



AGENDA

Ordinary Council meeting Monday, 28 November 2022

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

Date: Monday, 28 November 2022

Time: 9.30am

**Location: BoP Regional Council Chambers
Regional House
1 Elizabeth Street
Tauranga**

Please note that this meeting will be livestreamed and the recording will be publicly available on Tauranga City Council's website: www.tauranga.govt.nz.

**Marty Grenfell
Chief Executive**

Terms of reference – Council

Membership

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

Role

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

Scope

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

Procedural matters

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

Regulatory matters

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

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

7 CONFIRMATION OF MINUTES

7.1 Minutes of the Council meeting held on 2 November 2022

File Number: A14241388

Author: Robyn Garrett, Team Leader: Governance Services

Authoriser: Robyn Garrett, Team Leader: Governance Services

RECOMMENDATIONS

That the Minutes of the Council meeting held on 2 November 2022 be confirmed as a true and correct record.

ATTACHMENTS

1. Minutes of the Council meeting held on 2 November 2022



MINUTES

**Ordinary Council meeting
Wednesday, 2 November 2022**

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**MINUTES OF TAURANGA CITY COUNCIL
ORDINARY COUNCIL MEETING
HELD AT THE GROUND FLOOR MEETING ROOM 1, 306 CAMERON ROAD, TAURANGA
ON WEDNESDAY, 2 NOVEMBER 2022 AT 2PM**

PRESENT: Commission Chair Anne Tolley (remote attendance), Commissioner Shadrach Rolleston, Commissioner Stephen Selwood, Commissioner Bill Wasley

IN ATTENDANCE: Marty Grenfell (Chief Executive), Paul Davidson (Chief Financial Officer), Christine Jones (General Manager: Strategy, Growth & Governance), Andrew Mead (Manager: City Planning & Growth), Ben Corbett (Team Leader: Growth Funding), Scott Moriarty (Senior Advisor: Growth & Governance), Anne Blakeway (Manager: City Partnerships), Coral Hair (Manager: Democracy & Governance Services), Robyn Garrett (Team Leader: Governance Services), Anahera Dinsdale (Governance Advisor).

APPOINTMENT OF CHAIRPERSON

Key points

- As Commission Chair Anne Tolley was attending the meeting remotely by video link, a Chairperson for the meeting was required to be appointed from the members physically present.

RESOLUTION CO19/22/1

Moved: Commissioner Stephen Selwood

Seconded: Commissioner Shadrach Rolleston

That the Council:

- (a) Appoints Commissioner Bill Wasley as Chairperson for the 2 November 2022 Council meeting.

CARRIED

Commissioner Wasley abstained from the vote.

1 OPENING KARAKIA

Commissioner Shadrach Rolleston opened the meeting with a karakia.

2 APOLOGIES

Nil

3 PUBLIC FORUM

Nil

4 ACCEPTANCE OF LATE ITEMS

Nil

5 CONFIDENTIAL BUSINESS TO BE TRANSFERRED INTO THE OPEN

Nil

6 CHANGE TO THE ORDER OF BUSINESS

Nil

7 CONFIRMATION OF MINUTES

Nil

8 DECLARATION OF CONFLICTS OF INTEREST

Nil

9 DEPUTATIONS, PRESENTATIONS, PETITIONS

Nil

10 RECOMMENDATIONS FROM OTHER COMMITTEES

Nil

11 BUSINESS

There was no business to be discussed in the open section of the meeting; all business was public excluded.

12 DISCUSSION OF LATE ITEMS

Nil

13 PUBLIC EXCLUDED SESSION

Resolution to exclude the public

RESOLUTION CO19/22/2

Moved: Commissioner Shadrach Rolleston

Seconded: Commissioner Stephen Selwood

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

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

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48 for the passing of this resolution
13.1 - Tauriko West Developer Funding Option	s7(2)(h) - The withholding of the information is necessary to enable Council to carry out, without prejudice or disadvantage, commercial activities	s48(1)(a) - the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding

	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)	would exist under section 6 or section 7
13.2 - Appointment of Trustees to Te Manawataki o Te Papa Charitable Trust	<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)(c)(i) - The withholding of the information is necessary to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied</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

CARRIED

14 CLOSING KARAKIA

Commissioner Shadrach Rolleston closed the meeting with a karakia.

The meeting closed at 2.25pm.

The minutes of this meeting were confirmed as a true and correct record at the Ordinary Council meeting held on 28 November 2022.

.....
CHAIRPERSON

7.2 Minutes of the Council meeting held on 7 November 2022

File Number: A14240744

Author: Robyn Garrett, Team Leader: Governance Services

Authoriser: Robyn Garrett, Team Leader: Governance Services

RECOMMENDATIONS

That the Minutes of the Council meeting held on 7 November 2022 be confirmed as a true and correct record.

ATTACHMENTS

- 1. Minutes of the Council meeting held on 7 November 2022**



MINUTES

**Ordinary Council meeting
Monday, 7 November 2022**

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UNCONFIRMED

**MINUTES OF TAURANGA CITY COUNCIL
ORDINARY COUNCIL MEETING
HELD AT THE BOP REGIONAL COUNCIL CHAMBERS, REGIONAL HOUSE, 1 ELIZABETH
STREET, TAURANGA
ON MONDAY, 7 NOVEMBER 2022 AT 9.30AM**

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

IN ATTENDANCE: Marty Grenfell (Chief Executive), Paul Davidson (Chief Financial Officer), Barbara Dempsey (General Manager: Community Services), Nic Johansson (General Manager: Infrastructure), Christine Jones (General Manager: Strategy, Growth & Governance), Alastair McNeill (General Manager: Corporate Services), Ceilidh Dunphy (Community Relations Manager), Brendan Bisley (Director of Transport), Karen Hay (Team Leader: Cycle Plan Implementation), Curtis Bones (Manager: Strategic Property and Commercial Facilitation), Rachael Williams (Strategic Property Advisor), Andy Mead (Manager: City & Infrastructure Planning), Alistair Talbot (Team Leader: Structure Planning and Strategic Transport), Peter Bahrs (Manager: Water Services), Will Hyde (Senior Transportation Engineer), Coral Hair (Manager: Democracy Services), Robyn Garrett (Team Leader: Governance Services), Anahera Dinsdale (Governance Advisor), Janie Storey (Governance Advisor)

1 OPENING KARAKIA

Commissioner Shadrach Rolleston opened the meeting with a karakia.

2 APOLOGIES

Nil

3 PUBLIC FORUM

3.1 Speakers regarding the Ōtūmoetai Accessible Streets proposals

Greg Sutton and Liz Standen-Penn - Waihi Road Business Owners

Key points

- Mr Sutton noted that he had worked in Waihi Road for 21 years and had seen a number of changes in that time with Route K, installation of traffic lights and footpaths - some good changes and some not so good.
- If the project was truly more about biking and pedestrian safety, Council needed to take a long hard look at what was proposed.
- Noted the negative numbers in the key areas of safety, comfort, business, residential, cultural and network impacts. Either construction or land requirements had massive negative numbers against them, with the only positives being in directness and coherence.
- The only safe way to get from 11th Ave to Waihi Road was a two way cycle lane down the north side of 11th Avenue, over a bypass and down to the traffic lights, leaving the footpaths where they were - it was a simple and safe way, but maybe more costly.
- Concerned the current proposal was not about the effect it would have on his business, but the effect it would have on his staff and customers - they could run someone over as they backed

- out of a premises or have an e-biker slam into the side of their trailer at 40 kph.
- If the current proposal went ahead, Mr Sutton wanted his concerns noted on record and would hold the Council, as decision makers, responsible for any injuries or deaths.
 - It was a very busy and complicated street with over 250 movements a day out of the local businesses across the proposed cycleway, and with the number of people now on e-bikes and everything going faster, the proposed route would be too dangerous.
 - While the Council report acknowledged the proposed cycleway was a bad idea, it seemed that no one wanted to look at a better or safer option.
 - Requested that the Council do things right and do the right thing for the residents of Tauranga, for the businesses, the employees, cyclists and footpath users and seriously reconsider the proposed design.
 - Accessibility around the city needed to be future proofed, and if Council wanted more people to bike the routes needed to be made safer.

In response to questions

- In response to a question whether what currently existed or what was proposed was the safest, Mr Sutton noted that the original proposal was inherently significantly more dangerous than what was currently there. He noted he had been shown a different proposal prior to the meeting which was similar to what was currently there.

Stacey McKellar-Murphy and Jo Biggs - Biggles Early Learning

Key points

- Overall in support of the proposal but there was a need to retain the off street parking by the centre.
- The centre had an area where parents could offload their children quickly, but if they wanted to come into the centre, they used the parks on Ngatai Road. A couple of the carparks had been lost several years ago and it was of great concern if the rest were to be taken away.
- It was difficult to get to the different bus bays when going into town with the tamariki. They literally had to stand in the middle of the road and stop the traffic as they could not get to the beach side of the road unless they walked down Ngatai Street and back up the hill, which was not achievable.
- Would like to see a pedestrian crossing installed between the two bus bays as noted in the proposal – this was one of the centre's top priorities along with retaining parking.
- When the centre obtained resource consent eight years ago, they sat with staff to discuss traffic reports and the reality of what they were looking at - at that stage the parking on Ngatai Road was to help support them and it would be detrimental for their business if it was removed.
- Would like to see bike lanes installed - their catchment was Short Street, all the Cherrywood area, plus a lot of Matua parents, many of whom crossed the road at dangerous times. A pedestrian crossing with lights would make it safer as cars came up the rise or came down towards Cherrywood.
- There was a need to look at what was safe for the area, there were two day care centres and a lot of young families living in the area.

In response to questions

- It was noted that Best Start had good parking, but Biggles did not; and, while they had a traffic management policy for the quick drop off area, any parents wanting to stay for 10-15 minutes used the street carparks.

Glen Crowther - Sustainable BOP - via Zoom

Key points

- Well done to project staff for the approach taken with regards to consultation and transparency around the process and the initial consultation meetings where staff and the consultants talked

about the pros and cons.

- Thought the project augured well and asked staff to keep working through the concerns raised with Sustainable BOP, Cycle Action Tauranga, Bike Tauranga and other community groups.
- The Chappell Street/Ngatai Road option made sense and he could see advantages as long as there were good quality bus provisions on that route and clear markings for the driveways. The safety in the Chappell Street end would be the make or break for that area.
- While Waihi Road was still being worked on, he supported the comments made by the submitter that cyclists would have legal priority over cars and trucks at the side roads. Unsure if a change of law or potential change of government may have an impact or whether there would be further delays. Wanted to know what the area would look like and did not feel confident that it was a good solution, so supported the comments made by Mr Sutton.
- Could see why the Windsor Road option was chosen, as the multimodal area around Bellevue would be complex and was becoming increasingly busy. Would be better not to create a problem on Queen Road between Ann and Princess Streets at the start. Worried about the tail back and congestion with so many crossing points and suggested that Windsor became one way to Princess Street for more optimal outcomes.
- The area with most concerns was Bellevue because the interchange was not a top priority for the Council and funding for safe cycleways on Ōtūmoetai Road was not likely to be available for many years. There was a risk of a real suboptimal outcome there. It was a concern from a bigger Tauranga-wide perspective how that could translate to future accessible streets projects.
- Priority should be to future proof the designs around the area; failed to see any evidence that staff tried to look at an optimal design. One factor needed was a multimodal link into the bus interchange.
- The Brookfield Street lane going from two way to one way would provide barriers to getting people onto bikes; would rather see more invested upfront to get a better outcome.

Discussion points raised

The submitters were advised:

- that staff were noting the legitimate concerns and were taking them seriously and were looking to ameliorate those concerns.
- The sign off of the proposal at this meeting was on the understanding that staff would continue to work to address the safety issues. The proposal was fluid, Council wanted everyone to be safe and to enable safe cycling; as well as people being able to access and use the businesses on the route, to use their cars and public transport.
- There would be more opportunities for consultation as the plans were being finalised.

4 ACCEPTANCE OF LATE ITEMS

4.1 Acceptance of Late Item

RESOLUTION CO20/22/1

Moved: Commissioner Bill Wasley

Seconded: Commissioner Stephen Selwood

That the late item Re-patriations of Vegetation Contracts be considered at this meeting, in public excluded session.

CARRIED

5 CONFIDENTIAL BUSINESS TO BE TRANSFERRED INTO THE OPEN

Nil

6 CHANGE TO THE ORDER OF BUSINESS

Nil

7 CONFIRMATION OF MINUTES

7.1 Minutes of the Council meeting held on 3 October 2022

RESOLUTION CO20/22/2

Moved: Commissioner Shadrach Rolleston

Seconded: Commissioner Bill Wasley

That the minutes of the Council meeting held on 3 October 2022 be confirmed as a true and correct record.

CARRIED

8 DECLARATION OF CONFLICTS OF INTEREST

Nil

9 DEPUTATIONS, PRESENTATIONS, PETITIONS

Nil

10 RECOMMENDATIONS FROM OTHER COMMITTEES

Nil

11 BUSINESS

11.1 Accessible Streets for the Ōtūmoetai Peninsula Recommended Options

Staff Karen Hay, Team Leader: Cycle Plan Implementation
Brendon Bisley, Director of Transport

External Ollie Brown, Accessible Streets design team

Key points

- Had heard the concerns of the community and were acutely aware it was not an easy project to get the best balance of the needs of cyclists, cars, buses, businesses and schools, and to understand what the issues were.
- The option put forward around Chappell Street was a more compromised option than some stakeholders would prefer, it was a very congested corridor where small changes would have a significant impact. Some of the options tested had resulted in congestion back to Elizabeth Street and into Cameron Road. The option currently being looked at was the safest and provided the best outcome for all modes through that corridor.
- Sought endorsement of the preferred option to take it to a further level of design which would be taken back to the community for another round of consultation.
- The public would be able to see the direct impact on their property or their journey to work.
- It also allowed costings to be provided and to understand what it would take to deliver the

project through to the next stage.

- 11,500 leaflets had been distributed to the community to canvas the project as widely as possible and to encourage engagement in the consultation process.

In response to questions

- Staff had met with the submitters and were committed to working through their concerns and getting the best outcome for all road users. There had been a number of businesses that had provided constructive feedback and staff were working with them into the next stage.
- There was a future public transport interchange planned in Brookfield and staff were awaiting the outcome of the business case about what size and scale was needed. This area was not covered as part of this project and would be brought back once more information was known.
- The proposed changes would go around the oblong of the Brookfield/Bellevue intersection, with cyclists going through the park, which would keep the capacity at the intersection so it could comfortably accommodate an interchange.
- Staff had worked with stakeholder groups in isolation and drop in sessions were held; staff would hold wider group discussions so that each party was aware of the different perspectives.
- Staff provided reassurance that engagement would continue throughout the design process, rather than just at the end when the design had been finalised.
- A two way cycleway on the northern side of road had been considered as part of the long list but was ruled out due to the length of the road from the BP service station at the top through to 11th Avenue. The area around by Koromiko on the northern side of the road had more vehicle crossings, some of which were angled and limited sight distance into the crossing points. On the west there were a number of extra roads which increased the volumes of traffic that would need to cross over a two way cycle lane.
- The recommendation was for a single direction cycleway on both sides of the road. The businesses had raised valid concerns, and staff were aware they needed to manage the conflicts and issues raised. The northern side had significant challenges from a safety and cyclist perspective and being able to accommodate buses.
- There were issues with construction costs going up which was part of the increased cost. The cycleway component was \$1.9m with some neighbourhood streets work added. Funding was available in the transport infrastructure budget and there was \$1.3m per annum for public transport infrastructure. That still left \$8m short on project budget - if this was reduced and the scope cut, it would compromise safety.
- An end to end journey would encourage the volume of riders. Staff were looking for ways to minimise the cost or to look at how to fund it through the current budget.

Discussion points raised

- Thanks to public for making their views known and compliments to staff on the excellent and thorough engagement process.
- A balance was needed to ensure that pedestrians also remained safe - the project was going through neighbourhoods where people lived, and were constantly crossing the road to get to school, the shops, exercising etc.

RESOLUTION CO20/22/3

Moved: Commissioner Stephen Selwood

Seconded: Commissioner Shadrach Rolleston

That the Council:

1. Receives the report "Accessible Streets for the Ōtūmoetai Peninsula Recommended Options".
2. Endorses the overall approach of the Accessible Streets programme, ensuring safe infrastructure for cycling or catching the bus in the City.

3. Approves the recommended emerging options to be developed into a concept design as outlined below:
- a) **Section 1 - Chapel Street between Harington Street and Maxwells Road.**
One-way cycleways and shared path on both sides. The traffic lane heading towards Ngatai Road is removed (from north of the Mobil site to Vale Street) to accommodate the cycleway. Further modelling is being undertaken to determine additional opportunities to provide a higher Level of Service for buses south of the Mobil site and Brown Street.
 - b) **Section 2 - Ngatai Road between Maxwells Rd to Ōtūmoetai roundabout.**
Two-way cycleway on the harbour side of Ngatai Road. Allows retention of parking on one side of the road, improved safety at intersections and connections at Maxwells Road.
 - c) **Section 3 – Charles Street to Bellevue Road along Windsor Road.**
A two-way cycleway on the school side of Windsor Road. To accommodate the two-way cycleway and retain parking on both sides of the road, this option removes a general traffic lane on Charles Street and Windsor Road between Ngatai Road and Anne Road to introduce a one-way circulation system.
 - d) **Section 4 – Bellevue Road.**
A two-way cycle facility on southern side of Bellevue Road, changing to one-way facility south of the Brookfield roundabout. A signalised crossing will be provided for cyclists to transition from one facility type to another.
 - e) **Section 5 - Waihi & 11th Avenue.**
Combination of one-way cycleways/shared paths and bus priority measures. The removal of a city bound traffic lane between the slip lane exit to Takitimu Drive and Edgecumbe Road to provide space for a bus/transit lane. Conversion of citybound parking between Edgecumbe Road and Cameron Road to an AM peak bus/transit lane clearway. On-street parking would be removed here during the am peak travel times.
 - f) **Primary bus routes.**
Bus stop Improvements including major upgrades to high priority stops. Minor upgrades to medium and low priority stops. Optimisation of bus stop locations and in-lane bus stops.
 - g) **Neighbourhood Streets.**
30km/h speed limit, speed reduction measures, pedestrian upgrades, and urban realm enhancements. Consideration to be given to limited time speed limits outside schools during the concept design development.

CARRIED

11.2 Proposed Partial Reclassification of Gate Pa Recreation Reserve - Hearings Report

Staff Rachael Williams, Strategic Property Advisor
Curtis Bones, Manager: Strategic Property and Commercial Facilitation

It was noted that a late submission had been received from Mr Rob Paterson.

Key points

- The decision was required to progress the proposal for the Trust to use part of the area for a cultural centre.
- Positive outcome from the consultation with 88% support to reclassify, 9.5% opposed and 1.6% neutral.

In response to questions

- Consultation would be held with the Tennis Club and residents along St George Street prior to the decision on the reclassification.
- The Pukehinahina Charitable Trust had three mana whenua representatives; it was a community-driven trust to promote the historical site.

Discussion points raised

- Commissioner Tolley noted that the late submission from Mr Paterson made comments that a 'back room deal' had been done. To correct this point, it was noted that the 'deal' was made in 1999 and was a formal agreement between NZTA, Tauranga City Council and Ngai Tamarāwaho. It was a public agreement and commitment on behalf of TCC to find a site for a cultural centre. The outcome was important not just for TCC but for the whole of New Zealand.

RESOLUTION CO20/22/4

Moved: Commissioner Bill Wasley

Seconded: Commissioner Shadrach Rolleston

That Council:

- (a) Receives the report "Proposed Partial Reclassification of Gate Pa Recreation Reserve - Hearings Report"; and
- (b) Receives the written submissions in relation to the proposed partial reclassification of the Gate Pa Recreation Reserve; and
- (c) Notes that a final decision on the reclassification will be made by way of a deliberations report on 28 November 2022 which will fully consider the submissions received from the public and tangata whenua.

CARRIED

Attachments

- 1 Proposed Gate Pa reserve reclassification - Rob Paterson - further submission for hearing (tabled)

11.3 Tauriko West Rezoning

Staff Andy Mead, Manager: City & Infrastructure Planning
Alistair Talbot, Team Leader: Structure Planning and Strategic Transport

Key points

- A key workstream was the rezoning of the area from rural to enable a urban housing development and longer term transport planning.
- Constrained by the government's fresh water policy reforms which had prevented technical work and the construction plan being progressed. The government was working collaboratively to ensure good outcomes.
- A variation to Plan Change 33 was the recommended option.

- Pre-engagement had been held with tangata whenua, and further submissions and a hearings process heard by an Independent Hearing Panel. The variation would cut out an Environment Court appeal process and provide a greater level of certainty and time frames.
- From notification to decision would likely be a 12-month process depending on the government's delivery on their commitment to the fresh water policies.
- It was important to recognise the Plan Change decisions by November 2023. This would be managed by having separate hearings and decision processes.
- Engagement with affected and interested parties included letters being sent to a range of people and groups.
- No feedback had been received from tangata whenua.
- Two parties had responded - one was a private land owner who raised a range of issues such as flooding and the use of the streamline process, and the other was Tauriko Crossing Ltd concerned about the uncertainty around transport investment and not providing a whole solution.
- Workable timeframes would be reconfirmed for the process - staff were working on the plan change being mid-2023.

In response to questions

- The area was critical for planning purposes and it was important that the final recommendations were in place before July 2024 so that it did not become an election issue.
- It was noted that timeframes were limited by the Minister for the Environment determining the freshwater changes. The timeframes were conservative and, if the plan change was notified in June 2023, it could be completed by June 2024. Work was continuing to have it ready by April/May 2023 and staff were continuing to work in tandem with the legislative process as much as possible. There was a range of technical reports that could not be finalised until the decision was known.
- Medium density standards allowed for three houses of three stories and terraced housing as a discretionary activity. Terraced housing would provide 50 houses per hectare.
- Constraints included what housing the market wanted. Infrastructure constraints only allowed for the first 2,000 homes and long term transport solutions were needed to allow more. The land could cater for 3,500 houses with 4,000 maximum.
- Developers had to put money up front to buy the land and complete the earthworks, they did not want to undertake \$100m in cost if they could only develop half the area.
- There was a range of climate change and indigenous biodiversity issues for highly productive land. The final form carves out any areas earmarked for growth within the next 10 years. This was not an issue for Tauriko West but some issues were still to be resolved.
- Tangata whenua would be largely developing medium density housing, with the staging of developments, infrastructure considerations, stormwater and flooding matters; and would be separate from Plan Change 33 so that they could proceed through hearings.

RESOLUTION CO20/22/5

Moved: Commissioner Bill Wasley

Seconded: Commissioner Stephen Selwood

That the Council:

- (a) Receives the report "Tauriko West Rezoning".
- (b) Approves proceeding with preparing a variation to Plan Change 33 – Enabling Housing Supply to rezone Tauriko West for urban development including implementation of the Medium Density Residential Standards and additional intensification opportunities as appropriate and any supporting or consequential changes to the Tauranga City Plan.

- (c) Delegates to the Chief Executive responsibility to put in place any necessary arrangements to enable a variation to proceed, including any required changes to timeframes set out in directions for Plan Change 33 – Enabling Housing Supply.

CARRIED

11.4 Water Management Plan

Staff Peter Bahrs, Manager: Water Services
Nic Johansson, General Manager: Infrastructure

Key points

- Maintain the Water Watchers plan and shift focus to get everyone to treat water as a precious resource.
- Evidence of no wastage and water being a precious resource was needed for the consenting water take which was due in 2026.
- Consideration of the Waiāri Stage 2 pipeline investment.

In response to questions

- Opportunities for other water saving initiatives such as water tanks for roof runoff for watering gardens were being considered along with how to implement and promote these. Information on this would be provided to a future meeting.
- The programme would also include promoting how to improve the use of the treated water.
- A regional project was underway and would be reported in mid-2023. The trend of low rainfall over the last three winters and then a wet six months this year had staff looking at how this had impacted the aquifers. Indications were that it took 6-18 months to recharge the aquifers which made it hard to model and predict.
- An increase in the allowable use from 50m³ to 55m³ a day recognised Waiāri coming on line and the growth in the city, but it also signalled that water use was not open to unrestricted use.
- The Council was adopting a conservative use approach and monitoring stream health.
- Want to see a move away from restrictions to conservative use as the weather extremes would continue to increase.

Discussion points raised

- Complimented the team on the work they had done over the last year and for incorporating what had been learnt last year into the proposals for this year.

RESOLUTION CO20/22/6

Moved: Commissioner Shadrach Rolleston

Seconded: Commissioner Bill Wasley

That the Council:

- (a) Receives this report on Water Drought/ Resilience Planning and Water Watchers.
- (b) Endorses the continuation of the Water Watchers Plan as an ongoing water efficiency/ conservation measure through to 2026 (to be formally approved by the Chief Executive Under the Water Supply Bylaw)

CARRIED

11.5 Traffic & Parking Bylaw Amendment 40

Staff Brendon Bisley, Director of Transport

In response to questions

- A communications plan would be developed over the next month ready for implementation on 23 November 2023 with a roll out of leaflets to residents and regular parkers within those areas.
- Signs would be installed on the approaches to each area rather than on each berm.

RESOLUTION CO20/22/7

Moved: Commissioner Bill Wasley

Seconded: Commissioner Shadrach Rolleston

That the Council:

- (a) Receives the report "Traffic & Parking Bylaw Amendment 40".
- (b) Adopts the proposed amendments to the Traffic and Parking Bylaw (2012) Attachments as per Appendix B, relating to minor changes for general safety or amenity purposes, to become effective from 8 November 2022 subject to appropriate signs and road markings being implemented.

CARRIED

11.6 Matapihi Southern Pipeline Advisory Group - Establishment and Terms of Reference

Discussion points raised

- Commissioner Rolleston noted that the Memorandum of Understanding document signing was a great occasion and well attended by the older residents of the community. It was a challenge to continue to build and develop partnerships and relationships with the Matapihi community and to continue to engage, consult and manage what was happening with the pipeline. Iwi had future aspirations for their community.

RESOLUTION CO20/22/8

Moved: Commission Chair Anne Tolley

Seconded: Commissioner Stephen Selwood

That the Council:

- (a) Receives the report "Matapihi Southern Pipeline Advisory Group – Establishment and Terms of Reference".
- (b) Acknowledges the Memorandum of Understanding signed between the Council and the hapū Ngāti Tapu and Ngāi Tūkairangi as set out in Attachment 1.
- (c) Establishes the Matapihi Southern Pipeline Advisory Group.
- (d) Adopts the Terms of Reference for the Matapihi Southern Pipeline Advisory Group in Attachment 2.

(e) Appoints the following members to the Matapihi Southern Pipeline Advisory Group

- Four representatives appointed by the hapū, namely two representatives from Ngāti Tapu and two representatives from Ngāi Tūkairangi:

Hauata Palmer (Ngāti Tapu)
 Josh Gear (Ngāti Tapu)
 Anthony Fisher (Ngāi Tūkairangi)
 Ngareta Timutimu (Ngāi Tūkairangi)
- Four representatives appointed by Tauranga City Council ('Council') (these members will be appointed for a term subject to Council triennial elections and must include one appointed or elected representative):

Commissioner Shadrach Rolleston
 General Manager: Infrastructure* - Nic Johansson
 Team Manager: Te Pou Takawaenga* - Keren Paekau
 Director of City Waters* - Wally Potts

** In respect of Council staff appointees, if the appointee is absent and another staff member has been appointed to act in their role, the person acting will be deemed to be the appointee's alternate*

(f) Appoints Commissioner Shadrach Rolleston as the co-chairperson representing the Council on the Matapihi Southern Pipeline Advisory Group.

(g) Endorses Anthony Fisher who has been appointed as the co-chairperson representing the hapū on the Matapihi Southern Pipeline Advisory Group.

(h) In respect of each of the Tauranga City Council staff appointees specified in resolution (e), if their position title changes or their position is dis-established, a staff member who performs or exercises the same or substantially similar role or function to that position will, upon confirmation by the Chief Executive be deemed to be the Council's appointee to the Matapihi Southern Pipeline Advisory Group without further resolution of the Council being required.

CARRIED

11.7 Meetings Schedule 2023

Staff Christine Jones, General Manager: Strategy, Growth & Governance

Discussion points raised

- It was requested that no meetings be held during school holidays as it was important for staff and families to have scheduled breaks.
- Requested a change of Council meeting date from 17 April 2023 to 3 April 2023.

RESOLUTION CO20/22/9

Moved: Commissioner Bill Wasley

Seconded: Commissioner Stephen Selwood

That the Council:

- (a) Receives the report "Meetings Schedule 2023".
- (b) Adopts Attachment 1 as the meetings schedule for the period January to December 2023.
- (c) Notes that the 2023 meetings schedule will be updated when the meeting dates for joint committees become available in December 2022.
- (d) Requests that the Council meeting on 17 April 2023 be brought forward to 3 April 2023 to avoid the school holidays.

CARRIED

12 DISCUSSION OF LATE ITEMS

Nil

13 PUBLIC EXCLUDED SESSION

Resolution to exclude the public

RESOLUTION CO20/22/10

Moved: Commissioner Bill Wasley

Seconded: Commissioner Stephen Selwood

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

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

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48 for the passing of this resolution
<p>13.1 - Public Excluded Minutes of the Council meeting held on 3 October 2022</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)(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)(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>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>

	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)	
13.2 - Wairoa Cycle Connection	s7(2)(a) - The withholding of the information is necessary to protect the privacy of natural persons, including that of deceased natural persons 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	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
13.3 - City Centre Laneways - Property Acquisition	s7(2)(i) - The withholding of the information is necessary to enable Council to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)	s48(1)(a) - the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7
13.4 - Mount North Development Opportunity	s7(2)(i) - The withholding of the information is necessary to enable Council to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)	s48(1)(a) - the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7
13.5 - Infrastructure Funding and Financing Act Proposal for the Transport System Plan - Approval to proceed	s7(2)(b)(ii) - The withholding of the information is necessary to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information s7(2)(i) - The withholding of the information is necessary to enable Council to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)	s48(1)(a) - the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7
13.6 - Re-patriations of Vegetation Contracts	s7(2)(i) - The withholding of the information is necessary to enable Council to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)	s48(1)(a) - the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7

CARRIED

At 11.09am the meeting adjourned.

At 11.20am the meeting reconvened in public excluded session.

14 CLOSING KARAKIA

Commissioner Rolleston gave the closing karakia.

The meeting closed at 12.13 pm.

The minutes of this meeting were confirmed as a true and correct record at the Ordinary Council meeting held on 28 November 2022.

.....
CHAIRPERSON

UNCONFIRMED

7.3 Minutes of the Council meeting held on 14 November 2022

File Number: A14241340

Author: Robyn Garrett, Team Leader: Governance Services

Authoriser: Robyn Garrett, Team Leader: Governance Services

RECOMMENDATIONS

That the Minutes of the Council meeting held on 14 November 2022 be confirmed as a true and correct record.

ATTACHMENTS

- 1. Minutes of the Council meeting held on 14 November 2022**



MINUTES

**Ordinary Council meeting
Monday, 14 November 2022**

Order of Business

1	Opening karakia	3
2	Apologies	3
3	Public forum	3
4	Acceptance of late items	3
5	Confidential business to be transferred into the open	3
6	Change to the order of business	3
7	Confirmation of minutes	3
	Nil	
8	Declaration of conflicts of interest	3
9	Deputations, presentations, petitions	3
	Nil	
10	Recommendations from other committees	4
	Nil	
11	Business	4
	11.1 Options for delivery of Te Manawataki o Te Papa development project by a council-controlled organisation	4
12	Discussion of late items	5
13	Public excluded session	5
	Nil	
14	Closing karakia	5

**MINUTES OF TAURANGA CITY COUNCIL
ORDINARY COUNCIL MEETING
HELD AT THE BOP REGIONAL COUNCIL CHAMBERS, REGIONAL HOUSE, 1 ELIZABETH
STREET, TAURANGA
ON MONDAY, 14 NOVEMBER 2022 AT TO START AT 3.23 PM**

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

IN ATTENDANCE: Marty Grenfell (Chief Executive), Alastair McNeill (General Manager:
Corporate Services), Coral Hair (Manager: Democracy & Governance
Services), Robyn Garrett (Team Leader: Governance Services), Janie
Storey (Governance Advisor)

1 OPENING KARAKIA

Nil

2 APOLOGIES

Nil

3 PUBLIC FORUM

Nil

4 ACCEPTANCE OF LATE ITEMS

Nil

5 CONFIDENTIAL BUSINESS TO BE TRANSFERRED INTO THE OPEN

Nil

6 CHANGE TO THE ORDER OF BUSINESS

Nil

7 CONFIRMATION OF MINUTES

Nil

8 DECLARATION OF CONFLICTS OF INTEREST

Nil

9 DEPUTATIONS, PRESENTATIONS, PETITIONS

Nil

10 RECOMMENDATIONS FROM OTHER COMMITTEES

Nil

11 BUSINESS

11.1 Options for delivery of Te Manawataki o Te Papa development project by a council-controlled organisation

Staff Alastair McNeil, General Manager: Corporate Services
Marty Grenfell, Chief Executive

Key points

- The report was an opportunity to make Te Manawataki o Te Papa known to all and to provide for how the programme of works would be managed.
- There would be a small consultation process closing in mid-December.
- A Council-controlled organisation (CCO) would provide Council with assurance that the investments and projects were well run. High construction costs increased the risks - the CCO would ensure that the projects met the city's needs in the long term and remained to budget.
- There were options around what the CCO would look like once the Commissioners were no longer in place, relative to the independence of the Council, including effectiveness in governing and driving outcomes. There would be a company structure in the CCO, to demonstrate professionalism, to secure funding, to maintain shareholder responsibility and to respond to increased costs.
- There was an establishment cost of \$100,000 to set up and to recruit the right individuals to become competent Board members, with an ongoing cost of \$600,000 to cover the cost of the Board and a Chief Executive.
- A Chief Executive would need to be recruited for the entirety of the CCO. The Board would be small and led by experience.
- \$130,000 per annum was currently being spent on governance with the group currently in place; this cost would no longer be incurred.

In response to questions

- A signed operational agreement was in place with Willis Bond, a delivery mode contract would ensure governance would hold them to account. These were big projects and, while TCC had the experience to manage Willis Bond, it was not to the extent TCC was comfortable with. Willis Bond was a supplier and a partner and there was a need to strike a balance to be able to lean in and pull back and to performance manage the supplier when necessary. There could be an observer appointed to the Board as Willis Bond also had significant investment tied up in the projects.
- Consideration would be given to what functions the Board would undertake and those that Willis Bond would do. The contract was clear that nothing was done until it was approved by the Council.
- When Willis Bond provided the final costings and sought to enter into a development agreement, which would then put Council into a contractual basis, a process would need to be followed to ensure TCC was getting value for money and to provide assurance. The decision whether the project would proceed would only take place when TCC was satisfied that they were getting value for money, and this Board would provide that level of assurance.
- The organisation currently did not have the level of expertise within the current structure to robustly deal with supply and cost increases as valid claims, ensure risks were being mitigated and the projects proceeded effectively. The Board would provide that level of assurance and that the project was being delivered as effectively as possible. The issues currently being dealt with at the 90 Devonport Road building were what the Board would deal with for the Te Manawataki o Te Papa project and would also drive value out of situations that TCC might find itself in.

Discussion points raised

- Unambiguous expectations for the CCO were vital - the planning and strategic objectives would be set and provide a very clear focus. It was important to ensure that the connection with the

CCO Board and the Chief Executive was very clear in terms of how it worked and, if not working, how issues would be resolved. This needed to be watertight and effective or it could become a risk.

- Funding decision makers would have confidence in Council's ability to deliver the outcomes with a CCO.

RESOLUTION CO21/22/1

Moved: Commissioner Bill Wasley

Seconded: Commissioner Stephen Selwood

That the Council:

- (a) Receives the report "Options for delivery of Te Manawataki o Te Papa development project by a council-controlled organisation".
- (b) Undertakes a consultation process to establish a company structure council-controlled organisation to govern delivery of the civic development projects, 100% owned by Council.
- (c) Subject to final decision-making following the consultation in resolution (b):
 - (i) Agrees to include in the 2023/24 Annual Plan a \$700,000 loan-funded grant and associated ratepayer funded interest and debt retirement charges over a maximum period of ten years.
 - (ii) Agrees to include in the 2024-34 Long-term Plan process an annual \$600,000 loan-funded grant and, for each such annual loan, associated ratepayer funded interest and debt retirement charges over a maximum period of ten years.

CARRIED

12 DISCUSSION OF LATE ITEMS

Nil

13 PUBLIC EXCLUDED SESSION

Nil

14 CLOSING KARAKIA

Commissioner Shad Rolleston gave the closing karakia.

The meeting closed at 3.40 pm.

The minutes of this meeting were confirmed as a true and correct record at the Ordinary Council meeting held on 28 November 2022.

.....
CHAIRPERSON

8 DECLARATION OF CONFLICTS OF INTEREST

9 DEPUTATIONS, PRESENTATIONS, PETITIONS

Nil

10 RECOMMENDATIONS FROM OTHER COMMITTEES

Nil

11 BUSINESS

11.1 Partial Reclassification of Gate Pā Recreation Reserve - Deliberations

File Number: A14189068

Author: Rachael Williams, Strategic Property Advisor

Authoriser: Paul Davidson, Chief Financial Officer

PURPOSE OF THE REPORT

1. To report on the objections and other feedback received on the proposal to reclassify part of the Gate Pā Recreation Reserve from recreation reserve to historic reserve.
2. The reclassification is required to facilitate the proposal received from Ngai Tamarāwaho and the Pukehinahina Charitable Trust to locate a Cultural and Historic Centre on the reserve.

RECOMMENDATIONS

That the Council:

- (a) Receives the report "Partial Reclassification of Gate Pā Recreation Reserve - Deliberations".
- (b) Confirms the attached submissions, including objections, in response to the public and tangata whenua consultation on the proposal have been considered (**Attachment 1**).
- (c) Receives two further late submissions (**Attachment 2**).
- (d) Confirms the partial reclassification of that part of the Gate Pā Recreation Reserve shown as Section 1 on SO 584235 (**Attachment 3**) from recreation reserve to historic reserve.

EXECUTIVE SUMMARY

3. Ngai Tamarāwaho identified Gate Pā Recreation Reserve as suitable for the Cultural and Historic Centre due to its immense historical and cultural significance. The Gate Pā Recreation Reserve forms part of the site of the 1864 Battle of Gate Pā Pukehinahina, one of the most significant land battles that took place in Tauranga Moana.
4. Initial planning advice received by Ngai Tamarāwaho has indicated that it is possible to construct the Cultural and Historic Centre on the site.
5. As a result of a Memorandum of Understanding with Ngai Tamarāwaho from 1999, there has been a long-standing commitment from Council to Ngai Tamarāwaho to provide an area within Tauranga Moana for a Cultural and Historic Centre.
6. Council agreed to initiate the process to reclassify Section 1 on SO 584235 (the Land) to support the proposal received by Ngai Tamarāwaho and the Pukehinahina Charitable Trust to develop a Cultural and Historic Centre on the Land. The current classification of the Land does not permit it being used for this purpose.
7. Legal advice has confirmed that the reclassification will enable Council to enter into a lease of the Land with Ngai Tamarāwaho and the Pukehinahina Charitable Trust for the Cultural and Historic Centre. It will also acknowledge the historical significance of the Land.
8. Consultation on the proposed reclassification commenced on 12 September 2022 and concluded on 12 October 2022. As a result of the consultation, Council received a total of 63 submissions, 56 in support, 6 in opposition and 1 that was neutral.
9. A few members of the public have expressed concerns that the consultation was not sufficient and have requested that all future public consultation required as part of the project

includes direct contact with the residents of St George Street. St George Street runs adjacent to the Land and will be directly impacted by the proposed development.

10. Before the Council makes a final decision on the proposed reclassification, it needs to consider the objections and other submissions received during the consultation process.
11. Section 24 of the Reserves Act 1997 (the Reserves Act) provides the Minister of Conservation with the authority to reclassify a reserve, subject to consultation. This power was delegated to Council by the Minister of Conservation in June 2013.

BACKGROUND

12. On 25 July 2022 Council resolved to initiate the process to reclassify the Land, identified as being approximately 6,150m² (approx. 20% of the reserve), in accordance with the Reserves Act. A survey of the Land has since been completed and the confirmed area to be reclassified is 6716m² (approx. 22% of the reserve).
13. Council must give public notice of its intention to reclassify all or part of a reserve in accordance with section 24 of the Reserves Act and every person claiming to be affected by the proposed change of classification has the right to object to the change. Council resolved as part of the 25 July 2022 meeting to hold a hearing at the Council meeting of 7 November 2022 to hear any objectors and other submitters that wished to speak to their submissions.
14. During the consultation period, staff contacted key stakeholders directly including the Gate Pa Tennis Club, tangata whenua, Ngai Tamarāwaho, the Pukehinahina Charitable Trust and Tourism BOP. Channels used included media releases and advertisements in Sunlive and the Bay of Plenty times, radio advertising, an online webpage via Council's website and physical copies of project documents and submission forms being made available at the libraries, He Puna Manawa and the mobile service centre.
15. During the consultation process Council received a total of 63 submissions in response to the proposed reclassification with:
 - (a) 50 strongly in support;
 - (b) 6 somewhat in support;
 - (c) 6 strongly opposing; and
 - (d) 1 that was neutral.
16. All submissions received, including objections, are contained in Attachment A.
17. As part of their submissions, seven people advised that they wished to speak to their submission. However, on the day these people elected either not to speak or were unable to attend the Council meeting.

PUBLIC CONSULTATION

18. Section 24 of the Reserves Act sets out the process Council is required to follow to reclassify a reserve. The process to reclassify a reserve includes the requirement to publicly notify the proposed change (s24(2)(b)).
19. Section 119 of the Reserves Act states that when the Act requires anything to be publicly notified (not relating to a national reserve) that the notification must be published once in a newspaper circulating in the area in which the reserve is situated and in such other newspapers as the administering body decides.
20. When interpreting the Reserves Act 1977, the provisions of the Conservation Act 1987 are to be applied as they are both DoC administered Acts. In particular, section 4 of the Conservation Act 1987, stating that the Act is to be interpreted to give effect to the principles of the Treaty of Waitangi (partnership, participation, and protection), is to be applied to the

interpretation of the Reserves Act 1977. To do this, Council is required to consult with tangata whenua.

21. Consultation commenced on 12 September 2022 and concluded on 12 October 2022 and was carried out as follows:
 - a) Information sent directly to key stakeholders (tangata whenua, the Gate Pā Tennis Club, Ngai Tamarāwaho, the Pukehinahina Charitable Trust and Tourism BOP).
 - b) Media release on 12 September 2022. Articles in Sunlive on 12 September 2022 and in Bay of Plenty Times on 13 September 2022.
 - c) A half page advertisement in Sunlive on 12 September 2022 and a half page advertisement in the Bay of Plenty Times on 13 September 2022.
 - d) Radio advertising with Moana Radio from 26 September 2022 to 7 October 2022.
 - e) Online webpage via Council’s website dedicated to the reclassification including an online submission form and frequently asked questions.
 - f) Physical copies of project documents and submission forms at Libraries, He Puna Manawa and the mobile service centre.

Consultation with Key Stakeholders

22. Tangata whenua, the Gate Pā Tennis Club and Tourism BOP were identified as key participants in terms of the consultation for the proposed reclassification. Tangata whenua and the Gate Pā Tennis Club were contacted directly as follows:

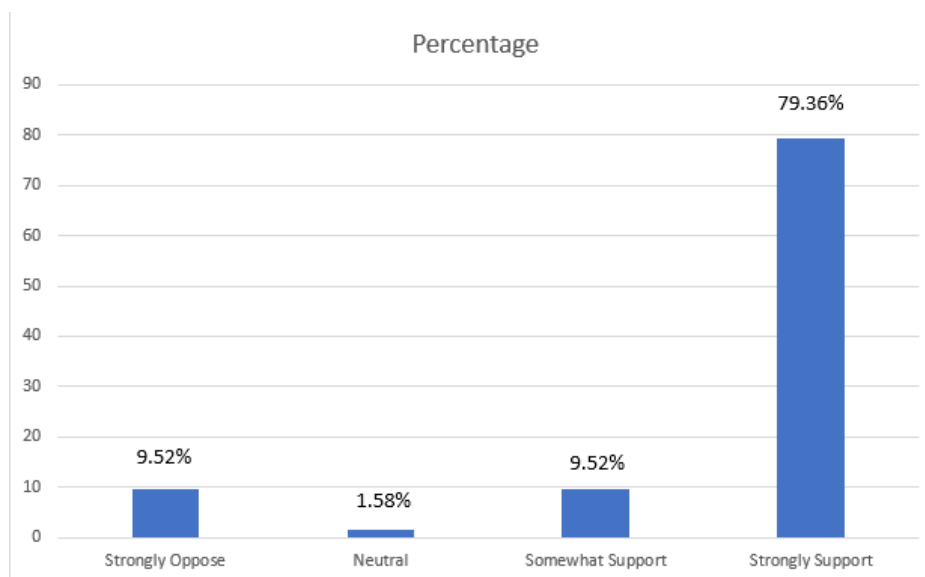
Date of Communication	Details
19 July 2022	Email advising that report requesting proposed partial reclassification of the Gate Pā Recreation Reserve will be heard by the Commissioners on 25 July 2022. Email contained a copy of the report.
25 July 2022	Email advising outcome of the report and the decision made to commence the reclassification process.
1 September 2022	Email advising that consultation to commence on 12 September 2022 and provided information regarding the purpose of the consultation.

23. An email was sent to Tourism BOP on 6 September 2022 with information about the project, the upcoming consultation and the purpose of the consultation.
24. Pukehinahina Charitable Trust and Ngai Tamarāwaho are also key stakeholders and staff have been in regular contact with them, keeping them up to date as the matter progresses.
25. After the conclusion of the consultation period, staff spoke with a resident of St George Street about their concerns regarding the proposed reclassification and proposed development of the Land for the Cultural and Historic Centre. As a result, the residents of St George Street have now been identified as key stakeholders who will be contacted directly in terms of all future consultation in relation to the development of the Land for the Cultural and Historic Centre.

Outcome of Consultation

26. Council received 63 submissions, from a diverse range of respondents in terms of age and locality within Tauranga. Respondents were asked if they objected to or supported the proposal to reclassify the land from recreation to historic reserve and to state a reason for their choice with the option to upload additional information.
27. Assessing the in-support submissions; six (9.52%) of those in support are “somewhat in support” while 50 (79.36%) are “strongly in support”. Assessing the objections; there were no submissions received that “somewhat object” while 6 (9.52%) of those received “strongly object”. One (1.58%) submission received was neutral on the proposal.

- 28. By grouping together the submissions that strongly support the reclassification and those that somewhat support it, 88.88 of the submissions received are supportive of the reclassification.
- 29. The graph below sets out the individual responses to the consultation on the reclassification.



CONSIDERING OBJECTIONS

- 30. In total, Council received 6 objections to the proposal during the consultation period and 1 late objection after the conclusion of the consultation period. These objections are set out below.

Submitter	Position	Submission	Comments
Barry Scott	Strongly Oppose	Advised that a submission would be made before the conclusion of the consultation period.	A submission was not received.
Raymond Anderson	Strongly Oppose	The concept of the whole proposal is flawed much like the redevelopment of the CBD. The use of public money to fund such a project would be a total waste. The notion that local Māori somehow won a historical battle against the British Forces at Gate Pā is ludicrous nonsense.	Refer to paragraph 31 and 32 below.
Paul Brown	Strongly Oppose	We live on St George Street and do not believe that the car park will be big enough for the Museum. We live in a quiet cul-de-sac and if the car parking entrance stays on St George Street, we will end up with a lot more traffic which we do not want hence living in a cul-de-sac. Have also been told that you are planning on doing cultural nights, not sure if this is correct and if so, noise may travel changing the quietness of the street. If you are serving alcohol at these evening functions at the end of the night, there may be disruption in the street late at night. We would rather the land kept as a	Based on the proposal provided to Council it is anticipated that the consent required for the development will be by way of limited notification, in which event notice of the application would be served on all persons identified as being adversely affected by the development and allowing those persons to lodge a submission. A Transport Impact Assessment will also be necessary as part of the consenting process for the development – this will determine the extent of effect related to traffic.

		reserve, playground or extension of the tennis courts, sport. There is not enough grass areas around as it is.	The residents of St George Street have been identified as key stakeholders going forward.
Philip Brown	Strongly Oppose	Did not include	N/A
Bruce and Maureen Cronin	Strongly Oppose	The proposal should NOT proceed in any form until much more information is available to Ratepayers about exactly how the land will be developed; what the parking situation will be; and most importantly who will meet the entire cost of developing the proposed grandiose complex and also meet annual operating costs. It must not be at Council or TCC Ratepayers' cost and vested Māori interests must be solely responsible for the entire cost as essentially, it's for their benefit and they will be the effective owners. There needs to be an absolute assurance that if Tauranga people in general are expected to support this proposed edifice in any way at all, that it accurately portrays New Zealand history in a balanced, factual, and truthful way.	The proposal has not been progressed further due to uncertainty as to whether the Land can be used for the development. If the Land is reclassified, further information regarding the proposed development will be made available during the public consultation required prior to the granting of a lease. Refer to paragraph 31 and 32 below.
Rob Paterson	Strongly Oppose	Submission is two pages and is attached to Attachment B of the report – the main points of the submission are: <ol style="list-style-type: none"> 1. That there has been some sort of loose 'understanding' reached in 1999 between Council and Māori interests to provide land for a historic and cultural centre. 2. Proposal should be put on hold until more information is available in terms of how the land is to be developed, what the parking situation will be and who will meet the entire cost of the development and ongoing annual opex. 3. Any development should not be at Council or ratepayers' cost – if it is to proceed then vested Māori interests must be solely responsible for the entire cost of the development. 4. Centre needs to be called the NZ Wars Museum or some such name that accurately portrays NZ history in a factual and truthful way. 5. Strongly oppose the plan until all the matters pertaining thereto are clearly set out and full disclosure about everything concerning the site and its development is made to the Tauranga public. 6. That it is already a done deal. 	<ol style="list-style-type: none"> 1. The agreement by Council to provide Ngai Tamarāwaho with a suitable site for a Cultural and Historic Centre has been captured in a MoU in 1999 and subsequent Council reports and resolutions. 2. The proposal is on hold until a decision is made in terms of the reclassification as this will determine whether or not the Land can be used for the development. 3. Refer to paragraph 31 and 32 below. 4. No comment 5. If the reclassification is approved the proposal will be progressed and information will be made available during the public consultation required prior to the granting of a lease.

<p>Rob Paterson</p>	<p>Strongly Oppose</p>	<p>Late Submission which summarised the main issues of the submitter as being:</p> <ol style="list-style-type: none"> 1. There needs to be a clear unequivocal statement by Council that it will not fund any future development and if in fact Council intends to provide any funding then Tauranga citizens are entitled to know that now. Under the staff report heading Financial Considerations it is stated that there will be no impact to existing budget lines and no funding is being required. 2. The question of adequate parking needs to be determined and the cost of creating such parking is not to fall on Council or ratepayers 3. Details of the 1999 arrangement needs to be fully disclosed particularly who the parties to this arrangement were - certainly Pukehinahina Trust and Otamataha Trust who handle Ngai Tamarāwaho property matters could not have been parties as they did not exist at that time. 	<ol style="list-style-type: none"> 1. See paragraphs 31 and 32 below 2. Carparking for the reserve and the development will be assessed as part of the consenting process for the development. 3. A copy of the MoU has been provided as part of a LGOIMA received by the submitter.
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31. A few of the objections received raised concerns about the funding of the Cultural and Historic Centre. As part of the LTP 2021-2031 Ngai Tamarāwaho, in partnership with the Pukehinahina Charitable Trust, received \$125,000 towards the establishment of a cultural centre at the Gate Pā reserve as part of Council's commitment to invest in arts and culture.
32. Council has not received any requests for further funding assistance for the development of the Cultural and Historic from Ngai Tamarāwaho and the Pukehinahina Charitable Trust.

Submissions in Support

33. The two main themes coming through from the submissions in support of the proposal to reclassify were that the site is of historical importance and that the development of the land in a way that recognises its history is long overdue.
34. Heritage Bay of Plenty expressed their full support of the proposal to reclassify the reserve to enable the development of the Historic and Cultural Centre and is of the view that it is reflective of universal support from the entire Western Bay heritage sector to which their organisation is closely aligned and representative of.

STRATEGIC / STATUTORY CONTEXT

35. Council has proposed the reclassification of the Land because it wishes to facilitate the proposal received from Ngai Tamarāwaho and the Pukehinahina Charitable Trust to develop the Land for the purposes of a Cultural and Historic Centre. It is anticipated that the development of a Cultural and Historic Centre will be beneficial to the community as it will provide economic, educational and tourism opportunities.
36. The historic reserve classification best suits the Land, not only because of its historical significance but also because the lease provisions in s58 of the Reserves Act 1977 contemplate the carrying on of commercial activities by a tenant on the Land. This would facilitate a café or function area incidental to the primary cultural centre purpose.
37. Council is required to notify the public of the proposal to reclassify part of the reserve in accordance with section 24(2)(b) of the Reserves Act 1977. If, following public notification Council decides to proceed with the reclassification it is to notify the Minister of Conservation

of its resolution to do so. If objections are received, Council is to forward the objections to the Minister for consideration. The Minister’s function in this regard is limited to offering advice as to how to proceed based on the objections received. Council has the final decision as to whether to proceed with the reclassification having given the objections reasonable consideration.

- 38. Should Council resolve to reclassify the reserve, the Minister is then required to place a gazette notice to confirm the reclassification. Council has the delegated authority to perform the Minister’s functions in this instance.
- 39. When interpreting the Reserves Act 1977, the provisions of the Conservation Act 1987 are to be applied, as they are both DoC administered Acts. In particular, section 4 of the Conservation Act 1987, stating that the Act is to be interpreted to give effect to the principles of the Treaty of Waitangi (partnership, participation, and protection) is to be applied to the interpretation of the Reserves Act 1977. To do this, Council is required to consult with tangata whenua.

Tauranga Reserves Management Plan

- 40. The site is included within the Tauranga Reserve Management Plan (TRMP). All proposals for development of reserves must be assessed against the TRMP for consistency. Where a proposal is not consistent, either the proposal must be modified, the TRMP must be amended to accommodate the proposal, or often a mixture of both whereby a modified proposal is supported by amendments to the TRMP.
- 41. Using the limited information available about the proposal for the Cultural and Historic Centre, staff have undertaken an initial assessment against the TRMP to check for consistency. This indicates that some elements of the proposal are consistent, whilst some will need further development to be able to make an assessment. Staff will work closely with Ngai Tamarāwaho to develop the proposal, and regularly review this assessment. This will inform the final design and use, as well as potential amendment to the TRMP.

Te Papa Spatial Plan

- 42. The Land is located within the geographical area covered by Te Papa Spatial Plan. This plan sets out the strategic direction for growth over the next 30 years. It considers how we will address our key challenges of population growth and housing choice, infrastructure pressure, transport options, cultural wellbeing and the local amenities needed to support our communities. It outlines the overall approach, priority areas of focus, anticipated benefits and required actions.
- 43. The development of a cultural centre at Gate Pā Recreation Reserve is consistent with the plan’s outcomes to: promote unique neighbourhoods that reflect the city’s unique culture and history; provide neighbourhoods that enhance accessibility to diverse and distinctive place and spaces; provide well used, quality spaces where people can meet and gather safely.
- 44. The plan includes a key action and a key project for the Pukehinahina area to undertake a feasibility study for the development of a (public) destination cultural centre to recognise and tell the story of Pukehinahina and its cultural significance.

OPTIONS ANALYSIS

- 45. **Option 1** – Do not approve the re-classification of the Land - this option retains the status quo.

(Not Recommended)

Advantages	Disadvantages
<ul style="list-style-type: none"> • Nil 	<ul style="list-style-type: none"> • Does not facilitate Ngai Tamarāwaho proposal and Council’s historic commitment to find a suitable site for the Cultural and Historic Centre. • Detrimental to relationships with iwi and hapū.

	<ul style="list-style-type: none"> Does not support implementation of the Tauranga Reserves Management Plan, and Te Papa Spatial Plan.
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Risks: That Council is unable to find an alternative site and reneges on its commitment to provide a place to Ngai Tamarāwaho a place for a Cultural and Historic Centre.

Financial implications: No changes to existing budgets.

Option 2 – approves the re-classification.

(Recommended)

Advantages	Disadvantages
<ul style="list-style-type: none"> Facilitates Council’s obligations under the 1999 MOU. Facilitates Ngai Tamarāwaho proposal. Supports implementation of the Tauranga Reserves Management Plan, and Te Papa Spatial Plan. 	<p>A sector of the community disagrees with the reclassification.</p>

Risks: Possibly some ongoing community opposition to decision

Financial implications: No changes to existing budgets. Minor expenditure to complete the LINZ registration to affect the reclassification.

LEGAL IMPLICATIONS / RISKS

- The process to reclassify a reserve, as set out in the Reserves Act 1977, has been adhered to.
- If the resolution to confirm the reclassification is passed, a copy of this resolution together with a copy of the objections received and Council’s response to them will be forwarded to DoC for consideration. In this instance, DoC will only be acting in an advisory capacity as the power to reclassify a reserve in accordance with section 24 of the Reserves Act 1977 has been delegated to Council.

CONSULTATION / ENGAGEMENT

- Consultation regarding the proposal to reclassify the Land has been carried out in accordance with the requirements of the Reserves Act and Council’s Significance and Engagement Policy.
- The public, tangata whenua and other key stakeholders have been notified and consulted with in terms of the proposal to reclassify the Land.
- No additional consultation or notification is required prior to a decision being made to proceed with or abandon the reclassification.
- Staff have discussed the proposal with the Department of Conservation (**DoC**) who have provided written confirmation that they are supportive of the proposed reclassification of the reserve (**Attachment 4**).

SIGNIFICANCE





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

NEXT STEPS

55. If the proposed reclassification is confirmed, officers will send the resolution, the objections and deliberation material to DOC as required by the s24(2)(c) of the Reserves Act.
56. Council's Chief Executive will confirm the reclassification using the powers delegated in the Territorial Authority Delegation Instrument by way of notice in the NZ Gazette.
57. If the reclassification is successful, Council will have the ability to lease the Land to Ngai Tamarāwaho in accordance with s58A of the Reserves Act 1977 (leasing powers in respect of historic reserves). While the lease may only be granted with the prior consent of the Minister of Conservation, Council has been delegated this power under the 2013 Reserves Act Delegations.
58. Details of the proposed lease will be set out in a further report to Council and prior to the granting of the lease, Council will need to notify the public of its intention to lease the land in accordance with s58A (2) of the Reserves Act.
59. Staff will communicate directly with the key stakeholders as the proposal to develop and use the Land for the Cultural and Historic Centre progresses. This will include the carpark which will be developed on the balance of the reserve, the location of which is yet to be confirmed.
60. Opportunities also exist to significantly enhance the balance of the reserve, enhance public utilisation and to provide story telling opportunities in terms of the history of the area, with regards to the Battle of Gate Pā Pukehinahina. Council will work with mana whenua, Heritage New Zealand, DoC, the Gate Pa Tennis Club, and the community to create a vision for the enhancement of the balance of the reserve that celebrates its history and makes it a destination for the community and visitors to Tauranga.

ATTACHMENTS

1. **Submissions received in response to consultation - A14189954** [↓](#) 
2. **Late Submissions Received - A14231395** [↓](#) 
3. **Survey Plan SO 584235 - A14150733** [↓](#) 
4. **Correspondence with DoC - Supporting Proposed Reclassification - A14217766** [↓](#) 

11.2 Civil Defence Emergency Management Controller Endorsement

File Number: A14178694

Author: Barbara Dempsey, General Manager: Community Services

Authoriser: Barbara Dempsey, General Manager: Community Services

PURPOSE OF THE REPORT

1. The purpose of this report is to recommend the appointment of a Local Controller for the Tauranga City Council.

RECOMMENDATIONS

That the Council:

- (a) Receives the report "Civil Defence Emergency Management Controller Endorsement".
- (b) Endorses the following nomination for Tauranga City Council's Local Controller:
 - (i) Sarah Omundsen – General Manager: Regulatory & Compliance
- (c) Transfers the resolution into the open section of the meeting at the conclusion of the Council meeting.

DISCUSSION

Appointment of Local Controllers

2. The nomination and appointments of Local Controllers for Tauranga City Council is a legislated empowerment under the Civil Defence Emergency Management Amendment Act 2016 (the Act), namely

S.27A Civil Defence Emergency Management Group may appoint 1 or more persons to be a Local Controller, and direct that person or persons to carry out any of the functions and duties of, or delegated to, the Group Controller of the Group and to exercise the powers of Controllers in the area for which the Group Controller is appointed, including, but not limited to, the powers in sections 86 to 94 (of the Act).
3. The specific functions and powers of a Local Controller are delegated via the Bay of Plenty CDEM Group Joint Committee through the 5-yearly Bay of Plenty CDEM Group Plan.

Requirement for Local Controllers

4. Tauranga City Council requires a minimum of 3 appointed and suitably trained Controllers. All Controllers need to be appointed as a Local Controller to lead a CDEM emergency event in Tauranga City and to support a CDEM emergency event in any other Territorial Authority area of the Bay of Plenty CDEM Group.
5. Paul Davidson (Chief Financial Officer), Nigel McGlone (Manager: Environmental Regulation), Sam Fellows (Acting Manager: Legal, Risk & Procurement) and Mike Naude (Director of Civic Development) are currently appointed as Controllers and will retain their appointments.

Nominated Controller

6. The appointment of a further Controller will provide essential capacity and capability to enable a response to local emergencies.

7. The nominee has substantial relevant experience and knowledge. Relevant career synopsis is as follows:
- (a) Sarah Omundsen has recently come from Bay of Plenty Regional Council, where she fulfilled the role of alternate Group Controller, Sarah has completed the required Emergency Management training and is part way through the RRANZ course, a required course for those fulfilling the role of Controller and/or Recovery Manager.

SIGNIFICANCE

8. Under the Significance and Engagement Policy, these decisions are of low significance.

ATTACHMENTS

Nil

11.3 Temporary Road Closure Report 2022 2023 Addendum 2

File Number: A14113352

Author: Lindsay Cave, Team Leader: Corridor Access & Temporary Traffic Management
Jenna Quay, Events Facilitation Manager

Authoriser: Nic Johansson, General Manager: Infrastructure

PURPOSE OF THE REPORT

1. To seek Council approval of temporary road closures for upcoming events.

RECOMMENDATIONS

That the Council:

- (a) Receives the report "Temporary Road Closure Report 2022 2023 Addendum 2".
- (b) Pursuant to Clause 11(e) of the Tenth Schedule of the Local Government Act 1974, grants approval to close the roads and car parks listed on Attachment A to ordinary vehicular traffic on the dates and during the hours stated for the purposes of facilitating safe and successful operations during the following events in Tauranga.

EXECUTIVE SUMMARY

2. Pursuant to Clause 11(e) of the Tenth Schedule of the Local Government Act 1974 this report seeks the Council approve the temporary road closures associated with events and activities in Tauranga.
3. Temporary road closures:
 - (a) **Bay Dreams**
Truman Lane from SH29A to Mangatawa Link Road from 7am Tuesday 3 January to 7am Wednesday 4 January 2023.
 - (b) **Juicy Festival**
Truman Lane from SH29A to Mangatawa Link Road from 7am Friday 6 January to 7am Saturday 7 January 2023.
4. The road closures aim to provide safe and well-organised events for public to attend, protect competitors, manage the transport network and minimise impacts to residents and businesses while events are taking place.
5. The organiser of each event will:
 - Undertake engagement with affected residents and businesses prior to the event occurring.
 - Submit a temporary traffic management plan for approval as part of the overall event approval process. This plan stipulates all traffic signage indicating sections of roads or carparks closed, alternative detours and, any other appropriate signage for traffic control and advance warning of road closures in accordance with the Code of Practice for Temporary Traffic Management (CoPTTM).

BACKGROUND

6. Temporary road closures had previously been approved by Council on 15 August 2022. These new closures are required after operational planning meetings were undertaken for

these events and play an important role to ensure the safety of event participants and the public is maintained.

7. Road closures allow for safe access to, during and from events by creating separation of traffic from pedestrians. Event activities are managed within any City Plan, resource consent and corridor access approval conditions which include requirements such as noise management and communication plans.

STRATEGIC / STATUTORY CONTEXT

8. Tauranga City Council has the authority to close roads under the powers of the Local Government Act 1974 – Clause 11(e) of Schedule 10.

LEGAL IMPLICATIONS / RISKS

9. The formal approval of road closures by the Council is part one of a two-part approval process.

In addition to seeking this approval under the Act part two requires a warranted Site Traffic Management Supervisor (STMS) to submit a traffic management plan (TMP) to the Corridor Access team who has delegated authority as a Traffic Management Coordinator (TMC) to review and approve a temporary road closure in accordance with the Code of Practice for Temporary Traffic Management (CoPTTM).

The traffic management contractor has a duty to ensure so far as reasonably practicable the safe and efficient movement of all road users through and around the working space. This requires a risk assessment be completed prior to the implementation of a traffic management operation.

CONSULTATION / ENGAGEMENT

10. All temporary road closures must be publicly notified by Tauranga City Council allowing a 21-day period for the public to submit comments. Any objections must be considered by the Committee before making a decision on the requested temporary road closure.
 - (a) The temporary road closures were publicly notified on 28 October 2022 in the Bay of Plenty Times.
 - (b) The consultation period finished on 18 November 2022. Staff to advise if any objections have been received at the Council meeting on 12 December 2022.

SIGNIFICANCE

11. Under the [Significance and Engagement Policy 2014](#), these decisions are of low significance and do not require public consultation.

ATTACHMENTS

Nil

11.4 Backflow Prevention Device Installation Cost Recovery

File Number: A14214334

Author: Jack Furnish, Water Engineer

Authoriser: Nic Johansson, General Manager: Infrastructure

PURPOSE OF THE REPORT

1. The purpose of this report is for Council to consider options for the recovery of costs associated with installing the correct level of backflow prevention device at specific properties.

RECOMMENDATIONS

That the Council:

- (a) Receives the report "Backflow Prevention Device Installation Cost Recovery".
- (b) Approves Tauranga City Council installing the required backflow prevention device and on-charging the full costs of the device and installation back to the customer.

BACKGROUND

2. In November 2021, the government introduced the Water Services Act 2021 (WSA). Its main purpose is to ensure that drinking water suppliers provide safe drinking water to consumers. One of the significant changes for Council was the introduction of clear and stringent requirements for backflow management. The WSA also replaced the Health Act as the primary legislation that governs backflow¹ management in New Zealand and gives Councils more responsibility and direction for managing backflow.
3. To accompany the new legislation, the new water services regulator, Taumata Arowai, have introduced a suite of *Assurance Rules*² which sets out the requirements relating to the performance of water supplier duties under the Act. These rules provide the minimum requirements drinking water suppliers must comply with to demonstrate they are supplying safe drinking water.
4. These newly introduced rules will affect the way that Council manage backflow assets and processes. The rules came into force on 14 November 2022. An assessment has been undertaken to determine the status of compliance with the rules. This assessment has concluded that Council generally complies with the rules. Where a noncompliance has been identified a series of actions are proposed to achieve compliance.
5. The paper is being brought to Council to evaluate the preferred option of cost recovery / funding method to employ when backflow prevention devices require upgrading.

STRATEGIC / STATUTORY CONTEXT

6. The Council's legal responsibilities regarding backflow are set out in the Water Services Act 2021, as well as the Drinking Water Quality Assurance Rules 2022.

¹ The WSA defines backflow as 'the unplanned reversal of flow of water or mixtures of water and contaminants into the water supply system'.

² <https://www.taumataarowai.govt.nz/assets/Uploads/Rules-and-standards/Drinking-Water-Quality-Assurance-Rules-2022-Released-25-July-2022.pdf>

7. Council also has a Water Supply Bylaw. The bylaw requires property owners that connect to Council's water supply to have an appropriate backflow prevention device, based on the activity on the premises. Once installed the device is vested to Council and Council are responsible for any annual checks, maintenance, and replacement. This arrangement ensures that our backflow protection devices are well tested and maintained. If a property owner changes the activities they undertake on the premises, they are required to notify Council so the assessment of backflow risk can be updated. Currently, if a higher level of backflow prevention device is required, the property owner is responsible for the cost of having the device upgraded.
8. All water connections generally have some form of backflow prevention device. Typically this is a non-testable dual check device for residential properties with low risk (about 50,000 devices installed) with higher levels of backflow protection required for properties with identified medium or high hazards on the site.

DISCUSSION

9. One of the specific provisions for Council to consider regarding backflow is section 27 of the WSA which sets out a duty to protect against the risk of backflow. This section also includes an option for Council to consider in terms of who installs a suitable backflow prevention device.

10. The wording of section 27 is as follows:

Section 27 – Duty to protect against the risk of backflow

If a drinking water supply includes reticulation, the drinking water supplier must ensure that the supply arrangements protect against the risk of backflow.

If there is a risk of backflow in a reticulated drinking water supply, the drinking water supplier may—

install a backflow prevention device and require the owner of the premises to reimburse the supplier for the cost of installation, maintenance, and ongoing testing of the device; or require the owner of the premises to install, maintain, and test a backflow prevention device that incorporates a verifiable monitoring system in accordance with any requirements imposed by the supplier.

A person who installs a backflow protection device must take all reasonable steps to ensure it operates in a way that does not compromise the operation of any fire extinguisher system connected to the drinking water supply.

11. As indicated all water connections generally have some form of backflow prevention device with the majority (about 50,000) being low risk devices.
12. There are approximately 5,000 testable backflow prevention devices across the city. There are different types of prevention devices required for different levels of backflow risk. In situations where the risk is greater from a potential backflow event there is a greater level of protection required, as per below
 - (i) Low Risk – Dual Check Valve
 - (ii) Medium risk – Testable Double Check valve
 - (iii) High risk – Reduce Pressure Zone Device or Air Gap
13. As required as part of the Drinking Water Quality Assurance Rules 2022 a backflow surveying programme is being prepared and incorporated into Council's risk management approach. It is intended that this programme will be incorporated into the maintenance contract and will include training, data capture and customer communications.
14. It is anticipated that the survey will identify some properties which do not have an appropriate device in place. It is not fully understood how many devices are going to require upgrading, with estimates not possible without delving into large scale onsite surveying to provide accurate datasets. The outcome of the surveys could be the upgrading of devices from low to

medium risk requirements (e.g. where a swimming pool identified at a residential property), or from low / medium to high risk (e.g. Commercial property with a tenant currently dealing with hazardous chemicals on site).

15. Annual testing costs and other aspects that have a financial impact are to be reviewed. This review may result in changes to the fees and charges schedule as part of the next LTP process.

OPTIONS ANALYSIS

16. The following options are set out for Council to consider. Based on the requirements of s27 of the Water Services Act, Council can either:

OPTION 1 - Install the required backflow prevention device and on charge the full costs of the device and installation back to the customer in a lump sum sundry invoice.

OPTION 2- Instruct the customer to install the required backflow prevention device within a reasonable timeframe (depending on the risk) using their preferred approved contractor.

OPTION 3- Install the required backflow prevention device and fund the full costs of the device and installation from Council budgets.

The advantages and disadvantages of each option are set out below.

17. Option 1 (preferred option)

Tauranga City Council will install the required backflow prevention device and will on charge the full costs of the device and installation back to the customer in a lump sum sundry invoice.

Tauranga City Council will provide a quotation to the customer prior to carrying out the physical works.

18. The advantages and disadvantages of this option are set out below.

Advantages	Disadvantages
<ul style="list-style-type: none"> • Council has a high level of control over the installation of a suitable backflow prevention device. • Council has an advantage pricing via a maintenance contractor, and built-in processes in the Maintenance contract enable cost savings to be passed back to the customer • Best aligns with the intent of Quality Assurance Rules by ensuring the drinking water supplier corrects the risk in a timely manner. • Legislation enables full cost recovery from the user. 	<ul style="list-style-type: none"> • Customer may not be in a position to pay an unexpected invoice in one lump sum. • The owner of the premises may be concerned that the installation cost is too high. • The customer may perceive that councils quote is not cost competitive. • Council responsible for any unpaid debts and adds to staff time input. • This is not the current practice of Council (as noted above).

19. Option 2 (Not Preferred)

Tauranga City Council will instruct the customer to install the required backflow prevention device within a reasonable timeframe (depending on the risk) using their preferred approved contractor.

The device, once installed, will subsequently be vested with Tauranga City Council.

20. The advantages and disadvantages of this option are set out below.

Advantages	Disadvantages
<ul style="list-style-type: none"> • The owner of the premises may be able to find alternative means of payment or split the payment over several months. • Customer may perceive costs to be fairer as they are able to obtain multiple quotes. • Council divorced of cost recovery/payments 	<ul style="list-style-type: none"> • Installation of the required backflow device is out of Council control and may breach the Council's legislative requirements as a Water Supplier which requires Council to ensure protection from backflow risk within a reasonable timeframe. • Customer will incur additional processing costs by having third party contractor complete installation (e.g. bond, asset inspection). • Lack of capable contractors to complete installations due to current market pressures. • Previous Council experience shows that customer lead install tends to result in long delays.

21. Option 3 (not preferred)

Tauranga City Council will install the required backflow prevention device and will fund the full costs of the device and installation from Council budgets. This would require additional funding through the LTP process and could be recovered either via a specific backflow prevention device user charge or the water rates and would require additional review if this option is selected.

22. The advantages and disadvantages of this option are set out below.

Advantages	Disadvantages
<ul style="list-style-type: none"> • Best outcome for Customer as they will not be charged, and less administration given less customer engagement/conflict • Council has a high level of control over the installation of a suitable backflow prevention device. • Council have an advantage pricing via a maintenance contractor, and built-in processes in the Maintenance contract enable cost savings to be passed back to the customer • Best aligns with the intent of Quality Assurance Rules by ensuring the drinking water supplier corrects the risk in a timely manner. 	<ul style="list-style-type: none"> • Unbudgeted cost to council. • Option not backed by Council Finance team who see this requirement as a user pays scenario. • Could be perceived as being unfair to subsidise the few for what is a legal requirement (goes against user pays philosophy)

FINANCIAL CONSIDERATIONS

The financial considerations below are those associated with the preferred option of the Council installing the upgraded device and directly invoicing the customer.

23. The customer will receive from Council a lump sum sundry invoice for the cost of supply and install of the required device. Initial estimates indicate costs could range from a minimum of \$1000, to over \$10,000 depending on the complexity, location, and size of device. This is a high-level cost estimate for devices 50mm and below. For larger devices, or those in more complex situations, the costs will have to be determined as required.
24. The Finance Team has provided support for this option and note that this is a standard practice undertaken by Council. Any non-payment of the invoice will be directed to debt collection as per Council's standard practice.
25. The preferred option does not allow for any type of payment plan to help spread the payments for the customer.

LEGAL IMPLICATIONS / RISKS

26. Backflow risk has been recognised by the Water Regulator as a significant risk and is a prominent aspect of the Water Services Act and the Quality Assurance Rules. Water Suppliers have defined requirements to protect against backflow risk. If Council do not adequately enforce the Quality Assurance Rules, Council as the Water Supplier will be held liable.
27. Failure to adequately manage the backflow risk, and which results in a backflow event, has significant public health and financial implications to council as a water supplier.
28. The customer and the wider community in general may be unaware that they are carrying a backflow risk, due to backflow being a poorly understood aspect of drinking water safety in the public domain. There will be instances of opposition to passing on of installation costs that poses a political/public perception risk to council.
29. In the event that a customer does not pay the sundry invoice for the installation of the required backflow prevention device, the debt may be passed on to a debt collection agency. Further non-payment could end in legal proceedings as Council look to recover costs.

CONSULTATION / ENGAGEMENT

30. Taking into consideration the above assessment, that the decision sought within this report is considered to be of medium significance, it is proposed that some form of communication and engagement with the owners of properties in high-risk zones be undertaken e.g., industrial, and commercial.
31. City Waters are working with the Council Communications team to create an engagement strategy to communicate with our customers who may be affected. Upfront communications are to be made to give advanced warning of the processes being implemented and give customers the opportunity to proactively assess and address any backflow risk on their connection. This strategy involves:
 - Updating Council's website with information which aligns to the new legislative requirements
 - Upfront communications (letter/email etc) made to immediately effected high risk customers (tenants and owners)
 - Engagement with community groups (e.g. Chamber of Commerce, Plumbers, Developers, Property Management Organisations)
32. The Strategy will also lay out how communications are to be made throughout the rest of the process of surveying and upgrading backflow devices through to cost recovery.

SIGNIFICANCE

33. 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.
34. 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.
35. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the matter is of medium significance.

NEXT STEPS

1. Approved direction of action from Council given to Project Team
2. Update council website with approved process required to meet legislative requirements
3. Confirm resourcing and costing of Downer NZ under existing Maintenance Contract
4. Engagement with owners of properties in high-risk zones e.g., industrial, and commercial.
5. Plan sequencing of physical surveys

ATTACHMENTS

1. **Extract from Quality Assurance Rules for Backflow Protection - A14233073** [↓](#) 

11.5 Letters of Expectation 2023-2024 for Council-Controlled Organisations

File Number: A13874333

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PURPOSE OF THE REPORT

1. The purpose of this report is to confirm the Letters of Expectation for 2023-2024 from Tauranga City Council to three of its council-controlled organisations.

RECOMMENDATIONS

That the Council:

- (a) Receives the report "Letters of Expectation 2023-2024 for Council-Controlled Organisations".
- (b) Approves the Letter of Expectation from Tauranga City Council to Bay Venues Limited (Attachment 1).
- (c) Approves the Letter of Expectation from Tauranga City Council to Tauranga Art Gallery Trust (Attachment 2).
- (d) Approves the Letter of Expectation from Tauranga City Council to Tourism Bay of Plenty (Attachment 3), noting that Western Bay of Plenty District Council, as joint shareholder, will take a separate letter to their Council meeting on 8 December 2022.

EXECUTIVE SUMMARY

2. Letters of Expectation for three of Tauranga City Council's (TCC) six council-controlled organisations, Bay Venues Limited (Bay Venues), Tauranga Art Gallery Trust (TAGT) and Tourism Bay of Plenty (TBOP), are attached for Council's approval.
3. These provide guidance to the council-controlled organisations on what Council expects to see in their Statements of Intent for 2023-2024.

BACKGROUND

Legislative requirements for council-controlled organisations

4. Part 5 of the Local Government Act 2002 sets out the statutory regime for council-controlled organisations. The key components are:
 - appointment of directors/trustees
 - consideration of the draft statement of intent and providing comment
 - regularly monitoring council-controlled organisation's performance
 - including the council-controlled organisation's objectives and performance in the council's long-term plan, annual plan, and annual report.
5. Under the Local Government Act legislative framework, Council has minimal opportunity for input into a council-controlled organisation's planning for the following year, until the draft Statement of Intent has been completed and submitted to Council, at which point Council has two months to respond.

6. A number of councils take a more proactive approach, working collaboratively with their council-controlled organisations and providing them with clear guidance at the early stages of the annual planning process. This helps ensure that the council-controlled organisation's objectives and strategies are aligned with the councils, and is particularly important when council-controlled organisations deliver significant services on its behalf.
7. Since 2014, TCC has worked proactively with its council-controlled organisations to set clear expectations and to develop expectation documents, in particular, the over-arching Enduring Statement of Expectations and the annual Letter of Expectations. The Letter of Expectations outlines key areas of focus for the council-controlled organisations for the following year, usually linked to strategic priorities for the city.
8. This process has been focused for those council-controlled organisations that TCC has significant control over i.e. Bay Venues, TAGT and TBOP (joint shareholder with Western Bay of Plenty District Council). An Office of the Auditor General Report in 2015 cited this process as an exemplar of best practice when dealing with, and managing council-controlled organisations.

Letters of Expectation for 2023-2024

9. Letters of Expectation for each of the three main council-controlled organisations have been developed in consultation with staff. These have been socialised with the Commissioners and the council-controlled organisations, and are provided as attachments to this report.
10. The Review of Strategic and Operational Alignment of TCC with its council-controlled organisations (Pedersen, February 2020) recommended that:
"Pending the development of new strategies, and to the extent that is possible, annual letters of expectation of the council-controlled organisations specify desired outcomes rather than outputs or tasks."
11. Given that the City Vision and TCC's own strategic direction have been confirmed since the previous Letters of Expectation, this year's letters have a focus on linking the three pillars of the City Vision to Council's community outcomes, which are relevant to the areas of service that the council-controlled organisations deliver on behalf of council, being arts and culture, tourism, recreation, sport, and events.
12. For Bay Venues, there is a specific request for a continuation of the Board's commitment to implementing the remaining two out of the original ten recommendations of the recent McGredy Winder Strategic Review.
13. This year's Letters of Expectation also particularly encourage accountability and transparency in decision-making, increased diversity and accessibility, efficient use of public funds, tangata whenua partnerships, and managing the balance between social, economic, cultural and environmental wellbeing of our communities.
14. In addition, there is a specific note about the work underway between Council and our council-controlled organisations to identify opportunities for operational efficiencies through shared service delivery models.
15. The Pedersen Review (2020) recommended:
"That the concept of the Council and its council-controlled organisations being part of a 'TCC Group' that has common desired community outcomes, be the overarching principle of accountability documents and interactions between the respective organisations."
16. There is an expectation that our council-controlled organisations work with us on the development of a Tauranga city brand, and we expect all council-controlled organisations to actively seek opportunities to utilise the Tauranga City Council logo, and promoting us as the main contributor to operating costs.
17. Council expects that the strategic priorities contained in these Letters of Expectation will be reflected by the Boards of our council-controlled organisations in their Statements of Intent. These should be supported by a realistic number of performance indicator measures where appropriate, which should help tell the story of the value back to Council and the community.

STRATEGIC / STATUTORY CONTEXT

- 18. While not a legislative requirement under the Local Government Act (2002), when combined with the Enduring Statement of Expectations, the Letter of Expectation is a key document that Council provides clear guidance to its council-controlled organisations.
- 19. The Letters of Expectation help ensure that the council-controlled organisation’s objectives and strategies are aligned with Council’s, by providing key areas of focus that Council expects to see reflected in their Statements of Intent.

OPTIONS ANALYSIS

Option 1: Approve the Letters of Expectation – RECOMMENDED

- 20. Council approves the Letters of Expectation for the council-controlled organisations.

Advantages	Disadvantages
<ul style="list-style-type: none"> • Council-controlled organisations are part of the TCC group and are expected to operate in ways which contribute to the success of the group as a whole. • The community outcomes that are delivered by services provided from the council-controlled organisations assist Council to achieve the community outcomes and four wellbeing’s prioritised through the Long-term Plan. 	<ul style="list-style-type: none"> • Nil

Option 2: Do not approve the Letters of Expectation – NOT RECOMMENDED

- 21. Council does not approve the Letters of Expectation for the council-controlled organisations.

Advantages	Disadvantages
<ul style="list-style-type: none"> • Nil 	<ul style="list-style-type: none"> • Council may not be able to achieve its Long-term Plan community outcomes. • Lack of strategic direction, leading to a potential negative impact on Council’s relationship with its council-controlled organisations, who have undergone significant improvement through greater collaboration this year.

FINANCIAL CONSIDERATIONS

- 22. There are no financial considerations.

LEGAL IMPLICATIONS / RISKS

- 23. There are no legal implications or risks.

CONSULTATION / ENGAGEMENT

- 24. Community consultation or engagement is not required or appropriate for this matter.

SIGNIFICANCE

- 25. 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.

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

ENGAGEMENT

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

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

NEXT STEPS

29. Once adopted, the Letters of Expectation will be incorporated into an official letter to each council-controlled organisation, signed by the Commission Chair and delivered to the Chair of each council-controlled organisation by email.
30. A separate Letter of Expectation for TBOP will go for approval by the Western Bay of Plenty District Council, as joint shareholder, at their Council meeting on 8 December 2022.
31. The Letters of Expectation are intended to inform the council-controlled organisations' draft Statements of Intent, which are due to Council on 1 March 2023.
32. Council must then provide feedback on the draft Statements of Intent to the council-controlled organisations by 1 May 2023. The final Statements of Intent must be adopted by the council-controlled organisation boards and submitted to Council by 30 June 2023.

ATTACHMENTS

1. **Bay Venues Letter of Expectation for 2023-24 - A14106488** [↓](#) 
2. **Tauranga Art Gallery Trust Letter of Expectation for 2023-24 - A14191358** [↓](#) 
3. **Tourism Bay of Plenty Letter of Expectation for 2023-24 - A14106486** [↓](#) 

12 DISCUSSION OF LATE ITEMS

13 PUBLIC EXCLUDED SESSION

RESOLUTION TO EXCLUDE THE PUBLIC

RECOMMENDATIONS

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

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

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48 for the passing of this resolution
<p>13.1 - Public Excluded Minutes of the Council meeting held on 2 November 2022</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)(c)(i) - The withholding of the information is necessary to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied</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>
<p>13.2 - Public Excluded Minutes of the Council meeting held on 7 November 2022</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)(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</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>

	<p>commercial position of the person who supplied or who is the subject of the information</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)(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>13.3 - Appointment of Board Members to the Boards of Tauranga Art Gallery Trust and Tourism Bay of Plenty</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)(c)(i) - The withholding of the information is necessary to protect information which is subject to an obligation of confidence or which any person has been or could be compelled to provide under the authority of any enactment, where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied</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>
<p>13.4 - Appointment of Commissioner(s) and List Member(s) for Tauranga City Council District Licensing Committee</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>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>

14 CLOSING KARAKIA