

# Insurance

## General Background

Insurance covers council for unexpected events.

Our insurance is arranged through a broker (currently Aon) in conjunction with all of the other BOPLASS Council's. The broker (Aon) then arranges insurance with various insurance companies and will assist Council with any claims.

Every three years BOPLASS' Council's will either renew the broker contract or put out to tender; if Council's are satisfied with the broker after the initial term, the broker contract can be renewed without tender for another three/five years, renewal without tender can only occur once.

Most insurance is arranged through insurance companies that operate on a global scale. New Zealand makes up (in the vicinity of) 1-2% of the global insurance market. This means that TCC has little direct influence on the market (i.e. we are price takers).

Insurance is renewed from the first of November each year (insurance is an annual contract).

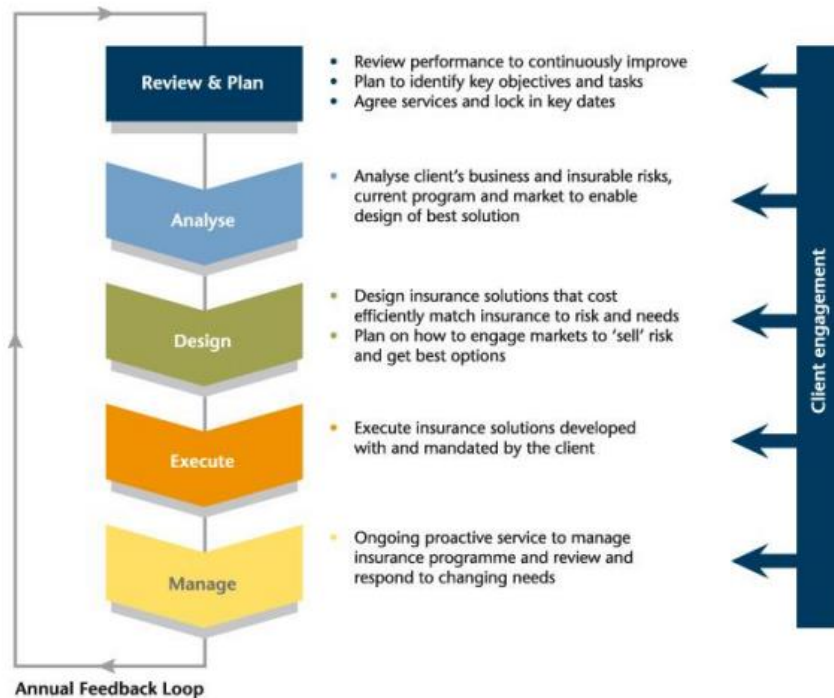


Table 1: Aon Service Methodology

Council also provides insurance services to our CCO's. Bay Venues Ltd (BVL) and Tauranga Art Gallery (TAGT). We then invoice them for their share of costs.

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## 1. Basic Information

### 1.1. Material Damage

This relates to Insurance on above ground assets. Above ground assets relate to all of councils normal building and contents. It includes treatment plants, pump-stations, reservoirs and bridges. It does not include roads (non-insurable). Total Assets covered under this policy is in excess of \$1.6B for 2024/25 year (including CCOs).

Basic insurance cover relating to damage to any asset. Includes theft, fire (Fire Service Levy (FSL)) earthquake (Earthquake Commission (EQC)) act of god etc.

Insurance doesn't cover roads (uninsurable) or underground assets – see Infrastructure cover below. There is an expectation that in the event of a significant event TCC is likely to have a significantly increased level of NZTA funding (as happened for the Christchurch earthquakes) which, along with money already budgeted for capital works (renewals and new roads) should mean that the financial impact or rebuilding the roading infrastructure should not be outside our means.

These assets are revalued every 3 years at the same time as building assets. They are valued at a specific insurance value (as opposed to Financial Valuation), which approximates the replacement cost of these assets..

Excess is \$25,000 (if a claim is less than excess then probably not worthwhile making unless third party did the damage)

### 1.2. Business Continuity

If a business is closed for a period of time, then this insurance will provide for ongoing operating costs.

Material damage schedule also shows the assets over which there is a specific Business continuity cover (including amount and duration). There is a \$6M general cover for Council as a whole.

Excess is \$25,000

### 1.3. Infrastructural (Underground) Assets

TCC's underground assets (pipe assets with a replacement value of around \$2.6b) have not been able to be covered under standard insurance.

Through TCC brokers (Aon) these assets are able to be insured through London. This is achieved through providing details of our assets and information in our GIS to Aon, who have used a model (developed by Tonkin & Taylor) to determine likely outcomes in various disaster scenario's. This determines Council's (and BOPLASS's) Maximum Probable Loss (MPL).

Earthquakes are the primary risk, and approximately 70% of the premium weightings relates to this risk. The Hikurangi Subduction Zone is a major risk that could invoke an 8.9 multitude earthquake, catastrophic to the North Island and the BOPLASS group. Flooding is the other significant risk, which incurs 20% premium weighting, with the last 10% being for other risks e.g. geothermal, tsunamis, volcanic (3-5%).

From this work we have obtained insurance quotes directly from the London market. This provides disaster cover only (i.e. natural hazards).

We are currently updating the advanced modelling information which will provide better understanding of potential losses in the event of a major disaster. This work incorporates the latest version of the New Zealand Seismic Hazard Model (NSHM22). However, based upon current scenarios, Council's current \$380M cover is sufficient.

An update to BOPLASS Councils total probability loss modelling is currently being pursued to ensure the group maximum of \$500 million is still appropriate, the policy provides for automatic reinstatement in the event of earthquake peril. The option to add an extra \$200M to the group cover obtained in 2024 indicated the extra premium would be approximately \$430,000. This option was not taken up pending review of the group as a whole.

The cover (\$500M for BOPLASS) is represented by the following sub-limits for each Council.

Council	Values (\$) as at 1 November 2024	2024 Limit (\$) including proposed
Tauranga City Council	3,600,973,525	380m
Rotorua District Council	1,069,247,669	250m
Whakatane District Council	675,422,601	120m
Gisborne District Council	661,710,977	350m
Western Bay of Plenty District Council	619,524,834	84m
Bay of Plenty Regional Council	533,419,648	130m
<b>Taupo District Council</b>	<b>522,129,093</b>	<b>90m</b>
Opotiki District Council	230,873,618	30m
Kawerau District Council	120,376,750	40m

**Table 2: Current sub-limits for BOPLASS Council's including Taupo District Council (NEW in 2025)**

The sublimit should more than cover TCC for a 1 on 500 Average Recurrence Interval (ARI) event and most (about 94%) of a 1 in 1,000 ARI event.

### 1.3.1.Crown 60/40

The current infrastructural insurance cover is based upon an understanding that central government would, in the event of a disaster, provide 60% of the cost of rebuilding underground assets if local government could demonstrate that they had provided for the other 40%. (Referred to as the 60/40 split).

The 60/40 split has in recent years after significant disaster been confirmed by the Crown (Christchurch Earthquake, Auckland Anniversary Floods, and Cyclone Gabrielle).

#### **1.4. Public Liability cover**

Council has a primary Public Liability cover of \$15m. Public Liability predominantly covers TCC in the event of a legal claim being made against us. The level of cover has been consistent since 2020.

Elected members and all staff are covered under this policy for any work they are doing in relation to Council business.

Excess is \$10,000

##### **1.4.1. Hall Hirers**

Within Council's Public Liability there is 'Hall Hirers' extension cover which provides cover for individuals, small community or sporting groups that may not have their own liability cover (under their Domestic Contents Insurance) when they are hiring a council property or venue. This means that the Council's PL policy would cover for them for any liability they may incur arising from their use of the Council property or venue while they are hiring or using it.

This extension of cover is only available to individuals and small community/sporting groups, other hirers would need to have their own PL policy in place (e.g. businesses, large organisations etc).

#### **1.5. Professional Indemnity cover**

Professional Indemnity is similar to Public Liability cover, but is linked to errors of professional judgement. This is where Council's have had significant exposure through building consent issues (e.g. leaky buildings and Bella Vista). Council has a primary Professional Indemnity Cover of \$15m.

There are now a significant number of exclusions from the policy (e.g. leaky buildings), but there are still a number of building claim faults that are still covered. For example, with the Cayman apartments claim, the leaky building issues had no insurance cover, but the building defects exposed when the leaky covering was removed were.

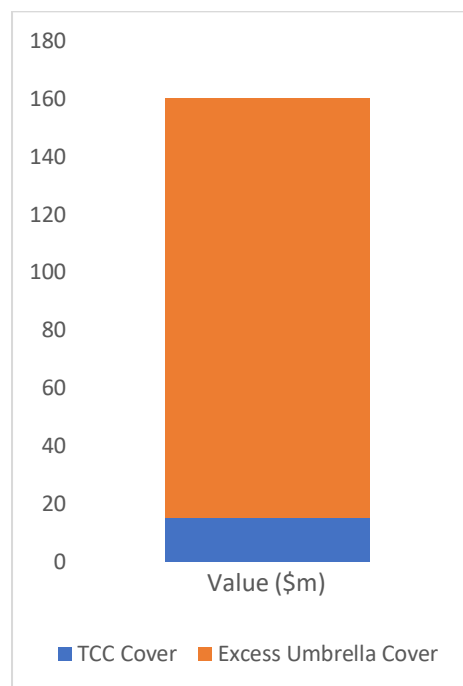
Excess is \$25,000

### 1.5.1. Limitation on Professional Indemnity Cover

From 1 November 2024 there is an additional limitation on this cover. For a group of 36 local authorities (excludes Auckland, Christchurch and Wellington) there is a limit of \$45M of cover in any one year. This is used up on a first come first served basis.

### 1.5.2. Umbrella Public Liability and Professional Indemnity cover

In order to provide cover for claims over \$15M our brokers (Aon) have arranged an umbrella cover for a number of Local Authorities (36) which will provide cover from \$15 up to \$160m. This umbrella cover is provided on a first come first serve basis and is shown below.



**Table 3: Umbrella cover provided in relation to PL and PI.**

This umbrella cover is provided by the same insurance companies (and in same proportion) as the standard cover.

### 1.5.3. Riskpool

In the late 1990's public liability/ professional indemnity cover for Council's in NZ became very difficult to obtain. The answer to this was a mutual liability entity (Riskpool) set up under Civic Insurance. Riskpool was a NZ mutual liability scheme, of which Tauranga City Council is a member.

TCC changed from Riskpool and now insures Public Liability as a standard insurance contract (under BOPLASS) with a commercial insurer. The Riskpool Scheme is now in wind down; however, the council has an ongoing obligation to contribute to the scheme should a call be made in respect of any historical claims (to the extent those claims are not covered by insurance), and to fund the ongoing operation of the scheme.

TCC has a potential liability to cover past claims in relation to Riskpool, as a result of a Supreme Court decision on 1 August 2023, it has been clarified that Riskpool now has liability for member's claim in respect of non-weather-tight defects. Riskpool has advised that it is working through the implications of the Supreme Court decision. TCC made a significant payment in November 2023.

## **1.6. Motor Vehicle Insurance**

TCC has extensive cover for all of its motor vehicle fleet. A schedule of TCC's vehicles is maintained by the fleet manager (cover includes both owned and leased vehicles). BVL's vehicles are also included in this policy.

Excess is 1% of vehicle insured value, minimum of \$500

### **1.6.1. Driver cover**

TCC coverage is pretty extensive. As long as the vehicle is being driven with the knowledge and permission of a TCC staff member (and they have valid drivers licence etc) then contractors and temporary staff can still be covered by the policy. Also covers insurance for hire cars.

## **1.7. Cyber Liability**

This covers TCC for the following:

- Business Interruption (cyber only)
- Hacker theft cover
- Third Party liability
- Costs to restore
- Breach consultation services
- Identity Theft
- Public Relations Expenses
- Network Extortion Coverage
- Data Forensics Expenses
- Forensic Services Costs

Since 2015/2016 TCC (through BOPLASS) has held cyber liability cover losses arising from cyber crimes. These are a growing threat and have had a significant impact on at least one Council within NZ but maintaining cyber liability cover is increasingly difficult.

Apart from Hacker Theft Cover and Forensic Services Costs (\$500K) the Policy Limit is \$1.5m. Excess is \$25,000.

## **1.8. Crime Cover**

This policy covers financial crimes committed by TCC staff.

Cover is \$2 M with a deductible of \$50,000.

### 1.9. Environmental Impairment Liability Insurance

This type of cover provides for Gradual damage caused by pollution over time, which is not covered by the standard public liability policy. It also includes cover for issues such as asbestos, which are specifically excluded from public liability cover.

This cover has been around for some time but has not used by TCC. Initially this was because the risks had not been considered high (especially with no landfills in use). We did look at getting this cover a couple of years ago, but the information requirements proved impractical (i.e. a detailed inventory of every land title TCC owned or controlled). We have had some indication that the requirements have become more practical and could relook at this in the coming years.

The final part of the Southern Pipeline (under the harbour and through Matapihi) was considered to be changing the level of risk in an extremely sensitive area. We arranged Environmental Liability cover in relation to this project.

### 1.10. Life Assurance Cover

TCC has a group life insurance policy established for permanent employees. This includes cover for personal accidents, terminal illness, and loss of life. This insurance comes at no cost to staff and covers all full and part time permanent employees who work a minimum of 15 hours per week and are under the age of 75. Staff are covered from the day they start at Tauranga City Council.

The cover provides a lump sum payment of \$100,000 paid to the staff member's estate upon death from all causes.

### 1.11. Other Insurance Covers

Insurance Type	Covers	Limit (\$M)	Excess
Employers Liability	Personal injury not ACC covered	\$1M *	\$1K
Statutory Liability	Total for defence costs and penalties arising from a statutory breach	\$2M *	\$10K \$25k H&S / RMA
Travel	Overseas Travel	\$2.5M *(various sublimits)	nil \$250 for mobile electronic
Marine Activity	Marine Precinct Business Activity	\$245k	\$1k
Forestry	Standing timber	\$2.7M	\$50K \$75k for Harvesting



Insurance Type	Covers	Limit (\$M)	Excess
Airport Owners	Legal liability from aircraft loss	\$75M	\$2.5K \$5k for aircraft
Directors Liability (BVL) **	Defence costs and penalties arising from breach	\$2M	\$2.5K
Combined Liability (TAGT) **	Defence costs and penalties arising from breach	\$1M	\$1K
Fine Arts **	Art Gallery collection	\$4.9M	\$750

Amounts per 2024/25 schedules & policies

\* Combined BOPLASS Limit

\*\* Recovered from CCOs

## 2. Insurance as part of Contract Tenders

Most contracts are tendered using a standard (3910) contract template. There are a number of options in relation to insurance. There are likely to be several questions around these that come up. You should principally deal with these by forwarding the query to our brokers (Aon currently) to get an answer.

### 2.1. Contract Insurance

Contract insurance covers the cost of fixing any damages to the contract works caused by the contractor.

Council staff arranging contract tenders need to be aware that many construction companies have had to make significant payouts (e.g. SkyCity convention centre) and are therefore putting significant limitations into contracts to reduce their liability. These need to be reviewed on a case by case basis. As noted above, you should principally deal with these by forwarding the query to our brokers (Aon currently).

There are two main ways of dealing with Contract Insurance

#### 2.1.1. Contractor arranged contract insurance

This is more common and means that the Contractor will need to take out the insurance cover and include this within their tender bid. It should cover the entire cost of the contract works.

#### 2.1.2. Principle arranged contract insurance

This is where TCC take out the contract insurance for the project. It is normally applicable only when the contract works are an addition to an existing structure. The risk is that the contractor could extensively damage an existing structure and this leads to a conflict between our normal material damage cover and the contract insurance as to who is liable. If we arrange the insurance as the principle (done when putting the tender together), it removes this risk.

If this is the recommendation then you will need to get the TCC contract manager to get in touch with the Aon contact to get the application forms. Any tenderers should be informed of this situation and should be able to reduce their tender prices accordingly.

## 2.2. Public Liability Cover

This covers the risk of the contractor getting sued in relation to their performance of the contract. We **always** get the contractor to arrange this (ie never use principle arranged insurance for public liability). We have some guidance from Aon as to the amount of insurance recommended.

Refer: Liability Issues Contractual and Indemnity Clauses 2016 – BOP LASS Guidance.

Extract from document

Look at risk



Depending on risk then consider limit

### Public Liability

- Low exposure operations minimum of \$2,000,000.
- Medium Exposure operations minimum of \$5,000,000
- High Exposure operations minimum of \$10,000,000

### Professional Indemnity

- Low exposure operations minimum of \$500,000.
- Medium Exposure operations minimum of \$1,000,000
- High Exposure operations minimum of \$5,000,000

Feel free to run suggestions past Aon for confirmation.

Special consideration needs to be given to sublimits, particularly vibration damage (the risk of damaging nearby houses when drilling etc) depending on the work being done. These can be set at lower levels than the main contract level. If vibration is potentially an issue you might want to talk to contract manager about extra procedures to put in place (e.g. photographing any house potentially impacted to identify current cracking).

Another consideration is contracts that have hotworks involved (e.g. welding). Contractors will need to provide information on the controls they have in place to prevent mistakes (e.g. setting fire to the works).

### **2.3. Professional Indemnity Cover**

This relates to situations where professional judgement is required. Things like design & build contracts. This covers for when an error in professional judgment. This type of cover is more common for professional services contracts. Use the same matrix as outlined above in Public Liability section.

We always get the contractor to arrange this. Same guidance from Aon as to the amount of insurance required as above.

### **2.4. Motor Vehicle and Plant**

Normally these are non-applicable for contracts. This is because, unless they are specialised vehicles or plant, it is pretty easy to get a replacement. An example of an exception was a beach grooming contract where a specialised piece of equipment was manufactured for the job.

## **3. Insurance on Professional Services Contracts**

For professional Services Contracts generally the only relevant cover is for Public Liability and Professional Indemnity. These should generally be treated the same as for Contract Insurance as outlined above. Professional Indemnity cover tends to be fairly important for Professional Service Contracts.

### **3.1. Contractors within TCC**

Where TCC cannot find an employee to fill a function and contracts an individual instead. These individuals can be pretty reluctant to go to the cost of obtaining Public Liability or Professional Indemnity cover (which at the end of the day protects them). We have accepted these individuals without cover in some circumstances. This tends to be where:

- They report to a TCC staff member (i.e. not responsible for decisions and do not direct the work they do).
- They do not have final decision making ability.

We would tend to require separate cover where:

- They are employed through an agency.
- They have other clients (non TCC).
- They are a separate GST registered entity.

## **4. Insurance Claims**

In general all insurance claims are handled by the legal team in conjunction with our brokers (currently Aon). Therefore generally just forward any claims/ questions to the legal department.

#### 4.1. Small Claims

We sometimes get very small claims from individual members of the public. Examples are bursting a car tyre in a pothole or a tree branch falling on car or tripping on a broken footpath. These are not insurance claims as they are too small (under TCC excess). However we can make a gratuity payment. This is the asset managers decision and needs to come from their operational budgets (not insurance codes).

Direct any such queries to the legal team (as above). They have a standard form that **must** be completed by anyone **before** we make a payment to them (basically agrees that payment is a full and final settlement).

### 5. Insurance Broker (Aon)

Rather than deal with insurance companies directly TCC obtains insurance through a broker. An insurance broker has the advantages of being experts in advocating on their clients behalf in negotiating insurance premiums. They also manage our claims processes far more efficiently than if we were trying to manage these directly.

We go through a tender process for a broker every five (5) years. This process is managed through BOPLASS for a large conglomerate of Local Authorities. Our most recent tender process was completed in 2019 and was won by Aon (who were the incumbents). Aon is a global organisation and has extensive experience with Local Government in NZ.

### 6. BOPLASS (Bay of Plenty Local Authority Shared Services)

BOPLASS is Council's shared services CCO and owned by all of the Councils in the Environment BOP area. TCC has purchased Insurance through BOPLASS since the 2009/10 financial year.

The larger value of assets insured and the greater geographic distribution of the assets is more attractive to insurance companies, who therefore offer lower premiums (on a per \$ of assets basis). We also have a combined cover for some items (e.g. public liability and fire service levy) which has had a significant impact in reducing premiums.

Those responsible for insurance at each Council get together with the brokers (Aon) about 2 or 3 times a year. This has been very useful to get a sharing of knowledge and expertise across this group. It also means that Aon tend to bring more 'experts' to the table than they probably would if they were holding 9 separate meetings each time.

All of TCC's Council Controlled Organisations get their insurance through this arrangement.