outdoor spaces to inform decision-making. Council will share available information on spaces, including their history, cultural, ecological, and environmental values and their potential uses with the community.
- 3.10 **Fairness** - in setting fees and charges, council will balance the public value of the use of council land against any private benefits accrued.

#### 4 DEFINITIONS

<b>Active Reserve</b>	A large reserve that provides for a wide range of activities including formal sport, events and casual use. They also provide wide open greenspace within the urban environment of the city.
<b>Booking</b>	An agreement that secures use of council owned and/or administered land.
<b>Casual Use</b>	The informal use of council-administered land which is usually a one-off occurrence, but could be for two or three uses.
<b>Coastal Reserve</b>	Any reserve, owned and/or administered by council, along the foreshore or harbour.
<b>Commercial Activities</b>	Are any commercial activities not included in the definition of event, market, stall, small scale activation, mobile shop or tour operator carrying out commercial activities on an Open Space Zone but excludes those commercial activities with a lease or licence to occupy agreement.
<b>Community Use</b>	Not for profit organisations including but not limited to community groups and charities using council-administered land.
<b>Commercial Use</b>	Individuals or businesses using council-administered land to make a profit or financial gain.

<b>Community Garden</b>	An area of land cultivated collectively by a group of people for growing fruit and vegetables for personal use, and not for commercial gain.
<b>Community Sport</b>	Local not for profit organised physical activity within the Tauranga City Council district.
<b>Council</b>	Tauranga City Council.
<b>Council Land</b>	Council land includes council owned land and council-administered land which council is responsible for. This includes land owned by council and Crown land which council is responsible for managing but excludes Mauao.
<b>Cultural Tour Operators</b>	Māori cultural tour or tours including a site of cultural significance as identified in the Tauranga City Plan
<b>Early Childhood Education Facility</b>	Premises used regularly for the education and/or care of children aged from 0 to 5 years old, excluding Playcentres, but including and not limited to: <ul style="list-style-type: none"> <li>• kindergartens</li> <li>• te Kohanga Reo</li> <li>• education and care centres.</li> </ul>
<b>Encroachment</b>	An unauthorised occupation, development or use of council land for private benefit.
<b>Events</b>	An organised occasion that brings people together for the purpose of participating in an uplifting community, cultural, commemorative, recreational, sport, art, educational or entertainment experience. Events do not include markets, fairs, regularly scheduled sport and recreation activities, weddings and other family celebrations, or commercial activities, activations or attractions on reserves.
<b>Exclusive Use</b>	Land or facility used exclusively by the lease or licence holder where the general public are excluded, or the use of the land makes that specific area unavailable for other uses.
<b>High Performance Sport Fixture or Training</b>	Are fixtures and trainings that are not considered events and include high performing regional, national or international teams, re-occurring periodically for the purpose of developing knowledge and skills of the participants.
<b>Junior Sports Code</b>	Junior division of a sports code, the age of which is defined by the related regional or national sports organisation.
<b>Lease</b>	A lease gives the lessee the exclusive use of the property. Lease agreements may include rights of renewal, and provisions for reviewing the rent over the term of the lease.
<b>Licence</b>	A short-term right to operate in a public place. Licence agreements may include conditions of operation.
<b>Licence to Occupy</b>	Usually, a short-term right to occupy a property for a particular purpose, and it does not give any right to exclusive occupation.
<b>Market</b>	Any publicly accessible outdoor place where goods are offered for sale, which usually consists of a number of stalls grouped together.
<b>Market Organiser</b>	The applicant who has applied to run the market.
<b>Mobile Shop</b>	A vehicle from which material goods can be sold. This includes both food and non-food goods.
<b>Non-exclusive Use</b>	The land or facility is used by the licence holder but the general public may still access the land or facility.
<b>Ongoing Use</b>	Planned or regular use on more than one occasion.
<b>Long Term Use</b>	A formal agreement for use of council land or a facility, usually involving a lease or a licence to occupy, for long term (sometimes semi-permanent) usage.
<b>Operational Property</b>	Operational Property is land which is currently used for council services or an infrastructural project e.g. recreation reserve, park or stormwater reserve.
<b>Operator</b>	The person or organisation carrying out business by means of a mobile shop, an activity or attraction or a tour.
<b>Park</b>	A park held under the Local Government Act 2002

<b>Private Use</b>	Where individuals use council-administered land for their own use but not for profit or financial gain.
<b>Public Benefit</b>	For an activity to be considered to have a public benefit the activity must have a benefit that would; help meet the principles of this policy, be capable of being identified and defined, and be aimed at the general public or a sufficient section of the community.
<b>Public Place</b>	A place under the control of the council that is open to the public or is being used by the public, whether free or for payment of a charge and includes every road, street, footpath, court, alley, pedestrian mall, cycle track, lane, accessway and thoroughfare, reserve, park, domain, beach, foreshore, and any other place of public recreation or resort.
<b>Regular Competition</b>	Are games and competition re-occurring weekly for a minimum of 10 weeks or 10 re-occurring monthly occurrences per year.
<b>Regular Training</b>	Activity for the purpose of developing knowledge and skills of a sport re-occurring weekly for a minimum of 10 weeks or 10 reoccurring monthly occurrences per year.
<b>Reserve</b>	Any reserve owned or administered by the council.
<b>Road Berm</b>	The shoulder of the roadway or strip of land adjoining the roadway.
<b>Roadway</b>	The portion of the road used for vehicular traffic in general, including parking spaces.
<b>Tournament</b>	A sports competition held at a primary venue and concentrated into a relatively short time interval for local or regional participants. National and international tournaments are defined as an event due to the wider impact they have on the city.
<b>Site</b>	Location within a public place suitable for activities, may be a park or reserve or a portion of a park or reserve.
<b>Small-scale Activation</b>	Are activities of a small scale that can be easily moved and repositioned, which require a charge to participate or involves the sale of goods or hire of equipment, products or materials to persons using land in an Open Space Zone (as defined in the City Plan). Operating a business off site, but as part of that business using an Open Space Zone, will constitute a small-scale activation on council land and must obtain a licence or permit.
<b>Stall</b>	Includes any stationary yet moveable stand or similar structure on or at or from which goods and services are sold or exposed for sale.
<b>Strategic Property</b>	Land owned by the council for a future purpose, which is not currently being used for that purpose. This includes land which is expected to meet future operational needs e.g. land banking.
<b>Sponsorship Signage</b>	Signage which is aimed at acknowledging the partnership between the user of council-owned or administered reserves and a commercial entity. It is not signage which is dedicated to advertising a commercial entity.
<b>Sports fields</b>	All grass sports fields provided within the council's active reserve network. This does not include playing surfaces that are under a lease arrangement with the council.

## 5 FEES AND CHARGES

- 5.1 Fees and charges for the use of council land, including but not limited to booking fees, licence fees and lease and licence to occupy charges, will be set through the council's user fees and charges process. In setting fees the council will have regard to clause 3.10.

## 6 BOOKING COUNCIL LAND

### Activities that do not need to book to use council land

- 6.1 One-off, casual non-exclusive use of council land, which has no facilities, by individuals or for community use does not require a booking. However, users are recommended to

advise council in order to check if an organised activity is wanting to use the same space at the same time as this also allows council to update potential users if a booking arises.

#### **Activities that must book to use council land**

##### **6.2 Activities that must book to use council land:**

- community or commercial users wanting exclusive use of council land
- community or commercial users wanting non-exclusive use of council land on an ongoing basis
- commercial users wanting one off, casual non-exclusive use of council land
- filming and photography sessions
- events
- wedding ceremonies
- markets
- stalls
- boot camps
- sports competitions, trainings, or fixtures.

#### **Sites available for booking**

- 6.3 The council may specify times at which sites are unavailable for booking, or for particular types of bookings, as outlined in 6.2 to ensure that the sites are managed for the wellbeing and enjoyment of the whole community in accordance with the principles of this policy.
- 6.4 Any decision by the council to make a site unavailable for booking must be made with regard to the principles of this policy. The council will explore opportunities for the relocation of potential users including consideration of alternative sites, times, or dates for the activity. The council reserves the right to reverse the decision to make a site unavailable at any point.
- 6.5 In some circumstances council may be required to undertake unscheduled work on an outdoor space that is booked by a user through council's booking process. The council will take all reasonable steps to minimise the potential for this to occur however if it does occur then the council work will take priority over booked users of the space. The council will explore opportunities for relocation of the user including consideration of alternative sites, times, or dates for the activity.
- 6.6 The council reserves the right to reallocate booking sites, times, or dates in accordance with clause 6.8 multiple booking requests.

#### **Minimum requirements for bookings**

##### **6.7 Any use of council land must:**

- adhere to the conditions set as part of the bookings or event approval processes
- be consistent with the principles of this policy and relevant policy clauses of this policy that relate to the activity to take place
- not create a nuisance or encourage offensive behaviour
- be consistent with relevant plans, bylaws strategies and policies
- include appropriate time for the site to recover to an acceptable standard for use
- be lawful and safe.

**Multiple Booking Requests**

6.8 If multiple booking requests are made for the same site, date, and time, the council will:

- work with the users to explore options for accommodating both activities at the identified site
- work with the users to explore relocation of one of the users to another area of outdoor space
- if unable to achieve an acceptable resolution, decide which booking request to accept based on the principles of the policy, and in accordance with sections 6.9 – 6.17 decisions on bookings.

**Decisions on Bookings**

- 6.9 Booking requests will be considered by staff in the Active Community Partnerships team\* or the Venues and Events team\* in the first instance.
- 6.10 If the booking request clashes with another booking or booking request and the process in 6.8 has not achieved an acceptable resolution, or if the booking request relates to a significant booking, then the booking request will instead be considered by the Bookings Approval Panel.
- 6.11 Unless further information is requested, a decision must be made within 20 working days of the date on which the booking request is made. In cases where further information is requested by council, it must be made within 20 working days of the further information being provided.
- 6.12 The council will offer an opportunity for applicants to discuss the potential booking and conditions. Applicants may provide any information they consider relevant to the decision-making process.
- 6.13 A decision must be provided in writing and must be provided to the applicant. If the booking request is declined, conditions are imposed, or the potential booking is required to move to a different location, then the decision must state reasons for that decision.
- 6.14 If the applicant, is dissatisfied with the decision, it may ask the Bookings Approval Panel to reconsider the decision.
- 6.15 If an application to reconsider the decision is made, then a reconsideration decision must be made within 20 working days after the date of that application. The Bookings Approval Panel may either confirm the original decision or vary it. If the reconsideration decision varies the original decision, the reviewer may substitute any decision that the original decision maker could have made.
- 6.16 There is no right of challenge against the Bookings Approval Panel decision.

\* Or any future team/s with responsibility for managing booking requests for council land.

**Sport club and association bookings**

6.17 The following policy provisions only apply to booking decisions for sports use of sportsfields.

6.18 Priorities of use:

- in season sports codes receive priority over out of season sports codes
- the council will set season timeframes and sport code priorities based on patterns of use.

6.19 The seasons are as follows:

- winter season: runs from 1 April to 30 September
- summer season: runs from 1 October to 31 March.

6.20 Junior sports codes receive priority on weekdays before 7pm and weekends before 12pm, unless specific alternative arrangements are in place as agreed with council.

6.21 For regular competition and training:

- priority will be given to bookings from Tauranga based organisations
- bookings made by regional sports organisations and clubs have priority over bookings made by schools
- regular competition has priority over regular training except for Tuesday, Wednesday and Thursday evenings where training has priority
- the priority criteria for the Bay Oval at Blake Park is as follows (highest priority first):
  1. international cricket
  2. national cricket
  3. regional cricket
  4. sub-association cricket
  5. club cricket finals
  6. international use/events
  7. national use/events
  8. regional use/events
  9. local community events
  10. local club cricket
  11. other local club sport
  12. cricket training
  13. other local training.

6.22 High Performance sport fixtures and training (excluding events) will be accommodated on council land where the fixture or training:

- is likely to increase the profile and relevance of sport for the community **or**
- relates to Tauranga based or national New Zealand sporting teams **or**
- can be accommodated without unduly compromising existing community sport bookings.

**Events**

6.23 Events must go through the events approval process.

**Stalls**

- 6.24 Individual stalls will only be permitted for the specific purpose of fundraising for a community or charitable organisation or as part of an event or market.

**7 LICENCE OR PERMITS TO OPERATE ON COUNCIL LAND****Activities that must have a licence or permit to operate on council land**

- 7.1 Activities that must have a licence or permit to operate on council land:
- mobile shops (unless operating with an event or market that has been approved by the council)
  - small-scale activations
  - commercial activities
  - tour operators.

**Sites available for trading**

- 7.2 Activities (as outlined in clause 7.1) may only operate on sites as outlined on their licence or permit and subject to any maximum limit set under clause 7.9 of this policy, and any conditions set out in their licence or permit agreement.
- 7.3 The council may tender licences for specified trading sites. Only activities (as outlined in clause 7.1) with a tendered licence may trade from these sites.

**Decisions to grant a licence or permit agreement**

- 7.4 Activities (as outlined in clause 7.1) must provide to the council as part of their application:
- their proposed trading sites
  - a completed waste management plan in a form prescribed by the council
  - information to satisfy that the commercial activity is compliant with their health and safety obligations, including any adventure activities requirements under the Health and Safety at Work Act and Health and Safety at Work (Adventure Activities) Regulations 2016 where applicable.
- 7.5 Small-scale activations must provide evidence of Qualmark certification.
- 7.6 Cultural tour operators must provide evidence of engagement with appropriate iwi / hapū representatives on the content of their tour.
- 7.7 Decisions to license or permit activities (as outlined in clause 7.1) to operate, and or the conditions of any licence or permit, must align with the principles of this policy as outlined in Section 3.
- 7.8 The council may issue a licence for a specified period up to a maximum of two years in duration (excluding leases) but must include an annual review.

**Minimum requirements for licence or permit agreements**

7.9 Licence or permit agreements must include provisions that state:

- approved trading sites, duration of trade, and conditions of trading, including any noise restriction levels and waste management plan conditions. Operators may request to vary trading sites on their licence subject to approval by council
- that licences or permit agreements are personal to the operator and may not be transferred
- the council reserves the right to suspend or restrict trade by commercial activities on sites during an event or market that has been approved by council
- the council reserves the right to alter the terms and condition of the licence or permit with one months' notice in writing
- that any breach of the terms and conditions of the licence or permit may result in the licence or permit being revoked
- maximum numbers of activities, or types of activities (as outlined in clause 7.1) that may operate at one time in specified parks and reserves as determined by the Manager: Parks and Recreation\*.

**Setting maximum limits for activities in parks and reserves**

7.10 When setting maximum numbers under clause 7.9, the Manager: Parks and Recreation\* will consider how the maximum would contribute to / or impact on the achievement of the principles of this policy and have regard to:

- the level of public benefit gained from the activities on offer and the level of demand for commercial activities at the park or reserve
- the effect the maximum limit would have on:
  - the availability of car parking
  - impact on other users of the reserve
  - impact on the environment
  - impact on the infrastructure of the park or reserve
- the impact of the maximum limit on the variety of operators/activities on offer for park or reserve users
- feedback from iwi and hapū and the community on the operation of commercial activities on the reserve
- the effect a maximum limit would have on the livelihood of existing traders and the ease of entry for new operators on council land.

**8 LEASE AND LICENCE TO OCCUPY COUNCIL LAND**

8.1 Decisions to allow a lease or licence to occupy and the conditions of the lease or licence to occupy will be set with regard to the guidance in this section.

8.2 Council will not issue any leases in perpetuity for use of council-administered land for any purpose.

\* Or any equivalent role in future.

**Lease of strategic property**

- 8.3 Any use of a strategic property must:
- be consistent with the zoning in the District Plan unless a designation or resource consent has been granted
  - return a market rental, or offer comparable returns for council e.g. through reduced maintenance costs, or other benefits received
  - be consistent with the council's intentions for the property, the lease length may be the maximum acceptable while still achieving the intentions of the property
  - include periodic renewal periods no longer than 10 years in duration
  - be lawful and safe.

**Lease of operational property**

- 8.4 Any use of an operational property must:
- be consistent with the zoning in the District Plan unless a designation or resource consent has been granted
  - be consistent with relevant plans, strategies and policies
  - be considered with regard to the principles of this policy
  - be for a period no longer than 33 years maximum as aligned with the Reserves Act 1977
  - include periodic renewal periods no longer than 10 years in duration
  - include a termination clause allowing council to terminate the lease with one year's notice
  - be lawful and safe.

**Licence to occupy strategic property**

- 8.5 Council may grant a licence to occupy agreement to use strategic property. Any licence to occupy strategic property must:
- be consistent with the zoning in the District Plan unless a designation or resource consent has been granted
  - be consistent with relevant plans, strategies and policies
  - be lawful and safe
  - include a termination clause allowing Council to terminate the licence with one month's notice.

**Licence to occupy operational property**

- 8.6 Council may grant a licence to occupy agreement to use operational property. Any licence to occupy operational property must:
- be consistent with the zoning in the District Plan unless a designation or resource consent has been granted
  - be consistent with relevant plans, strategies and policies
  - be considered with regard to the principles of this policy
  - be lawful and safe
  - include a termination clause allowing the council to terminate the licence with one month's notice.

**Early Childhood Education and Care (ECE) facilities on council land**

8.7 Council land is not for the purpose of providing ECE facilities (playcentres are not considered ECE facilities). ECE facilities may only be allowed on council land in the following circumstances:

- the ECE occupies an existing ECE facility and has a current lease on council land or
- the ECE leases a portion of a facility in which they are not the primary tenant.

**Existing ECE centres on council land**

8.8 When a lease for an existing ECE facility expires the council will consider the factors in clause 8.10 before entering a new lease arrangement.

8.9 If an existing ECE facility wants to expand their facility the council will consider the factors in clause 8.10 before agreeing to an expansion.

8.10 Factors to be considered when deciding whether to grant or amend a lease for an ECE facility:

- demand for the site from other uses and / or users
- impact on the purpose of owning the land, including the role of the site in the Council's network of land holdings
- level of service requirements
- the relevant reserve management plan (if applicable)
- alternative options for the site
- council and the ECE facility's organisational, financial and future plans
- the historical association of the ECE facility with the site
- the role of the ECE facility within the community
- the legal status of the land.

8.11 If a new lease is not offered to an existing ECE facility, the Council is not required to fund or provide alternative land to facilitate the re-location of that facility.

**9 COMMUNITY GARDENS**

9.1 The council encourages community groups wanting to use council land for community gardens through providing land for this purpose, supporting the identification of suitable land, and assisting in planning and implementation.

9.2 Community gardens must have a licence agreement.

**10 MEMORIALS ON COUNCIL LAND**

10.1 The scattering of ashes on council land is prohibited, however a memorial garden is provided in the Pyes Pa Cemetery for this purpose.

10.2 Council land is generally not provided for memorials however commemorative trees can be planted to remember a loved one, celebrate a birth, anniversary or special event, honour someone or express appreciation.

- 10.3 Family and friends can plant or help plant the tree. Council staff need to be present at all tree plantings. Plaques are not permitted for the planted trees. Trees may be recorded on the Council website where this is desired for the public record.
- 10.4 The cost for a memorial tree will be set in the council user fees and charges. The cost will cover the planting and initial care and maintenance over its lifetime. Trees that die or are vandalised within two years are replaced for free.
- 10.5 The council may offer limited provision for memorial seats with commemorative plaques subject to infrastructure needs in the parks and reserve network. Memorial seats are in place for 10 years or the lifetime of the seat.

## **11 STORMWATER**

- 11.1 The primary purpose of stormwater reserves is to direct, slow, absorb and remove stormwater from roads, housing, and infrastructure to avoid flooding and damage.
- 11.2 Stormwater reserves are recognised as part of the council's network of outdoor space and may be used for recreational purposes, to provide greenspace and perform ecological functions.
- 11.3 Infrastructure and levels of service for stormwater reserves will support community aspirations for stormwater reserves, provided this can be accommodated without compromising the primary purpose of the reserve set out in clause 11.1.

## **12 ENCROACHMENTS ONTO COUNCIL LAND**

### **Encroachments onto reserves**

- 12.1 Approval is required from the council to carry out any planting, maintenance or other work in a reserve, and the work must be consistent with any relevant strategies, plans or policies. Where approval is not obtained, the planting, maintenance and other works are determined to be encroachments.

### **Encroachments onto coastal reserves**

- 12.2 The council's key objective of maintaining the natural dune environment in perpetuity of the coastal reserve is paramount, including the number of access points to the beach through coastal reserves.
- 12.3 Approval is required from the council to carry out any planting, maintenance or other work in the coastal reserve, and the work must be consistent with any relevant strategies, plans or policies.

### **Existing encroachments**

- 12.4 The council will have a planned programme to remove of existing encroachments subject to funding availability.
- 12.5 The council may charge the private landowner for some, or all, of the costs associated with removal of the encroachment under the Street Use and Public Places Bylaw. When considering the level of charge council will have regard to the contribution of the property owner to the establishment, or expansion, of any encroachment.

12.6 Highest priority for removal will be encroachments on:

- sites where significant damage to the natural character of the dunes, indigenous flora or reserves has occurred
- sites where the maintenance or enhancement of public access or other amenity values are compromised by physical or psychological barriers to public use
- sites where structures or other developments increase the risk of erosion or other damage during storm conditions.

12.7 Some existing accessways from private properties may be allowed to remain for practical reasons and some shared accessways will be encouraged in consultation with council. The council will facilitate a process to encourage shared accessways for private landowners adjoining reserves.

12.8 The council may decide that an existing encroachment may be regarded as sufficiently minor to be left as is.

### **13 SIGNAGE ON COUNCIL LAND**

13.1 Council may allow community groups to have identification signs and sponsorship signs on reserves, parks, and greenspace where the signs comply with council signage guidelines and have received approval from the Manager: Parks and Recreation.

13.2 In setting signage guidelines, the council will have regard to the role of signage in supporting community groups' financial sustainability alongside the impact on the landscape values of reserves, parks, and greenspace.

13.3 Those erecting signage are responsible for ensuring full compliance with Council's bylaws and all appropriate legislation, including the Building Act and Resource Management Act.

### **14 NETWORK OPERATOR LICENCES**

14.1 The council may grant licences to Network Operators (as defined in Section 2 of the Telecommunications Act 1987) for the purpose of placing and maintaining telecommunication facilities (macro or micro-cellular antenna and/or equipment) hereinafter called "telecommunication facilities") on Council property.

14.2 The council has authority to grant such licences, subject to specific conditions the operator must meet.

### **15 TRANSITIONAL ARRANGEMENTS**

15.1 To allow for an orderly transition:

- Provisions in section 1-6, and 8-15 will have immediate effect.
- Provisions in section 7 will apply to new applicants for licences following the adoption of the policy
- The Mobile Shop Policy and Temporary Commercial Activity on Reserve policy will continue to apply to existing licence and permit holders until 1 year and 1 month after this policy is adopted.

**16 RELEVANT DELEGATIONS**

16.1 The Chief Executive or their nominee has delegated authority for the implementation of this policy.

**17 REFERENCES AND RELEVANT LEGISLATION**

- Reserves Act 1977
- Street Use and Public Places Bylaw
- Local Government Act 2002
- Tauranga City District Plan
- Resource Management Act 1991
- Traffic and Parking Bylaw 2012
- Waste Management and Minimisation Bylaw 2012
- Telecommunications Act 1987

**Attachment 2: Prior committee decisions.**

Previous decisions made by the Strategy, Finance, and Risk committee are outlined below. Due to the restructuring of detailed policy content some decisions will now be incorporated in operational documents as outlined in Table One.

**Table One: Prior Decisions**

Decision Meeting	Decision	Reflected in:
13 December 2021	Agrees to set criteria for all temporary commercial activities on reserves.	Section 7
	Agrees to amend the threshold criteria to require operators to meet health and safety requirements, be small scale activities, have a Qualmark certification, and obtain a minimum score in the tender weightings.	Clause 7.4 – 7.5, 7.7
	Agrees to allow two-year maximum tender length for quality operators with a review after year one	Clause 7.8
	Requires cultural tour operators to show evidence of engagement with appropriate iwi / hapū representatives	Clause 7.6
	Agrees to provide a policy clause to clarify weddings are not charged fees	Clause 5.1 will be reflected through user fees and charges
	Agrees no fee is required for fitness classes or bootcamps but they must book the site and time	Clause 5.1 will be reflected through user fees and charges
	Agrees to require tour operators who charge a fee for service on council land, to obtain a licence and pay a fee to council	Clause 5.1 will be reflected through user fees and charges
	Agrees to seven changes to the allocation of tendered licences for commercial activities and attractions	Clause 7.10 now set through operational decision and licence agreements
	Agrees to provide additional support, funding, and dedicated spaces for community gardens as per Christchurch and other councils	Section 9
	Adds policy clauses to clarify that council land is not for the purpose of private memorials but limited provision is made for the donation of memorial seats and trees in designated areas. Memorial seats are in place for 10 years or the lifetime of the seat	Section 10
	Keeps the current signage criteria but allow discretion by the asset manager for exceptional circumstances and	Section 13 and now detail will be in signage guidelines

	require a final design that must be signed off by council staff	
	Agrees to provide policy clauses which clarify the purpose of stormwater reserves, explain why they require a different level of service of grass and vegetation, specify no swimming, and specify no structures or moveable items that can be shifted by water flows in extreme rain events within flowpaths or near waterways	Section 11 with clauses included to reflect council's commitment to meet community aspirations for stormwater reserves without compromising the primary purpose
14 February 2022	Agrees to incorporate the Mobile Shops Policy into the Community, Private and Commercial Use of Council-Administered Land policy review and consult on the issues outlined below through the review	Section 7 now covers mobile shops alongside other commercial activities
	Develop criteria for setting trading spaces could be devolved to the Chief Executive	Clause 7.10 outlines draft criteria
	Requires mobile shops to have a plan to manage health and safety risks	Clause 7.4
	Adds a category in the Traffic and Parking Bylaw to cover mobile shops' operation on the road	Included in Traffic and Parking Bylaw scope
	Requires mobile shops to complete a waste minimisation survey as part of the mobile shop licence process	Clause 7.4
	Prohibits mobile shops trading on roads with a speed limit higher than 50km/hr	Clause 7.9, will now be covered in licence agreements
	Requires mobile shops to connect to power where this is available, and their set up allows	Clause 7.9, will now be covered in licence agreements

**9.7 Tauranga City Council Draft Annual Results for the year ended 30 June 2022****File Number:** A13644157**Author:** Kathryn Sharplin, Manager: Finance  
Tracey Hughes, Financial Insights & Reporting Manager  
James Woodward, Finance Lead Projects Assurance**Authoriser:** Paul Davidson, General Manager: Chief Financial Officer**PURPOSE OF THE REPORT**

1. The purpose of this report is to present the draft operating and financial results for Tauranga City Council for the year ended 30 June 2022 and to consider options for the treatment of potential rates surplus should this be in place once final adjustments and audit have been completed.

**RECOMMENDATIONS**

That the Strategy, Finance and Risk Committee:

- (a) Receives the report Tauranga City Council Draft Annual Results for the year ended 30 June 2022.
- (b) Agrees to carry forward additional unspent rates of \$1.4m to cover digital, financial, planning and parks operational projects not completed.
- (c) Notes that, at this stage, a small rates surplus remains with further capitalisation and the review and audit process likely to impact on the final rates surplus.
- (d) Agrees to carry forward an additional \$6m of capital projects not completed at year end.

**EXECUTIVE SUMMARY**

2. Draft year end operating results have been presented in attachment A. The operating deficit in the draft results is \$2.8m compared with a budgeted deficit of \$25.2m. This favourable result is primarily due to lower expenditure with supply disruptions and resource availability challenges resulting in uncompleted work. Most of the rate funding for these projects has been carried forward, along with the expenditure budgets to be completed in 2022-23.
3. Operating revenue has been favourable to budget with higher than budgeted user fees across building services, sustainability and waste and lab testing. Finance revenue has been favourable with higher interest rates and funds on deposit than budgeted.
4. Expenditure has been significantly below budget with operational projects and expenditure not completed as planned particularly across planning activities, digital projects and council grants. Most of this work has been carried forward to 2022-23 along with its rates funding.
5. Draft year end capital expenditure results have been presented in attachment B. Capital expenditure through to June was \$208m against a budget of \$285m (73%).

**BACKGROUND**

6. The last financial year has been a time of considerable economic uncertainty with the impact of Covid continuing and wider geo-political tensions and economic uncertainty impacting on inflation and interest rates facing Council and the wider economy.

7. Supply-side disruptions continue to create challenges for delivery and for the cost of material and staff resources.
8. Operating revenue has been favourable to budget with higher user fees across building services, sustainability and waste and lab testing. Finance revenue has been favourable with higher interest rates and funds on deposit than budgeted.
9. Expenditure has been significantly below budget with operational projects and expenditure not completed as planned particularly across planning activities, digital projects and council grants. Most of this work has been carried forward to 2022-23 along with its rates funding.
10. Most of the expenditure carried forward (\$7m) was agreed as part of the annual plan. An additional \$1.4m of rates funding is requested to be carried forward to 2022-23 to cover expenditure across digital projects (\$1m), financial (rating) projects (\$150,000) infrastructure planning (\$400,000) and revegetation work (\$200,000) now to be completed in 2022-23.
11. Depreciation expenditure is \$2.4m above budget in the draft and expected to increase in the final year end results once the impacts of final capitalisations and revaluation have been included.
12. After these adjustments the current draft rates surplus is about \$1.6m. This is expected to be reduced after finalisation of the accounts and audit.
13. The total surplus (including non-operating revenue and expenditure) is currently \$40.8m greater than budgeted. Along with the variances noted above, a \$40m fair value gain on interest rate swaps has been recorded due to recent rapid interest rate rises. This gain is an unrealised accounting entry at year end. Capital subsidies (mainly Waka Kotahi) are \$17.8m less than budget reflecting capital delivery challenges, and assets vested to Council are less than budget by \$8.3m.
14. Capital expenditure reached 73% of budget for the year (\$208m actuals / \$285 budget). Most activities were under budget at year end. The largest variances were within Transportation (\$33m), Wastewater (\$19m) and Stormwater (\$10m of budget). The majority of unspent capital budget was carried forward through the annual plan process, however an additional \$6m is currently proposed to be carried forward at year end from the 2021/22 financial year into 2022/23. Further details on the full year capital delivery are included as Attachment B.

## STRATEGIC / STATUTORY CONTEXT

15. The Annual Report contains financial results in detail and is required by the Local Government Act 2002 (LGA).

## OPTIONS ANALYSIS

16. There are no options presented in this report. This report is for interim information, pending the presentation of the draft Annual Report, scheduled for 12 September 2022.

## FINANCIAL CONSIDERATIONS

17. While the operating results are considered substantially correct at this time, ongoing analysis and review and asset capitalisation and revaluation work, along with audit recommendations may change this result. The calculation of these draft results is guided by the requirements of the LGA, relevant accounting standards (PBE IPSAS), and generally agreed accounting principles (GAAP). Audit of the full Annual report is currently scheduled beginning early September.

## LEGAL IMPLICATIONS / RISKS

18. Due to post-covid19 pressures on councils across the country and on Audit NZ resourcing in particular, the timing of adoption of the audited annual report will not meet normal statutory deadlines however Government has approved an extension of time.

## CONSULTATION / ENGAGEMENT

19. The annual report will be made publicly available after adoption. The 2021-31 LTP which the year's results are measured against was consulted on before being adopted. There is no consultation on these draft results or the annual report itself.

## SIGNIFICANCE

20. 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.
21. 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.
22. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the matter is of medium significance.

## ENGAGEMENT

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

## NEXT STEPS

24. The draft Annual Report will be provided to Audit NZ for examination at the beginning of September, and presented to this committee at their meeting of 12 September. The final Annual Report is scheduled for adoption at the end of November (tbc).

## ATTACHMENTS

1. **Attachment A: Draft Financial Results - A13671619** [!\[\]\(5044d0c01c55361541732c241ddde39c\_img.jpg\)](#) [!\[\]\(435fca1941b413fe037d537d6cdb0593\_img.jpg\)](#)
2. **Attachment B: Draft Capital Programme results - June 2022 - A13665323** [!\[\]\(c72f049fe124f5daacee60060c31506c\_img.jpg\)](#) [!\[\]\(4af976f72f9ef4bd3c04f960de41449e\_img.jpg\)](#)

## Financial Statements

Year to 30 Jun 2022

## STATEMENT OF COMPREHENSIVE REVENUE AND EXPENSE

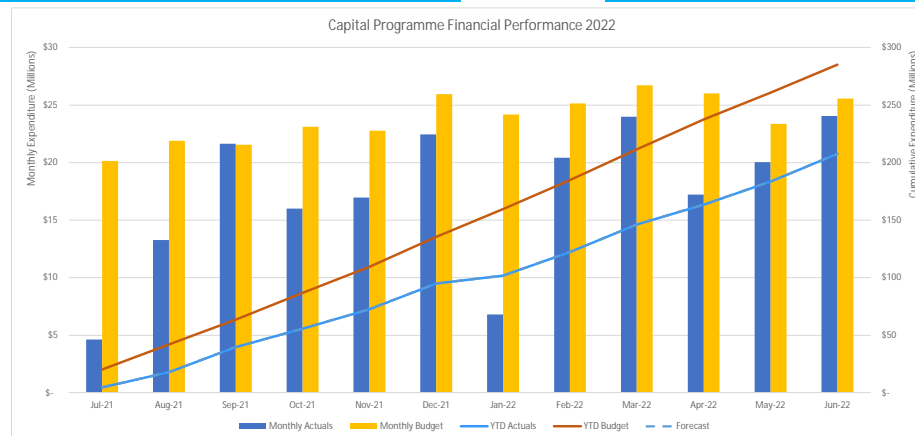
Favourable  
(Unfavourable)

	\$'000	Actual Full Year	Budget Full Year	Variance	Variance %
<b>OPERATING REVENUE</b>					
Rates		234,259	234,278	(19)	0%
Subsidies & Grants		11,286	11,652	(366)	-3%
Other Revenue		55,657	53,771	1,886	4%
Finance Revenue		2,244	1,472	772	52%
<b>Total Operating Revenue</b>		<b>303,446</b>	<b>301,173</b>	<b>2,273</b>	<b>1%</b>
<b>ASSET DEVELOPMENT REVENUE &amp; OTHER GAINS</b>					
Development Contributions		30,589	26,860	3,728	14%
Other Gains/(Losses)		43,435	1,326	42,109	3174%
Subsidies & Grants Capital Expenditure Contributions		39,843	57,659	(17,816)	-31%
Assets vested to Tauranga City Council		13,348	21,608	(8,260)	-38%
<b>Total Asset Development Revenue &amp; Other Gains</b>		<b>127,215</b>	<b>107,454</b>	<b>19,761</b>	<b>18%</b>
<b>TOTAL REVENUE</b>		<b>430,661</b>	<b>408,627</b>	<b>22,034</b>	<b>5%</b>
<b>OPERATING EXPENDITURE</b>					
Personnel Expense		76,158	77,935	1,777	2%
Depreciation & Amortisation Expense		73,707	71,338	(2,370)	-3%
Finance Expense		21,490	21,466	(24)	0%
Consultants & Contractors		23,583	24,909	1,326	5%
Other Expense		111,356	130,705	19,349	15%
<b>Total Operating Expenditure</b>		<b>306,295</b>	<b>326,354</b>	<b>20,059</b>	<b>6%</b>
<b>OTHER EXPENSES</b>					
Loss on Disposal of Assets		1,509	0	(1,509)	0%
Provision Expense		1,012	1,200	188	16%
<b>Total Other Expenses</b>		<b>2,521</b>	<b>1,200</b>	<b>(1,321)</b>	<b>-110%</b>
<b>TOTAL EXPENDITURE</b>		<b>308,816</b>	<b>327,554</b>	<b>18,738</b>	<b>6%</b>
<b>SURPLUS/(DEFICIT)</b>		<b>121,845</b>	<b>81,073</b>	<b>40,772</b>	<b>50%</b>
<b>OPERATING SURPLUS/(DEFICIT)</b>		<b>(2,849)</b>	<b>(25,181)</b>	<b>22,332</b>	<b>89%</b>

## Capital Programme - 2022 Financial Year - June 2022



Actuals Current Month	\$24m
Budget Current Month	\$26m
Variance Current Month	(\$2m)
The interim final capital programme expenditure for the year is \$208m or 73% of budget. It is currently estimated that there \$6m of additional carryforwards in June as part of the year end washup that were not captured in the Annual Plan process.	
FY22 Actuals to Date	\$208m
FY22 Budget to Date	\$285m
FY22 Variance	(\$77m)
FY22 Budget	\$285m
FY22 Forecast	\$208m
FY22 Variance	(\$77m)



Top 25 Projects/Programme	Project Budget	Project Actuals	Variance 2022	Comments
Top 25 Programme	\$227,414,450	\$159,176,349	-\$68,238,101	
Balance of Growth Projects	\$20,705,570	\$6,412,497	-\$14,293,073	The bulk of the under expenditure is in the Western Corridor Growth Area, primarily stormwater three waters based infrastructure. Overall 31% of budget spent
Capital Delivery Adjustment Growth Projects	-\$33,500,000	\$0	\$33,500,000	
Balance of Level of Service Projects	\$51,968,539	\$20,652,136	-\$31,316,403	40% of the programme was spent this financial year. The bulk of the under delivery was in the transport area, including seismic work on the carpark buildings
Capital Delivery Adjustment Level of Service Projects	-\$9,000,000	\$0	\$9,000,000	
Balance of Renewal Projects	\$27,242,197	\$14,775,714	-\$12,466,483	54% of the budget was spent this financial year. The major variance to budget was in the three waters area.
Land Purchases & Developer Reimbursements	\$22,556,773	\$7,236,933	-\$15,319,840	Developer reimbursements for growth projects are dependant on progress by developers, with only 15% of the budget claimed this financial year. Most land purchases are for growth related infrastructure, only 37% of the budget has been drawn down this year, with the balance of negotiations continuing into next financial year
Strategic Property Disposals	-\$22,520,000	-\$689,752	\$21,830,248	Some advance agreements have been reached, with final settlements projected for next financial year.
<b>TOTAL CAPITAL PROGRAMME</b>	<b>\$284,867,529</b>	<b>\$207,563,877</b>	<b>-\$77,303,652</b>	

## **9.8 Audit New Zealand Report and Letter to Commissioners on the Long Term Plan Amendment**

**File Number:** A13654017

**Author:** Kathryn Sharplin, **Manager:** Finance

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

### **PURPOSE OF THE REPORT**

1. The purpose of this report is to provide to the Strategy, Finance and Risk Committee the Report and Letter from Audit New Zealand regarding audit of the Long-term Plan Amendment (LTPA). This report is for information.

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### **RECOMMENDATIONS**

That the Strategy, Finance and Risk Committee:

- (a) Receives the following correspondence from Audit New Zealand regarding the Long - term Plan Amendment
  - (i) Letter to the Commissioners on the findings from the final LTPA audit
  - (ii) Tauranga City Council LTP Amendment – Report to the Commissioners - Final

---

### **EXECUTIVE SUMMARY**

2. Audit New Zealand was engaged to audit the Council's LTPA consultation document (CD) for the period 1 July 2021 to 30 June 2031 and issued a non-standard audit report on 24 March 2022.
3. Subsequently, on adoption of the LTPA, Audit New Zealand provided an opinion on the LTPA which was presented to Council at the adoption meeting and has been included in the LTPA document.

### **BACKGROUND**

4. Audit New Zealand (Audit NZ) was engaged to audit the Council's LTP amendment consultation document (CD) for the period 1 July 2021 to 30 June 2031.
5. The CD provided the basis for consultation with the community on the proposed Civic Precinct project and for Infrastructure Funding and Financing (IFF) of the Transportation portfolio of projects related to the Transport System Plan (TSP) and Tauriko West (new growth area) development.
6. Audit NZ issued a non-standard audit report on 24 March 2022, which was included in the CD. In the audit opinion, emphasis of matter paragraphs were included which drew attention to uncertainty as to the level of external funding that could be obtained for the civic precinct and about the IFF funding mechanism.
7. Council sought independent accounting advice on the accounting treatment of the IFF proposals to confirm they would provide financing for these infrastructure projects that was not accounted for as borrowing on Council's balance sheet.
8. After Council had finalised decisions on the LTPA, Audit NZ issued a letter on the findings from the audit of the LTPA document. Audit NZ reviewed council's independent accounting advice on the IFF and concluded the accounting treatment in the LTPA was reasonable. However, Audit NZ has stressed that this was based on draft IFF agreements. It noted the

accounting treatment will need to be reviewed and potentially changed depending on changes to the agreements.

### STRATEGIC / STATUTORY CONTEXT

9. The Local Government Act 2002 requires the independent audit of Council's LTPA.

### OPTIONS ANALYSIS

10. This report is to receive the Audit NZ correspondence.

### FINANCIAL CONSIDERATIONS

11. There are no financial implications arising from this report.

### LEGAL IMPLICATIONS / RISKS

12. There are no legal implications arising from this report.

### CONSULTATION / ENGAGEMENT

13. No consultation is required on this report. Consultation has taken place on the LTPA.

### SIGNIFICANCE

14. 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.
15. 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.
16. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the decision to receive the Audit NZ report and letter on the LTPA is of low significance.

### ENGAGEMENT

17. 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.

### NEXT STEPS

18. Council is continuing to work on options for IFF and if any agreements are proposed Council will seek further advice as to the accounting treatment of the proposed agreements prior to seeking Council approval.

### ATTACHMENTS

1. **Audit New Zealand Tauranga City Council LTP Amendment - Report to the commissioners - Final with comments - A13652669** [!\[\]\(5d101140de2221468472b3cccc30cdf8\_img.jpg\)](#) 
2. **Audit New Zealand Letter to the Commissioners on the findings from the final LTPA audit - final - A13652656** [!\[\]\(59464123d484a6335cfbd572f728cd4d\_img.jpg\)](#) 

AUDIT NEW ZEALAND  
Mana Arotake Aotearoa

# **Report to the Commissioners on the audit of**

## **Tauranga City Council's**

Consultation document to amend the  
Long Term Plan

For the period 1 July 2021 to 30 June 2031

## Contents

Key messages .....	3
1 Our audit report.....	5
2 Audit Scope and objective .....	6
3 Control environment.....	6
4 Area of audit emphasis .....	7
5 Other matters arising from our audit .....	8
6 Audit of the amended LTP .....	8
Appendix 1: Mandatory disclosures .....	10

## Key messages

We have completed the audit of the Tauranga City Council's (the Council) Consultation Document to amend the Long-term Plan for the period 1 July 2021 to 30 June 2031 (LTP amendment CD). This report sets out our findings from the audit and draws attention to our detailed findings.

### Audit opinion

The amendment of the LTP proposed increases to the level of service provided by the Civic Precinct project and raising funding through the use of the Infrastructure Funding and Financing Act (IFF) to support the Council's share of Transport System Plan (TSP) and the development of Tauriko West. We concluded as follows:

- The Council has produced a final LTP amendment CD that fulfils its primary purpose of providing an effective basis for public participation in decision making related to the proposed amendment.
- The LTP amendment CD included all the major matters relating to the proposed Civic Precinct project and the IFF funding of the TSP and Tauriko West development. This included providing preferred and alternative consultation options for the community to provide feedback on.

We have completed the audit of the Council's LTP amendment CD for the period 1 July 2021 to 30 June 2031 and issued a non-standard audit report on 24 March 2022. Without modifying our audit opinion, we included emphasis of matter paragraphs drawing the readers' attention to uncertainties about the level of external funding that could be obtained for the Civic Precinct and uncertainty about the proposed IFF funding mechanism for new infrastructure projects.

### Future focus

As well as the audit report issued on the CD, we will issue an audit report on the final LTP that will be adopted before 1 July 2022.

The Council needs to obtain external advice on the accounting treatment of the IFF funding prior to the start of the final audit of the LTP amendment.

**Thank you**

We would like to thank the Council, management, and staff for their assistance during the audit. Council's staff were available throughout the audit and provided the information requested promptly. Overall, the audit progressed smoothly.

A handwritten signature in blue ink, appearing to read 'Clarence Susan', with a stylized flourish at the end.

Clarence Susan  
Appointed Auditor  
10 June 2022

## 1 Our audit report

### 1.1 We issued an unmodified audit report



We issued a non-standard audit report on the LTP amendment CD on 22 March 2022.

This meant we were satisfied that the Council's LTP amendment CD meets the statutory purpose and provides an effective basis for public participation in the Council's decisions about the proposed content of the 2021-31 LTP amendment.

We found the underlying information and assumptions used to prepare the LTP amendment CD provided a reasonable and supportable basis for the preparation of the LTP.

Without modifying our audit opinion, we included emphasis of matter paragraphs drawing the readers' attention to the uncertainties of the level of external funding for community facilities and the uncertainty over proposed funding mechanism for new infrastructure projects.

### 1.2 Uncorrected misstatements

The LTP amendment CD is free from material misstatements, including omissions. However, in the course of the audit, we found certain misstatements that are individually and collectively not material to the LTP amendment CD. We have discussed any misstatements that we found with management. All significant misstatements were amended prior to the Council adopting the LTP amendment CD.

### 1.3 Quality and timeliness of information provided for audit



The development of the CD and LTP is a significant and complex project and a comprehensive project plan is required for a successful LTP amendment process.

The Council had a project plan which included key milestones, deadlines, and the work stream responsible. This contributed to producing the underlying information documents and enabling all key deadlines to be met.

The Council was receptive to audit recommendations and is focused on continuous improvement. In addition, Council staff were available throughout the audit and provided requested information promptly. This contributed to producing high quality underlying information documents and enabling the Council to meet all key deadlines.

One area where Council can improve is to obtain early independent accounting and legal advice whenever it decides to pursue new activities or funding streams.

## 2 Audit Scope and objective

The scope of our audit engagement and our respective responsibilities are contained in our audit engagement letter dated 9 March 2022.

In summary, the Council is proposing:

- Significant changes to the levels of service of the Civic precinct proposed by the refreshed masterplan which now includes a museum and exhibition centre; Civic Whare; other upgrades to current facilities; inclusion of waterfront area and masonic park;
- Consequential increases in capital spend of \$220.9 million and annual operating costs of \$22.6 million from 2029 once all facilities are operational. This will be funded by debt increase of \$152 million, an average per annum rates increase of 0.7%, external funding expectation of \$121.8 million, as well as the potential sale of assets (Parking buildings and marine precinct) as a result of the changes in the levels of service; and
- Apply for funding for two programmes of work via the IFF. The funding will remove approximately \$256 million debt from the City Council. The projects are for the TSP and the development in Tauriko West. The affected residents will pay a levy to the IFF to fund the developments until the funding has been repaid.

In forming our opinions, we carried out procedures that we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the consultation document about the proposed amendment to the LTP achieves the purpose as described in the Act. We also evaluated the forecast information provided in the LTP amendment by assessing whether:

- the amendment contains any significant errors or omissions; and
- when viewed as a whole, the information is balanced and fairly presented.

## 3 Control environment

Our approach to the audit was to identify, confirm, and assess the Council's key processes and controls over the underlying information and ultimate production of the LTP amendment CD. The purpose of this assessment was to enable us to plan the most effective and efficient approach to the audit work needed to provide our audit opinion on the LTP amendment CD.

## 4 Area of audit emphasis

During the planning stage of the audit, and our review of the content of the LTP amendment CD, we identified the following key risks which were the areas of focus during our audit. In this section of the report, we comment on our findings on this matter.

### 4.1 Accuracy of the forecast figures

The Council prepared and adopted the underlying information necessary to support the LTP amendment CD. The Council achieved this by producing a draft supporting information pack consisting of the changes required to the LTP 2021-31, resulting from the proposed amendment.

Based on our work on the underlying information and the LTP amendment CD, we concluded that the final LTP amendment CD included accurate forecast figures.

### 4.2 Financial Strategy and Financial Model

The Financial Strategy has not significantly changed since adoption of the original 2021-2031 strategy.

We reviewed the impact of the changes on the strategy and concluded the Council remains prudent in the approach to funding and debt. The council continues to forecast net surpluses over the next 10 years. This is consistent with the amended forecast financial information, which we also reviewed and concluded it was consistent with the underlying information.

We concluded the financial model appropriately reflects the impact of the proposed amendment and aligns with the Financial Strategy.

### 4.3 Infrastructure Strategy

The infrastructure strategy remained unchanged from the strategy adopted for the 2021-31 LTP. This is consistent with our knowledge and other supporting information presented for LTP amendment adoption.

### 4.4 Significant forecasting assumptions

We assessed the appropriateness of the assumptions used as a basis for the development of the LTP amendment CD and concluded that the assumptions adopted in preparing the proposed LTP amendment are consistent with our knowledge.

We concluded the significant forecasting assumptions were reasonable for the proposed amendment CD.

#### 4.5 Performance reporting framework

The performance framework remained unchanged from the framework adopted for the 2021-31 LTP. This is consistent with our knowledge and other supporting information presented for LTP amendment adoption.

Should the community support the preferred options in the CD, the Council will have to include KPI's in future years performance framework to monitor its actual performance against budgets and levels of service included in the amended LTP CD.

##### Management comment

*We agree that further work is required to establish a performance framework for the investment in the civic precinct.*

### 5 Other matters arising from our audit

We completed our planned work in accordance with our Audit Engagement Letter dated 9 March 2022.

The proposed IFF funding arrangements will be implemented under new legislation that is untested and may be complex to account for and may not result in debt being recorded off Council's balance sheet.

We recommend that Council get external advice on the accounting treatment of the IFF funding prior to the start of the final audit of the LTP amendment to confirm the assumptions and disclosures in the LTP amendment are reasonable and supportable.

##### Management comment

*Independent accounting advice has been provided by Deloitte confirming the proposed IFF funding arrangements would not add debt onto the council's balance sheet. This advice has been made available to Audit New Zealand.*

### 6 Audit of the amended LTP

The next step in the amended LTP audit process will be the audit of the final amended LTP, which is planned to take place in June 2022.

To ensure our audit of the final amended LTP is efficient, we expect the Council to prepare a schedule of changes to the financial forecasts and draft LTP that were the basis of the LTP amendment CD. This will enable us to assess the extent of changes as a result of community consultation and tailor our audit work accordingly.

Under section 94(2) of the Act, our audit report on the final amended LTP forms part of the amended LTP. We will agree timeframes with management to enable us to issue our audit report in time for the Council meeting for the formal adoption of the amended LTP.

We are responsible for reporting on whether the amended LTP meets the statutory purpose and provides a reasonable basis for integrated decision making by the Council and accountability to the community. We considered the quality of the underlying information and assumptions as part of the audit of the LTP amendment CD. For the audit of the amended LTP, we will focus on how these are reflected in the amended LTP. We will consider the effect of the decisions that come out of the consultation process and review the amended LTP to gain assurance that appropriate, material, consequential changes and disclosures have been made.

At the conclusion of the amended LTP audit, we will ask the Council to provide us with a signed representation letter on the amended LTP. The audit team will provide the letter template during the LTP audit.

## Appendix 1: Mandatory disclosures

Area	Key messages
Our responsibilities in conducting the audit	<p>We carried out this audit on behalf of the Controller and Auditor-General. We are responsible for expressing an independent opinion on the LTP amendment CD and reporting that opinion to you. This responsibility arises from section 15 of the Public Audit Act 2001.</p> <p>The audit of the LTP amendment does not relieve management or the Tauranga City Council of their responsibilities.</p> <p>Our Audit Engagement Letter dated 8 March 2022, contains a detailed explanation of the respective responsibilities of the auditor and the Tauranga City Council.</p>
Auditing standards	<p>We carry out our audit in accordance with the International Standard on Assurance Engagements (New Zealand) 3000 (revised): <i>Assurance Engagements Other Than Audits or Reviews of Historical Financial Information</i>, the International Standard on Assurance Engagements 3400: <i>The Examination of Prospective Financial Information</i>, and the Auditor-General's Auditing Standards.</p>
Auditor independence	<p>We confirm that, for the audit of the Tauranga City Council's LTP amendment CD, we have maintained our independence in accordance with the requirements of the Auditor-General, which incorporate the independence requirements of the External Reporting Board.</p> <p>Other than our work in carrying out all legally required external audits, we have no relationship with or interests in the Council or any of its subsidiaries.</p>
Fees	<p>The audit fee, covering both the CD and the LTP for the period is estimated to be \$75,000 (excluding GST and disbursements), as detailed in our audit engagement letter dated 9 March 2022.</p> <p>Other fees will be charged in the period for the annual report audit and debenture trust deed assurance engagement.</p>
Other relationships	<p>We are not aware of any situations where a spouse or close relative of a staff member involved in the audit occupies a position with the Council that is significant to the audit.</p> <p>We are not aware of any situations where a staff member of Audit New Zealand has accepted a position of employment with the Council during or since the end of the financial year.</p>

Area	Key messages
Unresolved disagreements	We have no unresolved disagreements with management about matters that individually or in aggregate could be significant to the CD. Management has not sought to influence our views on matters relevant to our audit opinion.





AUDIT NEW ZEALAND  
Mana Arotake Aotearoa

13 July 2022

PO Box 621, Seventh Avenue, Tauranga 3140  
745 Cameron Road, Tauranga 3112

Telephone (04) 496 3099

Anne Tolley  
Commissioner  
Tauranga City Council  
Private Bag 12022  
Tauranga Mail Centre  
Tauranga 3143

Tēnā koe Anne,

### **Audit of the amendment of the Long-term Plan 2021-31**

At the completion of our audit of the draft Consultation Document (CD) that related to the amendment of the Long-term Plan (LTP), we provided a report to the Commissioners dated 10 June 2022. That report set out our findings from that audit and should be read in conjunction with this letter.

This letter provides our findings from the audit of the amended LTP document, based on the decisions made by Tauranga City Council (Council). As Council decided to proceed with the preferred options consulted on at the CD stage, there were minimal changes made to the draft supporting documents from the CD stage. The draft supporting documents included the proposed changes to some sections of the LTP.

### **Infrastructure Funding and Financing**

There was one technical issue regarding the accounting treatment for the Infrastructure Funding and Financing (IFF) arrangement. We recommended in our report to Council at the CD stage that Council obtain external advice on the accounting treatment of the IFF funding prior to the start of the final audit of the LTP amendment. Council did obtain its own accounting opinion from Deloitte and they followed that accounting advice when preparing the final forecast financial statements.

We reviewed the draft agreements in conjunction with the draft financial statements and the external accounting advice the Council received. As Council was the first Local Authority to prepare prospective accounts incorporating IFF funding, the details were referred to our technical specialists to ensure the treatment was appropriate.

We concluded the accounting treatment was reasonable. However, we stress this assessment was made based on the draft agreements provided. If there are any changes to the final signed agreements, the accounting treatment will need to be reviewed, and potentially changed depending on changes to the agreements.

A business unit of the Controller and Auditor-General | [www.auditnz.parliament.nz](http://www.auditnz.parliament.nz)

We would like to thank management and staff for their assistance during the final LTP audit.

Nāku noa, nā

A handwritten signature in blue ink, appearing to read 'Clarence Susan', with a stylized flourish at the end.

Clarence Susan  
Appointed Auditor

## 9.9 Revised Draft Local Alcohol Policy

**File Number:** A13589796

**Author:** Jane Barnett, Policy Analyst  
Jeremy Boase, Manager: Strategy and Corporate Planning  
Nigel McGlone, Manager: Environmental Regulation

**Authoriser:** Steve Pearce, Acting General Manager: Regulatory and Compliance

### PURPOSE OF THE REPORT

1. To adopt a revised draft Local Alcohol Policy (LAP) and Statement of Proposal for community consultation.

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### RECOMMENDATIONS

That the Strategy, Finance and Risk Committee:

- (a) Confirms the following proposed changes to the draft Local Alcohol Policy (LAP) that were agreed at the Committee meeting on the 20 June 2022:
  - (i) Final sales time changed to 3am from the proposed 2am for all on-licensed premises in the central city
  - (ii) A reduction in the opening sales time for all off-licensed premises with a proposed opening time of 10:00am instead of 7:00am
  - (iii) Removal of the one-way door provision for on-licensed premises
  - (iv) No new on-licensed premises to be established in areas zoned industrial in the City Plan
- (b) Agrees to the following proposed changes to be included in the revised draft LAP for community consultation:
  - (i) No new licences issued for bottle stores located within suburbs with a social deprivation index of 7 or more. This does not apply to new licences for an existing premises that has been sold, or for an existing premises that relocates to a new site within the same suburb.
  - (ii) The inclusion of the following discretionary conditions for off-licensed premises:
    - (1) Signs detailing statutory restrictions on the sale of alcohol to minors and intoxicated persons adjacent to every point of sale;
    - (2) The maintenance of an alcohol-related incidents book;
    - (3) The installation and operation of CCTV cameras on the exterior of, and within, premises;
    - (4) Provision of effective exterior lighting;
    - (5) No single sales of beer or ready to drink spirits (RTDs) in bottles, cans or containers of less than 440 mls in volume may occur except for craft beer;
    - (6) No single sales of shots or premixed shots;
    - (7) Restrictions on sales based on the type of product and/or its price;
    - (8) Restrictions on the display of RTDs at principal entrance to the store or within 3 meters of the front window; and
    - (9) Restrictions on the display of product or price specials.
- (c) Adopts the revised draft Tauranga Local Alcohol Policy (**Attachment One**) and the

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Statement of Proposal (**Attachment Two**) for community consultation from 16 August 2022 until 16 September 2022.

- (d) Authorises the Chief Executive to make any necessary minor drafting or presentation amendments to the revised draft Local Alcohol Policy, the Statement of Proposal and the related consultation material prior to the commencement of consultation.
- 

## EXECUTIVE SUMMARY

2. On 20 June 2022 the Committee considered the issues raised by submitters on the draft Local Alcohol Policy (LAP) and made the following changes to the draft LAP:
  - not to change the final sales time from 3am to 2am for on-licensed premises in the central city;
  - remove the one-way door provision;
  - change the opening sales time to 10:00am instead of 7:00am for all off-licensed premises; and
  - no new on-licensed premises to be established in industrial zoned areas.
3. As the change in sales times for off-licensed premises and restrictions on new on-licensed premises in industrial zoned areas were not considered in the draft LAP, further community consultation is required.
4. In response to submitters' concerns around the lack of provisions for off-licensed premises the Committee directed staff to report back on location conditions to help protect vulnerable communities.
5. The Committee also requested further information on what discretionary conditions for off-licensed premises to include in the revised draft policy.
6. This report responds to these requests by identifying options for consideration (see **Attachment Three**).
7. A limit on the number of new bottle stores in areas of deprivation (suburbs with a social deprivation index of 7 or more) is recommended to address alcohol harm in these areas.
8. Evidence shows that those living in more deprived areas are more vulnerable to alcohol harm than those in less deprived areas. There are more bottle stores in high deprivation areas than less deprived areas.
9. Nine discretionary conditions for off-licensed premises have been identified for community consultation.
10. These proposed changes together with the changes made by the Committee at its meeting on 20 June 2022 have been incorporated into a revised draft LAP.
11. If the Committee adopts the revised draft LAP (**Attachment One**) and associated Statement of Proposal (**Attachment Two**) community consultation will take place between 16 August and 16 September 2022.

## BACKGROUND

12. On 1 November 2021 the Committee approved a draft LAP for community consultation and hearings were held on 14 March 2022.
13. The draft LAP largely proposed two key changes:
  - (i) a reduction in the final sale time of 2am instead of 3am for on-licensed premises in Tauranga central city and

- (ii) the one-way door restriction to start at 1am instead of 2am.
14. The Committee considered submissions on 20 June 2022 and decided on the following changes to the draft policy:
- not to change the final sales time from 3am to 2am for on-licensed premises in the central city
  - to remove the one-way door provision
15. Further changes were proposed by the Committee to the opening sales time for off-licensed premises and new on-licensed premise locations:
- opening time of 10:00am instead of 7:00am for all off-licensed premises; and
  - no new on-licensed premises to be established in industrial zoned areas.
16. These changes were not considered in the draft policy that was consulted on in late 2021. Therefore, further consultation is required so the community can provide feedback to the Committee.
17. The Committee also directed staff to report back on options for including off-licensed premises location provisions and discretionary conditions in the revised draft policy. This report responds to this request with the options presented in **Attachment Three**.
18. Recommended options have been incorporated into a revised draft LAP (**Attachment One**).

### STRATEGIC / STATUTORY CONTEXT

19. The LAP is one tool in working towards Council's community outcome of 'An inclusive city'. This included people feeling safe in their homes, neighbourhoods and public places
20. A LAP is required to be reviewed every six years. LAPs are restricted in what they can contain (see **Attachment Four**).
21. In accordance with the Act, Council has, in preparing the draft LAP consulted with the Police, licensing inspectors and Medical Officers of Health (section 78(4) of the Sale and Supply of Alcohol Act 2012 Act (the Act)) and had regard to the matters set out in section 78(2) of the Act.

### OPTIONS ANALYSIS

22. The options for considering off-licensed location provisions and discretionary conditions for off-licensed premises are set out in **Attachment Three**.

### LEGAL IMPLICATIONS / RISKS

23. The decision made by the Committee on 20 June 2022 regarding the proposed change to the opening sales time for all off-licensed premises is likely to attract appeals if it is retained in the provisional policy.
24. Any other legal implications and risks are dependent on the changes, if any, made to the draft policy and resulting provisional policy.

### CONSULTATION / ENGAGEMENT

25. As set out in the Act, before producing the draft LAP the Police, inspectors and Medical Officers of Health were consulted (section 78(4)).
26. In accordance with the Act the special consultative procedure was used to consult on the draft policy. Targeted consultation was carried out with the hospitality sector, mana whenua, Hauora organisations, main street organisations, ratepayer associations and other community support organisations.

27. Staff met with Police and some CBD bar owners as part of the consultation process. Staff invited further submissions, acknowledging that the consultation period occurred at a busy time for the hospitality industry.
28. Staff also met with Ngāi Te Rangi during the consultation period to listen to their concerns and feedback.

## SIGNIFICANCE

29. 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.
30. 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.
31. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the issue is of medium significance.





## ENGAGEMENT

32. Taking into consideration the above assessment, that the issue is of medium significance, officers are of the opinion that further community consultation is required under the Local Government Act 2002.

## NEXT STEPS

33. If the Committee adopts the revised draft LAP for community consultation, consultation will take place between 16 August 2022 and 16 September 2022.
34. The consultation will specifically seek feedback from the community on the following proposed new provisions:
  - change in hours for all off-licensed premises
  - exclusion of any new on-licensed premises being established in areas zoned industrial
  - exclusion of any new bottle stores being established in high deprivation areas; and
  - the discretionary conditions for off-licensed premises.

## ATTACHMENTS

1. **Revised Draft Local Alcohol Policy - A13589708** [↓](#) 
2. **Draft Statement of Proposal - A13655714** [↓](#) 
3. **Option Analysis - Location provisions and discretionary conditions for off-licensed premises - A13646742** [↓](#) 
4. **LAP Context and Process - A13544829** [↓](#) 

## REVISED DRAFT LOCAL ALCOHOL POLICY



<b>Policy type</b>	City		
<b>Authorised by</b>	Council		
<b>First adopted</b>	22 July 2015	<b>Minute reference</b>	M15/49.13
<b>Revisions/amendments</b>		<b>Minute references</b>	
<b>Review date</b>			

### 1. PURPOSE

1.1 To provide guidance to the licensing committee and licensing authority regarding:

- The trading hours of licensed premises
- The further issuing of licences
- ~~One-way door restrictions~~
- Discretionary conditions.

### 2. SCOPE

2.1 This policy applies to Tauranga City.

### 3. DEFINITIONS

Term	Definition
Act	means the Sale and Supply of Alcohol Act 2012
Bottle store	means an off-licensed premise being a retail premise where (in the opinion of the licensing authority or licensing committee concerned) at least 85% of the annual sales revenue is expected to be earned from the sale of alcohol for consumption somewhere else (refer section 32(1)(b) of the Act).
City Plan	means the Tauranga City Council's operative City Plan.
Club	means a body that: <ul style="list-style-type: none"> <li>(a) is a body corporate having as its object (or as one of its objects) participating in or promoting a sport or other recreational activity, otherwise than for gain; or</li> <li>(b) is a body corporate whose object is not (or none of whose objects is) gain; or</li> </ul>

	(c) holds permanent club charter. (Refer section 5 of the Act.)
Council	means Tauranga City Council or any Committee, Sub Committee or elected member of Council or officer or other person authorised to exercise the authority of Council.
Hotel	means premises used or intended to be used in the course of business principally for providing to the public: (a) lodging; and (b) alcohol, meals, and refreshments for consumption on the premises. (Refer section 5 of the Act.)
Licensing authority	means the Alcohol Regulatory and Licensing Authority continued in existence under section 169(1) of the Act.
Licensing committee	means the District Licensing Committee established under section 186 of the Act, relevant to the licence or matter under consideration.
Off-licence	is a licence for premises where the licensee can sell alcohol for consumption somewhere else.
On-licence	is a licence for premises where the licensee can sell alcohol for consumption on the premises or can let people consume alcohol on the premises. For the avoidance of doubt, on-licences includes club licences per section 21 of the Act.
One-way door restriction	means, in relation to a licence, a requirement that, during the hours stated in the restriction: (a) no person is to be admitted (or re-admitted) into the premises unless he or she is an exempt person; and (b) no person who has been admitted (or re-admitted) into the premises while the restriction applies to the licence is to be sold or supplied with alcohol. (Refer section 5 of the Act.)
Tauranga City Centre	means, for the purposes of this policy, the area indicated in Attachment 1 to this policy.
Tavern	(a) means premises used or intended to be used in the course of business principally for providing alcohol and other refreshments to the public; but (b) does not include an airport bar. (Refer section 5 of the Act.)

#### 4. PRINCIPLES

- 4.1 To minimise alcohol-related harm in Tauranga City.
- 4.2 To contribute to Tauranga City being **an inclusive city, a safe and healthy city.**
- 4.3 To reflect local communities' character, amenity, values, preferences and needs.
- 4.4 To encourage licensed premises to foster positive, responsible drinking behaviour.

**5. Off-licenses****5.1. Maximum licensed hours**

- Maximum licensed hours for off-licenses shall be ~~7am~~ 10am to 10pm.

**5.2 Where premises can be located**

No new licences issued for bottle stores located within suburbs with a social deprivation index of 7 or more. This does not apply to new licences for an existing premises that has been sold, or for an existing premises that relocates to a new site within the same suburb.

**5.3 Discretionary Conditions**

The following discretionary conditions have been identified for consideration by the District Licensing Committee when issuing and renewing licences for off-licensed premises:

- Signs detailing statutory restrictions on the sale of alcohol to minors and intoxicated persons adjacent to every point of sale;
- The maintenance of an alcohol-related incidents book;
- The installation and operation of CCTV cameras on the exterior of, and within, premises;
- Provision of effective exterior lighting;
- No single sales of beer or ready to drink spirits (RTDs) in bottles, cans or containers of less than 440 mls in volume may occur except for craft beer
- No single sales of shots or premixed shots;
- Restrictions on sales based on the type of product and/or its price;
- Restrictions on the display of RTDs at principal entrance to the store or within 3 meters of the front window; and
- Restrictions on the display of product or price specials,

**6. On-licences****6.1 Maximum licensed hours – excluding the Tauranga City Centre**

- Maximum licensed hours for all on-licences in Tauranga (excluding the Tauranga city centre) shall be 9am to 1am the following day.

**6.2 Maximum licensed hours – Tauranga City Centre**

- Maximum licensed hours for all on-licensed premises in the Tauranga city centre shall be 9am to 3am the following day.

**6.3 Where premises can be located**

- No new on-licensed premises will be established in areas zoned 'industrial' in the City Plan.

**5.1.1 ~~One-way door restrictions~~**

- ~~Any on-licensed premises licensed until after 2am shall have a one-way door restriction in place from 2am.~~

**6.4 Discretionary conditions**

The following discretionary conditions have been identified for consideration by the District Licensing Committee when issuing and renewing licences for on-licensed premises: ~~including on-licences issued to clubs:~~

- Patron number to security ratio;
- Patron number to bar manager ratio;
- Provision of additional security (staff) after 11pm;
- The installation and operation of CCTV cameras on the exterior of, and within, premises;
- Provision of effective exterior lighting;
- Restrictions on the size (e.g. 'doubles') and time of 'last orders';
- Management of patrons queuing to enter the licenced premises;
- Restriction on the use of outdoor areas after 10pm;
- Provision of seating i.e. no vertical drinking zones within the licence-to-occupy area (i.e.: all LTO areas are seated only at all times);
- No serving in glass containers at specified times;
- No shots or particular types of drinks to be served after specified times;
- A restriction on the number of drinks per customer;
- Restrictions on permitted drinking vessels;
- No alcohol service for a specified time before the closing the licensed premises;
- Provision of transport for patrons;
- Acoustic design certificate required if an existing tavern is the subject of complaints;
- Acoustic design certificate required for all new on-licensed and club premises with a residential boundary within 500 metres and an outside area operating after 11pm.

The above conditions would apply to all types of on-licence premises.

**7. Club Licences****7.1 Maximum licensed hours – excluding the Tauranga City Centre**

- Maximum licensed hours for all club licences in Tauranga (excluding the Tauranga city centre) shall be 9am to 1am the following day.

**7.2 Maximum licensed hours – Tauranga City Centre**

- Maximum licensed hours for all club premises in the Tauranga city centre shall be 9am to 2am the following day.

### **7.3 ~~One-way door restrictions~~**

- ~~Any club licensed until after 1am shall have a one-way door restriction in place from 1am.~~

### **7.3 Discretionary conditions**

The following discretionary conditions have been identified for consideration by the District Licensing Committee when issuing and renewing club licences:

- Patron number to security ratio;
- Patron number to bar manager ratio;
- Provision of additional security (staff) after 11pm;
- The installation and operation of CCTV cameras on the exterior of, and within premises;
- Provision of effective exterior lighting;
- Restrictions on the size (e.g. 'doubles') and time of 'last orders';
- Management of patrons queuing to enter the licenced premises;
- Restriction on the use of outdoor areas after 10pm;
- Provision of seating i.e. no vertical drinking zones within the licence-to-occupy area (i.e.: all LTO areas are seated only at all times);
- No serving in glass containers at specified times;
- No shots or particular types of drinks to be served after specified times;
- A restriction on the number of drinks per customer;
- Restrictions on permitted drinking vessels;
- No alcohol service for a specified time before the closing the licensed premises;
- Provision of transport for patrons;
- Acoustic design certificate required if an existing tavern is the subject of complaints;
- Acoustic design certificate required for all new on-licenced and club premises with a residential boundary within 500 metres and an outside area operating after 11pm.

## **8 Special Licences**

### **8.1 Discretionary conditions**

The following discretionary conditions have been identified for consideration by the District Licensing Committee when issuing special licences, including special licences issued to clubs:

- Number of 'responsible persons' or certified Duty Managers to be present;
- Specify locations Managers to be present at. (e.g.: at point of sale, anywhere else on site that their presence would be beneficial);
- Free water to be available;
- Limit on number of drinks to be sold in one transaction;
- Drink containers to be opened at point of sale;
- No high alcohol doubles or shots to be sold;
- Specify security staff number required and their location (Guard to patron ratio);
- Specify event staff to wear high viz clothing;
- Specify containers alcohol may be sold in;
- Condition to ensure Police reserve rights to require earlier cessation of licence hours by request to the licensee and reduce number of sales and slowing of service;
- Limits on promotion of alcohol;
- Require one way door procedure;
- Limits as to noise from event;
- Lighting requirements;
- Consideration of having specific 'licenced area' within an overall 'event area' - this will help restrict movement of patrons with alcohol inside the event and be easier to monitor for event staff and Police/Licensing Inspectors;
- The above conditions apply to both on-site and off-site special licences.

## **9. RELEVANT DELEGATIONS**

- 9.1 This policy is delegated to the licensing committees and licensing authority to implement as appropriate.

## **10. REFERENCES AND RELEVANT LEGISLATION**

- 10.1 Sale and Supply of Alcohol Act 2012

**11. ASSOCIATED POLICIES/PROCEDURES**

11.1 Alcohol Bylaw 2018

11.3 Street use and Public Places Bylaw 2018

**12. SCHEDULES**

*Schedule 1 – Tauranga City Centre as defined in the Local Alcohol Policy.*

DRAFT

## Schedule 1



## **Revised Draft Local Alcohol Policy**

### **Statement of Proposal**

#### **Introduction**

Tauranga City Council's Local Alcohol Policy came into effect in 2015 and is now due for review. As part of this review a draft policy was developed in consultation with the Police, Medical Officers of Health and licensing inspections. This draft policy was consulted on between 17 November 2021 and 20 December 2021.

Council considered all submissions on 20 June 2022 and in response to the issues raised by submitters decided to revise the draft policy and carry out further community consultation. This document introduces the revised draft policy, which reflects changes made as a result of the earlier community consultation.

#### **Summary of the Proposed Changes**

The key changes proposed are:

- removal of the one-way door provision
- change the starting sales time to 10:00am instead of 7:00am for all off-licensed premises;
- no new on-licensed premises to be established in industrial zoned areas;
- no new licences issued for bottle stores located within suburbs with a social deprivation index of 7 or more. This does not apply to new licences for an existing premise that has been sold, or for an existing premises that relocates to a new site within the same suburb; and
- the inclusion of discretionary conditions for all off-licensed premises.

The revised draft Local Alcohol Policy, with amendments shown as track changes, is available at [www.tauranga.govt.nz](http://www.tauranga.govt.nz). For the full agenda report please see the Strategy, Finance and Risk Committee Report from 1 August 2022 titled 'Revised Draft Local Alcohol Policy'.

#### **Reasons for the Proposal**

The Local Alcohol Policy was adopted in 2015. The Local Alcohol Policy is due for review to meet the provisions of the Sale and Supply of Alcohol Act 2012.

Information and feedback from submitters supports continuing to have a Local Alcohol Policy in place. Submitters have asked for additional, and stronger, measures in the policy to reduce alcohol related harm.

The proposed changes to the revised draft Local Alcohol Policy aim to reduce alcohol related harm, clarify provisions in the policy and focus the policy on the Tauranga City Council area.

#### **Research Report**

Council has prepared a research report to gather information and collect feedback from stakeholders regarding alcohol, the community and the draft Local Alcohol Policy.

The report provides a range of information including information on current licences, community and demographic information, feedback from stakeholders, community health information and alcohol related problems in the district.

The full research report is available at [www.tauranga.govt.nz](http://www.tauranga.govt.nz)

### **Legislative Background**

The Local Alcohol Policy aims to minimise alcohol-related harm and to set requirements for licensing that are aligned to community views and address local issues. Local Alcohol Policies are not mandatory, without a Local Alcohol Policy, the default provisions would apply. The default maximum trading hours for an on-licensed premises are 8am to 4am the following day.

The Sale and Supply of Alcohol Act 2012 sets out the requirements and process for Local Alcohol Policies. Local Alcohol Policies are able to include policies on any or all of the following matters relating to licensing (and no others):

- location of licensed premises by reference to broad areas
- location of licensed premises by reference to proximity to premises of a particular kind or kinds
- location of licensed premises by reference to proximity to facilities of a particular kind or kinds
- whether further licences (or licences of a particular kind or kinds) should be issued for premises in the district concerned, or any stated part of the district
- maximum trading hours
- the issue of licences, or licences of a particular kind or kinds, subject to discretionary conditions
- one-way door restrictions.

Council must follow the special consultative procedure in reviewing the policies. This statement has been prepared in accordance with Local Government Act 2002.

### **Feedback**

The draft Local Alcohol Policy will be open for public submission from 16 August 2022 to 16 September 2022.

If required, hearings will be held in November 2022.

You can submit online [here](#) or send us your feedback by email or post.

Full copies of the draft policy and a submissions form are available from council's customer service centre at 21 Devonport Road Tauranga, the Tauranga, Mount Maunganui, Greerton and Papamoa libraries and on council's website at [www.tauranga.govt.nz](http://www.tauranga.govt.nz) or contact the policy team on 07 577 7000 or [info@tauranga.govt.nz](mailto:info@tauranga.govt.nz)

**Revised Draft Local Alcohol Policy****Attachment Three: Option Analysis for off-licensed premises proximity locations and discretionary conditions****Background**

1. On 20 June 2022 the Committee considered the issues raised by submitters on the draft Local Alcohol Policy (LAP) and made the following changes to the draft LAP:
  - not to change the final sales time from 3am to 2am for on-licensed premises in the central city
  - remove the one-way door provision
  - change the starting sales time to 10:00am instead of 7:00am for all off-licensed premises
  - no new on-licensed premises to be established in industrial zoned areas
2. The Committee requested further information and analysis before deciding on proximity provisions and discretionary conditions for off-licensed premises.
3. This attachment responds to this request and sets out options for these two issues.

**Location and proximity provisions – where new licensed premises can be located****Policy context**

4. As set out in the Sale and Supply of Alcohol Act 2012 (Act) a LAP can only specify:
  - how many (if any) new licensed premises will be allowed;
  - where any new licensed premises can be located (e.g. not close to other licensed premises or near schools or other sensitive sites);
  - the opening and closing sales times for premises; and
  - conditions for the sale of alcohol (e.g. no shop-front advertising).
5. Provisions that restrict where new off-licensed premises can be located are closely related to provisions that limit the number of new licensed premises.
6. Proximity provisions limit how close a new premises can be located to a sensitive site (such as a school) and therefore restricts the number of possible locations for a new premises. This has a similar effect as a direct restriction on the number of new licensed premises. A direct restriction creates an absolute limit in a particular area (or whole city) whereas the proximity provisions limit the number of potential sites for a new premises.

**Community feedback**

7. Twenty-two submitters oppose the lack of provisions around the number, density, and proximity to other sites of off-licensed premises across the city and propose a number of options including:
  - no more bottle stores in Tauranga and a 'sinking policy for existing stores in areas of high deprivations (deprivation deciles 8-10)
  - restricting multiple bottle stores in a block of shops or within a 2km radius of each other
  - no further bottle stores in Tauranga City Centre and Mount Maunganui Centre

- a rebuttable presumption approach that would set the default position of declining new licences unless the case for one is made by the applicant
  - no new bottle stores or off-licensed premises in areas of high deprivation and/or areas with a high proportion of Māori residents or high levels of community stress or harm
  - specific proximity provisions to sites including education facilities, school bus routes, public housing, community centres, marae, playgrounds, parks, health facilities, alcohol treatment centres and places of worship. Most of the submitters seeking proximity provisions wanted these if an area-wide cap of bottle stores should not be adopted and put forward a distance of 100 metres from sensitive sites.
8. All these submitters want limits on the number of off-licensed premises to address alcohol related harm and are concerned that the draft LAP did not respond to community concern around alcohol availability. Almost two-thirds of respondents in the Health and Wellbeing Population Survey 2020<sup>1</sup> supported 'reducing the number of places that can sell alcohol'.
  9. The Medical Officer of Health reports that maximum alcohol outlet density in specific areas and zones is required to strengthen the current LAP. Under the Act, Council is required to consult with the Police, licensing inspectors, and Medical Officers of Health when producing a draft policy.

#### Available evidence

10. Off-licensed premises sell around 75 percent of all alcohol in New Zealand (43 percent from bottle stores and 32 per cent from supermarkets)<sup>2</sup>. Therefore, most alcohol is purchased from off-licensed premises and consumed in unregulated environments such as private homes or public places.
11. Alcohol Healthwatch's submission cites 'New Zealand research shows that 73 percent of all very heavy drinking occasions occur in private homes'<sup>3</sup>.
12. The number of off-licensed premises in Tauranga has increased by around 25 percent since 2015. This increase outstrips the population growth over the same period.
13. A US expert panel reviewed studies assessing the effect of limiting alcohol outlet density on alcohol related harms,<sup>4</sup> found that there was sufficient evidence to support reducing the density of alcohol outlets to decrease alcohol related harm.
14. Research by Cameron et al<sup>5</sup> provides New Zealand evidence that links off-licensed alcohol outlets and harm. '*Off-license outlets have significant and positive un-*

<sup>1</sup> Toi Te Ora Public Health. Issues of Health and Wellbeing Population Survey 2022: A reflection of community views across a range of public health topics relevant to the Bay of Plenty and Lakes districts.

<sup>2</sup> New Zealand Law Commission, 2010., Alcohol in our Lives: Curbing the Harm: A report on the review of the regulatory framework for the sale and supply of liquor.

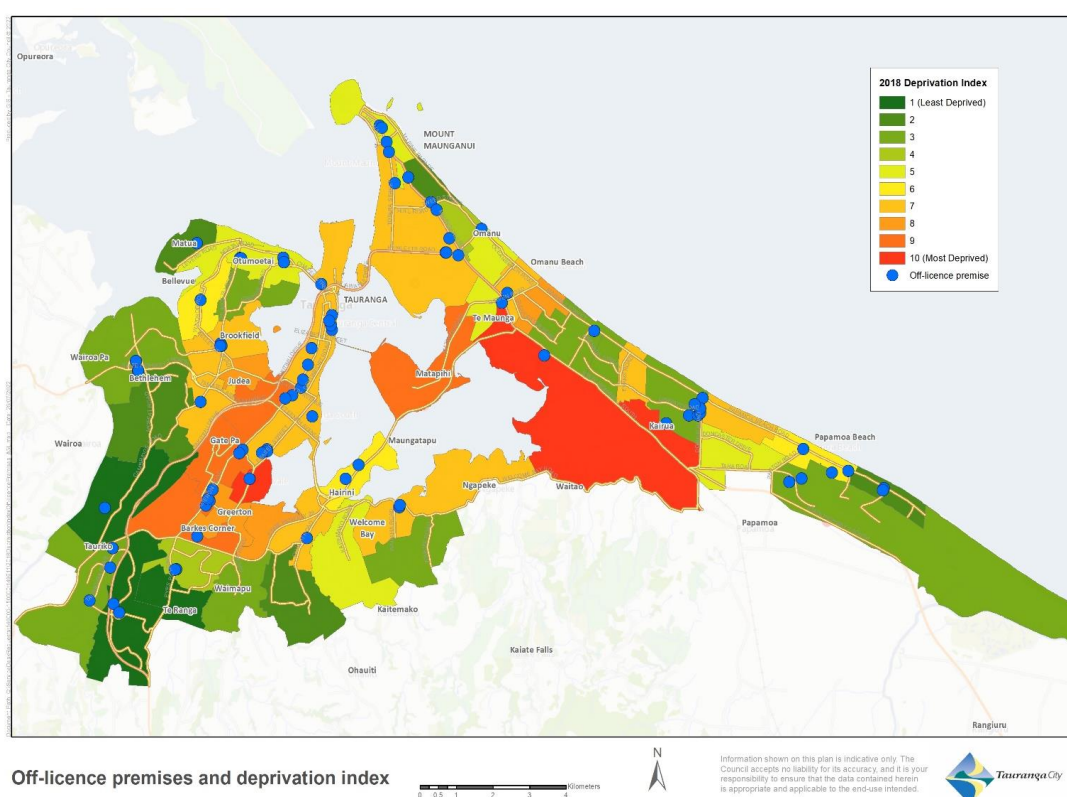
<sup>3</sup> Huckle T, Callinan S, Pham C, Chaiyasong S, Parker K, Casswell S. Harmful drinking occurs in private homes in some high- and middle-income alcohol markets: Data from the International Alcohol Control Study: Harmful drinking in private homes in different alcohol markets. Drug Alcohol Rev 2020; published online Aug 17. DOI:10.1111/dar.13137. Noted in Alcohol Healthwatch submission to the draft Local Alcohol Policy

<sup>4</sup> Campbell, C., Hahn, R., Elder, R., Brewer, R., Chattopadhyay, S., Fielding, J., Naimi, T., Toomey, T., Lawrence, B., & Middleton, J. 2009. Effectiveness of Limiting Alcohol Outlet Density as a Means of reducing Excessive Alcohol Consumption and Alcohol-Related Harms. American Journal of Preventive Medicine, 37(6), 556-569. <http://doi:10.1016/j.amepre.2009.09.028>.

<sup>5</sup> Cameron, M.P., Cochrane, W., Livingston, M. 2019, The relationship between alcohol outlets and harms: A spatial panel analysis for New Zealand, 2007-2014. version 3.

*moderated relationships with antisocial behaviour and sexual offences, where an additional off-licence outlet in an area is associated with a 1.3 percent higher incidence of antisocial behaviour and a 1.9 percent higher incidence of sexual offences’* (Cameron et al 2019, pg. 37).

15. The Medical Officer of Health’s submission also noted research that finds high levels of alcohol outlets enable youth access to alcohol<sup>6</sup>.
16. In New Zealand, Māori, men, young people, and those living in more socioeconomically deprived areas are at higher risk of alcohol-related harm<sup>7</sup>. International research also shows that low-income drinkers experience more harm per litre of alcohol consumed, when compared to higher income drinkers with the same level of drinking<sup>8</sup>.
17. Off-licensed premises in Tauranga are inequitably distributed with more premises located in high deprivation areas.



<sup>6</sup> Chen, M., Gruenewald, P., & Remer, L. (2009). Does Alcohol Outlet Density Affect Youth Access to Alcohol? *Journal of Adolescent Health: official publication of the Society for Adolescent Medicine*, 44(6), 582-589. <https://doi.org/10.1016/j.jadohealth.2008.10.136>

<sup>7</sup> Meiklejohn J, Connor J, Kypri K. 2012. One in three New Zealand drinkers reports being harmed by their own drinking in the past year. *The New Zealand Medical Journal*, 125(1360), 28-36

<sup>8</sup> Katikireddi SV, Whitley E, Lewsey J, Gray L, Leyland AH. Socioeconomic status as an effect modifier of alcohol consumption and harm: analysis of linked cohort data. *Lancet Public Health* 2017; 2: e267–76.

### Option Analysis

18. In response to submitters' concerns around the lack of provisions for off-licensed premises the Committee directed staff to report back on location provisions options to help protect vulnerable communities.
19. There are multiple options for proximity provisions across the city. These options are dependant on the identified sensitive sites and distances from these sites. As noted above, submitters identified a range of sensitive sites; education facilities, school bus routes, public housing, community centres, marae, playgrounds, parks, health facilities, alcohol treatment centres and places of worship.
20. These sites are where those most vulnerable to alcohol harm are expected to be, so restricting any new off-license premises from being established nearby is likely to help reduce alcohol harm.
21. The challenge is determining which sites to include. At its meeting on 20 June 2022, the Committee noted that a significant area of the city would be restricted from having a new off-licensed premises if all the sites identified by submitters were considered sensitive sites. In addition, the greater the restricted distance from the sensitive sites, the greater the restricted area would be.
22. Such restrictions in some areas may also result in a higher concentration of licensed premises in other areas as the available permitted area across the city would be reduced. Communities in these areas may be at greater risk from alcohol harm.
23. Proximity provisions in adopted LAPs across New Zealand range from 40 to 150 metres. Most submitters supporting proximity provisions wanted 100 metres from sensitive sites. However, most submitters that mentioned proximity provisions viewed this as the next best option in the absence of a direct limit on the number of off-licences.
24. Another consideration, given the legislative nature of the LAP process, is the ability to justify specific distance provisions. It may be difficult to explain why a certain distance is selected as the distance.
25. An alternative approach for reducing alcohol harm in vulnerable communities is to limit the number of off-licensed premises in the most deprived areas of the city. This option is what submitters concerned about the lack of provisions for off-licensed premises in the draft LAP called for in their submissions. This is also what Western Bay of Plenty District Council did when it decided to not to permit new bottle stores in the Te Puke-Maketu Ward area.
26. Several factors need to be considered to develop options under this approach:
  - what limit to set - could be set at current levels or a 'sinking lid' could be apply or the limit could be related to a population ratio to allow for population growth;
  - what type of off-licensed premises the limit applies to;
  - the areas and/or level of deprivation the restriction would apply to; and
  - whether the limit applies to all new licences or if new licences for an existing premise that has been sold, or for an existing premises that relocates to a new site close to the existing site are exempt from the limit.
27. Five possible options to help address alcohol harm in vulnerable communities have been identified for community consultation.

**Table One: Options for community consultation**

Options for community consultation	Reasons
<p><b>Option A</b> – No new licences issued for bottle stores located within suburbs with a social deprivation index of 7 or more.</p> <p>Does not apply to new licences for an existing premises that has been sold, or for an existing premise that relocates to a new site within the same suburb.</p> <p><b>Recommended option for community consultation</b></p>	<p>Limiting the number of bottle stores in high deprivation areas will help address alcohol harm in these communities.</p> <p>Several submitters proposed a limit on the number of bottle stores in areas of deprivation. Most of these submitters felt that the city is sufficiently serviced by off-licensed premises at present, even accounting for future population growth.</p> <p>Evidence shows that those living in more socioeconomically deprived areas are at higher risk of alcohol-related harm. There are a higher number of off-licensed premises in areas of deprivation than less deprived areas.</p> <p>Applying the limit to areas with a social deprivation index of 7 or more provides greater coverage than just those suburbs with a score of 9 and 10.</p> <p>Restricting bottle store licences allows for supermarkets and grocery stores (that sell alcohol) to be established in these areas. Most submitters specifically mentioned bottle stores.</p> <p><b>Note:</b> The required reviewed of the policy in 6 years time will consider any impacts this condition may have on the development of the Te Papa peninsula.</p>
<p><b>Option B</b> – No new licences issued for bottle stores located within suburbs with a social deprivation index of 9 and 10. This includes the following suburbs Gate Pa, Greerton, Kairua, Matapihi, Sulphur Point, Tauranga Hospital and Yatton Park.</p> <p>Does not apply to new licences for an existing premise that has been sold, or for an existing premise that relocates to a new site within the same suburb.</p>	<p>The reasons above for option A apply to option B. The difference is that the coverage is less under this option.</p> <p>Submitters proposing a limit on the number of off-licensed premises in deprived areas identified areas with social deprivation index of 9 and 10.</p>
<p><b>Option C</b> - No new licences issued for bottles stores for premises located within 100 metres of marae, education facilities (except for tertiary facilities) and alcohol treatment centres.</p>	<p>Proximity provisions are put forward as a consultation option because those submitters concerned about the lack of provisions identified this as an approach.</p> <p>A number of locations were identified as potential sensitive sites by submitters. These sites needed to be narrowed down for this option to be significantly different to the direct limit options in options A and B. Staff have used the</p>

Options for community consultation	Reasons
	evidence on those most vulnerable to alcohol harm to select specific sites for this option.  100 metres have been set based on the feedback from submitters.
<b>Option D</b> – Create a rebuttable presumption approach – that would set the default position of declining new licences unless the case for one is made by the applicant.	This approach was put forward by one submitter and is based on the approach taken by Auckland Council to reduce alcohol harm.
<b>Option E</b> - No restriction on the number of new premises or how far away they are required to be from sensitive sites.	

28. Both option A or B could be included along with option C in the revised draft policy but on balance option A is recommended as it is likely to be a more effective way of protecting vulnerable communities.
29. The advantages and disadvantages of these proposed options are outlined in table two.

**Table Two: Options for off-licences location provisions**

Option	Advantages	Disadvantages
<p><b>Option A</b> – No new licences issued for bottle stores located within suburbs with a social deprivation index of 7 or more.</p> <p>Does not apply to new licences for an existing premises that has been sold, or for an existing premise that relocates to a new site within the same suburb.</p> <p><b><i>Recommended option</i></b></p>	<ul style="list-style-type: none"> <li>• Provides a high level of coverage to address future alcohol availability in vulnerable communities and help address alcohol harm.</li> <li>• Addresses inequality by preventing further increases in the number of bottle stores in deprived areas.</li> <li>• Reducing harm aligns with the objective of the Act and Council's community outcomes.</li> <li>• Sends a message to the community on the harms of alcohol use.</li> <li>• Retains the flexibility for supermarkets and grocery stores to be located in these areas.</li> <li>• Reflects feedback from Medical Officer of Health.</li> <li>• Aligns with community feedback from the Health and Wellbeing Population Survey 2020.</li> <li>• Efficient to implement as areas are clearly defined and recognised.</li> <li>• Supported by evidence on the risk of alcohol harm and high number of bottle stores in these areas.</li> </ul>	<ul style="list-style-type: none"> <li>• Does not address the risk of alcohol harm from those visiting or living at sensitive sites such as schools and alcohol treatment centres located in other areas.</li> <li>• Does not address alcohol availability from other types of premises in these areas.</li> <li>• Does not address alcohol availability in other areas across the city.</li> <li>• Risk of appeal (off-licence caps were appealed during the development of the current policy and Auckland's provisional policy is being appealed to the Supreme Court).</li> </ul>
<p><b>Option B</b> - No new licences issued for bottle stores located within suburbs with a social deprivation</p>	<ul style="list-style-type: none"> <li>• Addresses future alcohol availability in the most vulnerable communities to help address alcohol harm.</li> </ul>	<ul style="list-style-type: none"> <li>• Does not address the risk of alcohol harm from those visiting or living at sensitive sites such as schools and alcohol treatment centres in other areas.</li> </ul>

Option	Advantages	Disadvantages
index of 9 and 10. This includes the following suburbs Gate Pa, Greerton, Kairua, Matapihi, Sulphur Point, Tauranga Hospital and Yatton Park.	<ul style="list-style-type: none"> <li>• Addresses inequality by preventing further increases in the number of bottle stores in deprived areas.</li> <li>• Reducing harm aligns with the objective of the Act and Council's community outcomes.</li> <li>• Sends a message to the community on the harms of alcohol use.</li> <li>• Retains the flexibility for supermarkets and grocery stores to be located in these areas.</li> <li>• Reflects feedback from Medical Officer of Health.</li> <li>• Aligns with community feedback from the Health and Wellbeing Population Survey 2020.</li> <li>• Efficient to implement as areas are clearly defined and recognised.</li> <li>• Supported by evidence on the risk of alcohol harm and the high number of bottle stores in these areas.</li> </ul>	<ul style="list-style-type: none"> <li>• Does not address alcohol availability from other types of premises in these areas.</li> <li>• Does not address alcohol availability in other areas across the city.</li> <li>• Risk of appeal (off-licence caps were appealed during the development of the current policy and Auckland's provisional policy is being appealed to the Supreme Court).</li> </ul>
<b>Option C</b> - No new licenses issued for bottles stores for premises located within 100 metres of marae, education facilities and alcohol treatment centres.	<ul style="list-style-type: none"> <li>• Helps protect those most vulnerable to alcohol harm.</li> <li>• Reducing harm aligns with the objective of the Act and Council's community outcomes.</li> <li>• Sends a message to the community on the harms of alcohol use.</li> </ul>	<ul style="list-style-type: none"> <li>• Does not specifically address the risk of alcohol harm in deprived areas.</li> <li>• Does not address alcohol availability from other types of premises in these locations.</li> <li>• Risk of appeal (location provisions were appealed during the development of the current policy).</li> </ul>

Option	Advantages	Disadvantages
	<ul style="list-style-type: none"> <li>Reflects feedback from Medical Officer of Health.</li> <li>Retains the flexibility for supermarkets and grocery stores to be established in these locations.</li> <li>Aligns with community feedback from the <i>Health and Wellbeing Population Survey 2020</i>.</li> </ul>	<ul style="list-style-type: none"> <li>Higher level of evidence required to rationalise the specific distance provision.</li> </ul>
<b>Option D</b> – Create a rebuttable presumption approach – that would set the default position of declining new licences unless the case for one is made by the applicant.	<ul style="list-style-type: none"> <li>Greatest coverage across the city to help address alcohol harm in vulnerable communities.</li> <li>Reducing harm aligns with the objective of the Act and Council's community outcomes.</li> <li>Sends a message to the community on the harms of alcohol use.</li> <li>Aligns with community feedback from the <i>Health and Wellbeing Population Survey 2020</i>.</li> </ul>	<ul style="list-style-type: none"> <li>High level of uncertainty as this approach has not been tested and is under appeal at the Supreme Court.</li> </ul>
<b>Option E</b> – No location provisions.	<ul style="list-style-type: none"> <li>May allow greater flexibility to meet growth needs of the city.</li> <li>Reduced risk of appeal.</li> </ul>	<ul style="list-style-type: none"> <li>Does not attempt to address significant alcohol related harm that is occurring in the community.</li> <li>Does not reflect feedback for the Medical Officer of Health.</li> <li>Does not send a message to the community on alcohol related harm.</li> </ul>

### Discretionary conditions for off-licensed premises

30. Nine submitters recommended a range of discretionary conditions for off-licensed premises to help reduce alcohol harm. The Committee directed staff to report back with further information before making decisions on what conditions if any to include in the revised draft policy.
31. The District Licensing Committee (DLC) can apply conditions on a case-by-case basis however this requires a hearing if the conditions are not set out in the LAP. It is also important to note that the inclusion of discretionary conditions does not mean that these conditions are required to be part of each licence. The DLC may decide to impose any discretionary conditions set out in the LAP or any other condition it considers appropriate.
32. Including the discretionary conditions proposed by submitters in the revised draft LAP informs the DLC on what the community would like considered when making licensing decisions. It also provides some guidance to applicants regarding the nature and scope of potential discretionary conditions.
33. Table Two below sets out the discretionary conditions proposed by submitters and whether they are recommended for inclusion in the revised draft policy for community consultation. Recommendations have been based on an assessment of the evidence of policy effectiveness, extent of community feedback and the DLC's input and the extent that they are required and already set under legislation.

**Table Two: Discretionary conditions for off-licensed premises**

Proposed discretionary condition	Comments	Recommended for community consultation
No intoxicated person allowed to enter or remain on the premises.	Not required as a discretionary condition as this condition is already set under section 252 of the Act.	No
Signs detailing statutory restrictions on the sale of alcohol to minors and intoxicated persons adjacent to every point of sale.	This condition is likely to help ensure the Act's requirements are clear to customers who may not be familiar with the legislation, as well as staff.	Yes
For premises whose principal business is not the manufacture or sale of alcohol, conditions relating to the kind or kinds of alcohol that may be sold or delivered on or from the premises.	Not required as a discretionary condition as these conditions are already set under section 58 of the Act.	No

<b>Proposed discretionary condition</b>	<b>Comments</b>	<b>Recommended for community consultation</b>
Maintain an alcohol-related incidents book	This would assist licensees (in managing their premises), as well as Police and inspectors.  This condition would also encourage best practice systems for licensees.	Yes
CCTV	Aligns with Crime Prevention Through Environmental Design (CPTED) principles and best practice.  Consistent with the CCTV discretionary condition for on-licenses in the current policy	Yes
Exterior lighting	Aligns with Crime Prevention Through Environmental Design (CPTED) principles and best practice.  Consistent with the exterior lighting discretionary condition for on-licenses in the current policy.	Yes
Single sales	This would limit the availability of alcohol to those with alcohol dependencies and other vulnerable drinkers who are likely to be price sensitive such as adolescent and young adults.  Given the nature and price of craft beers an exemption to single restrictions could apply.	Yes – with exceptions for craft beer.
Morning and afternoon closing times of premises near education facilities and other sensitive sites	It is more effective to address this concern by limiting the number of new premises in certain areas or putting in place proximity provisions.  If there were specific issues near certain premises the DLC could address these by applying conditions on the hours of this premises.	No
Remote sales conditions	Conditions for remote sales are set under section 59 of the Act and associated regulation 14 and this includes the time that deliveries can be made.	No
The sale of certain types of products (e.g light spirits, shots) and/or products sold below a certain cost	This condition would limit the availability of alcohol to those with alcohol dependencies and other vulnerable drinkers who are likely to be price sensitive such as adolescent and young adults.	Yes

Proposed discretionary condition	Comments	Recommended for community consultation
Display of RTD at principal entrance to the store or within 3 meters of the front window	This will help in stopping the promotion of alcohol to those vulnerable and including it will make it easier for the DLC to apply.	Yes
Signage on the existing roof display	This condition could be considered outside the provision of the Act.	No
Colours used in the decoration of the premises	This condition could be considered outside the provision of the Act	No
Display of product or price specials	<p>This would allow the DLC greater flexibility in applying this condition if they deemed appropriate to restrict advertising.</p> <p>The 2010 Law Commission report on alcohol noted that the pervasiveness of alcohol signs and advertising at liquor stores is likely to have a negative impact on community well-being.</p>	Yes
Advertising that is visible within 500m from schools and early childhood facilities	The condition above and condition on the display of RTDs helps address young people's exposure to advertising. The DLC reports it also requires no branding on the outside of the store or on sandwich boards.	No

**ATTACHMENT – LAP Context and Process****The policy context**

1. The Sale and Supply of Alcohol Act 2012 (the Act) empowers councils to develop a Local Alcohol Policy (LAP) relating to the sale, supply and consumption of alcohol within their district.
2. The objectives of the Act are:
  - the sale, supply, and consumption of alcohol should be undertaken safely and responsibly; and
  - the harm caused by the excessive or inappropriate consumption of alcohol should be minimised.
3. An LAP can only include policy positions relating to the following licensing matters:
  - location of licensed premises by reference to broad areas
  - location of licensed premises by reference to proximity to premises or facilities of a particular kind or kinds
  - whether further licences (or licences of a particular kind or kinds) should be issued for premises in the district concerned or any stated part of the district
  - maximum trading hours
  - the issue of licences, subject to discretionary conditions
  - one-way door restrictions.
4. Tauranga and Western Bay of Plenty District's Joint Local Alcohol Policy was adopted on the 22 July 2015.
5. The Act requires that the LAP be reviewed six years after it came into effect.

**LAP development process**

6. The Act specifies the minimum consultation requirements when preparing and reviewing a draft LAP:
  - consult the Police, alcohol licensing inspectors and Medical Officers of Health
  - develop a draft LAP and follow the special consultative procedure to consult the public on the draft
7. A provisional LAP can then be prepared based on consultation feedback on the draft LAP.
8. Council is required to give public notice on the provisional LAP. The provisional LAP may, within 30 days of public notification be appealed by any person or agency that submitted on the draft LAP. The Police or Medical Officer of Health may also appeal to the licensing authority.
9. The only ground on which the provisional LAP can be appealed against is that it is unreasonable considering the object of the Act.
10. If no appeal against any element of a provisional LAP is made, the LAP is adopted 30 days of its public notification or if they appeals have all been dismissed 30 days after this.
11. If the appeal is lost, Council can:
  - resubmit an amended provisional LAP,
  - appeal the decision to the High Court,
  - abandon the LAP
12. Public notice of the adoption of the LAP is required, and the LAP takes effect on a day stated by resolution of Council.

**9.10 Annual report and Q4 report for 2021/22 LGOIMA and Privacy requests****File Number:** A13662644**Author:** Megan Yardley, Democracy Services Advisor  
Kath Norris, Team Leader: Democracy Services**Authoriser:** Christine Jones, General Manager: Strategy, Growth & Governance**PURPOSE OF THE REPORT**

1. To update the Committee on Local Government Official Information and Meetings Act 1987 (LGOIMA) and Privacy Act 2020 requests for the fourth quarter and full 2021/22 year

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**RECOMMENDATIONS**

That the Strategy, Finance and Risk Committee receives the Annual Report 2021/22 LGOIMA and Privacy Requests including Quarter 4 data report.

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**EXECUTIVE SUMMARY**

2. These reports are provided to the Committee to provide assurance on statutory compliance for LGOIMA and Privacy requests.

**ATTACHMENTS**

1. Annual report 2021/22 LGOIMA and Privacy requests including Q4 data - A13662573 [↓](#)



LGOIMA and Privacy Annual Report for 2021/2022 year

How many requests did we receive?

325 = 302 LGOIMA + 16 Privacy + 2 combined LGOIMA/Privacy + 5 follow ups

↑ (This is a 4% increase on the 2020/21 when 310 requests were received.)

- 320 have been completed
- Five requests require responses

How long did it take us to respond?

15.2 = the average number of days to provide a response.

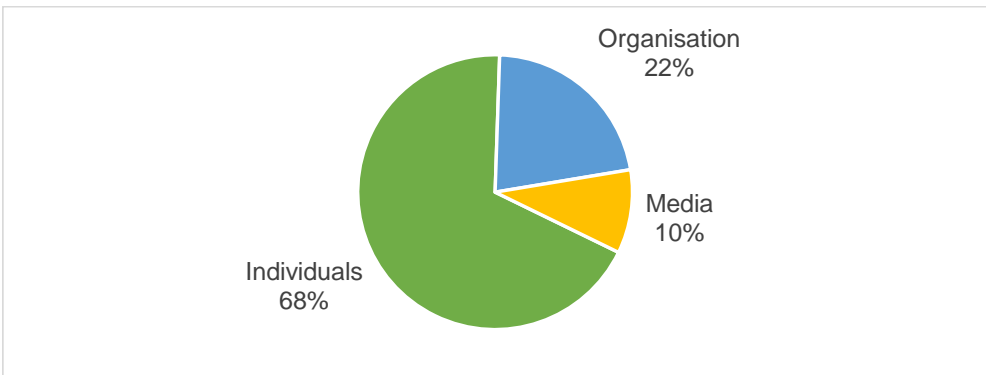
96.6% = requests responded to response within the statutory timeframe. The KPI is 98% and this was met in Q3 and 4.

(= consistent with 2020/21 where 96% of requests were completed within the statutory time frame).

- 302 responses provided within the statutory time frame.
- 10 responses provided outside the statutory time frame and without an extension. These delays were due to administrative errors in recording requests or timeframes that were underestimated.
- 18 extensions were notified. Extensions were notified for requests seeking large amounts of information, in particular all correspondence, or where consultation with other parties was necessary.

Who did the requests come from?

222 Individuals + 79 organisations + 32 media= 325 requests



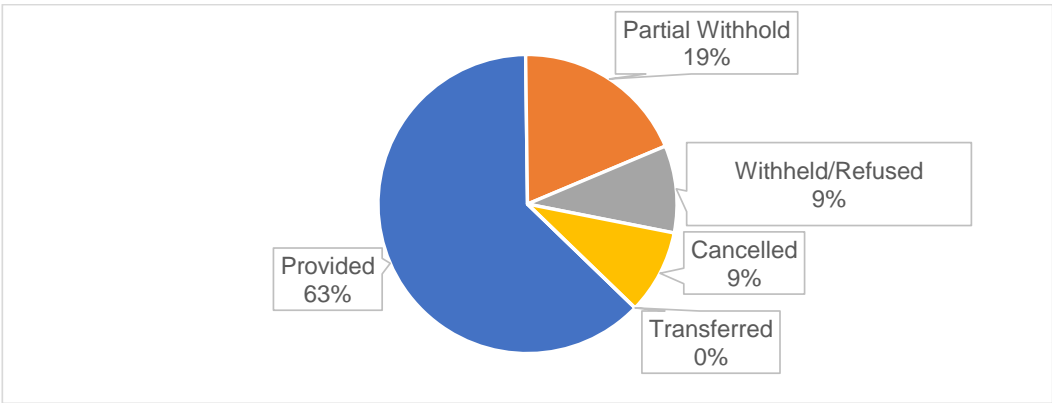
15 = number of requesters who made more than 3 requests in 2021/22

- One requester made 11 requests for information on one issue. Another requester made eight requests for information on one issue. Multiple requests received within a short space of time from these two requesters were also bundled into one request.

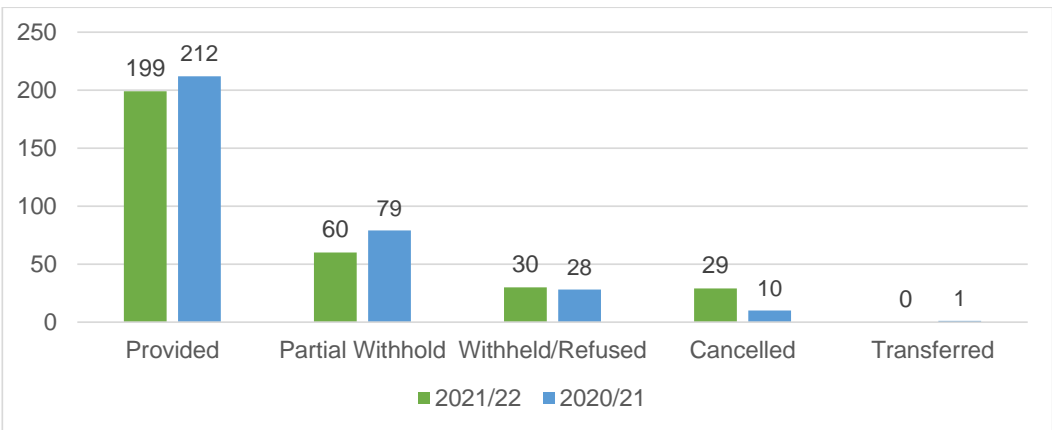
What was our response?

199 provided + 60 partially withheld + 30 refused + 29 cancelled

- No charges were applied in the 2021/2022 year.
- Common grounds for refusing all or part of a request are to:
  - protect individual privacy,
  - avoid prejudice to commercial activities,
  - maintain legal privilege
  - the requested information does not exist
- If part of a request is withheld it is recorded as 'partially refused'. Requests for correspondence are often 'partially refused' to protect individual privacy.

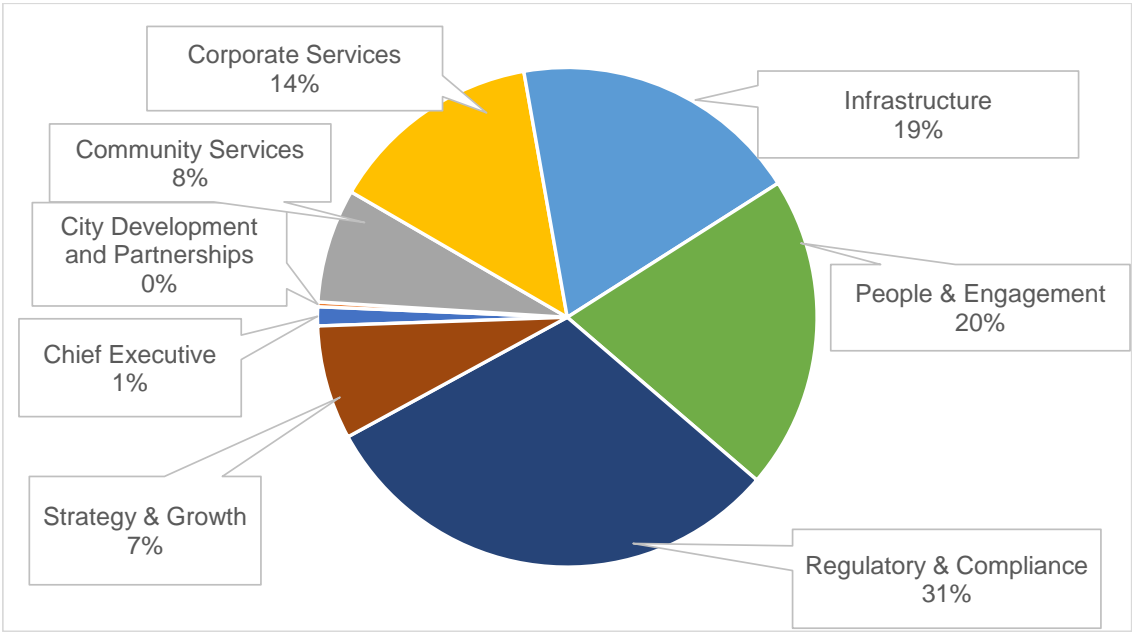


This is consistent with 2020/21



What groups received the requests?

100 Regulatory and compliance + 66 People and Engagement + 61 Infrastructure + 45 Corporate Services + 24 Community Services + 24 Strategy and Growth + 4 Chief Executive + 1 City Development and Partnerships

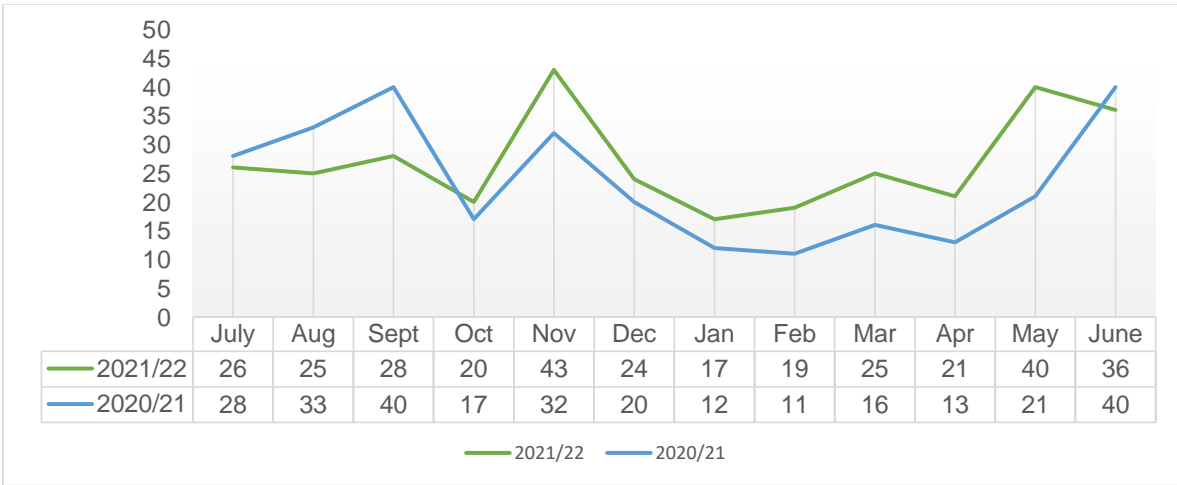


When did we receive the requests?

43 = the biggest number of requests received in a month (November)

- This timing coincided with the decision to require vaccinations for entry into staffed public facilities, and the Democracy Services team assisting with providing responses to more than 40 individuals outside of the LGOIMA process.

This is consistent with 2020/21



What were the common requests?

- Specific property related information (40)
- Specific animal services enforcement information (30)
- Specific information about noise issues (14)
- Links Avenue, including enforcement of the bus lane (15)
- Other transport related requests including Cameron Road (17)
- Queries about the Commission, including its term, and decision making (16)
- Covid-19 including Covid-19 Protection Framework (12)
- CCTV footage of information (13)
- Staff salary, organisational arrangements (10)
- Three Waters and water reform + specific requests about the development contributions and the Waiari Treatment Plant (10)

Office of the Ombudsman and Privacy Commissioner complaints

0 = Active complaints with Office of the Ombudsman:

- 2 = historic complaints resolved from prior to 2021/22
- 1 = awaiting confirmation of resolution.

6 = Number of complaints made to the Office of the Ombudsman in 2021/22 year:

- 5 = resolved at preliminary investigation
- 1 = awaiting confirmation of resolution

0 = Complaints with the Privacy Commissioner:

- 0 = complaints received in 2021/22 year

LGOIMA and Privacy Q4 Report for 2021/2022 year

How many requests did we receive?

97 = 93 LGOIMA + 4 Privacy

↑ (This is a 19% increase on Q4 in 2020/21 when 78 requests were received. It is also an increase on Q3 2021/22 when 59 requests were received.)

- 92 have been completed
- Five require responses

How long did it take us to respond?

14 = the average number of days to provide a response

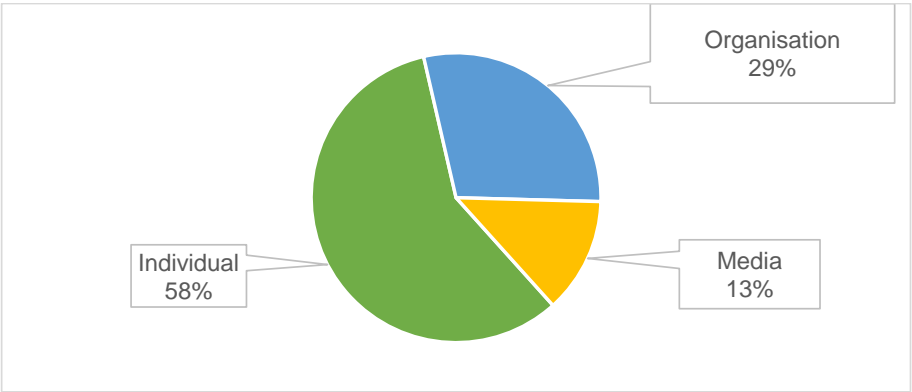
- This is an improvement on Q3 when the average number of days was 17

99% = requests responded to response within the statutory time frame:

- 92 responses provided within the statutory time frame.
- Three extensions notified and all responded to within the extended timeframe.
- One response provided outside the statutory time frame and without an extension.

Who did the requests come from?

54 individuals + 27 organisations + 12 media

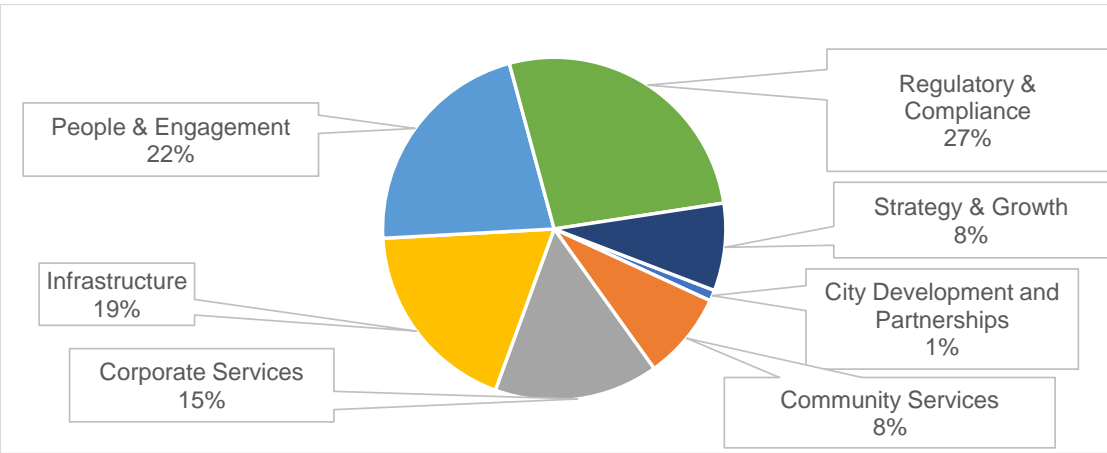


10 = number of requesters who made more than two requests in Q4

- Two individuals made three requests
- One individual sent multiple emails seeking information with a common theme that we addressed as one request

What groups received the requests?

26 Regulatory and compliance + 21 People and Engagement + 18 Infrastructure + 15 Corporate Services + 8 Community Services + 8 Strategy and Growth + 1 City Development and Partnerships

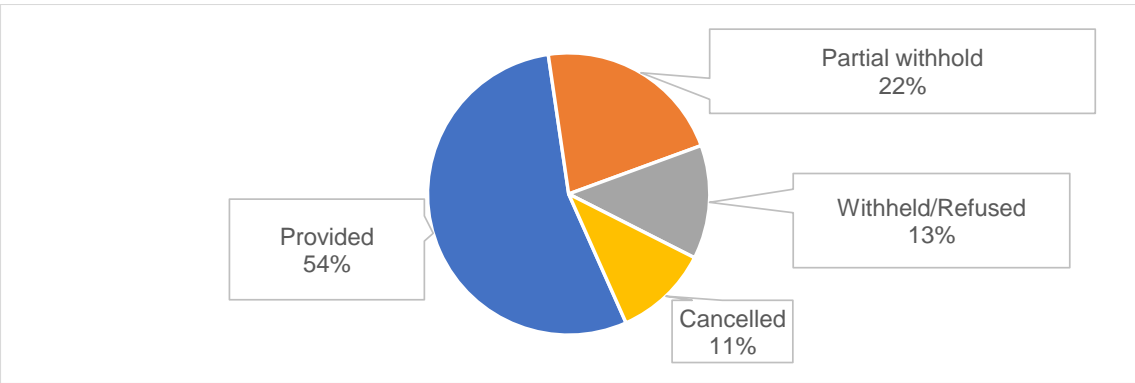


What was our response?

50 provided + 20 partially withheld + 12 refused + 10 cancelled

5 = number of requests withdrawn or cancelled following notice that a charge would apply

- No charges were applied in Q4



Common requests:

- Regulation of the Links Avenue bus trial (12)
- Requests about transport generally (7)
- Sale of the elder housing portfolio (5)
- CCTV footage (4)
- City safety, specifically around bus stops (3)
- Responses with broad community interest continue to be published

**Office of the Ombudsman and Privacy Commissioner complaints**

- 1 = new complaint to the Office of the Ombudsman. This has been resolved and closed.
- One older complaint was resolved and closed in Q4.
  - One other older complaint was resolved with confirmation that it has been closed pending confirmation from the Office that the complainant is satisfied.
  - Work continues completing the Ombudsman investigation. There were no actions finalised in Q4.
- 0 = complaints with the Privacy Commissioner.



**9.11 2022 Q4 Apr-Jun Health and Safety Report****File Number: A13640948****Author: Tracy Benjamin, Health Safety & Wellness Business Partner****Authoriser: Alastair McNeil, General Manager: Corporate Services****PURPOSE OF THE REPORT**

1. To provide a summary of Health, Safety and Wellbeing activities over the April to June 2022 quarter.

**RECOMMENDATIONS**

That the Strategy, Finance and Risk Committee:

- (a) Receives the 2022 Q4 Health and Safety Report
- (b) Receives the 2022 Q4 Mental Health and Wellbeing Report

**EXECUTIVE SUMMARY**

2. This is a quarterly report provided to the committee, designed to monitor Health, Safety and Wellbeing activities and share learnings.
3. Any feedback regarding content or topics that the Committee would like is welcomed.

**ATTACHMENTS**

1. [2\\_2022 Q4 Health & Safety Report\\_PDF - A13665606](#)  
2. [2\\_2022 Q4 H&S\\_MHW Report\\_PDF - A13665550](#)  



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# Health, Safety & Wellbeing

April 2022 – June 2022



## Introduction

The April – June 2022 Health, Safety and Wellbeing (HSW) quarterly report highlights learning through incident investigation – and the resulting continual improvement for the spaces we influence in the Community.

## Events

(4(d) To ensure we have the appropriate processes for receiving and considering information regarding incidents, hazards and risk and for responding in a timely manner)

H&S Events reported across TCC:



- 71 investigations from these events are complete
- 29 investigations from these events are underway
- 18 investigations from these events are overdue for completion

21↓  
(28 in last quarter)

Injury Events to staff, contractors or members of community.

of these

9  
Contractors

3  
Third Party

- 9
- Staff
- 3 x injuries resulting from **minor lacerations to fingers**
  - 3 x injuries as a result of **repetitive use**
    - 2x sprained wrists
    - 1x sprained elbow
  - 2 x injuries as a result of **slips and falls from same level**
    - 1x sprained wrists
    - 1x rolled ankle
  - 1 x **eye irritation** (petrol splash back)

## Health and Safety Management System Audit

4(f) To verify the provision and use of resources and processes.

Status of management actions from Financial Year 2019/20 Internal Audit.



The outstanding audit items are underway within projects scheduled across 2022/2023 as follows:

Project	Audit Items	Notes
PCBU* Relationship Management	<b>8.2</b> <i>Business Partners workshop contractor management process leadership teams</i>	Roles and responsibilities around overlapping duties are being defined with several relationship types identified when working with contractors. Supporting documents, updated processes and training requirements are currently under development to upskill TCC staff in their health and Safety duties whilst engaging with other PCBU's.
	<b>8.3</b> <i>People leaders feed revised processes to direct reports</i>	
Drug & Alcohol Impairment	<b>9.2 : 10.5</b> <i>Construct and implement a drug &amp; alcohol policy</i>	A draft drug & alcohol policy is under assessment, with review around implementing within TCC.

\*Person conducting business or undertaking as defined in section 17 of Health and Safety at Work Act



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# Health, Safety & Wellbeing

April 2022 – June 2022



## Asbestos Risk

DUE  
DILIGENCE

Asbestos is one of thirteen identified **priority risks** within TCC, due to its potential to seriously affect the health of our people, contractors or members of our community. Standards are applied to control the risk whilst also ensuring we are in line with the 'Duty of Officers', Section 44 of the Health and Safety at Work Act 2015.

- Have up to date knowledge of work health and safety matters
- Understand the nature of work and associated risks
- Ensure appropriate resources and processes are available to manage risk
- Ensure the business complies with duties in regards to legislation



603 TCC properties surveyed

- 265 properties don't contain asbestos
- 26 have had all asbestos removed
- 11 were sold or demolished
- 301 have asbestos that is managed, of these...
  - 152 have some asbestos removed or encapsulated

Work Safe NZ  
estimates there are  
**750 - 900**  
overall work-related  
health deaths per year

Of  
which

APPROXIMATELY  
**125** DEATHS  
Asbestos related  
lung cancer

APPROXIMATELY  
**90** DEATHS  
Mesothelioma  
Cancer within tissue of  
lungs and heart

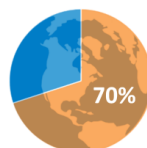
APPROXIMATELY  
**35** DEATHS  
Asbestosis  
Chronic lung disease

**Asbestos**, a natural mineral fiber that is found in rock and soil, was widely used as insulation and fireproofing material in homes, commercial buildings and other products, such as paints and car brakes.

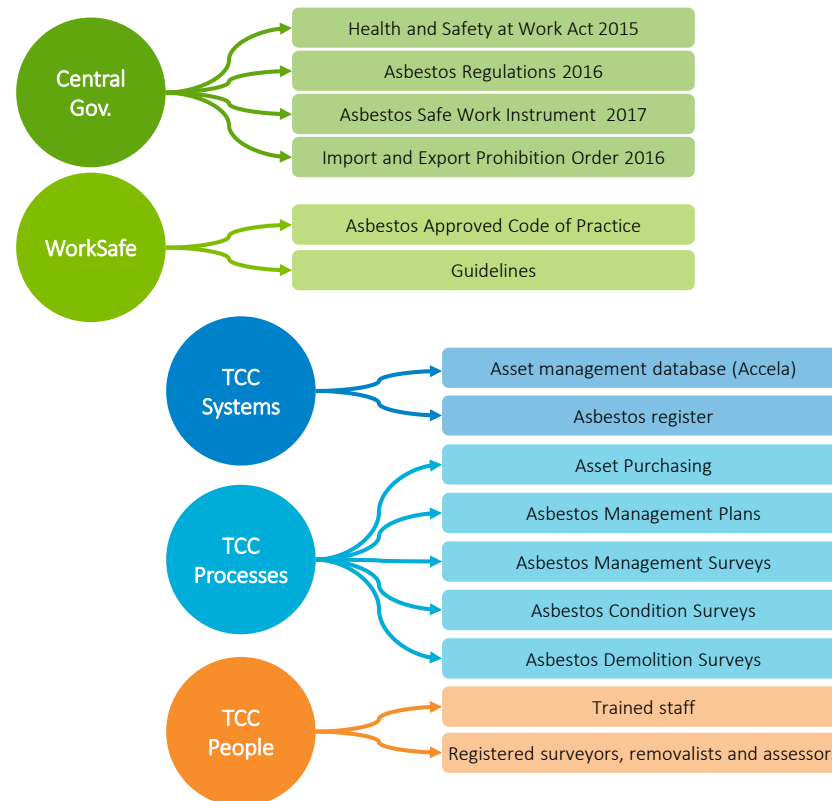
Asbestos is a  
known carcinogen  
and there is no safe  
level of exposure.



Asbestos currently  
remains legal in nearly  
70% of the world. It is  
illegal to import or use  
asbestos in NZ.



## Asbestos Controls





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# Health, Safety & Wellbeing

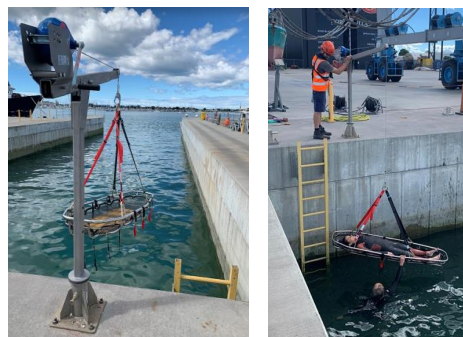
April 2022 – June 2022



## Vessel Works

4(c) To ensure the PCBU uses appropriate resources and processes to eliminate or minimise risks.

Preventing injuries is important, as is planning for the unexpected. With the support of H&S Business Partner, Vessel Works were able to work through and procure a new winch arm and stretcher. The benefits this additional emergency equipment offers were identified through part of their ongoing safety improvement programme.

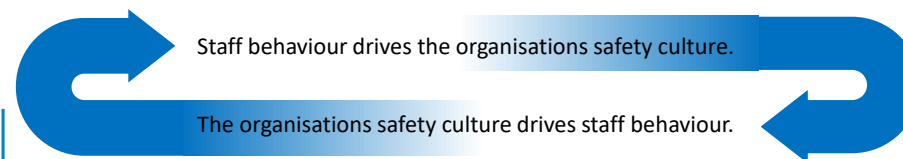


The new winch arm and stretcher supports diving activities by recovering injured parties from the water if needed. The Vessel Works team recently ran through a rescue training exercise to develop a procedure for its use. Ongoing review will include a quarterly training exercise.



## Safety Culture

The concept of safety culture, often turns into a circular definition, whereby:



While organisational safety values can differ across various \*PCBU's, the bottom line is always the same – *safety first*. When safety becomes part of everyday values and actions, it is no longer seen as an 'extra task'.



Values can be fostered amongst staff by developing ownership and clarifying what is expected. As per the 'Ownership for Health, Safety and Wellbeing' strategy project currently underway, defining roles and responsibilities across staff will set the expectations, which in turn will drive the input and involvement across safety processes by individuals. This in turn places safety culture into a continuous improvement cycle.

- The organisations safety culture drives accountability.
- Accountable roles drives responsibilities into action.
- Actions around health and safety drives improvement in behaviour.
- Staff behaviour drives the organisations safety culture.

\*Person conducting business or undertaking  
as defined in section 17 of Health and Safety at Work Act



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# Health, Safety & Wellbeing

April 2022 – June 2022



Tauranga City

## Innovation Reduces Risk and Saves Time

4(c) To ensure the PCBU uses appropriate resources and processes to eliminate or minimise risks.

**Tauranga City Waters were selected as a finalist** in the prestigious New Zealand Workplace Health and Safety Awards for 2022, recognizing best use of innovative design or technology to eliminate or manage a risk.



### The issue:

- Replacing a valve that has failed
- Valves are situated approximately 6 metres off the ground.
- Valve weight by itself is 329 kgs, and the actuator weight (another part of the plant) connected to the valve is another 300 kgs
- To replace the valves only, involved four contractors three full working days



### The Solution:

- Solution was to design a jig operation to help reduce time and manual handling
- Designed specifically for the tight site
- Work has been reduced to 1 day.
- Only 2 staff now required
- Risk reduced significantly



Whilst unsuccessful at the award ceremony, to make it as a finalist amongst some of the best health and safety leaders and initiatives in the country is something to be extremely proud of.

A paper to Water New Zealand is currently being created to allow other councils to adopt this piece of equipment to improve safety and performance. A fantastic outcome for our city, our people's safety and the safety of so many others throughout the country!

## Experiencing Waiari

4(b) To understand the nature of operations, along with hazards and risks.

Tuesday, June 21<sup>st</sup> the Commissioners traversed out to view the near complete Waiari Water Treatment Plant. The tour followed the water treatment process from the source at the Waiari stream and through the various components of the treatment process.

Through the visit, the Commissioners were able to:

- Gain an understanding of the scale and complexity of the project
- Experience first-hand how safety is paramount, especially when touring a project site during construction
- And talk about the treatment plant and the surrounding land stakeholders



Feedback gained after the tour included how impressed the Commissioners were with the size of the project and what had been achieved during Covid times.



With the opening of the plant due by years end, the team are looking forward to celebrating this amazing achievement with stakeholders, those involved and the community.



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# Mental Health & Wellbeing

April 2022 – June 2022



Tauranga City

## Introduction

Within this Mental Health and Wellbeing (MHW) report:

- Employee Counselling service (OCP)
- Inflight wellbeing initiatives
- Human Resources update

## Recommendation

- Continue to formalise the approach to MHW through planned activities within the Health and Safety Strategic Plan.
- Continue to raise awareness around the impact of workload on MHW and the role of People Leaders to provide clarity around job priorities.

## TCC Counselling Service (OCP)

- Uptake of OCP services is on par with the national average
- Personal issues significantly outweigh work issues aligning with the national average
- Anxiety (as % of total personal visits) has increased 40% compared to Sep20 – Feb 21.
- Workload remains the top work issue

## Psychological Wellbeing

Our working environments have undergone considerable changes over the past few months, which have required different ways of engaging and managing with employees. Various factors (COVID, Winter blues) contribute to people feeling more frustration and expressing this more readily towards others.

The following pages show how TCC are working to keep our staff safe and engaged whilst working in this new environment.

## TCC Counselling Service (OCP)

Anonymised data gathered from TCC's counselling and advisory services. Jan 2022 – Jun 2022

(Data gathered is anonymised).

**Service Uptake: 8.1%**  
(based on 863 employees)

**National Average: 8-10%**

Monitoring issues provides insight into progress against MHW risks.

Work Issues	Visits	TCC %
Career	4	18%
Workload	4	18%
Performance	3	14%

Across total of 22 visits for work issues

Personal Issues	Visits	TCC %
Anxiety	46	37%
Relationships	21	17%
Grief	11	9%

Across total of 125 visits for personal issues



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# Mental Health & Wellbeing

April 2022 – June 2022



Tauranga City

## Psychological harm while at work



Across TCC we continue to develop MHW capability of our individuals and teams through targeted training and initiatives. One area where this is proving effective is across our Regulatory and Compliance teams.

Our public facing staff have increased risk of physical or psychological harm due to exposure from physical and verbal abuse. Over the quarter April to May 2022, our staff encountered 32 events involving assault or antisocial behaviour, 15 of which were within our Regulatory and Compliance teams:

*'A guy threw a punch at me. Not sure where he came from, but I managed to deviate the strike and get back to my vehicle quickly'.*

*"He started abusing me, stating I was not doing my job. As I tried to diffuse the situation, he became more and more aggressive, so I walked away'.*

*'He was in my personal space ranting and raving, calling me all sorts of nasty things. He was still yelling as I crossed the road'.*

*'She continued to loudly abuse quite aggressively and came within 3 inches of the driver door. I locked the vehicle and did not engage'.*

## Controls

As vowed within the TCC Health, Safety and Wellbeing Commitment Statement:

*'teaching people how to be healthy and safe at work, and providing opportunities to learn more'*

TCC have enlisted a specialist to provide knowledge and training to our staff. Empowering them with the tools to keep themselves safe, should they encounter the risk of assault and violence while at work.

Lance Burdett, of WARN International, is providing staff training on communicating to engage, de-escalation techniques and situational awareness among other topics. He brings conflict management alive by explaining how our brains work to add the 'why' to what we do, before talking through practical and effective solutions.

*I really enjoyed our workshop with Lance today. Learnt a few new things and the session reiterated the fact that my communication/approach with my customers was the correct one. Lovely to learn from someone with such a wealth of experience.*  
- Animal Services Officer

Initially he is only presenting to the Regulatory and Compliance teams, whilst requirements are refined around an ongoing training framework for all staff facing the risk of assault, violence and conflict, that may lead to physical or psychological harm.



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# Mental Health & Wellbeing

April 2022 – June 2022



## Motivation and Purpose

Motivation is a powerful energy that drives how we work, the vigor with which we approach our job and a greater sense of purpose gleaned from what we do.

Maslow's hierarchy of needs outlines a pivotal theory of motivation, namely:

**Our need to feel psychologically and physically safe to feel motivated.**



In the modern workplace, these needs look like job security, job stability, and physical safety. We all have a deep, intrinsic need to

belong. With any social situation, feeling as though you belong, you're supported and valued socially and that you're comfortable being who you are, is critical to mental wellbeing.

Maslow's hierarchy of needs can be applied to the workplace as a means to determine how to motivate employees and to make sure their needs are met.

**Ways TCC are meeting the needs of staff:**

## Remuneration Review

The recent remuneration review is moving TCC towards its goal, to increase the transparency of decisions affecting remuneration, ensuring we are paying staff fairly and that our salaries remain competitive. We believe this will have a positive impact for staff and the organisation, thus...

**".. ensure we have the right people and reward them appropriately"**  
– Marty Grenfell, Chief Executive

Council's minimum salary of any full-time employee will increase more than 10% above the to be living wage and all staff, regardless of position and service, will receive a minimum of 5 weeks annual leave.



## Spring Street Bike Room

With many of our staff using alternative transport methods to get to and from work, we're ensuring they have a safe and secure place to store their bikes and scooters at Spring Street. Feedback has been received about how it's not only handy, but also improving safety and encouraging more staff to get back on their bikes. It's fantastic to see how a small room can make such a big difference for our people and the planet.



## Polar Plunge

Social activities offer opportunities for relationship-building outside the office, creating a sense of belonging. The Polar Plunge, on Tuesday 21 June, saw plenty of TCC people make their way to the harbor to leap, backflip and bellyflop into the icy cold waters below.



## Wellbeing Room

A refresh of the Cameron Road Wellbeing Room has seen a clinical underused sick bay/parents room transform into a warm inviting place for staff to unwind, meditate, pray, recover from injury, or breastfeed. The room's refresh came about thanks to a collaborative effort, with a great idea by the Environmental Planning team transformed into reality by the Health, Safety & Wellbeing team.



Healthy, safe.  
Every day.

# Mental Health & Wellbeing

April 2022 – June 2022



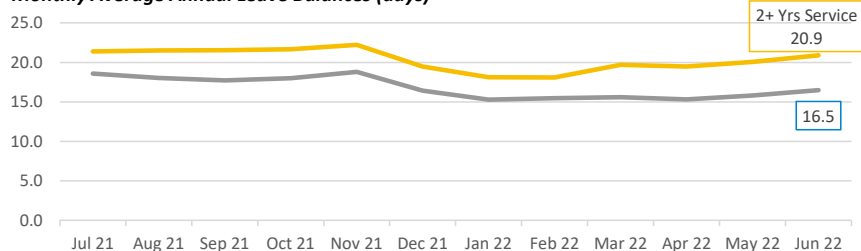
Tauranga City

## Human Resources

Employers have a responsibility to act in good faith and ensure the employment relationship continues in trust and confidence around pay, holiday leave and sick leave. Through monitoring metrics we can continue to prioritise our actions and track effectiveness of in-flight initiatives.

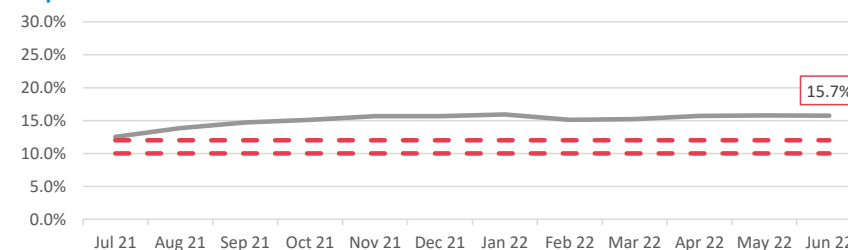
### Annual Leave

Monthly Average Annual Leave Balances (days)



An expected increase in Annual Leave balances, across all staff, is seen following the holiday period at the start of the year, with a small drop as staff looked to make the most of time off between Easter and Anzac public holidays. With borders opening up, we may see small fluctuations as staff look to travel overseas once again but otherwise would expect an upward trend to continue through to the end of the year.

### Unplanned Turnover



Percentage of unplanned exits of permanent employees over a rolling 12-month period, against the average permanent headcount over that period.

Unplanned turnover remains significantly higher than what it was 12 months ago (15.7% vs 11.9%). An ideal rate of turnover has been proposed at between 10 and 12%, which provides a good mix of new talent and retained expertise.

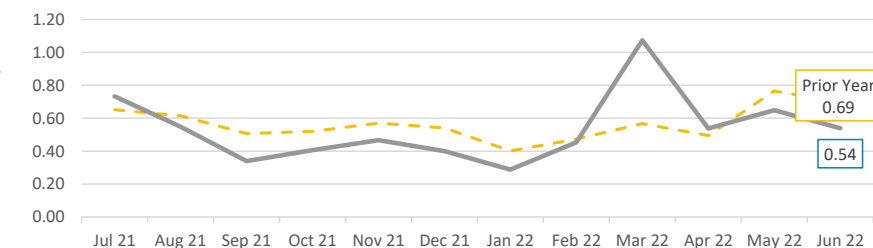
This isn't unique to TCC (with these trends being seen across both the public and private sectors) but it does pose additional challenges in retaining and recruiting talent.

### Sick Leave

Monthly Average Sick Leave Taken (days)

Sick leave has fallen back following the March Omicron peak, which saw the highest sick leave usage in at least the past 24 months. While month on month sick leave has generally been lower than this time last year, the average annual leave taken is higher as a result of this March peak (7.2 days per employee vs. 6.1 days)

While we encourage staff to take the time off they require to get well, our flexible working policies have allowed staff to remain working and connected throughout this period where they feel well enough to work, particularly in light of Covid isolation requirements.



## **10 DISCUSSION OF LATE ITEMS**

**11 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>11.1 - Public Excluded Minutes of the Strategy, Finance and Risk Committee meeting held on 16 May 2022</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)(d) - The withholding of the information is necessary to avoid prejudice to measures protecting the health or safety of members of the public</p> <p>s7(2)(g) - The withholding of the information is necessary to maintain legal professional privilege</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)(j) - The withholding of the information is necessary to prevent the disclosure or use of official information for improper gain or improper advantage</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>11.2 - Litigation Report</b>	<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)(g) - The withholding of the information is necessary to maintain legal professional privilege</p> <p>s7(2)(i) - The withholding of the information is necessary to enable Council to carry on,</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

	without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)	7
<b>11.3 - Internal Audit - Quarterly Update</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)(d) - The withholding of the information is necessary to avoid prejudice to measures protecting the health or safety of members of the public</p> <p>s7(2)(g) - The withholding of the information is necessary to maintain legal professional privilege</p> <p>s7(2)(j) - The withholding of the information is necessary to prevent the disclosure or use of official information for improper gain or improper advantage</p>	<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</p>
<b>11.4 - Corporate Risk Register - Quarterly Update</b>	<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>	<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</p>

**12 CLOSING KARAKIA**