



AGENDA

Ordinary Council meeting Monday, 28 April 2025

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

Date: Monday, 28 April 2025

Time: 9.30am

Location: Bay of Plenty Regional Council Chambers
Regional House
1 Elizabeth Street
Tauranga

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

Marty Grenfell
Chief Executive

Terms of reference – Council

Membership

Chairperson	Mayor Mahé Drysdale
Deputy Chairperson	Deputy Mayor Jen Scoular
Members	Cr Hautapu Baker Cr Glen Crowther Cr Rick Curach Cr Steve Morris Cr Marten Rozeboom Cr Kevin Schuler Cr Rod Taylor
Quorum	<u>Half</u> of the members present, where the number of members (including vacancies) is <u>even</u> ; and a <u>majority</u> of the members present, where the number of members (including vacancies) is <u>odd</u> .
Meeting frequency	Three weekly or 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.
- To review and monitor the performance of the Chief Executive.

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 council-controlled organisation Boards of Directors/Trustees and representatives of Council to external organisations.
- Undertake all statutory duties in regard to Council-controlled organisations, including reviewing statements of intent and receiving reporting, with the exception of the Local Government Funding Agency where such roles are delegated to the City Delivery Committee. This also includes Priority One reporting.
- Consider all matters related to Local Water Done Well.
- Consider any matters referred from any of the Standing or Special Committees, Joint Committees, Chief Executive or General Managers.
- Review and monitor the Chief Executive's performance.
- Develop Long Term Plans and Annual Plans including hearings, deliberations and adoption.
- For clarity the Council will develop, review, undertake hearings of and deliberations on community submissions to bylaws as well as the adoption of the final bylaw.

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

3.1 Peter and Kate Mulligan - Cellphone Towers

ATTACHMENTS

Nil

3.2 A representative from the Waimapu Street Group - Cellphone Towers

ATTACHMENTS

Nil

3.3 Margaret Murray-Benge - Cellphone Towers

ATTACHMENTS

Nil

- 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 Extraordinary Council meeting held on 11 March 2025

File Number: A17901999

Author: Clare Sullivan, Team Leader: Governance Services

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

RECOMMENDATIONS

That the Minutes of the Extraordinary Council meeting held on 11 March 2025 be confirmed as a true and correct record.

ATTACHMENTS

1. Minutes of the Extraordinary Council meeting held on 11 March 2025



MINUTES

Extraordinary Council meeting Tuesday, 11 March 2025

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**MINUTES OF TAURANGA CITY COUNCIL
EXTRAORDINARY COUNCIL MEETING
HELD AT THE TAURANGA CITY COUNCIL, GROUND FLOOR MEETING ROOMS 1 & 1B, 306
CAMERON ROAD, TAURANGA
ON TUESDAY, 11 MARCH 2025 AT 10:00AM**

PRESENT: Mayor Mahé Drysdale, Deputy Mayor Jen Scoular, Cr Hautapu Baker, Cr Glen Crowther, Cr Rick Curach, Cr Steve Morris, Cr Marten Rozeboom, Cr Kevin Schuler, Cr Rod Taylor

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), Sarah Omundsen (General Manager: Regulatory & Compliance), Gareth Wallis (General Manager: City Development & Partnerships), Jim Taylor (Manager: Rating Policy & Revenue), Kathryn Sharplin (Manager: Finance), Tracey Hughes (Financial Insights and Reporting Manager) Clare Sullivan (Team Leader: Governance Services), Caroline Irvin (Governance Advisor).

Timestamps are included beside each of the items and relate to the recording of the meeting held on 11 March 2025 at [Council Website](#).

1 OPENING KARAKA

Cr Steve Morris opened the meeting with a karakia.

2 APOLOGIES

Nil

3 ACCEPTANCE OF LATE ITEMS

Nil

4 CONFIDENTIAL BUSINESS TO BE TRANSFERRED INTO THE OPEN

Nil

5 CHANGE TO THE ORDER OF BUSINESS

Nil

6 DECLARATION OF CONFLICTS OF INTEREST

Nil

7 BUSINESS

TIMESTAMP 13:09

7.1 Draft Budget and Rating Policy for the Annual Plan Consultation

Staff Paul Davidson, Chief Financial Officer
Kathryn Sharplin, Manager: Finance
Jim Taylor, Manager: Rating Policy & Revenue
Tracey Hughes, Financial Insights and Reporting Manager

Changes to recommendations:

- The Mayor moved a motion with changes to the recommendations in the report noting that staff and elected members were continuing to look for savings, to smooth out the allocation of the general rates between residential, commercial and industrial and to establish a working group to undertake a review of operational costs and service levels.

A MOTION WAS PROPOSED

Moved: Mayor Mahé Drysdale
Seconded: Cr Marten Rozeboom

That the Council:

- (a) Receives the report "Draft Budget and Rating Policy for the Annual Plan Consultation".
- (b) In respect of the draft operating budget and rates requirement for consultation:
 - (i) Agrees to an overall rates increase after growth arising from the proposed budget of 12.5% noting that this includes up to \$1.3m of placeholder budget savings to be identified in budgets prior to the adoption of the annual plan,
- (c) Agrees that the additional rates funded savings of \$8.3m (equivalent to 2.5% decrease in rates) to be considered for inclusion in the 2025/26 Annual Plan, with further savings targets pursued through the 2026/27 annual plan and subsequent annual or long term plans.
- (d) In respect of rating policy, agrees to continue with the Long-term Plan decision to move to a fixed proportion of the general rates for each rating category and change the proportions for the residential rating category to 65%, the Commercial rating category to 15% and the industrial rating category to 20% by the 2027/28 rating year.
- (e) Agrees for the 2025/2026 rating year the allocation of the general rates will be:
 - Residential category **66.5%**
 - Commercial category **14.3**
 - Industrial category 19.2%
- (f) Agrees the commercial and industrial rating category general rates allocation of 15% and 20% will be fully phased in by the 2027/2028 rating year.
- (g) Notes that a rates increase of 12.5% is 0.5% higher than the rates limit adopted in the financial strategy of the 2024/34 Long Term Plan however that limit excluded the second Infrastructure Funding and Financing levy of 2.2%.
- (h) Establishes a working group comprising the Mayor, Deputy Mayor, Chief Executive, Chief Financial Officer and councillors to undertake a detailed review of operational costs and service levels. The purpose of the working group is to identify further cost savings to reduce the proposed rates increase. The working group will report back with recommendations prior to the adoption of the Annual Plan 2025/26.

At 11.50am the meeting adjourned.

At 12.23pm the meeting reconvened.

AN AMENDMENT WAS PROPOSED

Moved: Cr Rick Curach

Seconded: Cr Glen Crowther

That the proposed resolution (c) be amended to read:

- (c) Agrees to additional placeholder savings to achieve a 9.9% rate revenue increase be applied to the final 2025/26 Annual Plan.

FOR: Cr Glen Crowther and Cr Rick Curach

AGAINST: Mayor Mahé Drysdale, Deputy Mayor Jen Scoular, Cr Hautapu Baker, Cr Steve Morris, Cr Marten Rozeboom, Cr Kevin Shuler and Cr Rod Taylor

LOST

RESOLUTION CO/25/4/1

Moved: Mayor Mahé Drysdale

Seconded: Cr Marten Rozeboom

That the Council:

- (a) Receives the report "Draft Budget and Rating Policy for the Annual Plan Consultation ".
- (c) Agrees that the additional rates funded savings of \$8.3m (equivalent to 2.5% decrease in rates) to be considered for inclusion in the 2025/26 Annual Plan, with further savings targets pursued through the 2026/27 annual plan and subsequent annual or long term plans.
- (d) In respect of rating policy, agrees to continue with the Long-term Plan decision to move to a fixed proportion of the general rates for each rating category and change the proportions for the residential rating category to 65%, the Commercial rating category to 15% and the industrial rating category to 20% by the 2027/28 rating year.
- (f) Agrees the commercial and industrial rating category general rates allocation of 15% and 20% will be fully phased in by the 2027/2028 rating year.
- (g) Notes that a rates increase of 12.5% is 0.5% higher than the rates limit adopted in the financial strategy of the 2024/34 Long Term Plan however that limit excluded the second Infrastructure Funding and Financing levy of 2.2%.
- (h) Establishes a working group comprising the Mayor, Deputy Mayor, Chief Executive, Chief Financial Officer and councillors to undertake a detailed review of operational costs and service levels. The purpose of the working group is to identify further cost savings to reduce the proposed rates increase. The working group will report back with recommendations prior to the adoption of the Annual Plan 2025/26.

CARRIED

RESOLUTION CO/25/4/2

Moved: Mayor Mahé Drysdale

Seconded: Cr Marten Rozeboom

That the Council:

- (b) In respect of the draft operating budget and rates requirement for consultation:
 - (i) Agrees to an overall rates increase after growth arising from the proposed budget

of 12.5% noting that this includes up to \$1.3m of placeholder budget savings to be identified in budgets prior to the adoption of the annual plan

FOR: Mayor Mahé Drysdale, Deputy Mayor Jen Scoular, Cr Hautapu Baker, Cr Marten Rozeboom, Cr Kevin Shuler and Cr Rod Taylor

AGAINST: Cr Steve Morris, Cr Glen Crowther and Cr Rick Curach

CARRIED

MOTION

Moved: Mayor Mahé Drysdale

Seconded: Cr Marten Rozeboom

That the Council:

(e) Agrees for the 2025/2026 rating year the allocation of the general rates will be:

- Residential category **66.5%**
- Commercial category **14.3**
- Industrial category 19.2%

FOR: Mayor Mahé Drysdale, Deputy Mayor Jen Scoular, Cr Marten Rozeboom,

AGAINST: Cr Hautapu Baker, Cr Glen Crowther, Cr Rick Curach, Cr Steve Morris, Cr Kevin Shuler and Cr Rod Taylor

LOST

RESOLUTION CO/25/4/3

Moved: Mayor Mahé Drysdale

Seconded: Cr Marten Rozeboom

That the Council:

(e) Agrees for the 2025/2026 rating year the allocation of the general rates will be:

- Residential category 66. %
- Commercial category 14.8%
- Industrial category 19.2%

FOR: Cr Hautapu Baker, Cr Glen Crowther, Cr Rick Curach, Cr Steve Morris, Cr Kevin Shuler and Cr Rod Taylor

AGAINST: Mayor Mahé Drysdale, Deputy Mayor Jen Scoular, Cr Marten Rozeboom

CARRIED

8 DISCUSSION OF LATE ITEMS

Nil

9 CLOSING KARAKIA

Cr Morris closed the meeting with a karakia

The meeting closed at 12.43 pm.

The minutes of this meeting were confirmed at the Ordinary meeting of the Tauranga City Council held on 24 March 2025.

.....
CHAIRPERSON

7.2 Minutes of the Council meeting held on 24 March 2025

File Number: A17911957

Author: Clare Sullivan, Team Leader: Governance Services

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

RECOMMENDATIONS

That the Minutes of the Council meeting held on 24 March 2025 be confirmed as a true and correct record.

ATTACHMENTS

- 1. Minutes of the Council meeting held on 24 March 2025**



MINUTES

**Ordinary Council meeting
Monday, 24 March 2025**

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	Nil	
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14	Closing karakia	17

**MINUTES OF TAURANGA CITY COUNCIL
ORDINARY COUNCIL MEETING
HELD AT THE BAY OF PLENTY REGIONAL COUNCIL CHAMBERS, REGIONAL HOUSE, 1
ELIZABETH STREET, TAURANGA
ON MONDAY, 24 MARCH 2025 AT 9.30AM**

MEMBERS PRESENT: Mayor Mahé Drysdale, Deputy Mayor Jen Scoular, Cr Hautapu Baker, Cr Glen Crowther, Cr Rick Curach, Cr Steve Morris, Cr Marten Rozeboom, Cr Kevin Schuler, Cr Rod Taylor

IN ATTENDANCE: Marty Grenfell (Chief Executive), Paul Davidson (Chief Financial Officer), Nic Johansson (General Manager: Infrastructure), Christine Jones (General Manager: Strategy, Growth & Governance), Gareth Wallis (General Manager: City Development & Partnerships), Ben Corbett (Team Leader: Growth Funding), Andrew Mead (Manager: City Planning and Growth), Kathryn Sharplin (Manager Finance), Tracey Hughes (Financial Insights & Reporting Manager), Sarah Stewart (Principal Strategic Advisor), Stephen Burton (Transportation Lead – Water Services), Cathy Davidson (Manager: Directive Services), Shawn Geard (City Centre Infrastructure Lead), Karen Hay (Manager: Network Safety and Sustainability), Stacey Mareroa-Roberts (Manager: Strategic Māori Engagement), Ceilidh Dunphy (Community Relations Manager), Coral Hair (Manager: Democracy & Governance Services), Clare Sullivan (Team Leader: Governance Services), Anahera Dinsdale (Governance Advisor),

Timestamps are included beside each of the items and relate to the recording of the meeting held on 24 March 2025

<https://www.youtube.com/watch?v=NIB76qN6HEk>

1 OPENING KARAKIA

Cr Baker opened the meeting with a karakia

Mayor Drysdale noted the achievements of Sam Ruthe who became the first person under the age of 16 to run an impressive 4-minute mile and wished him all the best for his career.

2 APOLOGIES

Nil

3 PUBLIC FORUM

3.1 Harris Williams – Mount Business Association
Timestamp: 0:05
Key Points
<ul style="list-style-type: none"> Sought the removal or reconsideration of the new licence to occupy fees for the street dining

as they place an unreasonable and disproportionate burden on all businesses not just at the Mount.

- Preferred outcome was to drop the fees altogether, but if they were to continue Mount Maunganui should be exempt or have the fees substantially reduced.
- The proposed charge of \$150 per m² was the highest proposed charge by a large margin as it was linked to land value.
- Despite higher rates, there had been a lack of public investment to the streetscape, there had been no enhancements to the street amenities for over 25 years.
- Tauranga had seen upgrades specifically to enhance outdoor dining appeal and foot traffic.
- There had been no net analysis to determine if net profits rather than the turnover resulted in more profit for the businesses and had failed to meet the onground conditions or represent value for money.
- A reduced rate of \$30 per m² for 2024/25 was still a significant cost to local businesses who had not previously paid the fee. The costs were detrimental and not sustainable as they were already grappling with increasing costs.
- Request that the fees not be imposed and only create a bylaw for safety and street amenity and rely on commercial rates to cover public infrastructure to serve commercial businesses or until such time as Council invests in upgrades to warrant an additional fee.
- Alternately apply a flat nominal fee across the whole Council, adjusted for public investment in that zone.

In response to questions

- In relation to a question relating to the businesses making money from the use of a Council asset, it was noted that it was the entrepreneurial vision of the businesses that had created an amenity in those spaces.

3.2 Jan Gyenge

Key Points

- Councillors were tasked to uphold democracy with accountability, transparency and integrity and asked if they were doing this.

In response to questions

- In relation to specifics the submitter would like Councillors to consider, she noted that it was the prime objective of what they were elected to do.
- Mayor Drysdale advised the Council were out in the community talking to people to do what was best for the city based on the information provided.

4 ACCEPTANCE OF LATE ITEMS

4.1 Resolution to accept late items

RESOLUTION CO/25/5/1

Moved: Cr Rick Curach

Seconded: Deputy Mayor Jen Scoular

That the Council:

- (a) Accepts the following late items for consideration at the meeting:
- Confirmation of the open part of the minutes of the Council meeting held on 3 March 2025
 - Confirmation of the public excluded part of the minutes of the Council meeting held on 3 March 2025
 - Appointment to Board - Bay Venues Limited, the Tauranga Art Gallery Trust and Tourism Bay of Plenty
- (b) The above items were not included in the original agenda because it was not available at the time the agenda was issued, and discussion cannot be delayed until the next scheduled meeting.

CARRIED

5 CONFIDENTIAL BUSINESS TO BE TRANSFERRED INTO THE OPEN

5.1 Resolution to move Public Exlcuded items to Public

RESOLUTION CO/25/5/2

Moved: Mayor Mahé Drysdale

Seconded: Cr Rick Curach

That the Council:

Move the following items from public excluded to the public part of the meeting:

- Item 13.3 Appointment of Tangata Whenua representatives to standing committees and
- Item 13.4 Appointment to Board – Bay Venues Limited, The Tauranga Art Gallery Trust and Tourism Bay of Plenty.

CARRIED

6 CHANGE TO THE ORDER OF BUSINESS

The Mayor noted that there were a number of separately circulated papers that contain attachments. They related to:

Item 7.2 Minutes of the meeting of 3 March 2025

Item 11.1 Draft Development Contributions Policy

Item 11.2 Adoption of Supporting Material and Consultation Document – Annual Plan 2025/26

Item 11.3 Local Water Done Well - Adoption of Consultation Document and Update on Progress

Item 13.5 Public Excluded Minutes of the meeting of 3 March 2025

7 CONFIRMATION OF MINUTES

7.1 Minutes of the Council meeting held on 24 February 2025

RESOLUTION CO/25/5/3

Moved: Cr Hautapu Baker

Seconded: Cr Steve Morris

That the Minutes of the Council meeting held on 24 February 2025 be confirmed as a true and correct record.

CARRIED

7.2 Minutes of the Council meeting held on 3 March 2025

RESOLUTION CO/25/5/4

Moved: Cr Marten Rozeboom

Seconded: Cr Rick Curach

That the Minutes of the Council meeting held on 3 March 2025 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 Draft Development Contributions Policy 2025/26

Timestamp: 28 minutes

Staff Christine Jones, General Manager: Strategy, Growth and Governance
Ben Corbett, Team Leader: Growth Funding
Andy Mead, Manager: City Planning & Growth

RESOLUTION CO/25/5/5

Moved: Cr Marten Rozeboom
Seconded: Mayor Mahé Drysdale

That the Council:

- (a) Receives the report "Draft Development Contributions Policy 2025/26".
- (b) Agrees to incorporate the proposed updates to local and citywide development contributions in the draft Development Contributions Policy 2025/26.
- (c) Agrees to incorporate three new local development contributions catchments in the draft Development Contributions Policy 2025/26 for Tauriko Business Estate Stage 4, Tauriko West and Upper Ohauti.
- (d) Adopts the Statement of Proposal and draft Development Contributions Policy 2025/26 for the purposes of public consultation.
- (e) Delegates authority to the General Manager: Strategy, Growth & Governance to make amendments to the draft Development Contributions Policy 2025/26 to correct minor errors in wording or financial information

CARRIED

11.2 Adoption of Supporting Material and Consultation Document - Annual Plan 2025/26

Timestamp: 47minutes

Staff: Paul Davidson, Chief Financial Officer
Christine Jones, General Manager: Strategy, Growth & Governance
Kathryn Sharplin, Manager: Finance
Tracey Hughes, Financial Insights & Reporting Manager
Ceilidh Dunphy, Community Relations Manager

Reasons for decisions:

- Amendments were made to the consultation document as reflected in the resolution to provide additional explanations and better transparency with the cost of running the city, the operating expenditure, capital expenditure and the amount of staff and consultant costs.

RESOLUTION CO/25/5/6

Moved: Mayor Mahé Drysdale

Seconded: Deputy Mayor Jen Scoular

That the Council:

- (a) Receives the report "Adoption of Supporting Material and Consultation Document - Annual Plan 2025/26".
- (b) Agrees to the overall rates increase for the consultation document at 12% after growth which includes operational expenditure of \$599m.
- (c) Notes that the additional rates funded savings to be sought of \$8.3m (equivalent to 2.5% decrease in rates), to be considered for inclusion in the 2025/26 Annual Plan, with further savings targets pursued through the 2026/27 annual plan and subsequent annual or long-term plans, has reduced to \$6.7m due to higher growth assumptions.
- (d) Adopts the Draft Annual Plan 2025/26 supporting financial information.
- (e) Adopts the Draft User Fees and Charges 2025/26 schedule and statement of proposal. Noting that the fees schedule will be updated to reflect the decision on the licence to occupy fees from the paper on this same agenda titled "Street Dining License to Occupy Implementation Plan."
- (f) Adopts the Draft Annual Plan 2025/26 consultation document (CD) **content (attachment 3)** and as tabled in the design version of the CD for public consultation from 28 March to 28 April 2025 subject to the inclusion of further information as follows:
 - (i) Include a section "cost of running the city" – high-level numbers including operating expenditure, capital expenditure, number of staff.
 - (ii) provide more detailed breakdown of the operating expenditure of \$599M such as consultant costs, staff numbers.
 - (iii) add operational expenditure to the table on page 30 of the draft consultation document.
 - (iv) refer to a reduction in "council emissions" instead of "city emissions".
 - (v) simplify the explanation of salary savings.
 - (vi) add average Residential, Commercial and Industrial rates increase figures as a footnote on page 29 of the Consultation Document, and/or on the page of the Financials appendix that shows rates increases.
- (g) Authorises the Chief Executive to approve minor drafting, financial and presentation amendments to the Draft Annual Plan 2025/26 consultation document and any supporting documentation prior to printing if necessary.

CARRIED

At 11.38am the meeting adjourned.

At 11.52am the meeting reconvened.

11.3 Local Water Done Well - Adoption of Consultation Document and Update on Progress

Timestamp: 2 hours 23minutes

Staff Christine Jones, General Manager: Strategy, Growth & Governance
Paul Davdson, Chief Financial Officer

Kathryn Sharplin, Manager Finance
Stephen Burton, Transformation Lead – Water Services
Cathy Davidson, Manager: Directorate Services

RESOLUTION CO/25/5/7

Moved: Mayor Mahé Drysdale
Seconded: Cr Marten Rozeboom

That the Council:

- (a) Receives the report "Local Water Done Well - Adoption of Consultation Document and Update on Progress".
- (b) Agrees that if a multi-council controlled organisation is established, differences in prices across councils will be maintained to reflect the differences in investment, borrowing, and costs of service; and that any movement to price harmonisation should require an explicit resolution from TCC.
- (d) Notes that the implications for TCC's risk and credit rating are being further considered in line with the 9 December 2024 Council decisions to ensure any multi-council controlled organisation option is mutually beneficial, including for the multi-council controlled organisation and remaining TCC organisation.
- (e) Adopts the Draft Why Wai Matters 2025 Consultation Document content (attachment 1) and Summary content (attachment 2) for public consultation, noting design versions are being developed.
- (f) Authorises the General Manager Strategy, Growth and Governance to approve minor drafting, financial and presentation amendments to the Draft Why Wai Matters 2025 Consultation and Summary Documents if necessary.

CARRIED

Abstention: Cr Glen Crowther

RESOLUTION CO/25/5/8

Moved: Mayor Mahé Drysdale
Seconded: Cr Marten Rozeboom

That the Council:

- (c) Notes that further financial modelling has been completed by both Martin Jenkins and the Department of Internal Affairs and that these both align with key conclusions from the Indicative Business Case adopted by Council on 9 December 2024.

For: Mayor Mahé Drysdale, Crs Hautapu Baker, Rick Curach, Marten Rozeboom, Kevin Schuler and Rod Taylor

Against: Deputy Mayor Jen Scoular, Crs Glen Crowther and Steve Morris

CARRIED

At 1.35pm the meeting adjourned.
At 2.10pm the meeting reconvened.

11.4 Street Dining License to Occupy Implementation Plan

Timestamp: 4hours 40minutes

Staff Nic Johannson, General Manager: Infrastructure
Shawn Geard, City Centre Infrastructure Lead

Reasons for decisions:

Changes were made to the recommendations to allow for a staged rollout to include charges for current areas this Annual Plan followed by a review of the bylaw. The proposed changes also provide a flat rate across all the zones with a 50% discount across all areas.

RESOLUTION CO/25/5/9

Moved: Mayor Mahé Drysdale
Seconded: Cr Rod Taylor

That the Council:

- (a) Receives the report "Street Dining License to Occupy Implementation Plan".

CARRIED

RESOLUTION CO/25/5/10

Moved: Mayor Mahé Drysdale
Seconded: Cr Rod Taylor

That the Council:

- (c) Approves Option 2a: Staged rollout to include charges for current areas this Annual Plan, followed by a review of the Street Use and Public Places Bylaw during FY26 in time for a full city implementation in the next Annual Plan.

CARRIED

RESOLUTION CO/25/5/11

Moved: Mayor Mahé Drysdale
Seconded: Cr Rod Taylor

That the Council

- (e) Amend the user fees and charges schedule for street dining adopted by Council on 3 March 2025 with \$100 per square metre at an 50% discount to apply to the areas covered by the bylaw from 1 July 2025.

In Favour: Mayor Mahé Drysdale, Crs Hautapu Baker, Marten Rozeboom, Kevin Schuler and Rod Taylor

Against: Crs Jen Scoular, Glen Crowther, Rick Curach and Steve Morris

CARRIED

11.5 Transport Resolutions Report: 54

Timestamp: 5 hours 51 minutes

Staff Nic Johannson, General Manager: Infrastructure
Karen Hay, Manager: Network Safety and Sustainability
Shawn Geard, City Centre Infrastructure Lead

RESOLUTION CO/25/5/12

Moved: Cr Rod Taylor
Seconded: Cr Kevin Schuler

That the Council:

- (a) Receives the report "Transport Resolutions Report: 54".
- (b) Resolves to amend the Traffic and Parking Bylaw 2023 by adopting the proposed traffic and parking controls relating to new subdivisions and minor changes for general safety, operational or amenity purposes, as per Attachment A of this report.
- (c) Confirms that parking on the ground floor of the Elizabeth Street carpark is P120 minutes, as per Attachment A of this report
- (d) The changes are to become effective on or after the 25th of March 2025 subject to installation of appropriate signs and road markings.

CARRIED

11.6 Remuneration for Tangata Whenua Representatives Appointed to Three Standing Committees

Timestamp: 6 hours 3 minutes

Staff Christine Jones, General Manager: Strategy, Growth & Governance
Coral Hair, Manager: Democracy and Governance Services
Stacey Mareroa-Roberts, Manager: Strategic Māori Engagement

Reasons for decisions:

- Change to remove the maximum number of days per year. Mayor will note a list of approved duties

RESOLUTION CO/25/5/13

Moved: Mayor Mahé Drysdale

Seconded: Deputy Mayor Jen Scoular

That the Council:

- (a) Receives the report "Remuneration for Tangata Whenua Representatives Appointed to Three Standing Committees".
- (b) Approves remuneration for the Tangata Whenua representatives on the City Future Committee, the City Delivery Committee and the Audit and Risk Committee at
 - (i) \$1,085 per Committee meeting, \$542 per workshop or approved duties.

In Favour: Crs Mahé Drysdale, Jen Scoular, Hautapu Baker, Rick Curach, Kevin Schuler and Rod Taylor

Against: Crs Glen Crowther, Steve Morris and Marten Rozeboom

CARRIED

At 4.05pm the meeting adjourned.

At 4.23pm the meeting reconvened.

The next two items were considered in the public part of the meeting

11.7 Appointment of Tangata Whenua representatives to standing committees

Timestamp: 6 hours 52 minutes

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

RESOLUTION CO/25/5/14

Moved: Deputy Mayor Jen Scoular

Seconded: Cr Rod Taylor

That the Council:

- (a) Receives the report "Appointment of Tangata Whenua representatives to standing committees".
- (b) Appoints the following Tangata Whenua representatives to the respective committees as set out below, based on the recommendations of Te Rangapū Mana Whenua o Tauranga Moana:

Committee	Name of representative
Audit and Risk Committee	Rohario Murray
City Future Committee	Arthur Flintoff
City Delivery Committee	Jacqui Rolleston-Steed

- (b) Notes that attachments 1, 2 and 3, the CVs of the appointees, are to remain in confidential.

In Favour: Mayor Mahé Drysdale, Crs Jen Scoular, Hautapu Baker, Glen Crowther, Rick Curach, Steve Morris, Kevin Schuler and Rod Taylor

Against: Cr Marten Rozeboom

CARRIED

11.8 Appointments to the Board - Bay Venues Limited, the Tauranga Art Gallery Trust and Tourism Bay of Plenty

Timestamp: 7 hours

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

Reasons for decision:

- To enable further discussions with relevant parties and receive further information

RESOLUTION CO/25/5/15

Moved: Mayor Mahé Drysdale

Seconded: Cr Rick Curach

That the Council:

- (a) Receives the report "Appointments to the Board - Bay Venues Limited, the Tauranga Art Gallery Trust and Tourism Bay of Plenty".
- (b) That the item lies on the table until the Council meeting on 28 April 2025.

CARRIED

12 DISCUSSION OF LATE ITEMS

Nil

13 PUBLIC EXCLUDED SESSION

Resolution to exclude the public

RESOLUTION CO/25/5/16

Moved: Cr Hautapu Baker

Seconded: Deputy Mayor Jen Scoular

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 10 February 2025</p>	<p>s6(b) - The making available of the information would be likely to endanger the safety of any person</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>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 24 February 2025</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>13.3 - Appointment of Tangata Whenua representatives to standing committees</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>

<p>13.4 - Appointments to the Board - Bay Venues Limited, the 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>s48(1)(a) - the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7</p>
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CARRIED

Noted that Item 13.3 and 13.4 were conducted in the open part of the meeting as items 11.7 and 11.8 respectively

14 CLOSING KARAKIA

Cr Hautapu Baker closed the meeting with a karakia.

The meeting closed at 6.08pm.

The minutes of this meeting were confirmed as a true and correct record at the Ordinary Council meeting held on 28 April 2025.

.....

Mayor Mahé Drysdale
CHAIRPERSON

7.3 Minutes of the Extraordinary Council meeting held on 25 March 2025

File Number: A17911631

Author: Clare Sullivan, Team Leader: Governance Services

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

RECOMMENDATIONS

That the Minutes of the Extraordinary Council meeting held on 25 March 2025 be confirmed as a true and correct record.

ATTACHMENTS

- 1. Minutes of the Extraordinary Council meeting held on 25 March 2025**



MINUTES

Extraordinary Council meeting Tuesday, 25 March 2025

Order of Business

1	Opening karaka	3
2	Apologies	3
3	Acceptance of late items	3
4	Confidential business to be transferred into the open	3
5	Change to the order of business	4
6	Declaration of conflicts of interest	4
7	Business	4
	7.1 Draft Alcohol Licensing Fees Bylaw - Hearings	4
8	Discussion of late items	6
9	Closing karakia	6
	Resolutions transferred into the open section of the meeting after discussion	6

**MINUTES OF TAURANGA CITY COUNCIL
EXTRAORDINARY COUNCIL MEETING
HELD AT THE GROUND FLOOR, 306 CAMERON ROAD , TAURANGA
ON TUESDAY, 25 MARCH 2025 AT 4:00 PM**

PRESENT: Mayor Mahé Drysdale, Deputy Mayor Jen Scoular, Cr Glen Crowther, Cr Rick Curach, Cr Steve Morris, Cr Marten Rozeboom, Cr Kevin Schuler, Cr Rod Taylor

APOLOGIES: Cr Hautapu Baker

IN ATTENDANCE: Sarah Omundsen (General Manager: Regulatory & Compliance), Clare Sullivan (Team Leader: Governance Services)

1 OPENING KARAKA

Cr Kevin Schuler opened the meeting with a karakia.

2 APOLOGIES

2.1 Resolution to receive apologies

RESOLUTION CO/25/0/1

Moved: Cr Steve Morris

Seconded: Cr Marten Rozeboom

That the Council

Accepts the apologies of Cr Hautapu Baker.

CARRIED

3 ACCEPTANCE OF LATE ITEMS

Nil

4 CONFIDENTIAL BUSINESS TO BE TRANSFERRED INTO THE OPEN

Nil

5 CHANGE TO THE ORDER OF BUSINESS

Nil

6 DECLARATION OF CONFLICTS OF INTEREST

Cr Taylor noted that he was the holder of two liquor licences in the city he would observe but not participate in the meeting or vote on the issue.

7 BUSINESS

7.1 Draft Alcohol Licensing Fees Bylaw - Hearings

Timestamp :04

Sebastian Miklos (via teams)

Key Points

- Had been an alcohol inspector for Auckland Council and the Ministry of Justice for 14 years.
- Congratulate TCC for a good bylaw, noting that ratepayers should not fund the process.
- People adjust to the reduced hours of licenced premises.
- A licence for a concert should not be the same as it was for a wedding.

Timestamp :09

Christine Gore – Vetro Mediterranean Foods

Key Points

- All in the industry were working towards reducing alcohol harm and were on the same side as Council.
- Would like to work together with Council to reduce cumbersome costs of licencing and streamline the costs that fell on the businesses.
- There was no assessment on the impact of the bylaw on businesses, some of which add character to the city may fail due to costs.
- Increasing costs could lead to some outlets pushing more sales to cover costs which would not be ideal.
- There was only a 20-22% retail margin on alcohol in resturants and taxes were already imposed on it.

In response to questions

- The submitter's rates were already increasing by 17% and the businesses were contributing to making Tauranga an attractive place to come to and ratepayers needed to be made aware of that.

Timestamp :17

Kerry McCaffery

Key Points

- There was currently an alcohol pandemic in Tauranga with 80% of adults drinking on a regular basis. 85% of drinkers were in the least deprived neighbourhoods.
- Much of drinks available had a high percentage of alcohol.
- Drink driving was common, many were not picked up and Police patrols needed to increase.
- Alcohol was now part of the weekly grocery shop.
- If an alcholic wants to stop drinking there was no safe place for them to go and they were taking up medical time. A medical detox centre was required in Tauranga.

Timestamp :24

Jennifer Lamm – Alcohol Healthwatch (via Teams)

Key Points

- Commend Council on the bylaw specific to alcohol licencing fees as it was another key measure to reduce alcohol related harm with enforcement.
- Alcohol was the most harmful drug available in our society which had far reaching effects that harmed individuals, whanau and communities at a cost of \$9.1b annually.
- Local government had a role in promoting the social, economic and cultural wellbeing of its communities and alcohol regulation was an important control to create a safer enviornment, to reduce drinking and instances of alcohol harm.
- Supports the recovery of the cost of licencing as the licencing regulations had not kept pace with the cost and were overdue for a review.

Timestamp :29**Harris William, Mt Maunganui Business Association****Key Points**

- Considered that Council did not adequately engage with affected parties before drafting the bylaw which had been created with a lack of detail context and transparency.
- Council were imposing more costs on businesses without placing internal scrutiny on its own systems.
- Queried whether a small restaurant would need to pay the same fee as a liquor store and why a business should pay for a hearing if the only objections were raised by the general public.
- Requested the Council to engage with stakeholders and provide a transparent breakdown of fees, cost and structures to allow meaningful feedback to be provided.

In response to questions

- In relation to whether it was a cost recovery or set fee, staff advised that the process was to allow Council to be able to set a fee with a separate decision making process around what the fee would be. The fee was currently fixed fee for each category.
- With the reallocation of the \$750,000 cost, there were factors and fairness that needed to be taken into account and the bylaw needed to go back to the drawing board.

Timestamp :36**Luke van Veen, Hospitality New Zealand****Key Points**

- Recognise Council were facing cost pressures, but the hospitality industry was also overburdened with unnecessary costs with many struggling to continue to operate and others closing.
- Noted that the fees had not increased since 2013, and request that consideration be given to a 33% inflation adjustment rather than a 240% increase. Imposing the same increase on a \$15 drink would increase the sale to \$36.60.
- The proposal to take all costs from ratepayers ignored that the businesses were also ratepayers at a higher rate percentage than residential.
- There was no evidence to show that the costs could be recovered by other means and asked that Council look at streamlining its own system process efficiencies and undertake less hearings.
- Want to see fees set by licencing regulation.

In response to questions

- In answer to a query as to where Council could make improvements, the submitter noted that he was not aware of the Council process but it seemed to be a lot of people being involved and the timeline to sign off was lengthy. Applicants had to adhere strictly to the time constraints when applying for a licence, so it should be the same for Council to issue the licence.
- The industry want compliance and as an customer he was happy to assist with having those conversations but to date as a stakeholder he had not been approached.
- In response to a query as to where the responsibility of the cost lay, the submitter considered that there was an imbalance of costs and there were a lot of Council facilities that the businesses did not use but knew they had to pay for them. Most of the businesses sold alcohol in a controlled premise environment and Council should be investing in them to drive the community to flourish.
- Data could be provided on what other local authorities do and how they operated to compare them to TCC.

Timestamp: : 53

Staff: Sarah Omundsen, General Manager: Regulatory & Compliance

In response to staff questions raised

- Comparison information from other local authorities and an analysis of the decisions would be provided to Council in the upcoming report to set the fees. It would include a number of relevant factors including the number of staff, the time taken, the cost, the ratio of ratepayer and business to provide a benchmark and to ensure that all processes were being undertaken as efficiently as possible.

RESOLUTION CO/25/0/2

Moved: Cr Rick Curach

Seconded: Cr Glen Crowther

That the Council:

- (a) Receives the report "Draft Alcohol Licensing Fees Bylaw - Hearings".
- (b) Receives the submissions and feedback to the draft Alcohol Licensing Fees Bylaw (**Attachment One**).

CARRIED

8 DISCUSSION OF LATE ITEMS

Nil

9 CLOSING KARAKIA

Cr Kevin Schuler closed the meeting with a karakia.

The meeting closed at 5.16 pm.

The minutes of this meeting were confirmed at the Ordinary meeting of the Tauranga City Council held on 28 April 2025.

.....
CHAIRPERSON

8 DECLARATION OF CONFLICTS OF INTEREST

9 DEPUTATIONS, PRESENTATIONS, PETITIONS

Nil

10 RECOMMENDATIONS FROM OTHER COMMITTEES

Nil

11 BUSINESS

11.1 Plan Change 27 (Flooding from Intense Rainfall): To Make Operative

File Number: A17108970

Author: Manasi Vaidya, Senior Policy Planner
Janine Speedy, Team Leader: City Planning

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

PURPOSE OF THE REPORT

The purpose of this report is to approve and make operative Plan Change 27 (Flooding from intense rainfall) as part of the operative Tauranga City Plan.

RECOMMENDATIONS

That the Council:

- (a) Receives the report "Plan Change 27 (Flooding from Intense Rainfall): To Make Operative".
- (b) Pursuant to Clause 17(1) of Schedule 1 of the Resource Management Act 1991, and Consent Order of the Environment Court dated 27 March 2025 (Decision No. [2025] NZEnvC 93) (Attachment 1) approves Plan Change 27 – Flooding from intense rainfall (Attachment 2) and authorises the Mayor and Chief Executive to affix the seal of Council to the plan change documents in accordance with Clause 17(3) of Schedule 1 of the Resource Management Act 1991.
- (c) Pursuant to Clause 20(2) of Schedule 1 of the Resource Management Act 1991, notifies that Plan Change 27 as approved shall become operative on 13 May 2025.

EXECUTIVE SUMMARY

1. Tauranga has faced several significant flood events, notably in 2005, 2010, 2011, and 2013. These events prompted Council to invest in stormwater infrastructure upgrades and reconsider its flood risk management strategies. As an outcome of this process, in 2015 Council adopted the Integrated Stormwater Project (ISP) through the Long-Term Plan (2015-25). The ISP included implementing a regulatory response.
2. Plan Change 27 is the regulatory response to the ISP, focusing on managing flood hazard risk caused by intense rainfall through provisions in the Tauranga City Plan (City Plan).
3. Additionally, the Bay of Plenty Regional Policy Statement (RPS) mandates that the Council classify and reduce natural hazard risks, including flooding from intense rainfall, which must take into account climate change over the next 100 years. Plan Change 27 ensures the City Plan gives effect to the RPS and addresses significant risk from a natural hazard as required by the Resource Management Act 1991 (RMA).
4. The key provisions of the plan change include:
 - i. Protecting floodplains and overland flowpaths.
 - ii. Managing development in flood prone areas to ensure safety and proper evacuation routes.

- iii. Controlling displacement effects of water onto other properties from inappropriate subdivision and earthworks within flood prone areas, overland flowpaths and floodplains.
 - iv. Setting floor levels to minimise flood damage.
5. Plan Change 27 was publicly notified on 16 November 2020, following Council adoption on 13 October 2020. An Independent Hearings Panel (IHP) heard the plan change from 30 November to 2 December 2021. The IHP recommendations were notified on 11 April 2022, with a subsequent appeal period.
 6. Three appeals were lodged with the Environment Court on 20 May 2022 by Aotearoa Park Development Limited (APDL), Bluehaven Developments Limited (Bluehaven) and Urban Taskforce for Tauranga Incorporated (UTF). There were twenty parties to the appeals.
 7. Following further discussions between staff and APDL, the APDL appeal was withdrawn on 10 November 2023.
 8. Following further discussions between staff and Bluehaven and UTF, the consent order was signed by all parties and filed with the Environment Court on 29 November 2024.
 9. The appeals relating to Plan Change 27 have been disposed. The plan change is now required to be made operative in accordance with the RMA.

BACKGROUND

10. Historically, Tauranga has experienced a number of major flood events from intense rainfall, the most significant being the localised flooding as a result of a 1% Annual Exceedance Probability (AEP)¹ rainfall event in May 2005 which caused substantial damage to private and public property.
11. Tauranga experienced further flood events in 2010, 2011 and a more significant localised flood event in 2013. Following the flood events of 2013, the ISP was adopted by Council through the Long-Term Plan 2015-25, which included undertaking flood modelling and mapping for a 1% AEP present day situation across the City. The purpose of the ISP was to identify the wider stormwater issues and implications so that Citywide flood risk management could be considered. As an outcome of this process, Council resolved to take the following risk reduction approach to stormwater management:
 1. A safety focused level of service (LoS), (reduction in risk to persons safety);
 2. Education;
 3. Residual risk and emergency management;
 4. Reactive response capacity (stormwater reactive reserve); and
 5. Regulatory response.
12. Plan Change 27 is the regulatory response to the ISP, following the completion of all other steps.

Regulatory Response

13. The RPS includes objectives and policies which require Council, prior to any development or redevelopment to classify and reduce the risk of natural hazards, including flooding from intense rainfall. The RPS requires the Council to take into account climate change over at least the next 100 years.
14. In order to classify the natural hazard risk of flooding, Council was required to undertake a risk assessment, including flood risk modelling and mapping. The flood models built for the

¹ A 1% AEP (or 1-in-100 year) rainfall event is an intense rainfall event that has a 1% chance of occurring in any given year.

ISP were updated to identify flood risk in a 1% AEP rainfall event, taking into account the effects of climate change² as of the year 2130, as required by the RPS. The risk assessment identified that the flood risk in Tauranga is High. There is ongoing flood modelling programme to ensure the models are up to date taking into account factors such as a change in landform.

15. Plan Change 27 includes objectives, policies and rules to manage flood hazards from intense rainfall. The key aspects of the provisions introduced through the plan change are:
 - a) Protect floodplains and overland flowpaths, because if managed inappropriately the effects can be hazardous, causing damage to life, property and infrastructure.
 - b) Manage development and redevelopment within flood prone areas, including safe evacuation from building and safety of people.
 - c) Manage displacement effects because development and earthworks can increase or cause flooding.
 - d) Manage floor levels to reduce damage caused by flooding to life and property.
16. Plan Change 27 is supported with an online mapping tool which is publicly available where floodplains, overland flowpaths and flood prone areas are located across the City with the modelling scenario set out in paragraph 14.
17. Plan Change 27 had legal effect since the date of notification, 16 November 2020, under s86B of the RMA, which means any property affected by flooding from intense rainfall has been assessed against the rules proposed in Plan Change 27 since this date.

Notification and Hearing

18. The operative Tauranga City Plan is a statutory document that guides the Council in managing the effects of subdivision, use, and development under s31 of the RMA. As a dynamic document, it can be updated through the plan change process, allowing adjustments to address resource management issues outside of a full plan review.
19. The work on a flood hazard plan change commenced in 2018, following Council direction. Council adopted Plan Change 27 for public notification on 13 October 2020. Plan Change 27 was publicly notified on 16 November 2020. Ten open days were held during the public notification period and one-on-one consultation was available with affected property owners until 28 January 2021.
20. The plan change was heard by an Independent Hearings Panel (IHP) from 30th November to 2nd December 2021. The decisions to approve the plan change was notified on 11 April 2022 and three appeals were lodged with the Environment Court on 20 May 2022 by:
 - Aotearoa Park Development Limited (ENV-2022-AKL-000114)
 - Bluehaven Developments Limited (ENV-2022-AKL-000115)
 - Urban Taskforce for Tauranga Incorporated (ENV-2022-AKL-000118)
21. There were twenty parties to the appeals, who participated in the appeal proceedings (section 274 parties).

Appeals

² The climate change and sea level rise is based on the Representative Concentration Pathway (RCP) 8.5 median scenario.

22. The APDL appeal sought either that Plan Change 27 be declined or amended to include spatial flood maps into the City Plan and include a matter of discretion that provides recognition of the reasonable use of a site if already zoned for urban use.
23. The Bluehaven appeal sought to exclude the Wairakei Urban Growth Area from Plan Change 27 and further relief to address concerns relating to the Council's flood hazard mapping process.
24. The UTF appeal sought that Plan Change 27 be declined due to concerns about the Council's flood hazard mapping process and exclusion of the maps from the City Plan, consistency with higher order planning instruments and Part 2 of the RMA, and adequacy of the section 32 evaluation report.

Mediation

25. Court-assisted mediation took place on 11 and 12 October 2022, which was attended by Council staff, the three appellants and a number of s274 parties. A number of steps agreed at mediation relate to matters which sit outside the City Plan, but which have been agreed with the appellants, including:
 - a) Amending the Flood Hazard Modelling and Mapping Practice Note and uploading it to the Council website, addressing various matters broadly relating to the management of the modelling and mapping processes, model accessibility;
 - b) A meeting of experts nominated by the parties, for the purpose of reaching a common understanding on the appropriateness of the model inputs and agreeing on recommendations to improve accuracy and validity;
 - c) Updating and re-evaluating the rainfall depth used in the flood modelling, with a further peer review process;
 - d) Minor amendments to the Tauranga City Council Infrastructure Development Code;
 - e) A review of the flood hazard information and agreed wording provided in Land Information Memoranda (LIMs) for properties within the Wairakei Urban Growth Area;
 - f) Confirming that Council will continue to undertake and/or accept site-specific flood risk evaluations;
 - g) Confirming that the flood maps will remain outside the City Plan; and
 - h) Amending the provisions to simplify and clarify the rules.

Resolution and Next Steps

26. Following the mediation, further discussions were undertaken between staff and the technical expert engaged by APDL, specifically regarding the management of onsite flooding. Subsequently an agreement was reached on possible resource consent pathways to manage the impact of the overland flowpath. The appeal by APDL was withdrawn on 10 November 2023.
27. Upon the completion of the steps agreed to through mediation, undertaken between October 2022 and November 2024, the consent order was signed by Council, Bluehaven and UTF and filed with the Environment Court on 29 November 2024.
28. The Environment Court issued the Consent Order (Attachment 1) on 27 March 2025.
29. As the appeals relating to Plan Change 27 have been disposed of, the plan change is now required to be approved, as amended by the Consent Order, in accordance with clause 17(2) of Schedule 1 of the RMA. This approval necessitates a Council resolution, public notification, and amendments to the City Plan text to give effect to the decision. The remaining steps constitute an administrative process.

STATUTORY CONTEXT

- 30. Relevant statutory provisions are addressed in paragraph 29 above. Pursuant to clause 17(3), the Mayor and Chief Executive are authorised to affix the Council’s seal as formal evidence of approval. Plan Change 27 will then be made operative under clause 20(2) of Schedule 1 of the RMA.

STRATEGIC ALIGNMENT

- 31. This contributes to the promotion or achievement of the following strategic community outcome(s):

	Contributes
We are an inclusive city	<input type="checkbox"/>
We value, protect and enhance the environment	<input type="checkbox"/>
We are a well-planned city	<input checked="" type="checkbox"/>
We can move around our city easily	<input type="checkbox"/>
We are a city that supports business and education	<input type="checkbox"/>

- 32. Tauranga city is currently facing high population growth. Council is required to provide housing capacity to cater for the increasing population. Plan Change 27 ensures that as Tauranga continues to grow, development and redevelopment occurs in a manner that reduces the risk of flooding from intense rainfall over time.

- 33. Plan Change 27 is the regulatory response to the wider ISP and gives effect to the natural hazard policies in the RPS, consistent with the city’s key strategic outcome to have a well-planned city, through managing development and redevelopment within Tauranga while reducing the risk of flooding to life, property and infrastructure from intense rainfall events over time.

FINANCIAL CONSIDERATIONS

- 34. The remaining costs are only associated with the preparation and release of the public notice and process of updating the City Plan. These are covered within the existing budget for the plan change.

LEGAL IMPLICATIONS / RISKS

- 35. There are no legal implications / risks involved in approving and then making Plan Change 27 operative given that the plan change has been through all necessary statutory processes.

TE AO MĀORI APPROACH

- 36. This was considered through the earlier phases of the plan change process, including staff having undertaken consultation with relevant iwi and hapu representatives throughout the plan change process.

CLIMATE IMPACT

- 37. Plan Change 27 has been prepared with consideration to the effects of climate change on flooding from intense rainfall event. The definitions introduced through Plan Change 27 require planning for a 1% AEP rainfall event concurrent with a 5% AEP storm-tide event, taking into account the effects of climate change on rainfall and sea level based on the Representative Concentration Pathway (RCP) 8.5 median scenario as of the year 2130.

CONSULTATION / ENGAGEMENT

38. Consultation is not necessary at this point. The release of the public notice will be for information purposes only and to satisfy the statutory requirements set out under the RMA.

SIGNIFICANCE

39. 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.
40. In making this assessment, consideration has been given to the likely impact, and likely consequences for:
- (a) the current and future social, economic, environmental, or cultural well-being of the district or region
 - (b) any persons who are likely to be particularly affected by, or interested in, the decision.
 - (c) the capacity of the local authority to perform its role, and the financial and other costs of doing so.
41. In accordance with the considerations above, criteria and thresholds in the policy, the plan change is of medium significance, however the decision to make the plan change operative is of low significance because the plan change has been through a significant engagement process in accordance with Schedule 1 of the RMA, and the plan change is already in effect.



ENGAGEMENT

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

NEXT STEPS

43. In accordance with Clause 20 of Schedule 1 of the RMA, Council must publicly notify the date on which Plan Change 27 will become operative. This notice must be issued at least five working days prior to the operative date, which is proposed as 13 May 2025.
44. Following this, the City Plan will be updated to formally incorporate the approved provisions of the plan change. In accordance with the RMA, a copy of the plan change will then be provided to specified persons including the tangata whenua of the area.

ATTACHMENTS

1. **Consent Order - Bluehaven Management & Urban Taskforce v TCC -ENV-2022-AKL-115 & 118 - 2025 NZEnvC 93 - A17844956** [↓](#) 
2. **FINAL_PC27 Flooding from intense rainfall_ IHP Decision and provisions combined_pdf - A13337839** [↓](#) 

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH**

**I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI**

Decision No. [2025] NZEnvC 93

IN THE MATTER	of the Resource Management Act 1991
AND	appeals under cl 14 of Schedule 1 of the Act
BETWEEN	BLUEHAVEN MANAGEMENT LIMITED
	(ENV-2022-AKL-115)
	URBAN TASKFORCE FOR TAURANGA INCORPORATED
	(ENV-2022-AKL-118)
	Appellants
AND	TAURANGA CITY COUNCIL
	Respondent

Environment Judge K G Reid – sitting alone under s279 of the Act
In Chambers at Christchurch
Date of Consent Order: 27 March 2025

CONSENT ORDER

A: Under s279(1)(b) RMA,¹ the Environment Court, by consent, orders that:



¹ Resource Management Act 1991.

BLUEHAVEN MANAGEMENT LTD v TCD – CONSENT ORDER

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- (1) the appeals are allowed to the extent that the provisions are amended in accordance with Appendix 1 to this order; and
- (2) the appeals are otherwise dismissed.

B: Under s285 RMA, there is no order as to costs.

REASONS

Introduction

[1] These appeals relate to the decision of Tauranga City Council (City Council) on the proposed Plan Change 27 (PC 27) to the Tauranga City Plan (City Plan).

[2] PC 27 includes objectives, policies and rules to manage flood hazards from intense rainfall. The planning framework differentiates between three types of flood area: floodplains, overland flowpaths (minor or major) and flood prone areas. Each of these has a different approach, reflected in the objectives, policies, activity classifications and standards.

[3] These flood hazard areas are prescribed in definitions which specify key parameters (1% AEP, year 2130 climate and RCP 8.5 median scenario). The decisions version of PC 27 included notes under the definitions referring to indicative maps that sit outside the Tauranga City Plan. Requirements for resource consent are triggered by activities being proposed in areas which satisfy the parameters specified in the definitions.

[4] PC 27 was notified on 16 November 2020, following an initial feedback process involving the development community, Tauranga Moana Iwi and Hapū, and Iwi authorities. Submissions on PC 27 were heard by Independent Hearing Commissioners from 30 November 2021 to 2 December 2021. In their decision dated 21 March 2022, the Independent Hearing Commissioners recommended that PC 27 be approved with amendments to the notified version.

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[5] Appeals against PC 27 were lodged by Bluehaven Management Limited (Bluehaven), Urban Taskforce for Tauranga Inc (UTF) and Aotearoa Park Developments Limited (APDL) on 20 May 2022, although the appeal by APDL was subsequently withdrawn.

[6] The following parties have an interest in the appeals under s274 of the RMA and have signed the memorandum setting out the relief sought:

ENV-2022-AKL-000115: Bluehaven Management Limited v Tauranga City Council

- Bay of Plenty Regional Council
- Kāinga Ora - Homes and Communities
- Palm Springs Limited
- Te Kapu O Waitaha Iwi Trust
- UTF

ENV-2022-AKL-000118: Urban Taskforce for Tauranga Incorporated v Tauranga City Council

- Barrett Homes Limited
- Bay of Plenty Regional Council
- Bluehaven
- Classic Developments NZ Limited
- Colchester Capital Limited
- Element IMF Limited
- JWL Investment Trust
- Kāinga Ora - Homes and Communities
- Peter Linde
- Erin Nicholson
- Peter Nicholson
- Vojtech Nosek
- Palm Springs Limited

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- RGB Holdings Limited
- Adam Ross
- Sun Pacific Villas Body Corporate S45940/ John Pullar
- Tauranga Property Consortium No.1 Limited Partnership
- Te Kapu O Waitaha Iwi Trust
- Te One Trust
- Zariba Holdings Limited

[7] Court-assisted mediation took place in Tauranga on 11 and 12 October 2022. Following mediation, the parties have been engaged in discussions to resolve the appeals without the need for a court hearing.

Agreement reached

[8] Subject to approval by the court, the parties have agreed to amend PC 27 as follows:

- (a) changes to the notes for the flood hazard area definitions (floodplains, overland flowpaths (minor or major) and flood prone areas) to clarify the relationship between site-specific technical reports or more up-to-date information and the City Council's GIS layer, in particular:
 - (i) the GIS layer is indicative, but the City Council accepts that the flood hazard area definitions do not apply to land which is shown as being outside the flood hazard areas on the indicative GIS layer;
 - (ii) the City Council will accept a site-specific technical report as prevailing over the indicative maps depicted in the GIS layer, provided the report uses the parameters in the flood hazard area definitions and the report (including any assumptions) is free from errors which materially affect the modelled extent, depth and flow characteristics of the flood hazard area; and
 - (iii) where the City Council's stormwater model has been updated

utilising more up-to-date or site-specific information, this will prevail over the indicative flood hazard areas depicted in the GIS layer.

- (b) changes to the definitions of social and cultural building and stormwater management devices for clarity;
- (c) changes to clarify the status of activities in the Road Zone, the status of new roads within flood hazard areas and include a matter of discretion relating to changes in levels – Rule 4C.2.1, Section 8D Purpose, Table 8D.1 and Matter of Discretion 8D.4.2.3;
- (d) changes so as to not preclude limited notification of restricted discretionary activities – Rule 8D.2.3;
- (e) various other amendments for clarity, consistency and brevity including:
 - (i) changes to the Section 8A Purpose to clarify the City Council’s role as an infrastructure provider;
 - (ii) changes to substitute references to “neighbouring properties or properties upstream or downstream” with the more concise words “other properties” – Rule 4C.3.2.7 and Matters of Discretion 8D.4.2.1, 8D.4.2.2, 8D.4.2.3, 8D.4.2.4 and 8D.4.2.5;
 - (iii) changes to use more accurate language to refer to flood risk being “not increased” rather than “not transferred” – Policy 8D.1.1.2, Policy 8D.1.1.4 and Policy 8D.1.1.5;
 - (iv) changes to use clearer language which focuses on ensuring that activities do not obstruct an overland flowpath rather than restricting activities that *may* obstruct an overland flowpath – Policy 8D.1.1.2;
 - (v) changes to use clearer language which focuses on reducing risk rather than managing activities – Policy 8D.1.1.3 and Policy 8D.1.1.5; and
 - (vi) other minor changes – Rule 4C.3.2.7, Policy 8C.1.1.1, Policy 8D.1.1.1, Rule 8D.2.2, Rule 8D.4.2.1, Rule 8D.4.2.2, Rule 8D.4.2.3 and Rule 12A.6.3.8.

Consideration

[9] In making these orders the court has read and considered:

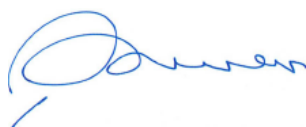
- (a) the City Council's decision on PC 27;
- (b) the notices of appeal filed by the appellants; and
- (c) the joint memorandum of counsel in support of the draft consent order dated 29 November 2024.

[10] The court is making this order under s279(1)(b) RMA, such order being by consent, rather than representing a decision or determination on the merits pursuant to s279. The court understands for present purposes that:

- (a) all parties to the proceedings agree to the granting of the consent order; and
- (b) all parties are satisfied that all matters proposed for the court's endorsement fall within the court's jurisdiction and satisfy the relevant considerations under the RMA and relevant statutory planning documents.

Outcome

[11] All parties to the proceeding have executed the memorandum requesting the orders. On the information provided to the court, I am satisfied that the orders will promote the purpose of the Act so I will make the orders sought.



K G Reid
Environment Judge





**APPENDIX 1 – AMENDMENTS
TO PROPOSED PLAN CHANGE**



Tauranga City

TAURANGA CITY COUNCIL

OPERATIVE CITY PLAN

Plan Change 27 - Flooding from intense rainfall

Chapter 3 - Definitions

annual exceedance probability (AEP)

Means the probability that a *natural hazard* event of a certain size will occur, or will be exceeded, in a time of one year.

critical buildings

Means *activities*, landuse, *buildings* and *structures*:

- a) Operated by agencies assisting the public in times of emergency, including Fire and Emergency New Zealand, the New Zealand Police, the Coastguard and ambulance services (including air ambulance services);
- b) Public and private hospitals and other similar facilities providing emergency medical services;
- c) Civic Defence Emergency centres

flood depth

Means the depth of water measured from the ground to the top water level in a flood.

flood level

Means the top water level in the 1% *annual exceedance probability (AEP)* rainfall event concurrent with a 5% *annual exceedance probability (AEP) storm-tide event*, taking into account the effects of climate change on rainfall and sea level based on the RCP 8.5 median scenario as of the year 2130.

floodplain

Means the land near a stream or river channel, susceptible to flooding in the 1% *annual exceedance probability (AEP)* rainfall event concurrent with a 5% *annual exceedance probability (AEP) storm-tide event*, taking into account the effects of climate change on rainfall and sea level based on the RCP 8.5 median scenario as of the year 2130.

~~Note: The Council holds publicly available information showing the modelled extent of floodplain(s) affecting specific properties in its GIS viewer. The maps are non-statutory and indicative only. Council will update the maps, including where further relevant site-specific information becomes available and to account for catchment changes as a result of infrastructure and land development. Council will consider publicly held site-specific information as well as any relevant information and technical assessments provided by any person(s) when assessing the current applicability of the floodplain definition to a particular site.~~

Note: The Council holds publicly available information showing the modelled extent of floodplain(s) affecting specific properties as a layer within its GIS viewer (GIS layer). The GIS layer is indicative only, although Council accepts that the definition of floodplain does not apply to land which is shown as being outside the floodplain on the GIS layer.

The Council will consider publicly held site-specific information as well as any relevant information which may confirm that the floodplain definition does not apply to a particular site.

Any person may provide the Council with a site-specific technical report prepared by a suitably qualified and experienced chartered professional engineer to establish the extent, depth and flow characteristics of the floodplain. The Council will accept such a site-specific technical report as prevailing over the indicative floodplain map depicted in the GIS layer, provided the report uses the parameters in the definition above and the report (including any assumptions) is free from errors which materially affect the modelled extent, depth and flow characteristics of the floodplain.

Where the Council's stormwater model has been updated utilising more up-to-date or site-specific information, this will prevail over the indicative floodplain depicted in the GIS layer.

The Council will continue to update the GIS layer, including where further relevant site-specific information becomes available and to account for catchment changes as a result of infrastructure and land development.

flood prone area

Means the land susceptible to flooding in the 1% *annual exceedence probability (AEP)* rainfall event concurrent with a 5% *annual exceedence probability (AEP) storm-tide event*, taking into account the effects of climate change on rainfall and sea level based on the RCP 8.5 median scenario as of the year 2130, but is not within the definition of *overland flowpath* or *floodplain*.

~~Note: The Council holds publicly available information showing the modelled extent of flood prone area(s) affecting specific properties in its GIS viewer. The maps are non-statutory and indicative only. Council will update the maps, including where further relevant site-specific information becomes available and to account for catchment changes as a result of infrastructure and land development. Council will consider publicly held site-specific information as well as any relevant information and technical assessments provided by any person(s) when assessing the current applicability of the flood prone area definition to a particular site.~~

Note: The Council holds publicly available information showing the modelled extent of flood prone area(s) affecting specific properties as a layer within its GIS viewer (GIS layer). The GIS layer is indicative only, although Council accepts that the definition of flood prone area does not apply to land which is shown as being outside the flood prone area on the GIS layer.

The Council will consider publicly held site-specific information as well as any relevant information which may confirm that the flood prone area definition does not apply to a particular site.

Any person may provide the Council with a site-specific technical report prepared by a suitably qualified and experienced chartered professional engineer to establish the extent, depth and flow characteristics of the flood prone area. The Council will accept such a site-specific technical report as prevailing over the indicative flood prone area depicted in the GIS layer, provided the report uses the parameters in the definition above and the report (including any assumptions) is free from errors which materially affect the modelled extent, depth and flow characteristics of the flood prone area.

Where the Council's stormwater model has been updated utilising more up-to-date or site-specific information, this will prevail over the indicative flood prone area depicted in the GIS layer.

The Council will continue to update the GIS layer, including where further relevant site-specific information becomes available and to account for catchment changes as a result of infrastructure and land development.

freeboard

Means the minimum height of the finished floor level above the *flood level*.

habitable room

Means any room used for the purposes of teaching or used as a living room, dining room, sitting room, bedroom and office or other room specified in *the Plan* to be a similarly occupied room.

impervious surfaces

Means an area with a surface which prevents the infiltration of rainfall into the ground. For the purposes of this definition *impervious surfaces* include:

- a) roofs;
- b) paved areas including driveways and sealed/compacted unsealed parking areas;
- c) swimming pools;
- d) sealed and compacted unsealed roads; and
- e) soil layers engineered to be impervious such as compacted clay.

For the purposes of this definition *impervious surfaces* excludes:

- a) any natural surface;
- b) grass and bush areas;
- c) gardens and other vegetated areas;
- d) porous or permeable paving and living roofs;
- e) permeable artificial surfaces, fields or lawns;
- f) slatted decks; and
- g) *stormwater management devices* not located beneath sealed or compacted surfaces.

land drainage works

Means drainage works of any sort, including the making of drains for receiving water in its natural flow and diverting the same to prevent its overflow on to any other lands on a lower level, as well as drains for carrying off water from any lands.

major overland flowpath

Means an *overland flowpath* with a contributing catchment of 2 hectares or more.

~~Note: The Council holds publicly available information showing the modelled extent of major overland flowpath(s) affecting specific properties in its GIS viewer. The maps are non-statutory and indicative only. Council will update the maps, including where further relevant site-specific information becomes available and to account for catchment changes as a result of infrastructure and land development. Council will consider publicly held site-specific information as well as any relevant information and technical assessments provided by any person(s) when assessing the current applicability of the major overland flowpath definition to a particular site.~~

Note: The Council holds publicly available information showing the modelled extent of major overland flowpath(s) affecting specific properties as a layer within its GIS viewer (GIS layer). The GIS layer is indicative only, although

Council accepts that the definition of major overland flowpath does not apply to land which is shown as being outside the major overland flowpath on the GIS layer.

The Council will consider publicly held site-specific information as well as any relevant information which may confirm that the major overland flowpath definition does not apply to a particular site.

Any person may provide the Council with a site-specific technical report prepared by a suitably qualified and experienced chartered professional engineer to establish the extent, depth and flow characteristics of the major overland flowpath. The Council will accept such a site-specific technical report as prevailing over the indicative major overland flowpath depicted in the GIS layer, provided the report uses the parameters in the definition above and the report (including any assumptions) is free from errors which materially affect the modelled extent, depth and flow characteristics of the major overland flowpath.

Where the Council's stormwater model has been updated utilising more up-to-date or site-specific information, this will prevail over the indicative major overland flowpath depicted in the GIS layer.

The Council will continue to update the GIS layer, including where further relevant site-specific information becomes available and to account for catchment changes as a result of infrastructure and land development.

marae

Means a specific area containing a complex of *buildings* which a hapū regards as their base for hosting meetings and other ceremonial occasions (hui).

minor overland flowpath

Means an *overland flowpath* with a contributing catchment which is less than 2 hectares in area.

~~Note: The Council holds publicly available information showing the modelled extent of minor overland flowpath(s) affecting specific properties in its GIS viewer. The maps are non-statutory and indicative only. Council will update the maps, including where further relevant site-specific information becomes available and to account for catchment changes as a result of infrastructure and land development. Council will consider publicly held site-specific information as well as information and technical assessments provided by any person(s) when assessing the current applicability of the minor overland flowpath definition to a particular site.~~

Note: The Council holds publicly available information showing the modelled extent of minor overland flowpath(s) affecting specific properties as a layer within its GIS viewer (GIS layer). The minor overland flowpath map is indicative only, although Council accepts that the definition of minor overland flowpath does not apply to land which is shown as being outside the minor overland flowpath on the GIS layer.

The Council will consider publicly held site-specific information as well as any relevant information which may confirm that the minor overland flowpath definition does not apply to a particular site.

Any person may provide the Council with a site-specific technical report prepared by a suitably qualified and experienced chartered professional engineer to establish the extent, depth and flow characteristics of the minor overland flowpath. The Council will accept such a site-specific technical report as prevailing over the indicative minor overland flowpath depicted in the GIS layer, provided the report uses the parameters in the definition above and the report (including any assumptions) is free from errors which materially affect the modelled extent, depth and flow characteristics of the minor overland flowpath.

Where the Council's stormwater model has been updated utilising more up-to-date or site-specific information, this will prevail over the indicative minor overland flowpath depicted in the GIS layer.

The Council will continue to update the GIS layer, including where further relevant site-specific information becomes available and to account for catchment changes as a result of infrastructure and land development.

social and cultural building

For the purpose of *Chapter 8 – Natural Hazards*, means ~~buildings and structures~~ for places of worship, art galleries, museums, libraries, ~~community centres~~, community halls, clubrooms, rest homes and education facilities.

storm-tide event

Means the total observed seawater level which is the combination of storm surge and normal high tide.

stormwater management devices

Means a device or facility used to reduce stormwater runoff volume, flow and/or contaminant loads prior to discharge. This includes but is not limited to:

- a) rain gardens and swales;
- b) ~~designed~~ permeable paving with below ground storage;
- c) rainwater tank;
- d) infiltration trenches;
- e) sand filters;
- f) green roofs;
- g) wetlands;
- h) ponds;
- i) proprietary treatment devices; and
- j) soakholes and soakpits.

overland flowpath

Means the land overflown by a concentrated flow of water resulting from a 1% *annual exceedence probability (AEP)* rainfall event concurrent with a 5% *annual exceedence probability (AEP) storm-tide event*, taking into account the effects of climate change on rainfall and sea level based on the RCP 8.5 median scenario as of the year 2130, as it flows towards the stormwater network, streams, rivers, harbour or the coast. *Overland flowpath* includes a secondary flowpath which is activated when the primary (often piped) stormwater system gets blocked or when the capacity of the piped system is exceeded. For the purposes of this definition, an *overland flowpath* includes an artificially designed route using formed or hard surfaces.

~~Note: The Council holds publicly available information showing the modelled extent of overland flowpath(s) affecting specific properties in its GIS viewer. The maps are non-statutory and indicative only. Council will update the maps, including where further relevant site-specific information becomes available and to account for catchment changes as a result of infrastructure and land development. Council will consider publicly held site-specific information as well as information and technical assessments provided by any person(s) when assessing the current applicability of the overland flowpath definition to a particular site.~~

Note: The Council holds publicly available information showing the modelled extent of overland flowpath(s) affecting specific properties as a layer within its GIS viewer (GIS layer). The GIS layer is indicative only, although

Council accepts that the definition of overland flowpath does not apply to land which is shown as being outside the overland flowpath on the GIS layer.

The Council will consider publicly held site-specific information as well as any relevant information which may confirm that the overland flowpath definition does not apply to a particular site.

Any person may provide the Council with a site-specific technical report prepared by a suitably qualified and experienced chartered professional engineer to establish the extent, depth and flow characteristics of the overland flowpath. The Council will accept such a site-specific technical report as prevailing over the indicative overland flowpath depicted in the GIS layer, provided the report uses the parameters in the definition above and the report (including any assumptions) is free from errors which materially affect the modelled extent, depth and flow characteristics of the overland flowpath.

Where the Council's stormwater model has been updated utilising more up-to-date or site-specific information, this will prevail over the indicative overland flowpath depicted in the GIS layer.

The Council will continue to update the GIS layer, including where further relevant site-specific information becomes available and to account for catchment changes as a result of infrastructure and land development.

Chapter 4 – General Rules

4C.1.1.3 Policy – Flood Hazard Plan Area

By ensuring the potential adverse flooding effects to property are minimised where earthworks occur on land containing watercourses, overland flow paths, ponding areas and/or land subject to inundation by harbour and coastal waters.

4C.2.1 Exemptions to the Permitted Activity Rules

- a) The following *activities* are permitted and exempt from *Rule 4C.2.2 – All Zones* through ~~*Rule 4C.2.10 – Floodplains, Major Overland Flowpaths and Flood Prone Areas*~~ ~~*Rule 4C.2.9 High-Voltage Transmission Plan Area*~~:
- i) *Earthworks* consented as part of a *subdivision* consent approved by *Council* where the scope and extent of *earthworks* has been specifically described in the application in accordance with *Rule 12B.3.1.5 – Earthworks*; *Rule 12C.3.1.3 – Earthworks*, *Rule 12D.3.1.2 – Earthworks*; or *Rule 12E.3.1.4 – Earthworks*;
 - ii) *Earthworks* in the *Road Zone*;
 - iii) *Earthworks* associated with the maintenance, renewal and *minor upgrading* (in relation to *electric lines*) of *network utilities* listed in *Chapter 10 – Network Utilities and Designations* subject to *Rule 10A.5.9 – Establishment, Maintenance or Demolition of a Network Utility*;
 - iv) *Earthworks* associated with the construction of *stormwater reserves*.
 - v) *Earthworks* for domestic gardening;
 - vi) *Earthworks* for grave digging;
 - vii) *Earthworks* for archaeological investigations authorized by Heritage New Zealand, subject to the written approval of Transpower being clearly endorsed on all relevant investigation *site* plans where those investigations occur within the High Voltage Transmission Plan Area identified on the *Plan Maps, Part B*.
- b) The following activities are permitted and exempt from *Rule 4C.2.10 Floodplains, Major Overland Flowpaths and Flood Prone Areas*:
- i) *Earthworks consented as part of a subdivision consent approved by Council where the scope and extent of earthworks has been specifically described in the application in accordance with Rule 12B.3.1.5 – Earthworks; Rule 12C.3.1.3 – Earthworks, Rule 12D.3.1.2 – Earthworks; or Rule 12E.3.1.4 – Earthworks;*
 - ii) *Earthworks in the Road Zone.*

4C.2.2 All Zones

In addition to *Rule 4C.2.3 – Tauriko Business Estate* through to *Rule 4C.2.10 – Floodplains, Major Overland Flowpaths and Flood Prone Areas*, *earthworks* are a Permitted Activity providing:

- a) They are ancillary to the physical works required to establish a Permitted Activity within that zone;

- b) Any *earthworks*, exposing more than 100m² of area shall apply, as a minimum, the following erosion and sediment control measures (where applicable) to control sediment within the *site(s)* upon which the *earthworks* are occurring:
- i) A single access is constructed and used to prevent vehicle tracking of material off the *site(s)*;
 - ii) Stormwater inlet protection, a perimeter silt fence or other barrier is installed;
 - iii) Material stockpiles are placed upslope of the silt fence or other barrier and are covered when not in use;
 - iv) Temporary or permanent downpipes are connected to the stormwater system;
 - v) Surface water is diverted away from, or prevented from, running over bare soil; and
 - vi) Sediment-laden water from the works area is treated on the *site(s)*.

Rule 4C.2.2 b) shall not apply to *earthworks* that: have resource consent under the Bay of Plenty Regional Council Regional Natural Resources Plan or are ancillary to *primary production*;

Note: Council's Sediment and Erosion Control Guideline provides guidance and examples of sediment and erosion control measures/materials for different site circumstances to assist the selection of the best practice measures for erosion and sediment control.

Note: The Bay of Plenty Regional Council also has Erosion and Sediment Control Guidelines for Land Disturbing Activities which apply to activities/consents under the Bay of Plenty Regional Council Regional Natural Resources Plan.

- c) Any single cut on a *site* 1.5 metres in height or higher (either as a single cut or combination of cuts) where the angle of cut is 45° or greater is retained either before *construction* of any *building* foundations or retained no later than 3 months after that cut being created. This rule shall not apply to *earthworks* in the Rural Zone unless those *earthworks* are associated with *construction* of a *building*;
- d) They do not take place within the *drip-line* of a *Notable Tree* or *Heritage Tree*;
- e) They do not take place on any *site* that includes *potentially contaminated land*, unless:
 - i) A consent for remediation has been obtained from the Bay of Plenty Regional Council;
 - ii) A *site* investigation report prepared by a suitably qualified contaminated *site* investigator is submitted to the *Council* in accordance with Ministry for the Environment Guideline No.1 – Reporting on Contaminated Sites in New Zealand demonstrating that either the *site* does not have *potentially contaminated land* or the *potentially contaminated land* is separated from the *earthworks* by a safe distance (determined by the substance causing soil contamination);
 - iii) Consent has been obtained pursuant to *Rule 9B.3 – Restricted Discretionary Rules*;
 - iv) The provisions of *Rule 9B.2.1 – Applicability to Subdivision and Land Use* apply;
- f) They are associated with sub-surface investigations of contaminated and *potentially contaminated land* to determine the presence, extent and nature of any contamination. This work shall be coordinated by a suitably qualified contaminated *site* investigator.

4C.2.10 Floodplains, Major Overland Flowpaths and Flood Prone Areas

In addition to *Rule 4C.2.2 – All Zones*, earthworks carried out between the *ground level* that existed at 16 November 2020 and the top *flood level* within a *floodplain, major overland flowpath or flood prone area* shall:

- a) Not exceed 10m³ in net volume of fill above the *ground level* that existed at 16 November 2020; and
- b) Not raise *ground levels* by more than 300mm above the *ground level* that existed at 16 November 2020.

This rule shall not apply to earthworks that are ancillary to *primary production* or earthworks that are ancillary to the maintenance of stormwater assets, *public recreational facilities and activities* and *minor public recreational facilities and activities*.

Note: For the avoidance of doubt, non-compliance with both 4C.2.2 a) and 4C.2.2 b) is a Restricted Discretionary Activity in accordance with Rule 4C.3 – Restricted Discretionary Activity Rules.

4C.3.2.7 For Earthworks in Floodplains, Major Overland Flowpaths and Flood Prone Areas

In considering earthworks that do not comply with *Rule 4C.2.10 – Floodplains, Major Overland Flowpaths and Flood Prone Areas*, the Council restricts the exercise of its discretion to:

- a) The extent to which the proposal mitigates on *site* flood risk;
- b) The extent to which the proposal avoids any increase in flood risk on other neighbouring properties ~~or properties upstream or downstream~~;
- c) The effects of the decrease of water storage or flood conveyance capacity of the major overland flowpath or floodplain;
- d) ~~Consistency with the objectives and policies in Chapter 8D – Flooding from Intense Rainfall.~~

Chapter 8 – Natural Hazards

8A Purpose of the Natural Hazards Provisions

Council must recognise and provide for the management of significant risks from *natural hazards* as a matter of national importance.

The City is located on land that is geologically sensitive and partly in direct proximity to a dynamic *coastal environment*. It is also located within a volcanically active region which may present localised effects.

Natural hazards are defined in the *Resource Management Act*. *Natural hazards* identified within the Tauranga City environs include, but are not limited to:

- a) Earthquake induced subsidence and/or flooding, including liquefaction;
- b) Instability induced by highly compressible soils;
- c) Erosion and land slippage associated with relic land slips and slip debris or overly steep topography;
- d) Flooding associated with intense rainfall;
- e) Flooding associated with sea-level rise;
- f) Tsunami or coastal inundation and coastal erosion along and within the open and harbour coastlines.

Two key pieces of legislation empower *Council* to regulate ~~manage and control~~ *natural hazards*; the Resource Management Act 1991 and the Building Act 2004. Under the Resource Management Act 1991, *subdivision*, use and development is required to avoid, remedy or mitigate the effects of *natural hazards*.

The Building Act 2004 confers ~~has~~ similar responsibilities when granting *building* consents on land subject to specified *natural hazards*, with certain exceptions.

The emphasis in regulating ~~the management of~~ *natural hazards* is to encourage people to avoid situations in which they, or their property, could be at risk.

Under the Local Government Act 2002, *Council* is required to plan for the management of its infrastructure assets, including flood protection and control works.

Council will take an integrated and catchment-wide approach to the management of stormwater and flooding through the use of comprehensive stormwater consents, catchment management plans and infrastructure upgrades.

Subdivision, use and development, and the protection of natural and physical resources contained within an area subject to, or likely to be subject to, a *natural hazard* are subject to the provisions in this Chapter.

The plan provisions take a risk management approach to controlling *activities* by assessing the level of risk according to the likelihood of *natural hazards* occurring and their potential consequence.

Flood hazard risk has been considered in terms of the following three category risk framework:

- a) High *natural hazard* risk is a level of risk beyond what should be tolerated;
- b) Medium *natural hazard* risk is a level of risk that exceeds the low level but does not meet the criteria for High risk; and

- c) Low *natural hazard* risk is the level of risk generally acceptable.

A low *natural hazard* risk must be achieved on development *sites* after completion of the development, without increasing risk outside of the development *site*.

8C.1.1 Objective - Avoidance or Mitigation in the Flood Hazard Plan Area

The adverse effects to property and the *environment* from flooding caused by harbour inundation are avoided or mitigated.

8C.1.1.1 Policy - Avoidance or Mitigation in the Flood Hazard Plan Area

By ensuring *subdivision*, use and development in the Flood Hazard Plan Area ~~flood hazard plan area~~ is avoided or mitigated, unless:

- a) The risk to *buildings, structures* and surrounding properties is mitigated against;
- b) The natural functioning of flood plains or low-lying land as ponding areas is protected.

8D Purpose of Flooding from Intense Rainfall Provisions

The purpose of this section is to manage *activities affected by* ~~related to~~ flood hazards from intense rainfall, so that risk is not increased and is reduced over time.

The nature of risk and appropriate mitigation for intense rainfall related flooding can vary depending on the nature of the flood area. *Council* has therefore defined three types of flooding areas from intense rainfall events: *floodplains, overland flowpaths* and *flood prone areas*.

The purpose of these categories is to enable targeted control of *activities* which may introduce risk or adverse effects, while allowing *activities* which may be appropriate in or adjacent to the flood area. This section adopts the 1% *AEP* rainfall event taking into account climate change and sea level rise to give effect to the Bay of Plenty Regional Council Regional Policy Statement.

Floodplains are situated next to a river or stream. They carry out the important function of water storage and flood flow conveyance during a flood event. Development within a *floodplain* can cause an increase in flood risk, by either placing more people and assets within an area likely to be affected by flooding, and/or by increasing flood flows through loss of storage and conveyance function and diversions of flows such that additional adverse effects occur.

Overland flowpaths are part of the stormwater system to safely convey flood flows, which cannot get into or cannot be conveyed by the primary stormwater system and need to be managed in order to reduce nuisance or damage caused by flooding. *Overland flowpaths* throughout the City are often located on public roads and reserves. *Overland flowpaths* have been delineated into following categories:

- a) *Minor overland flowpath*: has a contributing catchment of less than 2ha.
- b) *Major overland flowpath*: has a contributing catchment of 2ha or more, meaning that the flowpath function serves a larger area. There is potentially greater onsite risk in a *major overland flowpath* and the possibility that the *major overland flowpath* will affect larger upstream and downstream land area than a *minor overland flowpath*.

Flood prone areas are areas which are flooded in a 1% *AEP* event, however, unlike *floodplains* and *overland flowpaths*, the flow of the water is much slower. Therefore, it is possible to develop in *flood prone areas* in certain circumstances provided flood risk to life and property is low or is mitigated.

Risk can vary on a site-by-site basis and the level of risk will inform the mitigation required.

Council holds publicly available information showing the modelled extent of *floodplains*, *overland flowpaths* and *flood prone areas*, which identify the locations and extent of these flood types. The maps are non-statutory and indicative only. *Council* will update the maps, including where further relevant *site*-specific information becomes available and to account for catchment changes as a result of infrastructure and land development. *Council* will consider publicly held *site*-specific information as well as information and technical assessments provided by any person(s) when assessing the current applicability of the *floodplains*, *overland flowpath* and *flood prone area* definitions to a particular *site*.

The Tauranga City Council Flooding from intense rainfall guideline is publicly available to aid in the understanding of the modelling and implementation of provisions in relation to flooding from intense rainfall. The guideline is non-statutory and will be periodically reviewed and updated by the *Council* as needed.

8D.1 Objectives and Policies for Areas Subject to Flooding from Intense Rainfall

8D.1.1 Objective - Avoidance or mitigation of flooding from intense rainfall

The flood risk to life, property and *infrastructure* resulting from *subdivision*, use and development of land is reduced over time taking into account the effects of climate change.

8D.1.1.1 Policy – Floodplains - General

Maintain the conveyance function and storage capacity of *floodplains* by:

- a) Restricting the infilling of *floodplains*; and
- b) Restricting *activities* and *subdivision* within the *floodplain*; ~~and~~
- e) ~~Restricting urban development and subdivision within the floodplain.~~

8D.1.1.2 Policy - Overland Flowpaths - General

Maintain the function of *overland flowpaths* to safely convey flood water and reduce risk to life, property and *infrastructure* by:

- a) Maintaining the water carrying capacity of an *overland flowpath*;
- b) Maintaining the water storage capacity of a *major overland flowpath*;
- c) ~~Restricting~~ Ensuring *activities* ~~that may do not~~ obstruct an *overland flowpath*;
- d) Ensuring that the risk of flooding is ~~not transferred~~ to other people, property or *infrastructure* is not increased; and
- e) Ensuring that the minimum *freeboard* level of *habitable rooms* is above the *flood level*; and
- f) Demonstrating that a safe evacuation route or refuge during flood events is provided.

8D.1.1.3 Policy – Floodplains and Overland Flowpaths - Critical Buildings and Social and Cultural buildings

~~Manage activities to~~ Reduce the risk to life and property by ~~from~~ flooding including:

- a) Avoiding new *critical buildings* being located within *floodplains* and *overland flowpaths*;
- b) Avoiding new *social and cultural buildings* being located within *floodplains* and *overland flowpaths*; and

- c) Restricting additions to existing *buildings* located within *floodplains* and *overland flowpaths*.

8D.1.1.4 Policy – Flood Prone Area - General

Requiring new *buildings* and additions to existing *buildings* (other than *social and cultural buildings* and *critical buildings*) within the *flood prone area* to mitigate risks from flood hazards by:

- a) Requiring that the minimum *freeboard* level of *habitable rooms* is above the *flood level*
- b) Ensuring that the risk of flooding is ~~not transferred~~ to other people, property or *infrastructure* is not increased; and
- c) Ensuring that *business* and *industrial activities* are designed to minimise damage to goods and internal fittings caused by flooding.

8D.1.1.5 Policy – Flood Prone Area – Social and Cultural Buildings and Critical Buildings

~~Manage activities to~~ Reduce the risk of flooding in *flood prone areas* by:

- a) Requiring new *social and cultural buildings* and *critical buildings* to be located outside *flood prone areas*; and
- b) Requiring the additions or alterations to existing *social and cultural building* and *critical buildings* located within *flood prone areas* to mitigate risks from flood hazard by:
- i) Ensuring that the minimum *freeboard* level of *habitable rooms* is above the *flood level*; and
- ii) Ensuring that the risk of flooding is ~~not transferred~~ to other people, property or *infrastructure* is not increased; and
- iii) Demonstrate that a safe evacuation route or refuge during flood events is provided; and
- iv) Ensuring *buildings* are designed to minimise damage caused by flooding; and
- v) For *critical buildings* located within a *flood prone area*, ensuring that the *activity* within the *critical building* continues in its normal function during and after a 1% *AEP* rainfall event concurrent with a 5% *AEP storm-tide event*, taking into account the effects of climate change on rainfall and sea level based on the RCP 8.5 median scenario as of the year 2130.

8D.1.1.6 Policy - Impervious surfaces

Restrict on *site impervious surfaces* to manage the amount of *stormwater run-off* generated by a development and ensure that adverse effects of flooding are avoided or mitigated.

8D.2 Activity Status Rules (Flooding from Intense Rainfall)

8D.2.1 Activities within Floodplains, Overland Flowpaths and Flood Prone Areas

All activities within *overland flowpaths, floodplains and flood prone areas* shall have the status identified in *Table 8D.1: Flood Hazards Activity Status (Overland Flowpath, Floodplain and Flood Prone Area)*. Symbols used in *Table 8D.1: Flood Hazards Activity Status (Overland Flowpath, Floodplain and Flood Prone Area)* have the meaning described in *Table 1A.2: Activity Status*.

Table 8D.1: Flood Hazards Activity Status (Overland Flowpath, Floodplain and Flood Prone Area)

Use/Activity	Relevant Rule	Floodplain	Minor Overland Flowpath	Major Overland Flowpath	Flood Prone Area Flood depth 100-299mm	Flood Prone Area Flood depth 300mm or more
Additions to any lawfully established <i>buildings</i> unless otherwise stated in this table	-	P (Refer Rule 8D.3.4)	P (Refer Rule 8D.3.2)	P (Refer Rule 8D.3.3)	P (Refer Rule 8D.3.6)	P (Refer Rule 8D.3.6)
Additions to existing lawfully established <i>Social and Cultural buildings and Critical buildings</i>	-	D (Refer Rule 8D.5)	D (Refer Rule 8D.5)	D (Refer Rule 8D.5)	P (Refer Rule 8D.3.6)	P (Refer Rule 8D.3.6)
<i>Childcare or homebased childcare</i> within the <i>flood prone area</i>	-	n/a	n/a	n/a	D (Refer Rule 8D.5)	D (Refer Rule 8D.5)
Flood mitigation works within a <i>minor overland flowpath</i>	-	n/a	P (Refer Rule 8D.3.2)	n/a	n/a	n/a
New <i>Marae</i>	-	D (Refer Rule 8D.5)	D (Refer Rule 8D.5)	D (Refer Rule 8D.5)	P (Refer Rule 8D.3.5)	RD (Refer Rule 8D.4.2.4)
New <i>business activities and industrial activities</i>	-	D (Refer Rule 8D.5)	RD (Refer Rule 8D.4.2.2)	RD (Refer Rule 8D.4.2.3)	P (Refer Rule 8D.3.5)	RD (Refer Rule 8D.4.2.4)

Use/Activity	Relevant Rule	Floodplain	Minor Overland Flowpath	Major Overland Flowpath	Flood Prone Area Flood depth 100-299mm	Flood Prone Area Flood depth 300mm or more
<i>New residential building</i>	-	D (Refer Rule 8D.5)	RD (Refer Rule 8D.4.2.2)	RD (Refer Rule 8D.4.2.3)	P (Refer Rule 8D.3.5)	RD (Refer Rule 8D.4.2.4)
<i>New Social and Cultural buildings and Critical buildings</i>	-	NC (Refer Rule 8D.6)	NC (Refer Rule 8D.6)	NC (Refer Rule 8D.6)	D (Refer Rule 8D.5)	D (Refer Rule 8D.5)
<i>New Structures unless otherwise stated in this table</i>	-	P (Refer Rule 8D.3.4)	P (Refer Rule 8D.3.2)	P (Refer Rule 8D.3.3)	P (Refer Rule 8D.3.5)	P (Refer Rule 8D.3.5)
<u>Formation of new roads within the legal road</u>	<u>8D.3</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<i>Operation, maintenance, renewal, repair and minor upgrading of any infrastructure</i>	8D.3	P	P	P	P	P
<i>Operation, maintenance, renewal, repair and minor infrastructure upgrading of land drainage works and stormwater management devices</i>	8D.3	P	P	P	P	P
<i>Operation, maintenance, renewal and repair of road network activities within the legal road or road formation width</i>	8D.3	P	P	P	P	P

Use/Activity	Relevant Rule	Floodplain	Minor Overland Flowpath	Major Overland Flowpath	Flood Prone Area Flood depth 100-299mm	Flood Prone Area Flood depth 300mm or more
Temporary activities	8D.3	P	P	P	P	P
Temporary Storage Areas	-	P (Refer Rule 8D.3.3)	P (Refer Rule 8D.3.2)	P (Refer Rule 8D.3.3)	P (Refer Rule 8D.3.5)	P (Refer Rule 8D.3.5)
Walls and Fences	8D.3.1	P	P	P	n/a	n/a

8D.3 Permitted Activity Rules

Note: Any activity that does not comply with a Permitted Activity Rule shall be considered a Restricted Discretionary Activity, unless stated otherwise.

Any activity not otherwise listed in Table 8D.1 shall be considered a Permitted Activity, subject to the relevant Permitted Activity Rules.

8D.3.1 Walls and Fences

Any fences and walls within the *floodplain* or *overland* flowpath shall be:

- a) Designed so that at least 70% of the surface area of the wall or fence is not solid to allow stormwater to flow through; or
- b) Solid fences and walls with an opening at ground level to retain the water carrying and water storage capacity of the *overland flowpath* or *floodplain*.

8D.3.2 Minor Overland Flowpaths

Any permitted *activity* within the *minor overland flowpath* shall:

- a) Allow the stormwater to flow safely without causing damage to any *site* and/or *building*;
- b) Retain the water carrying capacity of the *overland flowpath*; and
- c) Retain the entry and exit points of the *overland flowpath* from the *site*.

8D.3.3 Major Overland Flowpaths and Floodplains

Any permitted *activity* within the *major overland flowpath* or *floodplain* shall:

- a) Allow the stormwater to flow safely without causing damage to any *site* and/or *building*;
- b) Retain the water carrying capacity of the *major overland flowpath* or *floodplain*; and
- c) Retain the water storage capacity of the *major overland flowpath* or *floodplain*.

8D.3.4 Additions in Floodplains

Additions to any lawfully established *building* or *structure* within the *floodplain* beyond the *building* envelope or footprint of the existing *building* or *structure* shall:

- a) Not exceed 20m² of *gross floor area (GFA)* at *ground level*; and
- b) Have the following minimum *freeboard* level:
 - i) 500mm for *habitable rooms* in any *residential building* and *Marae*; or
 - ii) 300mm for *business activities* and *industrial activities*.

8D.3.5 Flood Prone Areas

Any *building* or *structure*, ~~excluding~~ other than an in-ground swimming pools, located in a *flood prone area* shall be either:

- a) Located in an area that has a *flood depth* of less than 300mm with the following minimum *freeboard* level:
 - i) 500mm for *habitable rooms* in *residential buildings* and *Marae*;
 - ii) 300mm for *business activities* and *industrial activities*; or
- b) Located in an area that has a *flood depth* of 300mm or more and shall not exceed 20m² at ground floor level.

8D.3.6 Additions in Flood Prone Areas

Additions at ground floor level to any lawfully established *activities* within the *flood prone area* shall:

- a) Not exceed 20m² of *gross floor area (GFA)*;
- b) Be at the same or higher floor level as the adjoining room.

8D.4 Restricted Discretionary Activity Rules

The following are Restricted Discretionary Activities:

- a) Any *activity* that does not comply with *Rule 8D.3 - Permitted Activity Rules*;
- b) Any *activity* listed as a Restricted Discretionary Activity in *Table 8D.1: Flood Hazards Activity Status (Overland Flowpath, Floodplain and Flood Prone Area)*.

8D.4.1 Non-Notification

Any resource consent application made under *Rule 8D.4 – Restricted Discretionary Activity Rules* shall be considered without public or ~~limited~~ notification.

8D.4.2 Restricted Discretionary Activities - Matters of Discretion

8D.4.2.1 Walls and Fences

In considering *activities* that do not comply with *Rule 8D.3.1 – Walls and Fences*, the *Council* restricts the exercise of its discretion to:

- a) The extent to which the proposal mitigates on *site* flood hazard;

- b) The extent to which the proposal changes flood hazard on ~~neighbouring other properties or properties further downstream or upstream~~ and how any potential impacts from these changes will be mitigated;
- c) The extent to which the proposal ~~maintains provides for~~ the conveyance of the water in the ~~floodplain or overland flowpath~~.

8D.4.2.2 Minor Overland Flowpaths

In considering *activities* that do not comply with *Rule 8D.3.2 – Minor Overland Flowpaths* or which are classified as *Restricted Discretionary Activities* in *Table 8D.1: Flood Hazards Activity Status (Overland flowpath, Floodplain and Flood Prone Area)*, the *Council* restricts the exercise of its discretion to:

- a) The extent to which the proposal changes the entry and/or the exit points of the *overland flowpath* and how ~~the any~~ potential impacts from ~~any these~~ changes will be mitigated;
- b) The extent to which the proposal mitigates on *site* flood hazard caused by the *overland flowpath*, including setting of minimum *freeboard* level;
- c) The extent to which the proposal changes ~~the~~ flood hazard ~~on other properties caused by the overland flowpath on neighbouring properties or properties upstream or downstream~~ and how ~~the any~~ potential impacts ~~from these of that~~ changes will be mitigated;
- d) The extent to which the proposal mitigates erosion caused by the *overland flowpath* on *site* or downstream;
- e) The extent to which the proposal provides for the conveyance of water in a *minor overland flowpath*;
- f) The provision for a safe evacuation route or refuge for people from the *activity* during flood events;
- g) The extent to which the proposal provides for access and maintenance to maintain safe passage of water and minimise risk in an intense rainfall event.

8D.4.2.3 Floodplains and Major Overland Flowpaths

In considering *activities* that do not comply with *Rule 8D.3.3 – Major Overland Flowpaths and Floodplains*, *Rule 8D.3.4 – Additions in Floodplains* or which are classified as *Restricted Discretionary Activities* in *Table 8D.1: Flood Hazards Activity Status (Overland flowpath, Floodplain and Flood Prone Area)*, the *Council* restricts the exercise of its discretion to:

- a) The extent to which the proposal mitigates on *site* flood risk, including setting of minimum *freeboard* level;
- b) The extent to which the proposal changes the flood ~~hazard risk~~ ~~on other properties neighbouring properties or properties downstream or upstream~~ and how ~~the any~~ potential impacts ~~from these of that~~ changes will be mitigated;
- c) The effects of any decrease of water storage capacity of the *floodplain* or *major overland flowpath*;
- d) The extent to which the proposal provides for the conveyance of water ~~in the major overland flowpath or floodplain~~;
- e) The provision for a safe evacuation route or refuge for people from the *activity* during flood events;

- f) The extent to which mitigation measures are taken so that goods and material stored outdoors do not move and cause damage to any buildings or cause blockage of an *overland flowpath* or *floodplain*;
- g) The extent to which mitigation measures are taken so that the design of ~~any the~~ car parking ensures that vehicles do not move and cause damage to any *buildings* or cause blockage of an *overland flowpath* or *floodplain*;
- h) The extent to which changes in levels within the road network result in increased flood risk on neighbouring properties or properties further downstream or upstream and how any potential impacts from these changes will be mitigated.

8D.4.2.4 Flood Prone Areas

In considering *activities* that do not comply with *Rule 8D.3.5 – Flood Prone Areas*, the *Council* limits the exercise of its discretion to:

- a) The extent to which the proposal mitigates on *site* flood risk, including setting of minimum *freeboard* level;
- b) The provision for a safe evacuation route or refuge for people during flood events;
- c) The extent to which the proposal changes the flood hazard risk on other properties ~~neighbouring properties or properties downstream or upstream~~ and how the any potential impacts ~~from these~~ of that changes will be mitigated;
- d) The extent to which the proposal will affect the *Council* drainage system or other properties ~~, neighbouring properties or properties upstream or downstream~~ when the stormwater is removed from the *building* after a flood event;
- e) The extent to which internal fittings are set above the *flood level*;
- f) For *business activities* and *industrial activities*, the extent to which any generators, internal fittings and any goods are protected from flood damage;
- ~~g) The extent to which any other specific design for an activity will increase flood risk on site, on neighbouring properties and on properties further downstream.~~

8D.4.2.5 Additions in Flood Prone Areas

In considering *activities* that do not comply with *Rule 8D.3.6 – Additions in Flood Prone Areas*, the *Council* restricts the exercise of its discretion to:

- a) The extent to which the proposal mitigates on *site* flood risk, including setting of minimum *freeboard* level;
- b) The extent to which the proposal changes the flood hazard risk on other properties ~~neighbouring properties or properties downstream or upstream~~ and how the any potential impacts ~~from these~~ of that changes will be mitigated;
- c) The provision for a safe evacuation route or refuge for people from the *activity* during flood events;
- d) The extent to which the proposal ensures that the *activity* within the *critical building* continues in its normal function during and after a 1% *AEP* rainfall event concurrent with a 5% *AEP storm-tide event*, taking into account the effects of climate change on rainfall and sea level based on the RCP 8.5 median scenario as of the year 2130.

8D.5 Discretionary Activity Rules

The following are Discretionary *Activities*:

- a) Any *activity* listed as a Discretionary *Activity* in *Table 8D.1: Flood Hazards Activity Status (Overland flowpath, Floodplain and Flood Prone Area)*.

8D.5.1.1 Assessment of Discretionary Activities

In considering a Discretionary *Activity* the *Council's* discretion is unrestricted. The *Council* shall consider any relevant matter with particular regard to the relevant Objectives and Policies of *the Plan*.

8D.6 Non-Complying Activity Rules

The following are non-complying *activities*:

- a) Any *activity* listed as a Non-Complying *Activity* in *Table 8D.1: Flood Hazards Activity Status (Overland flowpath, Floodplain and Flood Prone Area)*.

8D.7 Exemption where a building consent has been applied for

A *building* or building work is exempt from compliance with any rules relating to *floodplains, overland flowpaths, flood prone areas and impervious surfaces* and is a Permitted *Activity* in terms of those rules if the *Council* received an application for a building consent for that *building* or building work under the Building Act 2004 before 16 November 2020.

Chapter 9 - Hazardous Substances and Contaminated Land

9A.1.1.6 Policy – Management of Hazardous Substances in Floodplains, Overland Flowpaths and Flood Prone Areas

By ensuring that facilities within *floodplains, overland flowpaths* and *flood prone areas*, involving the manufacturing, storage, use and disposal of *hazardous substances* are designed, located and managed to prevent adverse effects on public health and contamination of water.

Chapter 12 - Subdivision, Services and Infrastructure

12A.1 Activity Status Rules

12A.2.1 Subdivision Activities

All *subdivision activities* shall have the status identified in *Table 12A.1: Subdivision Activity Status*. Symbols used in *Table 12A.1: Subdivision Activity Status* have the meaning described in *Table 1A.2: Activity Status*.

Table 12A.1: Subdivision Activity Status

Use/Activity	Relevant Rule	Residential Zones	Rural- Residential	Rural, Greenbelt & Future Urban	Commercial and Industrial ¹	Rural Marae Community and Matapihi	Urban Marae Community Ngati Kahu	Education Centre and	Wairakei Zones ²
...									
<i>Subdivision within major overland flowpath</i>	-	C	C	C	C	C	C	C	C
<i>Subdivision partly within the floodplain</i>	12A.6	RD	RD	RD	RD	RD	RD	RD	RD
<i>Subdivision wholly within the floodplain</i>	12A.8	NC	NC	NC	NC	NC	NC	NC	NC

12A.5 Controlled Activity Rules

The following are Controlled Activities:

- a) *Boundary* adjustments, amalgamations and relocations of an existing title;
- ...
- e) *Subdivision* of a *site* located wholly or partly within the *major overland flowpath*.

¹ Excluding Wairakei Town Centre (Core and Fringe), Wairakei Neighbourhood Centre Zone and Papamoa East Employment Zone.

² Wairakei Zones for the purpose of Table 12A.1: Subdivision Activity Status means: Wairakei Town Centre Zone (Core and Fringe), Wairakei Neighbourhood Centre Zone and Papamoa East Employment Zone.

12A.5.1.5 Major Overland Flowpath

For *subdivision* of a *site* that is one hectare or more, the *major overland flowpath* shall be vested with *Council*.

12A.5.2 Controlled Activities – Matters of Control and Conditions

The *Council* reserves control over, and may impose conditions on, the following matters:

- a) The location of *boundaries* on *site* in relation to *buildings* and parking and manoeuvring areas;
- b) The location and provision of *services* and any requirements to upgrade those *services*;
- c) The location and provision of easements;
- d) Payment of *financial contributions* in accordance with the relevant provisions of *Chapter 11 – Financial Contributions*.
- e) Where it is a Standard and Term of the *subdivision*, the creation of a balance allotment that complies with the *subdivision* provisions of the underlying zone;
- f) The provision of landscape planting and access for maintenance in association with allotments to accommodate *network utilities*;
- g) The location, extent and design of the *major overland flowpath* vested to *Council* taking into account proposed *earthworks* associated with the *subdivision*.

12A.6 Restricted Discretionary Activity Rules

The following are Restricted Discretionary Activities:

- a) *Subdivision*, not including allotments for *network utilities*, located wholly or partly within the 50 or 100 year Erosion Risk Zone;
- b) *Subdivision*, not including allotments for *network utilities*, partly within the Current Erosion Risk Zone;
- c) *Subdivision*, not including *boundary* adjustments located within a High-Voltage Transmission Plan Area;
- d) *Subdivision* of a *site* containing an item on *Appendix 7A: Register of Built Heritage* or *Appendix 7B: Register of Significant Maori Areas*, or *Appendix 7D: Register of Significant Archaeological Areas*;
- e) Any *activity* described as a Permitted Activity or Controlled Activity that does not comply with a Permitted Activity Rule or Controlled Activity Standard and Term;
- f) Any *subdivision* listed as Restricted Discretionary Activity in *Table 12A.1: Subdivision Activity Status*;
- g) *Subdivision*, not including *boundary* adjustments, located partly or wholly within the *Flood Hazard Plan Area (FHPA)*;
- h) *Subdivision* of contaminated land;
- i) *Subdivision*, not including *boundary* adjustments or conversion of cross lease to freehold, located partly within the *floodplain*.

12A.6.3.5 For Subdivision in the Flood Hazard Plan Area (FHPA)

In considering *subdivision of site* within the *Flood Hazard Plan Area* the *Council* restricts the exercise of its discretion to the following matters:

- a) The extent to which the *subdivision* is consistent with *8C.1.1.1 – Policy - Avoidance or Mitigation in the Flood Hazard Plan Area*;
- b) The degree to which any associated *earthworks* will modify natural ponding areas and drainage systems, including overland flowpaths, and the extent to which water flow is impeded and/or displaced;
- c) Consideration of whether an engineering assessment is required to accurately determine the extent of any impediment or displacement effect and any recommendations of that assessment;
- d) Ensuring that any finished ground levels on the *site* provide the scope for future land use *activities* on that *site* to mitigate any adverse flooding effects.

12A.6.3.8 Subdivision partly within the Floodplain

In considering *subdivision of a site* partly within the *floodplain* the *Council* restricts the exercise of its discretion to the following matters:

- a) The extent to which the *subdivision* demonstrates the feasibility of *activities* to occur outside of the *floodplain*, including new *structures*, on site wastewater systems and onsite *stormwater management devices*.
- b) The extent to which the *subdivision* provides access to the *floodplain* for maintenance and emergency works.
- c) The extent to which the *floodplain* located on private land needs to be ~~is~~ protected by an easement in favour of the *Council*.
- d) The provision and location of recreation *reserves*, *esplanade reserves* or *esplanade strips* on the *floodplain* and any vesting that may be required to achieve this.

12A.8 Non-Complying Activities

The following are Non-Complying Activities:

- a) *Subdivision*, not including *boundary* adjustments or allotments for *network utilities*, within a Special Ecological Plan Area (Category 1);
- b) *Subdivision*, not including *boundary* adjustments or allotments for *network utilities*, within an *Outstanding Natural Features and Landscapes Plan Area*;
- c) *Subdivision*, not including *boundary* adjustments, within the *Coastal Protection Plan Area*;
- d) Any Discretionary Activity that does not comply with *Rule 12A.7.1 Discretionary Activity – Standards and Terms*;
- e) *Subdivision*, not including *boundary* adjustments or conversion of cross lease to freehold, located wholly within the *floodplain*.

12B.3.1.6 Building Platform Requirements – Papamoa

Subdivision to create freehold title (not including cross-lease to freehold *subdivision*) between the area from Sunrise Avenue, State Highway 2 and the Kaituna River that is within *the City* shall ensure allotments have a minimum *building platform* level of RL5 metres above *Moturiki Datum*. This rule does not apply to the land within the Wairakei Urban Growth Area.

Note: Building Platform minimums for Wairakei Residential Zone are addressed in Rule 12B.3.1.12 f) – Specific Urban Growth Area Requirements – Wairakei Urban Growth Area

Note: Minimum freeboard level for activities located within floodplains, overland flowpaths and flood prone areas is addressed in Chapter 8 – Natural Hazards.

12G.1.3 Objective – Stormwater

People, property, *infrastructure* and *network utilities* are safeguarded from the adverse effects of flooding associated with *stormwater run-off* and discharge.

12G.1.3.1 Policy – Stormwater

Ensuring stormwater systems are designed and constructed to:

- a) Consist of a combination of primary and secondary systems;
- b) Have capacity to service the anticipated demand whilst accommodating anticipated flows, pressures and loads;
- c) Utilise ground soakage in appropriate locations;
- d) Incorporate measures to avoid, remedy or mitigate:
 - i) The risk of blockages;
 - ii) Flooding effects associated with stormwater discharge;
 - iii) Pollutant loads;
 - iv) The increase in runoff associated with additional development;
 - v) The erosion caused by stormwater at discharge points.

Appendix 12B: Performance Standard, Stormwater

Consistency / Compatibility

- a) Each stormwater management system shall be designed and constructed to ensure:
 - i) Consistency with any relevant structure or urban growth plan;
 - ii) It is compatible with the design and construction of the existing stormwater network; and
 - iii) Compliance with any comprehensive stormwater consent where applicable.

Design

- b) Each stormwater management system shall be designed and constructed to ensure:
 - i) All components of the stormwater management system are pre-approved by the *Council* and provide for an asset life that is suitable for its intended purpose;

Note: Components that are pre-approved by the Council are identified in the Council's Infrastructure Development Code.

- ii) Gravity is used as the method for reticulation unless pump stations have been pre-approved by the *Council*;
- iii) The upstream catchment is provided for and the downstream receiving network has the capacity to cater for the design scenarios;
- c) They comprise both primary and secondary flow systems which include components to collect, convey, treat and safely discharge the stormwater associated with the development;
 - i) Secondary stormwater systems shall not include piped systems;
 - ii) Minimum velocities for pipes and lined channels are 0.6 metres per second (m/s)
 - iii) Maximum velocities are as follows:
 - 1) 4.0 m/s for pipes;
 - 2) 1.5 m/s for lined channels;
 - 3) 1.5 m/s for unlined channels.
 - iv) The overall stormwater management system shall be designed to accommodate and contain flows from a 1% *AEP* (1 in 100yr) rainfall event while taking into account the effects of climate change on rainfall and sea level as of the year 2130 based on the RCP 8.5 median scenario for *subdivision* or RCP 8.5H+ scenario for *greenfield subdivision/development*, with the primary conveyance system being designed to accommodate flows from a 10% *AEP* (1 in 10yr) design rainfall event unless b(i) applies;
 - v) The stormwater management system for the Wairakei Urban Growth Area and the Te Tumu Future Urban Zone shall be designed to accommodate flows from a 1% *AEP* (1 in 100 year) return period rainfall event;
 - vi) Where there is downstream flood risk on private property, the post development stormwater run-off rates shall not exceed the pre-development run off rates for rainfall events up and including to the 1% *AEP* event taking into account climate change to the year 2130, unless otherwise approved by *Council*.

Note: pre-development run off rates exclude land uses, buildings and structures that have not been lawfully established.

- vii) In addition to iv) and v) above where a development includes pump stations or road bridges these *structures* shall be provided with a minimum freeboard of 500mm above the flows from a 1% *AEP* (1 in 100 year) return period rainfall event;
- viii) *Overland flowpaths* are only provided for on:
 - 1) Local and collector roads;
 - 2) Public accessways and reserves;
 - 3) Private land where it is protected by an easement in favour of the *Council*.



Decisions on Submissions made to Plan Change 27 – Flooding from intense rainfall to the Tauranga City Plan under the Resource Management Act 1991

Purpose

To reduce the risk of flooding to life, property and infrastructure from intense rainfall events in Tauranga over time.

This plan change is GRANTED. The reasons are set out below.

Plan Change:	PC27 – <i>Flooding from intense rainfall</i>
Hearing Panel:	David Hill (Chair) Vicki Morrison-Shaw Richard Knott Fraser Campbell
Appearances	<p><u>Tauranga City Council:</u> Carlo Ellis (Karakia) Manasi Vaidya (Policy Planner – s.42A Report author) Campbell Larking (Team Leader – Planning Projects) Dr Claudia Hellberg (Team Leader – City Waters Planning) Kate Dawkings (Senior Planning Engineer – Waters) Wallace Potts (Acting Director- City Waters) Tim Fischer (Counsel)</p> <p><u>Submitters:</u> Bay of Plenty Regional Council (“BOPRC”) - Nathan Te Pairi & Mark Ivamy Element IMF - Grant Downing Bluehaven Management Limited (Bluehaven Group) - Nathan York Kāinga Ora - Bal Matheson, Matthew Lindenberg & Brendon Liggett Peter Linde Urban Task Force for Tauranga Incorporated (“UTF”) - Vanessa Hamm, Scott Adams, Peter Moodie & Aaron Collier Land House Limited - Richard Coles Keegan Millar (by pre-recorded video) Lincoln Taylor Russell Williams Te One Trust - Ray & Hannah Stevenson Sun Pacific Villas Body Corporate - John Pullar Sue Smart Geoff Chard Peter Nixon</p>

	Aotearoa Park Developments Limited – Louise Cowan & Libby Cochrane Rebecca & David Mackenzie Rob Paterson Vojtech Nosek Jennie Arns
Tabled statements:	First Gas Limited – Nicola Hine Powerco Limited – Gary Schofield Tauranga Crossing Limited – Mark Arbuthnot (Bentley & Co Ltd) Transpower NZ Limited – Rebecca Eng Palm Springs Limited - Jeffrey Hextall (ECO Ltd) Jeffrey Hextall (Self) Bluehaven Group - Craig Batchelar (Cogito Consulting Ltd) Element IMF - Craig Batchelar (Cogito Consulting Ltd) Michelle Paddison
Hearing:	Tuesday, 30 November 2021 – Thursday, 2 December 2021
Virtual site visit:	2 December 2021
Hearing closed	20 December 2021

INTRODUCTION

1. This decision is made on behalf of the Tauranga City Council (“**Council**”) by Independent Hearing Commissioners David Hill (Chair), Vicki Morrison-Shaw, Richard Knott and Fraser Campbell (“**Hearing Panel**” or “**Panel**”) appointed and acting under delegated authority pursuant to ss.34 and 34A of the Resource Management Act 1991 (“**RMA**”).
2. By Council resolution CO16/21/10 dated 30 August 2021, the Independent Hearings Commissioners were delegated authority to hear, consider and make decisions on submissions received on Plan Change 27 *Flooding from intense rainfall* (“**PC27**”) to the Tauranga City Plan (“**TCP**”) after considering all relevant information. This information comprised the s.32 Evaluation Report (including technical appendices and the associated October 2020 Guideline) (“**s.32 Report**”), the submissions, the reports prepared by the officers for the hearing (“**s.42A Report**”) and the written evidence and legal advice provided at the hearing. The Panel’s delegation does not however extend to the final cl.17 Schedule 1 RMA approval.
3. PC27 is a plan change that has been prepared following the standard RMA Schedule 1 Part 2 process (that is, the plan change is not the result of an alternative, 'streamlined' or 'collaborative' process as are enabled under the RMA).
4. The plan change consultation period ran from 16 November 2020 until 1 February 2021. PC27 was publicly notified on 16 November 2020 following a feedback process involving the development community, Tauranga Moana Iwi and Hapū, and Iwi authorities (as required by cl.4A of Schedule 1). Notification involved a public notice. Additionally, information on PC27 was included in approximately 53,500 letters to landowners directly

affected by PC26 and PC30, which were notified concurrently with PC27 together with letters to key stakeholders and Tauranga Moana Iwi and Hapū.

5. The submission period closed on 1 February 2021 (extended from 18 December 2020). A summary of submissions was notified for further submissions on 31 March 2021 and closed on 25 June 2021. Due to a number of errors in the summary of submissions, the summary was re-notified on 19 June 2021 with further submissions closing on 2 July 2021.
6. A total of 1002 submissions and 35 further submissions were made on the plan change.
7. Thirty-five late submissions were received. Six of those late submissions were rejected by Council under delegated authority¹ and 29 recommended² to the Panel for acceptance.
8. The Panel resolved to accept those 29 submissions and note that we had no authority to consider and/or reverse the decisions made by Council on those other 6 late submissions.
9. The key issues raised in submissions (other than out-of-scope issues)³ were addressed in the s.42A Report prepared by Ms Manasi Vaidya (Policy Planner) through a series of 37 issue headings as follows:
 - (i) RMA Part 2 - Sections 5-8;
 - (ii) RMA s32 Analysis and Appendices;
 - (iii) RMA s82B Legal Effect;
 - (iv) RMA General;
 - (v) NPS-UD;
 - (vi) RPS – Natural Hazards;
 - (vii) Objective 8D.1.1;
 - (viii) Overland Flowpath Policies;
 - (ix) Floodplain Policies;
 - (x) Activity Status Table;
 - (xi) Freeboard;
 - (xii) Major Overland Flowpath and Floodplain Rules;
 - (xiii) Minor Overland Flowpath Rules;
 - (xiv) Earthwork Rules;
 - (xv) Fences and Walls – Rule 8D.3.1;
 - (xvi) Rule 8D.7 Exemption;
 - (xvii) Major Overland Flowpath – Subdivision;
 - (xviii) Floodplain – Subdivision
 - (xix) Impervious Surfaces;
 - (xx) Provisions General;
 - (xxi) Definition AEP;
 - (xxii) Definitions General;
 - (xxiii) Flood Prone areas;
 - (xxiv) Modelling and Non-Statutory Mapping;
 - (xxv) Map Reviews;
 - (xxvi) Maintenance of Existing Infrastructure;
 - (xxvii) Infrastructure – Future Planning;
 - (xxviii) Date Letter Received;
 - (xxix) Consultation Period;
 - (xxx) Land Information Memorandum;

¹ S.42A Report, para 5.4.

² Ibid, para 5.3.

³ S.42A Report, para 7.7.

- (xxxix) *Property Values;*
- (xxxix) *Insurance;*
- (xxxix) *Rates;*
- (xxxix) *Tiered Approach / Broad Brush Approach;*
- (xxxix) *General;*
- (xxxix) *No Flooding Experienced Historically;*
- (xxxix) *Further Submissions – General.*

10. Each of those sections included a review of the matters raised; a discussion and response to those matters; the text of any recommended amendments and a s.32AA evaluation of those amendments (where relevant and necessary); and a table identifying relevant submission points (by number) as well as reasons for recommending acceptance, rejection or part acceptance.
11. For the record we note that we found the s.42A Report⁴ both comprehensive and well structured so that all parties could readily identify their issues and the proposed response to better focus their positions for the Panel.

PURPOSE AND SUMMARY OF PLAN CHANGE

12. As noted in the s.32 Report, Tauranga has experienced multiple flood events caused by intense rainfall over the past two decades, which has necessitated a regulatory response to reduce the risk of flooding to life and property.⁵ PC27 proposes a policy and rule framework to be used to determine the type and location of land use on land subject to flooding in the 1% AEP rainfall event⁶.
13. The scope and key aspects of PC27 were further stated⁷ as being to:
 - a) *Protect floodplains and overland flowpaths;*
 - i) *Water will naturally follow overland flowpaths and floodplains in an intense rainfall event. These are an important part of the flood management system, allowing water to flow and recede during and after intense rainfall events. If managed inappropriately the effects can be hazardous, causing damage to life, property and infrastructure.*
 - b) *Manage development and redevelopment within flood prone areas;*
 - i) *This includes ensuring safe evacuation from the building, safety of people, the location of the building in relation to the level of flooding and the type of activity on the land susceptible to flooding.*
 - c) *Manage displacement effects;*
 - i) *Inappropriate subdivision and earthworks can increase or cause flooding in areas where there was previously minor or no flooding.*
 - d) *Manage floor levels to reduce damage caused by flooding to life and property; and*
 - e) *Manage the cumulative impacts of increased impervious surfaces.*
14. The s.32 Report clearly states that other natural hazard management issues are out of scope.

⁴ This comment also applies to the 22 November 2021 s.42A Update Report.

⁵ S.32 Report, section 2.1.1. The regulatory response is also required in order to ensure compliance with the Bay of Plenty Regional Council Regional Policy Statement.

⁶ Ibid.

⁷ S.32 Report, section 2.1.2.

15. The s.32 Report included seven technical appendices:
- (a) An assessment against the BOPRC Regional Policy Statement (“RPS”);
 - (b) Iwi and Hapū engagement;
 - (c) Technical report on Freeboard;
 - (d) Technical report on Cost Analysis;
 - (e) Technical report on Impervious Surfaces;
 - (f) Technical report on Earthworks; and
 - (g) Technical report on Mapping.
16. As contextual background, the s.32 Report noted the relationship between PC27 and Council’s Integrated Stormwater Project (“ISP”) – adopted through the Council’s Long Term Plan (“LTP”) 2015-2025 – and Tauranga’s projected population growth (an increase of 61,200 over the next 30 years).⁸ In its criteria table,⁹ the s.32 Report also includes, as a reason for the change, being to give effect to the RPS¹⁰ Objective 31 of the Natural Hazards (“*Avoidance or mitigation of natural hazards by managing risk for people’s safety and the protection of property and lifeline utilities*”), and, as relevant, its 14 associated policies. In particular, the RPS requires that once a natural hazard has been classified as high risk under the regional methodology, Council must reduce that risk to medium and low. This is discussed in detail by Ms Vaidya in the background section of her s.42A Report.¹¹
17. The s.42A Report prepared by Ms Vaidya further noted that PC27 was not intended to manage stormwater or stormwater infrastructure as this is more directly the province and purpose of the ISP. PC27 is the regulatory response to the ISP.¹² This apparent distinction - i.e. between an infrastructure-led as opposed to a regulatory approach – clearly caused some confusion with submitters who argued for an infrastructure-led approach on the apparent misunderstanding that PC27 somehow sought to transfer Council’s public responsibility for managing stormwater onto individual landowners. We discuss that matter later in this decision but simply note at this point that the distinction was, perhaps, an unfortunate way of expressing the policy decision.
18. We also note that PC27 operates with a climate change Representative Concentration Pathway (“RCP”) 8.5 median scenario to the year 2130 – which, again, accords with the RPS (and Ministry for the Environment (“MfE”) advice) requirement.¹³ That is not a matter that is open for debate. That debate has already taken place in the context of the RPS, and the statutory requirement is operative. As such, we do not allocate any further time in this decision on submissions that specifically sought to challenge that.
19. Several submitters considered there was no need for the plan change, having not experienced flooding themselves, or because they disagreed with the climate change projections. However, for the reasons already noted, a status quo or ‘do nothing’ approach is not consistent with the statutory requirements - particularly the RPS. Accordingly, we are required to proceed to determine the merits of PC27.

⁸ S.32 Report, sections 3.1.1 and 3.1.2.

⁹ Ibid, section 8.1.3.

¹⁰ As it must under s.75(3)(c) RMA.

¹¹ S.42A Report, section 2.

¹² S.42A Report, sections 2.3 to 2.23 in particular.

¹³ Ivamy, Statement of Evidence for BOPRC, para 21.

20. We discuss the further revisions we have made to the provisions following our consideration of the submissions, evidence and advice received later in this decision.

PROCEDURAL MATTERS

Hearing

21. We issued a set of hearing procedures for Plan Changes 26, 27 and 30 on 14 October 2021, in which we noted the possibility that s.39AA RMA relating to remote access facility hearings may be necessary. Because of Covid-19 level restrictions the decision was made to proceed by way of a mix of virtual hearing for those affected by the restriction (including the Panel) and in-person attendance in Tauranga where that was practicable. The hearing ran for three days from 30 November to 2 December 2021.
22. On the final day of the hearing we held an on-line virtual site visit, orchestrated by Council, which took us through examples of the site-specific flooding matters underlying PC27 and illustrated how the maps had been developed and how they might be used. We record that we found that session particularly helpful in advancing our understanding and appreciation of relevant matters.
23. Immediately following the hearing we issued a direction on 2 December 2021 (Minute #3) requesting further information from Council with respect to key matters raised during the hearing:
- Planned and funded stormwater infrastructure;
 - The accuracy and reliability of the flood maps;
 - The sufficiency of the s.32 analysis with respect to the regulatory approach proposed and costs to property owners;
 - The lawfulness of requiring the rules to have immediate legal effect from notification; and
 - Certain activity status matters raised by Kāinga Ora.
24. In that Minute we noted that the above was not intended to constrain Council from addressing any other matters it considered necessary in its reply.
25. On 17 December 2021, we received Council's closing statement which included comprehensive and detailed responses to the above five matters as well as final recommendations on PC27's provisions. Having received and reviewed that information the Panel declared the hearing closed on 20 December 2021.

Scope Issues

26. As already noted, several submitters raised issues that were considered out of scope of the notified PC27. Ms Vaidya recorded those issues as involving:¹⁴
- *Modelling and non-statutory mapping (Issue 24);*
 - *Map reviews (Issue 25);*
 - *Maintenance of existing infrastructure (Issue 26);*
 - *Infrastructure – Future Planning ((Issue 27);*
 - *Date letter received (Issue 28);*

¹⁴ Ibid, para 7.7.

- *Consultation period (Issue 29);*
 - *LIM (Issue 30);*
 - *Property values (Issue 31);*
 - *Insurance (Issue 32);*
 - *Rates (Issue 33);*
 - *Tiered Approach/Broad Brush Approach (Issue 34);*
 - *General (Issue 35);*
 - *No flooding experienced historically (Issue 36); and*
 - *Further Submissions not relating to a submission point (Issue 37).*
27. It is important to record that not all issues touching on those matters were necessarily out of scope – and Ms Vaidya did not imply as much – it depended on the way in which the issue was addressed. For example, while property values are typically considered an effect already “counted” in assessing matters such as landscape, streetscape or character, and is therefore not a distinct and separable effect in itself, submissions that noted the likely cumulative effect on property prices arising from the adoption of the proposed regulatory approach compared with the overall cost of a Council-led infrastructure programme was a legitimate argument and within scope – albeit one that was rejected by Council in its own fiscal and cost assessment as we discuss later.
28. The Panel has considered the above and agrees with the reasons, conclusions and recommendations made by Ms Vaidya throughout her s.42A Report (particularly the detailed discussion from section 13 onward) regarding the scope of the submission point made and our jurisdiction to consider the point.

RELEVANT STATUTORY PROVISIONS CONSIDERED

29. The RMA sets out an extensive set of requirements for the formulation of plans and changes to them. These requirements are now well understood and are summarised succinctly in sections 8-12 of the s.42A Report which were not contested. As such, we see no useful purpose in repeating them here in detail. We refer the reader to that summary.
30. Clause 10 of Schedule 1 of the RMA requires that this decision include the reasons for accepting or rejecting submissions. The decision must also include a further evaluation of any proposed changes to PC27 arising from submissions; with that evaluation to be undertaken in accordance with s.32AA. With regard to s.32AA, we note that the further amendments proposed (and those accepted by the Panel) are minor and sufficiently explained in the documents and submitter evidence provided,¹⁵ such that no further assessment by the Panel is considered necessary.
31. Furthermore, we note that s.18A RMA requires that plans only address matters relevant to its purpose and are worded in a way that is clear and concise. Some of the amendments we recommend are intended to give effect to that requirement.

PRELIMINARY ISSUES

32. Submitters raised the following three matters that we think should usefully be determined as preliminary issues:

¹⁵ Comprising the s.42A Report, the 21 November 2021 Update to the s.42A Report, and the Council's Closing Statement.

- (a) Whether it was lawful for Council to declare the PC27 rules to have legal effect under s.86B(3)(a) RMA - and, regardless, whether the Panel has jurisdiction to determine otherwise;
- (b) Whether it is lawful for the flood maps to be deemed non-statutory documents to sit outside the District Plan with the applicability of the PC27 provisions to be determined through its text alone; and
- (c) Whether PC27 should be placed on hold.

Legal Effect

- 33. Section 86B(3)(a) RMA states that a rule in a proposed plan has immediate legal effect if the rule protects or relates to water (among other things). Council determined that provision applied to PC27 and notified PC27 as having legal effect from the date of its notification. That conclusion was challenged in legal submissions by Ms Hamm and Ms Barry-Piceno – although we noted that no action to challenge that determination in any Court had been made by those parties previously. Furthermore, as Ms Hamm noted, at the point in time when the Panel's recommendations on submissions are publicly notified, legal effect commences in any event under s.86B(1) RMA. In that sense the issue is moot – however, we address the matter briefly since it was raised and since we sought specific legal advice from Council on the question.
- 34. In her legal submissions for UTF Ms Hamm discussed s.86B(3)(a) RMA and accepted that that provision *could* include flooding from intense rainfall, since it refers to water. However, she submitted that as flooding is defined under *natural hazard*, and as there are specific RMA provisions for natural hazards, it was more likely that that broader term would have been included in s.86B if that had been Parliament's intent.
- 35. In her legal submissions for Aotearoa Park Development Limited Ms Barry-Piceno noted that s.86E(3)(a) RMA clarifies that the list of rules with immediate legal effect do not form part of the proposed district plan. She therefore submitted that if, on subsequent analysis, a rule is found not to fall within s.86B(3), their inclusion in the list does not change their real status. Ms Barry-Piceno submitted that it was therefore possible for the Panel to amend the list of rules having immediate legal effect under s.86E. Ms Barry-Piceno agreed with Ms Hamm that flooding should more properly be considered a natural hazard risk, not be included as a "water" matter in the exceptions of s.86B(3)(a). Ms Barry-Piceno sought an immediate direction from the Panel at the hearing on this matter, which we declined to issue pending careful consideration of the competing legal submissions.
- 36. The issue of status was addressed in Council's legal submissions by Mr Fischer both in opening and reply. Mr Fischer submitted that s.86E(3) which, as Ms Barry-Piceno noted, directs that the list is not part of the district plan, thereby effectively removes the matter from the Panel's jurisdiction. Mr Fischer submitted that the Panel's jurisdiction is limited to a decision on the provisions and to matters raised in submissions that are "on" the plan change. The Council submissions therefore did not set out the reasons why Council considered the flooding rules to have immediate effect.
- 37. Following the hearing we were advised that UTF had instructed Ms Hamm to prepare an application to the Environment Court for a declaration on the matter, anticipating that Bluehaven Group (Ms Barry-Piceno) would likely join in support, if Council declined to reconsider its decision. In that regard Ms Hamm, as noted above, acknowledged that this

course of action was dependent upon the primary relief sought, being to either withdraw PC27 or place it on hold.

Finding

38. While we agree that on its face s.86B(3)(a) seems more obviously focussed upon water as a resource once it is naturally entrained (i.e. as groundwater or surface water in a water body for example) we note that the definition of water in s.2 RMA means “*water in all its physical forms*” and s.86B does not seek to limit that definition as it does, for instance, with respect to *soil* (which is qualified to mean only with respect to *soil conservation*).
39. While that matter may be taken up in the Court, (as we were advised by Ms Hamm was under active consideration), we see no justification for reading that definition down in the manner submitted by Ms Hamm and Ms Barry-Piceno, and instead find that Council was entitled to apply s.86B(3)(a) to PC27.
40. Furthermore, we agree with Mr Fischer that, regardless of whether the Panel considers itself to have jurisdiction, having determined to proceed with PC27 to the point of decision, the matter loses relevance. Once decisions are notified, all rules will have legal effect under s.86B(1) unless the very limited exceptions apply.

Non-Statutory Maps

41. Considerable concern was expressed in submissions about the consistency, accuracy and reliability of the flood maps held by Council – both in terms of the methodology adopted but also as they affect individual properties given the existing status of the rules and their legal effect.
42. In summarising UTF’s position on this question Ms Hamm noted a key difference between the approach taken by the Council with its non-statutory maps and that used in the Auckland Unitary Plan (“**AUP**”). Ms Hamm drew attention to the AUP Independent Hearing Panel’s remark that it was inappropriate to use a mapping technique to define the spatial extent of a rule where that was not open to submission and change in the same way as the rule. In other words, she submitted, the maps should be accurate, and Council should carry the burden for ensuring that was the case, not private parties. In essence, that was the kernel of contention of most submitters who commented on this matter.
43. We note that other professional submitters, such as planner Mr Hextall, also challenged the propriety of using non-statutory maps for what they considered an essentially statutory purpose.
44. Council’s response to that challenge was twofold:
 - (a) To set up a cost-neutral review process for resolving disputes over site-specific mapping accuracy concerns; and
 - (b) To incorporate an advice note to key definitions (similar to that used in the AUP) – floodplain, flood prone area, overland flowpath – confirming the non-statutory and indicative status of the maps and noting the intention to update those based upon further relevant information and/or any technical assessments provided.
45. With respect to the flood model(s) used in developing the maps, (which Ms Dawkings explained to us), Mr Moodie (an experienced natural resources engineer and witness for UTF) challenged (among other things) the currency of the LIDAR data, the *clean surface* assumptions used (i.e. no accurate survey of buildings, walls and fences); and the failure to

include future programmed stormwater upgrades. For multiple, interconnected, complicated flowpath parts of Tauranga – Mr Moodie cited the Avenues area as an example – he expressed doubt that the current model is capable of accurate depiction, necessitating either the costly development of a site-specific model for development or the de facto acceptance of the “inaccurate” Council maps.

46. Similar remarks were made by fellow engineer and private submitter Mr Lincoln Taylor in his presentation; and Mr Batchelar proposed¹⁶ that the maps undergo a more rigorous special consultation Local Government Act-type process akin to development contributions if they are to remain outside the district plan.
47. Ms Dawkings explained to the Panel:
- (a) the way in which the software MIKE FLOOD was used in developing the Council’s flood model;
 - (b) the sensitivity testing undertaken;
 - (c) the peer reviews undertaken by DHI;
 - (d) the manner in which the programme was progressively released across the city from 2011-2018; and
 - (e) the process for updating the maps - which included:
 - i. pilot testing of methods for mapping overland flowpaths and floodplains,
 - ii. running previously constructed and reviewed flood models for the 2130 climate scenario, and
 - iii. review of the resulting draft maps by Council drainage operations and planning staff (adopting the BOPRC-agreed climate change scenario).
48. Ms Dawkings was satisfied that the non-statutory maps support a nuanced approach to the issue allowing flexibility for the incorporation of new, relevant information as and when that is appropriate (for example at the time of development consent application and assessment). Ms Dawkings considered a crucial advantage of the non-statutory status was that it enabled changes to the maps to be made without the requirement for a formal Schedule 1 RMA plan change process. She also noted that the use of the “Future Reassessment Area” overlay was intended to clearly signal that the Council was aware that there had been recent or on-going changes to the landform where the mapping accuracy was likely to be affected.
49. Some submitters also sought that subdivision survey plans be included in the maps once a subdivision consent had been granted. However, Council rejected that option noting that this would be problematic where, as frequently occurs, developers undertake subsequent variations before survey plans are finalised and approved under s.223. Ms Vaidya noted that finalised survey plans approved under s.223 RMA are included in the flood maps. We agree that is an appropriate and efficient approach.

Finding

50. There is no formal requirement for overlay maps to be included within a district plan. That is a matter for individual councils to determine – and there are existing examples of non-

¹⁶ Batchelar, Statement of Evidence for Element IMF, section 9.

statutory flood maps such as is proposed by Council. On that matter we note that the National Planning Standards 2016 – Mapping Standard Table 20 includes a number of specific overlay and other symbols, but none relate to flooding.

51. Having said that, the Panel was concerned at the number of submissions expressing concern about the consistency, accuracy and reliability of the published maps with respect to individual properties, and the fact that the model (and derived maps) spans a decade of evolving work. As such it is unlikely that consistent assumptions and data inputs have been used and updated across that time, such that the limitations expressed by the model authors would imply progressive out-of-datedness the further back in time the derived maps were produced. We also note the limitations identified in the original model reports themselves which included:
- (a) that the modelling method is suitable for broad scale flood management planning (as opposed to site specific mapping);
 - (b) that maximum flood depths on a property-by-property basis should be used with caution due to obstacles, debris, solid fences and sheds and kerb heights impacting on such heights;
 - (c) there was a need for further validation of modelled results against actual flood levels; and
 - (d) not all models appear to have used the 1% AEP, together with the 2130 planning horizon with RCP 8.5 Climate Change Scenario.¹⁷
52. At some point, we assume (and recommend), all maps should to be brought up to the same modelling standard as the most recent series.
53. While we accept that it would be clearer to all affected property owners if the flood maps were afforded statutory status under the District Plan, we recognise that mapping errors will be ever present due to the changing landscape of development. That, in itself, would pose practical difficulties for both Council and individual landowners in terms of the Schedule 1 RMA statutory plan change process that would be required to correct any substantive confirmed errors (trivial errors being able to be rectified by the Council in accordance with its power under cl.20A of the First Schedule).
54. We are satisfied that the policy and rule criteria are now sufficiently well-wrought and the review process sufficiently well-developed that the general public is better served by having the flood maps as non-statutory documents, amenable to review and individual expert challenge outside of any plan change process. We acknowledge that some cost is involved in that process but consider the advantages to outweigh that matter – noting that as of 5 November 2021 some 240 individual property reviews had been concluded and 150 site visits undertaken with, we understand, minimal cost to individuals and no change to the maps, in most instances.¹⁸
55. We understand that other reviews are in progress and that a large number of individual property reviews and larger post development/landform change reviews remain outstanding – as do the modelling updates. The Council indicated it would undertake rolling reviews of the flooding models for different areas over several years. However, we were not provided

¹⁷ the updated flood mapping published in 2020 did involve running all models for the 1% AEP 2130 planning horizon with RCP 8.5 climate change.

¹⁸ Dawkings, Statement of Evidence for the Council, section 7.

with a timeframe within which the Council intends to complete the property or post development reviews.

56. While the map review process is outside the scope of the matters we have been appointed to determine, Council may wish to publish some target dates for such work as this is likely to provide greater confidence in the mapping and may also reduce the number of individual review requests from property owners.

Relationship to Other Plan Changes and Hold Requests

57. Several submitters expressed the view that PC27 should be placed on hold. Various reasons were given, including that it was appropriate to await the outcome of three waters reform proposals, and because PC27 was part of a package of plan changes, one of which (Plan Change 26 *Housing Choice*) has subsequently been placed on hold.

Finding

58. Decisions regarding whether a particular plan change should or should not be placed on hold are ultimately for the Council.
59. While Plan Change 26 *Housing Choice* and Plan Change 30 *Earthworks* were notified at the same time, each was proposed and assessed separately, and each was subject to a separate submissions process. In that regard PC27 stands or falls on its own merit.
60. Accordingly, we are required to proceed to determine the merits of PC27 notwithstanding that PC 26 has been placed on hold, and notwithstanding the requests for PC27 to likewise be placed on hold.

EVIDENCE PRODUCED

61. The s.42A Report, statements of evidence, submitter expert evidence and legal submissions were pre-circulated as required by the Hearing Procedures. As noted earlier, some submitters tabled statements instead of attending the hearing, and further materials (summary statements / presentations) were provided by some submitters during the course (or following) their oral presentations.
62. In relation to Council evidence, opening statements were provided by Mr Campbell Larking and Ms Manasi Vaidya. Mr Larking backgrounded the Growth Concept and wider Natural Hazard planning, including the ISP, Tauranga's hazard mapping programme, and the Infrastructure Resilience Project. Ms Vaidya provided a detailed summary of the planning background to PC27, outlined how the flood parameters and maps worked, provided further opinion on in-scope and out-of-scope matters raised in submissions, responded to evidence received post-s.42A Report, and identified key changes proposed in the s.42A Report.
63. Summary statements of evidence were also provided at the hearing by:
- (a) Dr Hellberg on earthworks rules in floodplains, major overland flowpaths and flood prone areas;
 - (b) Ms Dawkings on modelling and mapping, and impervious surfaces policy and rules; and
 - (c) Mr Potts on how Council manages and maintains its existing stormwater conveyance assets and its investment in addressing flooding issues.

64. Finally, as noted above, Council's reply included additional information on the five matters the Panel specifically requested.

65. The above matters are discussed in the next section.

PRINCIPAL ISSUES IN CONTENTION AND FINDINGS

66. We commence this section with some comments on the flood risk assessment approach, before turning to address the principal issues in contention and our findings on those matters.

Flood Risk Assessment

67. The s.32 Report at 4.9.3 states that "the RPS requires TCC to undertake Citywide risk assessment for flooding from intense rainfall ". Section 9 of that report considered five options to avoid or mitigate flooding from intense rainfall with the preferred option (enabling) being used for PC27. At 9.2.5 Preferred Option, reference is made to a Citywide risk assessment which "highlighted that Tauranga is at High risk from flooding from a 1% AEP event which takes into account the effects of climate change on sea level and rainfall based on the RCP 8.5 scenario (MfE, 2017) to the year 2130, which is consistent with the RPS".

68. Two risk assessments reports were produced entitled: *Assessment of lifeline utilities, public health and safety and social/cultural and critical buildings* by Tonkin and Taylor, and *Tauranga City Flood Risk Assessment: Application of Bay of Plenty Regional Policy Statement Methodology for Risk Assessment* by Awa Environmental Ltd.

69. The s.32 Report notes that:

"The risk assessment undertaken by Awa is a quantitative assessment which considered buildings only. T+T have undertaken a qualitative risk assessment for the remaining consequences, i.e. social/cultural buildings, critical buildings, lifeline utilities and health and safety.

Tauranga has been identified as being at High risk of flooding from intense rainfall using the Appendix L citywide risk assessment methodology, based upon the initial assessment yielding 'High' for social/cultural buildings and critical buildings".

70. We were presented with no expert evidence that challenged the approach taken or the results of these assessments. Consequently, we accept the conclusions drawn by the author of the s.32 Report (which were supported by the BOPRC)¹⁹ that to give effect to the obligation of the RPS the Council was required to implement its mix of regulatory and infrastructure solutions. The set of rules proposed in PC27 provide for the regulatory approach by providing a set of controls on activities in the flood plain, flood prone areas and overland flowpaths.

Identification of Principal Issues

71. Having considered the submissions and further submissions received, the evidence filed, the legal advice provided, the presentations from submitters, and the Council officers' responses, the following principal issues in contention have been identified (in addition to the three matters discussed above):

(a) the policy framework;

¹⁹ Ivamy, Statement of Evidence for BOPRC, at [20].

- (b) the regulatory versus infrastructure led approach question;
- (c) the relationship with the ISP;
- (d) application to subdivision in certain recently approved plan change areas (e.g. Wairakei Urban Growth Area); and
- (e) specific provision amendments.

The Policy Framework

72. It is trite law to note that a district plan must give effect to a regional policy statement (among other things) under s.75(3)(c) RMA and that “to give effect” is a strong directive meaning to implement (or similar).
73. Several submitters challenged the basis for PC27, being the RPS natural hazards requirement to, in summary, classify the risk and then to avoid or mitigate the risk such that the classification is lowered over time to an *as low as reasonably practicable* (“ALARP”) natural hazard risk. The parameters for that classification being the 1% AEP rainfall event adjusted for the climate change RCP 8.5 median scenario at year 2130.
74. This issue was addressed in the s.32 Report, the s.42A Report, Mr Larking’s opening statements and the planning evidence of Mr Te Pairi and Mr Ivamy for the BOPRC.
75. Appendix 1a to the s.32 Report is a comprehensive assessment against the RPS natural hazard and climate change response objectives and policies—policies NH 3B (Natural hazard risk outcomes) and 4B (Managing natural hazard risk on land subject to urban development) in particular. We do not attempt to summarise that comprehensive analysis further and refer the reader to that appendix. We also note that Mr Te Pairi specifically cites that document in reaching his conclusion that PC27 gives effect to the relevant objectives and policies and advising that the BOPRC seeks no further amendments.²⁰ Mr Te Pairi’s evidence also relies on the technical hazard planning evidence provided by Mr Ivamy, which concluded that PC27 was an appropriate policy framework to give effect to the natural hazard provisions of the RPS – having assessed the risk assessment method adopted for the prescribed technical parameters (i.e. the 1% AEP and climate change scenario RCP8.5 out to 2130).
76. In particular, Mr Ivamy accepted:
- (a) Council’s approach of defining the flood risk natural hazard zone (“NHZ”) by catchment area and the classification of high risk established within each NHZ;²¹
 - (b) The adoption of the 1% AEP event likelihood, being the “best practice threshold for flood risk management across New Zealand”;²²
 - (c) The requirement identified for a low level of risk in conjunction with the ISP and other non-regulatory methods; and
 - (d) The application of the RCP 8.5 climate change projection scenario, recognising that the flood extent in most of the Council catchments have a downstream coastal boundary requiring further consideration of compounding coastal hazards.

²⁰ Te Pairi, Statement of Evidence, Executive Summary, page 2.

²¹ Ivamy, Statement of Evidence for BOPRC, para 16.

²² Ibid, para 19.

77. While several planning witnesses and submitters contested the above, we were not persuaded by their submissions. Certainly, as Mr Taylor for example submitted, there are different ways in which the 1% AEP can be sliced and diced, but that is not a policy framework issue, it is a matter of application for which Council has, as we understood, determined a guideline standard.²³
78. We also note that Mr Campbell Larking in his opening statement at 4.8 and 4.9 confirmed that the Council is proposing some future work for natural hazard management which will result in changes to the TCP. This will include replacing the old natural hazard maps in the TCP (i.e. coastal erosion and harbour inundation) with the use of definitions to describe the parameters required to be managed. We understand that this will occur either as part of the next full TCP review (when progressed) or as part of a separate natural hazards plan change.
79. At present, there is an overlap between the harbour inundation maps, which are in the TCP, and the flooding from intense rainfall maps. While the flooding maps are non-statutory, for the reasons already discussed, it is likely that there will be locations where the two sets of maps conflict or are misaligned. In such a case, the harbour maps and text of the TCP will be determinative because they are statutory. However, that prospect reinforces our concern for greater certainty around the timing and completion of the flooding map review processes (acknowledging that completion will remain a relative term).

Finding

80. We are satisfied that PC27 gives effect to the required natural hazard provisions of the RPS – as it must – a finding that we make on the plan change text, acknowledging that accuracy of the maps for specific sites may, as noted above, require further fine-grained adjustments.

The Approach

81. As noted above, several submitters contended that Council was effectively derelict in its overall stormwater management duty by placing that burden on private individuals through PC27. This was characterised as a difference between a Council infrastructure-led approach versus a regulatory approach.
82. In order to evaluate the claims by submitters, we sought further information from Council on this matter. That information was provided by:
- (a) Mr Larking in terms of a fuller explanation of the formal adoption and implementation of the ISP work and its associated Stormwater Reactive Reserve Fund (“**SRRF**”) and the Infrastructure Resilience Project 2017 (“**IRP**”); and
 - (b) Mr Potts in his evidence which outlined the stormwater drainage infrastructure, Council’s maintenance and renewal programmes, and the funding approved by Council for those programmes and the ISP.
83. As Mr Potts noted, the Tauranga public stormwater conveyance network comprises:²⁴
- *624 km of stormwater mains;*

²³ The s.32 Report included as Appendix 1b(ii) a risk assessment report by Awa. This report on page 15 refers to a nested storm profile prepared by Beca in November 2014. The depth duration frequency table 3.2 shows rainfall storms up to 48 hours duration. The risk assessment used nested profiles for the 6-hour, 24-hour and 48-hour storms to assess the risk for the various return periods.

²⁴ Potts, Statement of Evidence for the Council, para 3.2.

- 145 km of property connections; and
 - 118 km of open drains.
84. Much of that network was designed to service the 20% AEP and more recently the primary system at 10% AEP and the secondary system (where it is developed) at 2% AEP plus a climate change margin to 2055. Those design parameters are significantly less than is now being required under PC27.
85. In terms of planned stormwater-related work and forward expenditure, Mr Potts²⁵ noted that Council has budgeted over \$11 million in the LTP 2021 – 2031 and has expended over \$40 million since 2015 in projects related to the adopted ISP “safety to persons” level of service. That is in addition to the \$20 million provided through the SRRF to date - which currently has reserves of \$12 million with a further \$20 million proposed to 2031. In addition, some \$70 million has been allocated for further investigating stormwater capacity upgrades.
86. While this investment is substantial it clearly is but a fraction of the estimated \$850 – 950 million cost for the total improvement programme.²⁶ Further information about this programme was provided in Council’s response.
87. As an example of contrary submissions, we note that Mr Moodie estimated,²⁷ based on a straight-line extrapolation of 50% of all Tauranga properties being affected and 50% of those requiring \$11,000 per development for flood mitigation, an order of magnitude of private developer / landowner cost totalling some \$165 million. He implied that was neither a wise use of financial resources nor a sound engineering solution. Others opined similarly.
88. We were provided with some information on the potential cost to the private sector of the Council’s proposed regulatory approach. The Cuesko report²⁸ focussed on the cost of remediation of flooded buildings and that of raising floor levels at the time of construction. This report did not however provide any information on the private sector flood hazard mitigation works that might be required to reduce the effects of development in flood hazard areas.
89. Mr Collier in his evidence for UTF (at para 3.3) stated that “the cost to the community of the alternative ISP approach has not in my view been properly considered. As set out in the evidence of Mr Moodie, there are significant costs which are likely to be imposed on each and every consent applicant.” These costs are described by Mr Collier in para 4.1 as comprising site by site assessments, consenting and mitigation costs.
90. Mr Moodie in his evidence for UTF gave examples of a hypothetical garage proposal which would have an additional cost of some \$20,500 related to mitigation work and associated fees. In another example a proposed industrial development would have an additional \$300,000 cost added to it to provide for underground storage. He also recommended a shared risk/cost approach between the Council and property owners.
91. Such costings were not disputed (or necessarily accepted). The short point is that the costs will be shared between public and private interests over time, the issue is precisely the time scale required to meet the statutory imperative set by the RPS. Council has defined both

²⁵ Potts, Statement of Evidence for the Council, sections 5 -7.

²⁶ Larking, op cit, para 4.17.

²⁷ Moodie, Statement of Evidence for UTF, para 24.

²⁸ Appendix 4 to S32 Report Economic Assessment for Flooding from Intense Rainfall – PC27 Initial Assessment of Cost, Cuesko Ltd, 9 June 2020.

what it considers a reasonable public cost in line with its statutory debt ceiling. The rest falls to the private sector should it wish to advance development ahead of public works.

92. On the seminal question of Council's debt ceiling, we received detailed advice in response – and we cite that advice in full due to its relevance - as follows:²⁹
- (a) *Council is undertaking an integrated response to flood risk management which includes a program of infrastructure delivery, with capital expenditure (CAPEX) outlined in the 2021-31 Long Term Plan (2021-31 LTP) for implementation of the Integrated Stormwater Project (ISP) in some locations or situations (i.e. an infrastructure lead approach).*
 - (b) *Under an infrastructure led approach, Council needs to be the lead funder because of the large number of properties and property owners involved and the varying views and situations these owners would have. As the lead investor, Council is required to borrow to deliver CAPEX projects effecting debt. This limits what TCC is able to achieve 'on the ground' beyond what is provided for in the 2021-31 LTP. Council's balance sheet does not support a substantially wider approach above its current programmed investment.*
 - (c) *In addition, wider/directed investment in the stormwater system elsewhere above what TCC has committed to is best considered through Annual Plan or Long Term Plan submissions, not RMA submissions and processes. It is notable that only five submissions on stormwater investment were received to the draft 2021- 31 LTP. At the time of the submission period closing on the 2021-31 LTP, Plan Change 27 had been notified for eight months, which included the release of the flood hazard maps. The five submissions largely sought specific investment in infrastructure at specific localities, or wider investment.*
 - (d) *Any infrastructure led solution would be undertaken over time, resulting in the need for the existing Council approach to flood risk management (i.e. the ISP) which includes the need for regulation through the Plan Change as proposed (which would apply until post infrastructure upgrades undertaken).*
 - (e) *Irrespective of the approach to recouping costs to pay down debt, Council is the party which holds the debt for any infrastructure led approach – which could be held for many decades if it is recouped at all.*
 - (f) *While Council is progressing with an integrated approach, Plan Change 27 must remain to manage risk in all catchments irrespective of investment planned or we will not achieve the plan change's Objective to reduce risk and meet the requirements of the Bay of Plenty Regional Policy Statement (RPS).*
 - (g) *Where investment does occur to reduce flooding risks, mapping can be updated and more development potential could be enabled without having to update District Plan provisions.*
93. In support of the above we were also provided with Council's balance sheet information summarised as follows:³⁰
- *Current Debt: \$586M net debt at 30 June 2021 increasing to \$1.8B by 2031.*
 - *Current Stormwater Debt (resulting from infrastructure investment): \$120M at 2020 (approximately 20% of the total net debt on the City's balance sheet).*
 - *Projected Rates increases over the 2021-31 LTP: Total rates revenue to increase from \$234M in 2022 to \$554M by 2031, an increase of 137%.*
 - *Ability/Limits to borrow further above the existing situation (debt ceiling): By 2026 the debt to revenue ratio will be at 268% which is 12% below the debt limit. This will result in minimal debt headroom for unforeseen events. The ratio is only maintained within debt limits through*

²⁹ Council's Closing Statement and Response, Issue 2: S32 Analysis, para 2.2.

³⁰ Ibid, para 4.1.

continued increases in rates to fund debt retirement. This requires rates funded debt retirement over the ten years of \$549.3M to enable Council to remain within debt limits.

- *Total capital investment (all assets) proposed in the 2021-31 LTP: \$4.6B.*
- *Investment in Stormwater (risk reduction in brownfield areas) post adoption of the ISP (2015 – 2021) investment: approx \$40M.*
- *Long Term Plan (2021-31) - \$11.3M budgeted for the renewal of existing stormwater network infrastructure.*
- *Long Term Plan (2021-31) - \$355M in stormwater CAPEX (2022 – 31) which covers, Growth, Growth & LOS, LOS and Renewals.*
- *Rates Collection (Stormwater Targeted Rate: Reactive Reserve): \$2M p.a targeted rate across the entire community of Tauranga.*

Finding

94. We find that the approach proposed has been carefully considered by Council. The Council is aware that the approach has potential cost implications for private citizens and has taken that into account as is required under s.32 RMA. While the site-by-site, specific cost implications are unquantified, and are clearly subject to argument given the uncertainty inherent in any such calculation, sufficient consideration has, in our view, been given to the matter for the purpose of s.32 RMA.
95. Further, while the Council has advised that the programme of Council-led infrastructure improvements will take many decades to achieve, we accept that in the interim it is required to implement the objectives of the RPS. In our view it is appropriate and indeed necessary to progressively reduce the flood risk by introducing a regulatory approach through PC27 which provides for further development where on-site mitigation works can be undertaken.
96. On that basis we find the approach RMA justified.

The Infrastructure Stormwater Project

97. Council indicated that the ISP was essentially the companion project to PC27. As Mr Larking explained in his opening statement, the floods of 2005, 2009, 2001 and 2012 resulted in Council deciding that a broader stormwater infrastructure strategy was necessary for the developed parts of the district. This resulted in the ISP being developed during 2014 / 2015:

... focused on understanding the extent of flooding, the costs of infrastructure investment to improve the current situation and explore the other methods to reduce risk. Included in this work was the development of 1% AEP flood models (present day) ...³¹
98. At that time, as the RPS natural hazards provisions were moving through their statutory phase further alignment work was undertaken with the LTP 2015 - 2025. Public consultation was duly undertaken on the LTP, and the ISP was refined in the adopted LTP. As Mr Larking summarised,³² the adopted ISP approach focussed on:
 - *A safety focused LoS (reduction in risk to persons safety);*
 - *Regulation and policy amendment (to reduce future increases in risk and aid in risk reduction through land use change);*

³¹ Larking, op cit, para 3.18.

³² Ibid, para 3.26.

- *Education (Information provision on risk reduction and technical advice to aid in on-site risk reduction techniques);*
 - *Residual risk and emergency management;*
 - *Reactive response capacity (stormwater reactive reserve).*
99. Mr Larking also explained the rationale for each of those foci – and noted that Council had reviewed the ISP in 2017 to ensure it remained appropriate. Further explanation of that process is not necessary for present purposes. The important point is that the strategic approach was formally adopted through the appropriate statutory mechanism – of which PC27 is an integral part.
100. In conclusion Mr Larking stated:³³
- The above shows that the Council is unable to take on further debt, irrespective of how it may be able to pay that debt down over time – essentially rendering any approach above what is currently provided in the LTP ineffective and unviable. Essentially the Council's balance sheet does not support a wider approach above its current programmed investment. Further collection through rates is also not appropriate given the level of rates rises proposed and rates already collected from our community for stormwater infrastructure (for reactive reserve purposes and paying down CAPEX debt resulting from 2005 – 2009 stormwater infrastructure upgrades).*
101. A schedule of flood projects under their various funding lines (renewals, resilience, network upgrades, flooding, depth x velocity, and reactive reserves) was provided³⁴ illustrating the work currently programmed.

Finding

102. We are satisfied that PC27 sits within the umbrella strategy set out under the ISP – and note that no technical evidence has suggested otherwise. That of course, leaves open the question as to whether PC27 goes further than might have been anticipated when the proposed LTP was under review. However, that is not a matter for this Panel; we simply need to be satisfied that the intent was properly broadcast and that it meets the tests of s.32 RMA and its statutory requirements. We are satisfied that it does.

Recent Plan Change Areas and Subdivision

103. Mr Batchelar, for Bluehaven Group, (and others in similar positions), submitted that as stormwater management matters had been specifically provided for in the relatively recent plan sections relating to the Wairakei urban growth area, that and similar areas should be exempt from the PC27 provisions. This was because, in his opinion, PC27 essentially relitigates settled matters and imposes additional costs on developments that are already in progress or consented based on the existing provisions.
104. Council's response was to reject that submission primarily on the ground that the earlier settled provisions did not consider the additional calculation required to give effect to the climate change RCP 8.5 scenario, and that to exempt those developments would not give effect to the RPS.
105. In their Closing Submissions Council also addressed the contention of some submitters, for example Mr York on behalf of Bluehaven Group, that PC27 conflicted with Rule 12B.3.1.2(f)³⁵ with respect to building platform levels. Council stated that this existing rule

³³ Larking, para 4.7.

³⁴ Closing Statement, Op cit, section 2 Response.

³⁵ It would appear that Council was referring to Rule 12B.3.1.12(f).

and the rules proposed by PC27 are based on two different flooding scenarios, and that in any event the difference in flooding is negligible as most of the flooding is confined to public property such as roads and swales. Whilst the Council did not provide details on what the building platform level was, we infer from their submission that it was either small or impacted on few lots or a combination of the two.

Finding

106. We agree with Council. While it is always unfortunate for those whose projects are caught in between old and new provisions, the requirement to give effect to the RPS is not discretionary on Council. If the provisions are found by us to be necessary, then they must apply even-handedly across the district unless it can be shown that the same outcome would be achieved regardless. In this instance, the fact that the submission is made indicates that would not be the case – in which case exempting those would confer an unfair advantage. Furthermore, existing subdivisions and developments that have “completed” their consent processes in those areas will not retrospectively be affected, only “new” development would require resource consent under these provisions. We are not persuaded that there is a good RMA ground for the exemption sought.

PC27 Provisions

107. We have carefully considered the amendments proposed by Ms Vaidya attached as Appendix 1 to Council’s closing statement (dated 17 December 2021) and generally accept them – with some minor editing changes for clarification (per s.18A RMA) and two other changes that we have already alluded to in the above discussion:
- (i) We have amended the definition footnote to a number of key terms relating to Council’s updating of the flood maps, and its further explanation in the purpose section at 8D; and
 - (ii) We have made a minor wording change to rule 8D.3.3 to clarify that “damage to property” means “damage to any site and/or building”, to avoid the confusion that could arise from the use of the term “property”.
108. As noted above, the matter of bringing the flood maps up to a uniform standard of reliability remains of concern. While we accept that the footnote proposed by Council is intended to provide a degree of comfort and assurance to submitters that reviews and revisions will actually occur, we find that this note should go further than simply proposing that this be done “periodically”.
109. Council had proposed the following wording (using the *floodplain* definition as an example):
- Note: The Council holds publicly available information showing the modelled extent of flooding affecting specific properties in its GIS viewer. The maps are non-statutory and will be periodically updated to account for catchment changes as a result of infrastructure and land development. Council will consider publicly held property specific information as well as information and technical assessments provided by individuals when assessing the current applicability of floodplain definition.*
110. Whilst a footnote carries no particular weight, and is not in itself enforceable, we prefer the following more positive statement, which we have inserted into each of the key definitions and the purpose section of 8D:
- Note: The Council holds publicly available information showing the modelled extent of floodplain(s) affecting specific properties in its GIS viewer. The maps are non-statutory and indicative only. Council will update the maps, including where further relevant site-specific information becomes*

available and to account for catchment changes as a result of infrastructure and land development. Council will consider publicly held site-specific information as well as any relevant information and technical assessments provided by any person(s) when assessing the current applicability of the floodplain definition to a particular site.

111. Otherwise, we adopt the changes recommended by Ms Vaidya.
112. We note that the changes adopted do not change the recommendations made by Ms Vaidya in section 13 of her hearing report with respect to submissions and further submissions. As such we adopt those recommendations and refer the reader to them.

STATUTORY ASSESSMENT

113. The RMA sets out a range of matters that must be addressed when considering a plan change. These matters have been identified (correctly in our view) in both the s.32 Report (section 2) and the s.42A Report (sections 8 through 12). We note that the plan change was considered to satisfy those requirements.
114. We also note that s.32 clarifies that analysis of efficiency and effectiveness is to be at a level of detail that corresponds to the scale and significance of the effects that are anticipated from the implementation of the proposal.
115. Having considered the evidence, submissions, legal advice, and relevant background documents, we are satisfied, overall, that PC27 has been developed in accordance with the relevant statutory and policy matters with regard to the Council's s.31 functions relating to the control of stormwater *qua* flooding as a natural hazard (and ss.31(1)(a) and 31(b)(i) particularly), and gives effect to the requisite RPS natural hazard provisions. The plan change will clearly assist the Council to effectively administer the District Plan.

CONCLUSION

116. Throughout our consideration of PC27 we have had in front of mind the purpose of the changes proposed. This change is not intended to resolve broader infrastructural issues regarding stormwater infrastructure – such as, for example, the interrelationship with Council's Infrastructure Stormwater Project as we have discussed - but to complement those programmes. We are satisfied that PC27 responds appropriately to those matters.

DECISION & RECOMMENDATION

117. Our decisions on submissions and our recommendations to the Council follow:
- (a) That pursuant to Schedule 1, Clause 10 of the Resource Management Act 1991, Plan Change 27 *Flooding from intense rainfall* to the Tauranga City Plan be approved, subject to the modifications set out in this decision and as attached in Appendix 1; and
 - (b) That submissions on the plan change are accepted and rejected in accordance with this decision and as per the recommendations set out in the Council's s.42A Report.
118. The reasons for the decision are that Plan Change 27:
- (a) will assist the Council in achieving the purpose of the RMA;
 - (b) will give effect to the Bay of Plenty Regional Policy Statement;

11.2 Draft Alcohol Licensing Fees Bylaw - Deliberations

File Number: A17679220

Author: Jane Barnett, Policy Analyst
Nigel McGlone, Manager: Environmental Regulation

Authoriser: Sarah Omundsen, General Manager: Regulatory and Compliance

PURPOSE OF THE REPORT

1. To consider the issues raised by submitters to the draft Alcohol Licensing Fees Bylaw and to decide whether to adopt the bylaw.

RECOMMENDATIONS

That the Council:

- (a) Receives the report "Draft Alcohol Licensing Fees Bylaw - Deliberations".
- (b) Adopt the Alcohol Licensing Fees Bylaw 2025 (**Attachment One**).
- (c) Delegates to the General Manager: Regulatory and Compliance to make any necessary minor drafting or presentation changes to the Alcohol Licensing Fees Bylaw 2025, prior to it being published.

EXECUTIVE SUMMARY

2. Under the Sale and Supply of Alcohol Act 2012 (Act), Council is responsible for administering alcohol licensing in Tauranga, including processing applications, supporting the District Licensing Committee (DLC), and monitoring compliance and enforcement.
3. These licensing functions are funded by fees prescribed in legislation which currently cover 40% of costs and mean general rates cover the remaining 60%.
4. The prescribed fees have not changed since they were first set over 11 years ago. The intention was that these fees would recover the total costs of councils' alcohol licensing functions. However, in recognition that these fees may not result in cost recovery for each council (due to the differing needs and demands of each district) secondary legislation³ allows councils to set their own fees through a bylaw.
5. An Alcohol Licensing Fees bylaw (bylaw) would allow Council to set its own fees and reduce general rates funding for alcohol licensing. With a bylaw in place alcohol licensing fees could be consulted on (as part of the User Fees and Charges consultation) during the annual plan or long-term plan process and set by Council resolution.
6. Seven other Councils have adopted bylaws in order to set their own alcohol licensing fees, and one other is mid-way through the process.
7. Community consultation on a proposed bylaw was carried out from 31 January to 7 March 2025. 207 submissions were received (**Attachment Two**).
8. Feedback from submitters can be separated into two broad categories:
 - support/opposition of the bylaw itself and the ability for Council to set its own alcohol licensing fees; and

³ Sale and Supply of Alcohol (Fee-setting Bylaws) Order 2013

- the way in which Council carries out its alcohol licensing function and how fees will be set.
9. 78% of submitters support an alcohol fees bylaw to provide Council with the ability to set fees. Submitters who supported the proposed bylaw believe that alcohol licensing should be user pays and not subsidised by rates.
 10. 19% of submitters do not support the proposed bylaw and have concerns on the impact any potential future fee changes will have on businesses, events and clubs.
 11. Some submitters want more information on licensing costs before they are set and sought greater efficiencies and transparency in the licensing process. Work is underway to get more detailed information on the breakdown of specific licensing costs and to review those costs for efficiencies. Staff have provided responses to these issues and no decision from Council is required.
 12. Council is asked to consider the adoption of the Alcohol Licensing Fees Bylaw. This would give Council the option of setting fees appropriate to the local context and to be deliberate on the fee vs rates funding split. It will also mean alcohol licensing fees can be considered alongside all other User Fees and Charges as part of the review being carried out as part of the lead-in to the 2026/27 annual plan process.
 13. If Council adopt the bylaw and decide to consider setting their own fees further information on alcohol licensing costs will be presented to inform this decision. Any proposed fees and associated timing of these proposed fees will be consulted on during the subsequent annual plan process.
 14. There are no financial implications in adopting the bylaw. Financial implications will only apply if there changes to alcohol licensing fees.
 15. The key risk in adopting the bylaw is that some submitters are opposed to the bylaw and concerned about the impact of any potential future fee changes.

BACKGROUND

Alcohol licensing in Tauranga

16. Council is responsible for administering the licensing functions of the Act. This includes:
 - appointing and supporting the District Licensing Committee (DLC), made up of members of the community, including organising and holding hearings
 - receiving and processing licence applications and managers' certificates for DLC decision making (this often involves interviews with applicants)
 - preparing material for the DLC to meet their reporting requirements to the Alcohol Regulatory and Licensing Authority (ARLA)
 - monitoring and compliance assessments of all licensees and certified managers, including inspections of premises and providing education to licensees.
17. Council's licensing team work closely with the Police and the Medical Officer of Health and other agencies to meet the responsibilities and functions of the Act.
18. As at 24 March 2025) Tauranga has 382 licensed premises including:
 - 250 on-licensed premises (restaurants, bars and cafes)
 - 92 off licensed premises (such as bottle stores and supermarkets)
 - 40 club licensed premises (such as sports clubs).
19. There are also 1145 certified duty managers from or working in Tauranga.
20. On average we process between 600 and 700 new and renewal manager certificates each year and expect to process approximately 1,300 applications in total this financial year (this

includes venue licences, manager certificates, temporary authorities and special licences for events).

Licensing fees

- 21. Council’s alcohol licensing function is funded by licensing fees (covering 40% of costs) and general rates (covering 60%).
- 22. Tauranga’s licensing fees are based on the prescribed fees set out in legislation⁴. When these fees were developed in 2013, the intention was that they would recover the total costs of councils’ alcohol licensing functions. In recognition that these fees may not result in cost recovery for each council (due to the differing needs and demands of each area), secondary legislation⁵ provides for councils to set their own fees through a bylaw.
- 23. Seven other Councils have adopted bylaws in order to set their own alcohol licensing fees, and one other is mid-way through the process:

Council	Adoption date
Whangarei District	23 March 2016
Wellington City	First adopted 2019 and reviewed in 2024
Hutt City	First adopted 2019 and reviewed 2024
Waipa District	Adopted November 26, 2024, to take effect 1 July 2025
Kapiti Coast	23 May 2024
Porirua City	27 June 2024
Hastings City	8 August 2024
Hamilton City	In the process of developing a bylaw – consultation has taken place

- 24. The Fees Regulations set a risk-based approach for alcohol licensing fees:

Cost/risk rating of premises	Fees category
0-2	Very low risk
3-5	Low risk
6-15	Medium risk
16-25	High risk
26 plus	Very high risk

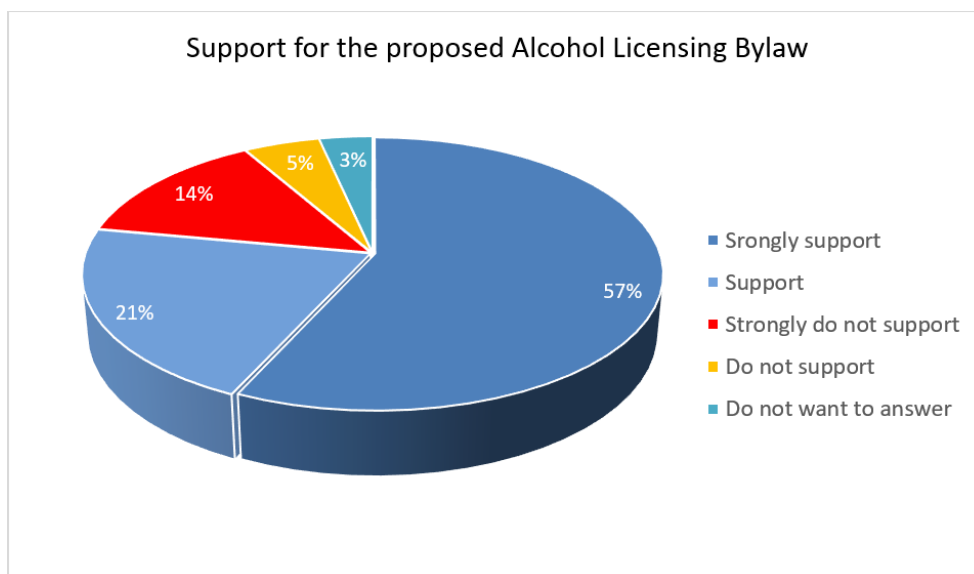
- 25. The fees for on, off and club licences are dependent on the premises risk rating. The risk rating is determined by type of premises, latest alcohol sales time and number of enforcements in the last 18 months. Any bylaw made must be consistent with this risk rating framework.
- 26. The prescribed fees for each risk category are made up of:
 - an application fee paid – intended to cover the licence application process; and
 - an annual fee paid – intended to cover monitoring costs.

⁴ Sale and Supply of Alcohol (Fees) Regulations 2013
⁵ Sale and Supply of Alcohol (Fee-setting Bylaws) Order 2013

27. Under the Act (section 404) the prescribed regulation fees are required to be reviewed every five years⁶, however the last review was carried out in 2017. It could not draw any conclusions on overall cost recovery but stated that there was a large variance in cost recovery across councils. As a result, no changes were made to the prescribed fees
28. A bylaw would allow Council to set its own alcohol licensing fees to better reflect the cost of the licensing function.
29. On 18 November 2024 the Community Transparency and Engagement Committee approved the draft Alcohol Fees Bylaw (**Attachment One**) for community consultation.
30. The community consultation survey asked:
 - Do you support the proposed Alcohol Licensing Fees Bylaw?
 - What portion of the cost to administer, manage and monitor alcohol licensing do you think should be funded through your rates?
31. The consultation highlighted that no decision has been made on the timing and level of any potential changes to fees and that these decisions will be considered as part of next year’s annual plan. Schedule One on the proposed Alcohol Licensing Fees Bylaw set out indicative fees based on full cost recovery to help inform the community consultation.

Submission summary

32. Community consultation was carried out, from 31 January to 7 March 2025. 207 submissions were received (**Attachment One**) with nearly 80% of submitters supporting the proposed bylaw, 57% strongly supporting and 21% indicating their support. 19% of submitters did not support the proposal, with 14% of these stating that they strongly do not support the proposal.



33. The table below summaries the reasons submitters either support or do not support the proposed bylaw.

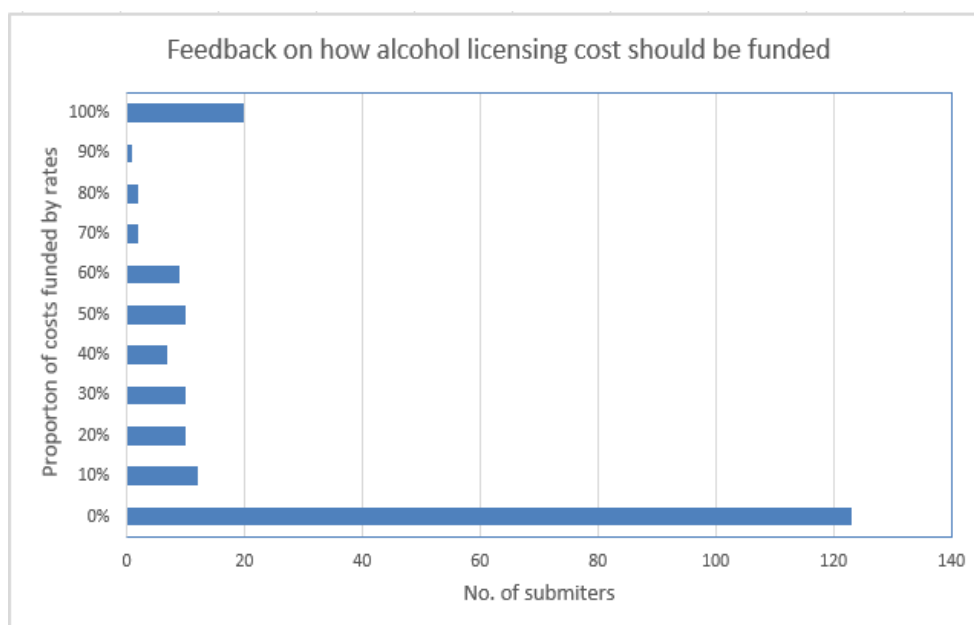
Table One: Feedback from submitters on the proposed Alcohol Licensing Fees Bylaw

<i>Support for the proposed Alcohol Licensing Fees Bylaw</i>	
Support	78%
Do not support	19%
Do not want to answer	3%

⁶ Sale and Supply of Alcohol Act 2012, s 404

Reasons for support	Reasons for not supporting
<ul style="list-style-type: none"> • Local decision-making: Council should have the power to set fees based on local needs and conditions. • User pays principle: businesses profiting from alcohol sales should bear the costs of licensing, not the general ratepayers. • Reducing ratepayer burden: ratepayers should not subsidise alcohol licensing fees. • Health and social benefits: potential to reduce alcohol-related harm. • Fairness: fairer for those who benefit from alcohol sales to pay the costs, rather than spreading the cost across all ratepayers. • Economic efficiency: local control over fees can lead to more efficient use of resources. 	<ul style="list-style-type: none"> • Financial impact: businesses, clubs and community events cannot afford increased fees. • Economic impacts on hospitality sector: challenging economic climate for hospitality businesses, additional costs could lead to closures and job losses. • Current fees appropriate: existing fees set in the regulations are appropriate. • Lack of trust in Council: lack of confidence in the council's ability to set fees efficiently and concerns about potential misuse of funds. • Need more information: more information on the breakdown of alcohol licensing costs and how any new fees will be calculated.

34. Some submitters expressed conditional support suggesting that any fee increases should be gradual or that certain types of business should be treated differently.
35. While explaining that we were not looking to set fees in the bylaw itself, we did ask submitters for their thoughts on how licensing costs should be funded to help inform the next steps if the bylaw was adopted by Council. We asked what proportion of the alcohol licensing cost should come from rates.
36. 60% of submitters thought that alcohol licensing costs should not be funded through rates at all while a further 16% thought the rates proportion should be between 10-30%. 13% of submitters thought that rates funding should contribute between 40-60% and 10 % of submitters thought cost should be completely funded from rates.



STATUTORY CONTEXT

37. Section 402(1)(b) of the Act provides that fee regulations (including fee-setting bylaws) ‘may do anything reasonably necessary to ensure that, so far as it is practicable, the total costs to the territorial authority are recovered out of the fees paid to it under this Act’.
38. Section 405 of the Act requires Council ‘to the extent that is reasonably practicable having regard to the circumstances of the particular case, consult the persons the authority has

reason to believe are representative of interests likely to be substantially affected by the bylaw’.

STRATEGIC ALIGNMENT

39. This contributes to the promotion or achievement of the following strategic community outcome(s):

	Contributes
We are an inclusive city	✓
We value, protect and enhance the environment	<input type="checkbox"/>
We are a well-planned city	<input type="checkbox"/>
We can move around our city easily	<input type="checkbox"/>
We are a city that supports business and education	<input type="checkbox"/>

40. The proposed bylaw aligns with the council’s strategic community outcome of an inclusive city. The alcohol licensing function helps prevent harm and helps create a safe community.

OPTIONS ANALYSIS

41. Submitter’s comments can be grouped into two categories:

1. support/opposition of the proposed bylaw; and
2. issues relating more generally to Council’s alcohol licensing processes

Part 1: the proposed bylaw

42. To respond to submitters feedback on whether they support the bylaw or not Council are asked to decide on the bylaw. Responses to the other issues raised by submitters are set out in table three below and no decision from Council is required.

43. Table Two sets out the advantages and disadvantages of adopting the Alcohol Licensing Fees Bylaw 2025. Adoption of the bylaw is recommended. The bylaw would provide the option of increasing fees in the future to reduce the burden of licensing costs on the community.

Table Two: Options for the draft Alcohol Licensing Fees Bylaw 2025

Option	Advantages	Disadvantages
1 Adopt the Alcohol Licensing Fees Bylaw 2025. Recommended (see recommended resolution (b))	<ul style="list-style-type: none"> • Allows a tool for fees to be set to recover alcohol licensing costs which is consistent with the user-fees principle. • Supported by 78% of submitters with 57% strongly supporting a bylaw to enable Council to set licensing fees. • Provides greater flexibility to adjust alcohol fees if required. • Allows for greater community consultation on alcohol licensing fees through the annual and long-term planning process. • Potential to reduce demand on general rates funding. 	<ul style="list-style-type: none"> • Any fees changes set through the bylaw will impact on businesses. • 19% of submitters do not support – with 15% of these strongly opposing the bylaw.
2 Do not adopt the Alcohol Licensing Fees Bylaw 2025	<ul style="list-style-type: none"> • No impact of increased fees on businesses – unless regulation fees 	<ul style="list-style-type: none"> • No potential for recovering a greater proportion of alcohol

Option	Advantages	Disadvantages
<p>and continue to use the prescribed licensing fees set in the regulations.</p>	<p>change.</p> <ul style="list-style-type: none"> 19% of submitters do not support the bylaw. 	<p>licensing costs.</p> <ul style="list-style-type: none"> 78% of submitters support the bylaw. Does not align with the intent of the Sale and Supply of Alcohol Act 2012 to recover costs. Increased demand on general rates funding.

Part 2: other issues raised

44. Table three below outlines additional issues raised by submitters on alcohol licensing and the setting of any new fees.

Table Three: Additional concerns raised by submitters

Issue summary	Comment
<p>Additional information on costs associated with licensing function: further information on licensing costs required before decisions are made.</p> <p>Submission # 17, 21, 33, 138,140, 142, 162, 166, 189, 196, 205</p>	<p>Detailed licensing cost information is not currently available. This is because time sheeting is not in place to record the amount of time staff spend specifically on the various licensing tasks. However, further cost information is being compiled and will be considered before any new fees are proposed. Time sheeting processes are being developed and planned to be implemented in the next three months.</p> <p>The decision to adopt the bylaw is simply about establishing a tool to set fees, not actually setting the fee amount. Any change to the level of fees will be considered as part of the 2026/27 annual plan process next year. Further cost information will be presented to inform any potential changes to fees. Any proposed changes will be consulted on in the draft User Fees and Charges in March/April 2026.</p>
<p>Efficiency review: consider and optimise costs before passing on to license holders.</p> <p>Need an audit of current processes to focus on improving efficiency and support for licensees.</p> <p>Recommendations include:</p> <ul style="list-style-type: none"> online portal for application tracking and communication automate standard application approvals for low-risk cases online and in-person training sessions reduce unnecessary hearings <p>Submission # 5, 17, 33, 134, 140, 142, 162, 175, 194, 195, 198, 201, 203, 205, 221</p>	<p>Work is underway to obtain more detailed information on the breakdown of licensing costs. As part of this and the overall Council efficiency reset initiative a review of costs is being carried out.</p> <p>Recent cost increases come from the increase in the number of hearings over the past few years. Hearings are estimated to contribute to around 15% of staff time. Recent changes to the Act make it more accessible for people to participate in the licensing process. This has contributed to an increase in the number of DLC hearings. In 2020 three hearings were held compared to last year when 34 were scheduled. 24 took place and 10 were cancelled when the applicant or objector withdrew at the last minute. Documentation and assessments were carried out for all 34 hearings. So far 16 hearings have taken place this year.</p> <p>Hearing costs are not specifically charged to the applicant so are directly funded through fee revenue and general rates.</p> <p>Hearings are legislatively required if there are public</p>

Issue summary	Comment
	<p>objections to licence applications.</p> <p>Online portal technology and additional in-person trainings will involve additional resourcing.</p>
<p>Further consultation: More comprehensive stakeholder consultation required.</p> <p>Submission # 202, 203</p>	<p>The consultation on the bylaw followed the Special Consultative Procedure and all license holders were informed of the consultation by direct email and via a special edition of The Bar Code newsletter – this received an open rate of 60%. A media advisory was also highlighted by The Shout (hospitality industry magazine and website).</p> <p>Downtown Tauranga included messaging on the proposed bylaw in their email to members on the 13 February, 19 February, 22 February and 6 March 2025.</p> <p>It is important to note that Council is not changing fees at this stage. It is looking to put in place a bylaw that would allow Council the option to change alcohol licensing fees in the future. Any proposed fee changes will be consulted on in accordance with section 405 of the Sale and Supply of Alcohol Act.</p>
<p>Support national fees: Recommend seeking a review of the prescribed fees and using these.</p> <p>Submission # 5, 16, 33, 117, 159, 194, 196, 203, 204, 205</p>	<p>The Ministry of Justice has reported that this is not a current priority. The latest unpublished review recommends fees increase by inflation, but no timeline is provided.</p>
<p>Tired fee structure: change the fee structure so high-risk premises pay proportionally more and community events have a reduced fee.</p> <p>Recommend Council pass a resolution in support of a Ministry review of the risk ratings in legislation.</p> <p>Submission # 34, 36, 83, 116, 142, 156, 195, 198, 201, 205</p>	<p>Any bylaw and associated fees must be consistent with the risk-based framework set out in the Fees Regulations. The fees for on, off and club licences are dependent on the premises risk rating. The risk rating is determined by type of premises, latest alcohol sales time and number of enforcements in the last 18 months. The five cost/risk ratings of premises and corresponding fees categories are set out in paragraph 24.</p> <p>Council could request a review of the legislation setting out the risk framework. However, the Ministry of Justice has previously indicated that this and alcohol fee reviews are not a current priority.</p>

Issue summary	Comment
<p>Graduated fee increase: to allow business to adjust.</p> <p>Submission # 205</p>	<p>The timing and levels of any fee changes will be considered during next year’s annual plan. This feedback will be considered when developing any proposed changes. Further consultation will take place on the timing and levels of any proposed fee changes.</p>

FINANCIAL CONSIDERATIONS

- 46. There are no financial considerations in considering the issues raised by submitters and deciding whether to adopt the proposed Alcohol Licensing Fees Bylaw.
- 47. Financial considerations will apply at the next stage of the project. If Council decides to adopt the bylaw, fees will be set during next year’s annual plan process. Section 101 of the Local Government Act 2002 (LGA) requires Council to consider the funding sources based on several factors including the levels of individual and community benefit from the activity.

LEGAL IMPLICATIONS / RISKS

- 48. The legal implications and risks are dependent on the changes, if any, made to the proposed draft bylaw.

TE AO MĀORI APPROACH

- 49. The development of an Alcohol Fees Bylaw supports the principles of Manaakitanga – a strong duty of care and safety for our people. Although there are no direct impacts on Māori from developing the bylaw, a strong alcohol licensing function will be beneficial to Māori, who experience disproportionate alcohol-related harm.

CLIMATE IMPACT

- 50. There are no direct or specific climate change impacts resulting from considering the submissions and adopting a bylaw.

SIGNIFICANCE

- 51. 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.
- 52. In making this assessment, consideration has been given to the likely impact, and likely consequences for:
 - (a) the current and future social, economic, environmental, or cultural well-being of the district or region
 - (b) any persons who are likely to be particularly affected by, or interested in, the decision.
 - (c) the capacity of the local authority to perform its role, and the financial and other costs of doing so.
- 53. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the issue is of medium significance. However, the decision in this report is of low significance. Further consultation will occur if any changes to alcohol licensing fees are proposed in the review of fees and charges during the next annual plan process.

ENGAGEMENT

54. Taking into consideration the above assessment, that the decision is of low significance, and that consultation has occurred, officers are of the opinion that no further engagement is required prior to Council making a decision on whether to adopt the Alcohol Fees Bylaw 2025.

NEXT STEPS

55. If Council decide to adopt the bylaw, then any potential changes to alcohol fees will be considered as part of next year's annual plan. Additional cost information will be provided to inform any decisions of appropriate fees and the timing of any changes.

ATTACHMENTS

1. **Draft Alcohol Licensing Fees Bylaw - A16957303**  
2. **Submissions to the Draft Alcohol Licensing Fees Bylaw - A17714983**  

11.3 Dog Registration Fee 2025/2026 Year

File Number: A17635159

Author: Brent Lincoln, Team Leader: Animal Services
Fiona Nalder, Principal Strategic Advisor

Authoriser: Sarah Omundsen, General Manager: Regulatory and Compliance

PURPOSE OF THE REPORT

1. This report seeks a Council decision regarding the dog registration fee for the 2025/2026 financial year.

RECOMMENDATIONS

That the Council:

- (a) Receives the report "Dog Registration Fee 2025/2026 Year".
- (b) Sets the dog registration fee for 2025/26 at \$129.
- (c) Sets the additional penalty fee for dogs that are not registered by 31 July 2025 at 50% of the standard fee (i.e. a total of \$193.50).
- (d) Notes that Council's Dog Management Policy and Bylaw, and Keeping of Animals Bylaw are scheduled for review later this year.
- (e) Notes that an invitation to participate in an online pre-engagement survey, ahead of the review of Dog Management Policy and Bylaw and Keeping of Animals Bylaw, will be included within the annual invoices for dog registration fees.

EXECUTIVE SUMMARY

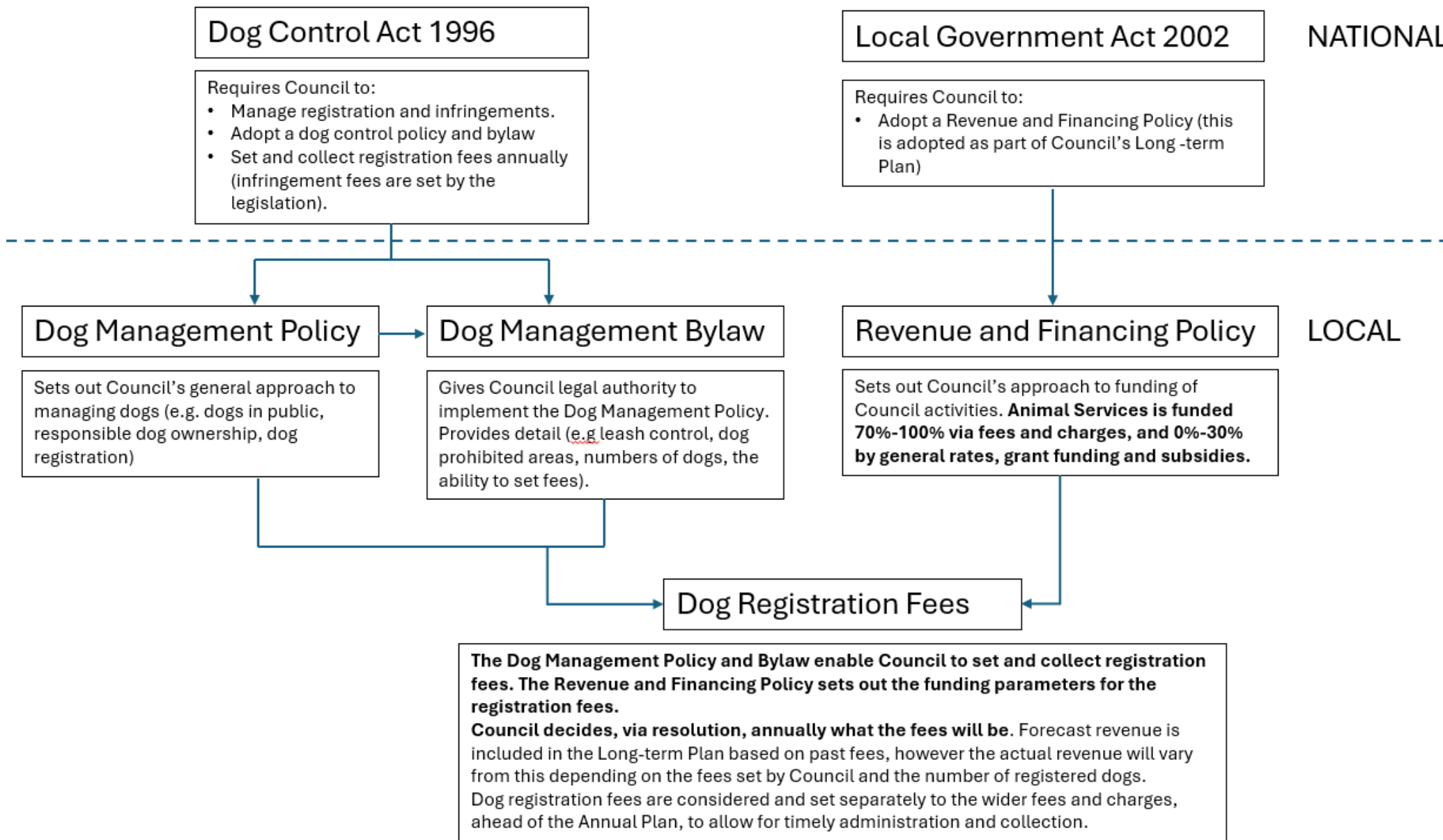
2. This report seeks a Council decision on setting the dog registration fee for the 2025/26 financial year.
3. Council is required to set and collect dog registration fees annually under the Dog Control Act 1996. The Animal Services Activity, which includes dog control and stock control (all other kept animals, including bees and poultry), is funded 70%-100% by fees and charges, and 0%-30% by general rates and other sources.
4. Within the Animal Control Activity, different funding approaches are taken for the different services. Stock control generates little revenue and is funded via the general rate. Dog control services are mostly funded via fees and charges, with approximately 10% of the cost of providing the service met by the general rate. The general rate contribution towards the cost of dog control recognises the public good element of the service. Dog registration fees provide the largest revenue component for the Animal Services Activity.
5. Dog registration fees can only be used to fund those elements of the Animal Services Activity which directly contribute to dog control activities as authorised by the Dog Control Act 1996, e.g. they cannot be used to meet costs related to stock control.
6. The Dog Control Act 1996 enables Council to provide discounted dog registration fees for owners who met certain responsible dog owner requirements. However, Council has traditionally adopted a single fee for all dog owners. Council assumes all owners are responsible unless proven otherwise. This approach reduces administrative costs and simplifies the process for both owners and Council. Exceptions include police dogs and qualified disability assist dogs, which receive a fee waiver.

7. Dog registration fees are increased each year by an amount which covers increases in costs for the Activity. In 2024/25 this resulted in an increase from \$100 to \$125, a larger increase than usual and one which recognised recent cost increases for Council. This cost increase resulted in a lower-than-expected number of dog registrations, a higher-than-expected number of dogs reported as deceased, and higher-than-expected revenue from court fines (resulting from unregistered dogs). Court fines are set by the Dog Control Act 1996, not Council.
8. This report considers four options for dog registration fees in 2025/26
9. Option i. Increase fees to \$129 (Recommended). This is the status quo option which would see fees set at an amount which accommodates cost increases.
 - Pros: Delivers 90% cost coverage via fees and charges for dog control services, maintains financial stability, and aligns with past practices.
 - Cons: Slightly higher costs for owners, potential negative public perception, potentially continued lower-than-expected number of registrations (which can lead to higher compliance costs).
10. Option ii. Maintain fees at \$125 (Not recommended)
 - Pros: Stable costs for owners, potentially better public perception.
 - Cons: Lower budgeted revenue and smaller budget cash surplus, with potential revenue shortfall and potential budget deficits if forecast numbers are not met.
11. Option iii. Decrease fees to \$119 (Not recommended)
 - Pros: More affordable, potentially higher compliance.
 - Cons: Likely to result in a revenue shortfall if there is any drop in forecast registration numbers and/or other fees and charges.
12. Option iv. Increase fees to \$138 (Not recommended). This option would increase dog registration fees to an amount that means no general rate funding would be required to meet the cost of dog control services. General rate funding would still be needed for stock control. There would be a negligible impact on rates (i.e. no noticeable reduction in rates for the ratepayer). This approach does not recognise the appropriateness of using a small amount of general rate funding in acknowledgement of the public good provided by dog control services.
 - Pros: Full cost recovery.
 - Cons: Higher financial burden on dog owners, likely negative public reaction, likely lower compliance, does not recognise the wider public good delivered by the dog control service. Does not deliver any significant savings for ratepayers.
13. All options comply with the Dog Control Act 1996 and Council policies. Council's approach to the funding of the Animal Control Activity was consulted on as part of consultation on Council's Revenue and Financing Policy. The decisions sought by this report are assessed as being of low significance, and no further engagement is required before making a decision.
14. The next step is to implement the decisions of the report, with invoices for 2025/26 dog registration fees scheduled to be sent out on 1 June 2025. As Council's Dog Management Policy and Bylaw, and Keeping of Animals Bylaw are scheduled for review later this year, an invitation to participate in an online pre-engagement survey will be included within the invoices.

BACKGROUND

15. Council is required under the Dog Control Act 1996 to set and collect dog registration fees annually, and to keep a register of dogs. The diagram below shows how the Dog Control Act, Council's Dog Management Policy and Bylaw, and Council's Revenue and Financing Policy interact in terms of setting dog registration fees.

Figure 1: Interaction between legislation, policy and setting dog registration fees



16. Council's Dog Management Policy sets out Council's approach to managing dogs and the associated Bylaw gives Council the power to implement the Policy, including collecting fees and charges.
17. Council's Revenue and Financing Policy provides Council's approach to the funding of the Animal Services activity as a whole. As per the Revenue and Financing Policy, the Animal Services activity is funded 70%-100% via fees and charges and 0%-30% by general rates, grant funding and subsidies.
18. The Animal Services activity is focused on keeping the community safe from animal related incidents, i.e. it covers more than just dog control. The work includes:
 - Registering dogs and following up on unregistered dogs.
 - Responding to lost, roaming and aggressive dogs, dog nuisance complaints (primarily excessive barking) and wandering stock.
 - Managing the keeping of bees, poultry, goats, pigs, and other stock within city boundaries.
 - Public education regarding interacting with dogs, delivered at events, to schools and organisations, and one-one to dog owners.
19. Dog registration fees are the largest contributor to the 70%-100% of Animal Services revenue which comes from fees and charges. Dog registration fees can only be used to fund those elements of the Animal Services Activity which directly contribute to dog control activities as authorised by the Dog Control Act 1996, e.g. they cannot be used to meet costs related to stock control.

The Dog Management Policy and Bylaw, and the Keeping of Animals Bylaw

20. Council's Dog Management Policy and Bylaw, and Keeping of Animals Bylaw are scheduled for review later this year. As part of this project, Council staff are planning a pre-engagement survey on several issues to inform the review including:
 - dog rules for estuaries wetlands and marshes, beach dunes, and other special ecological areas
 - dog rules for certain types of open spaces such as city centre spaces, cemeteries, burial grounds, and shared paths
 - the appropriate limits on keeping dogs and animals in urban areas.
21. The survey is being timed to coincide with the annual dog registration period from 1 June 2025. This allows for leverage of planned communications reducing engagement costs; an invitation to participate in the online survey will be included as a link within the annual invoices for dog registration fees The survey will also be promoted online and through other channels to ensure a wide reach to those who may not own animals.

Council's approach to setting dog registration fees

22. The Dog Control Act 1996 stipulates that Council must set dog registration fees via resolution. When setting fees, Council may:
 - (a) fix fees for neutered dogs that are lower than the fee for dogs that have not been neutered:
 - (b) fix fees for working dogs that are lower than the fee for any other dog, and may limit the number of working dogs owned by any person which qualify for lower fees under this section:
 - (c) fix different fees for the various classes of working dogs:
 - (d) fix fees for dogs under a specified age (not exceeding 12 months) that are lower than the fee that would otherwise be payable for those dogs:

(e) fix, for any dog that is registered by any person who demonstrates to the satisfaction of any dog control officer that that person has a specified level of competency in terms of responsible dog ownership, a fee that is lower than the fee that would otherwise be payable for that dog:

(f) fix by way of penalty, subject to subsection (3), an additional fee, for the registration on or after the first day of the second month of the registration year or such later date as the authority may fix, of any dog that was required to be registered on the first day of that registration year:

(g) fix a fee for the issue of a replacement registration label or disc for any dog.

(s37(2), Dog Control Act 1996)

23. Late registrations (after 31 July) can incur an additional cost of up to 50% of the initial registration fee.
24. Although the Dog Control Act 1996 allows Council to set fees lower for those owners who have met certain criteria (such as neutering their dog/s), to-date Council has adopted a single fee for all dog owners.
25. This approach has been taken by Council for the following reasons
 - It assumes all dog owners are 'good' owners, unless proven otherwise.
 - It avoids placing the burden (and costs) on dog owners to obtain and prove the status of their dog and/or ownership status (i.e. to prove that they are 'good' owners).
 - It decreases administration requirements and implementation costs for Council.
 - Dog owners are only financially penalised if their dog is subject to substantiated complaints, infringement notices etc, and this financial penalty system is separate to the registration fees system.
26. The exceptions to this approach are police dogs and certified disability assist dogs, who receive a fee waiver.
27. Additional penalties and fines are imposed in the event an owner does not control their dog as per Council's Dog Management Bylaw. These amounts are set by the Dog Control Act 1996.
28. Council's approach makes it difficult to benchmark Council's dog registration fees, as many councils adopt a tiered fee system. Attachment 1 to this report provides some comparison data (this uses 2024/2025 information sourced from publicly available information).
29. Implementing a tiered fee system is not considered via this paper. If this is something that Council does wish to consider in the future, it can be included in the planned community consultation later this year on Council's Dog Management Policy and Bylaw.

Setting registration fees for 2025/2026

30. As discussed above, the Animal Control Activity delivers more than just dog related activities, it also provides stock control services (stock, under this definition, refers to the management of all other kept animals within the city boundary, including bees, poultry, goats and pigs).
31. As per Council policy, 70-100% of the Animal Control Activity is fee-funded, and 0-30% is ratepayer funded. The following table shows breakdown of revenue sources over recent years as well as total expenditure. Note that this table is for the Animal Control Activity activity as a whole. The general rate contribution includes the portion that meets the cost of stock control.

Table 1: Comparison of revenue sources for the Animal Services Activity over recent years

Year	Dog registration fees	Other*	General rate	Total revenue	Total expenditure
2021/22	\$1,137,049 (67%)	\$128,262 (8%)	\$434,759 (26%)	\$1,700,071	\$2,065,188
2022/23	\$1,405,208 (66%)	\$223,796 (11%)	\$491,169 (23%)	\$2,120,174	\$2,330,844
2023/24	\$1,429,236 (66%)	\$303,847 (14%)	\$442,060 (20%)	\$2,175,144	\$2,084,273
2024/25**	\$1,534,808 (64%)	\$388,008 (16%)	\$468,596 (20%)	\$2,391,412	\$2,312,175

* e.g. infringement and impounding fees, also included internal interest revenue

** Full year forecast

32. Dog registration fees are Council’s primary source of revenue for the Animal Services Activity; however, dog registration fees can only be used to fund dog control related activities. Stock control generates little to no revenue and is funded via the general rate.
33. Minimal general rate funding is used to fund dog control services. Previously dog registration fees have been set at an amount which, together with other dog related revenue (e.g. infringement fees), is forecast to fund 90% of dog control expenditure, with the remaining 10% funded via general rate. Given there is a public benefit to delivering dog control (i.e. not just dog owners benefit from dog control services), it is considered appropriate that a small percentage of the service is funded via the general rate.
34. The Animal Control Activity surveyed other councils in November 2024 regarding their approach to the funding of dog control services and the setting of dog registration fees. Out of the 19 councils that responded, the general rate contribution towards the cost of dog control services varied from 0% to 52%, with an average of 18%, higher than this Council’s 10%.
35. Council’s dog registration fees were set at \$125 for 2024/25, a \$25 increase upon the previous year’s registration fees (\$100). This increase reflected the overall increase in forecast expenditure for the Animal Control Activity, due to the impacts of inflation and increased overhead costs. The total estimated revenue from dog registration fees in 2024/2025, combined with other dog related revenue, was projected to meet 90% of the cost of delivering the dog control services for the city.
36. However, the revenue from dog registration fees in 2024/25 was lower than forecast as fewer dogs were registered than expected, and a higher-than-average number of dogs were reported as deceased. This is thought to be due to the increase in registration fees. The lost revenue has been compensated for via higher than projected court fines from owners of unregistered dogs.
37. This report identifies four potential approaches to setting dog registration fees in 2025/26.
 - i. Increase registration fees as per the standard approach (i.e. increase registration fees to as required to allow forecast dog related fees and charges to meet 90% of the forecast cost for delivering dog control services). This would see registration fees set at \$129. (Recommended and status quo)
 - ii. Maintain registration fees at \$125. (Not recommended)
 - iii. Decrease registration fees to \$119. (Not recommended)
 - iv. Increase registration fees so that when combined with other revenue (e.g. infringement fees) there is no requirement for a general rate contribution towards the cost of dog control services, this would see fees set at \$138. (Not recommended)

OPTIONS ANALYSIS

Option i. Increase registration fees to \$129 (RECOMMENDED and status quo)

- 38. This option would result in fees increasing by 3% from the previous year to meet increases in delivery cost for the activity. Increasing fees by this amount is forecast, along with other dog related revenue, to meet 90% of the cost of delivering dog control services for the city, with the remaining 10% to be met via general rate (recognising the element of wider public good delivered by this activity). This approach aligns with Council’s approach to setting dog registration fees over previous years.
- 39. If the anticipated number of dogs are registered and court fines continue to track above historical levels, this increase has the potential to deliver a modest surplus (\$83,842). Allowing for a modest surplus provides a small buffer if actual revenue is lower than forecast. Any surplus would be held against the activity, future proofing in the event of deficits in subsequent years.
- 40. Key risk: this is a low-risk option, due to the minimal increase on the previous year’s fees. It is not expected that this increase would result in an increase of unregistered dogs or dogs reported as deceased. The primary risk is that the assumed increases in number of dogs registered are not achieved, and there is a shortfall between revenue and expenditure.

Pros	Cons
<ul style="list-style-type: none"> • <u>Revenue alignment</u>: Ensures that 90% of the forecast cost for delivering dog control services is met, maintaining financial stability. • <u>Sustainability</u>: Helps cover increased costs due to inflation and overheads, ensuring continued quality of services. • <u>Complies with policy</u>: This option complies with Council policy which requires 70-100% of the Animal Control Activity is fee-funded • <u>Consistent with past practice</u>: this approach aligns with past practice, sending a consistent message to dog owners that they can expect increases each year commensurate with increases in costs for Council. 	<ul style="list-style-type: none"> • <u>Slightly higher costs for owners</u>: May discourage some owners from registering their dogs, potentially leading to lower compliance. • <u>Public perception</u>: Could be viewed negatively by dog owners, as last year’s fee increase was substantial. However, this increase is minimal compared to the previous increase. • <u>Diversion of staff</u>: Lower voluntary registration rates diverts staff away from proactive activities to following up on unregistered dogs.

Option ii. Maintain registration fees at \$125 (NOT RECOMMENDED)

- 41. This option would maintain fees at the 2025/26 amount. The financial modelling for this option provides a minimal forecast surplus of \$33,481. Council has traditionally increased fees to meet increases in cost delivery, and this approach would be contrary to that. However, it recognises that the previous year’s increase was substantial, and that many households are struggling with recent increases in cost of living.
- 42. Maintaining dog registration fees at \$125 means that dog related revenue risks not meeting 90% of the cost to provide dog control services if the actual number of dog registrations is lower than forecast. This would result in a financial deficit for the Animal Control Activity, which would be held against the activity.
- 43. Key risk: that expenditure on dog control exceeds the combined revenue streams and a deficit occurs.

Pros	Cons
<ul style="list-style-type: none"> • <u>Owner satisfaction</u>: Keeps costs stable for dog owners, potentially maintaining or 	<ul style="list-style-type: none"> • <u>Revenue shortfall</u>: May not meet the 90% cost coverage target, leading to potential

<p>improving public perception.</p> <ul style="list-style-type: none"> • <u>Complies with policy:</u> This option complies with Council policy which requires 70-100% of the Animal Control Activity is fee-funded 	<p>budget deficits.</p> <ul style="list-style-type: none"> • <u>Is inconsistent with past practice:</u> may lead to an expectation that fees are not increased regularly/annually in line with cost increases in service delivery.
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Option iii. Decrease fees to \$119 (NOT RECOMMENDED)

- 44. This option would deliver a modest decrease on the 2025/26 fees. This option is modelled on achieving a zero surplus (i.e. if actual revenue matches forecast revenue, there would be neither a surplus nor deficit). Council has traditionally increased fees annually, to meet increases in cost delivery, and this approach would be contrary to that. It recognises that last year’s fee increase resulted in an increase in unregistered dogs and a higher than usual number of dogs reported as deceased.
- 45. Decreasing dog registration fees to \$119 means there is a higher risk, if registrations are lower than expected, that dog related revenue would no longer meet 90% of the cost to provide dog control services, and an increased likelihood that the Animal Control Activity incurs a small deficit.
- 46. Key risk: that the Animal Control Activity incurs a budget deficit and that fees need to be increased more than they would otherwise in 2026/27.

Pros	Cons
<ul style="list-style-type: none"> • <u>Affordability:</u> Makes registration more affordable, potentially increasing compliance and registration rates. • <u>Positive public response:</u> Likely to be well-received by dog owners, improving public relations. • <u>Complies with policy:</u> This option complies with Council policy which requires 70-100% of the Animal Control Activity is fee-funded 	<ul style="list-style-type: none"> • <u>Revenue shortfall:</u> Is likely to increase the shortfall in covering the costs of dog control services and may incur a budget deficit. • <u>Is inconsistent with past practice:</u> may lead to an expectation that fees are not increased regularly/annually in line with cost increases in service delivery.

Option iv. Increase fees to \$138 (NOT RECOMMENDED)

- 47. This option would increase the 2025/26 fees to a level where general rate funding was not required (note: the Animal Control Activity would still require some general rate funding to cover stock control, but the dog control element of the activity would be fully funded via fees and charges).
- 48. This option does not recognise the wider public good provided by the dog control. Public good elements include education programmes, providing the capacity to respond to complaints regarding nuisance behaviour (e.g. barking), enhancing nature and biodiversity by reducing the undesirable impacts of dogs on wildlife, and contributing to community safety and wellbeing.
- 49. Placing the onus on a sub-group to pay for a public good element that benefits the wider community may be considered unfair. For example, it may not be considered fair to incorporate the full cost of investigating dog complaints into the dog registration fees as: most dogs are well-behaved/managed; not all complaints are justified/result in fines; and, having the ability to complain and have it investigated benefits the general ratepayer population.
- 50. Key risk: that more dogs are unregistered, due to the cost increase.

Pros	Cons
<ul style="list-style-type: none"> • <u>Full cost recovery</u>: Ensures that dog control services are fully funded without any contribution from the general rate. • <u>Complies with policy</u>: This option complies with Council policy which requires 70-100% of the Animal Control Activity is fee-funded 	<ul style="list-style-type: none"> • <u>Lower compliance</u>: Significantly higher fees may deter owners from registering their dogs, leading to lower compliance. • <u>Negative public reaction</u>: Likely to be unpopular among dog owners, potentially leading to dissatisfaction and complaints. • <u>Does not recognise public good</u>: Dog control services provide wider public good, benefiting more than just dog owners, meaning that it is appropriate that the general rate is used to fund a small portion (currently set at approximately 10%) of the service.

FINANCIAL CONSIDERATIONS

51. The table below provides further financial detail for each of the options above (assumptions provided at point 49.).

Table 2: Financial details for each of the four options

	Option i. Increase registration fees to \$129	Option ii. Maintain registration fees at \$125	Option iii. Decrease fees to \$119	Option iv. Increase fees to \$138
Total Dog Registration Revenue	\$1,729,049	\$1,678,688	\$1,645,114	\$1,852,273
Other revenue streams (excludes stock control)	\$232,315	\$232,315	\$232,315	\$232,315
Rate payer funding (excludes stock control)	\$207,066	\$207,066	\$207,066	\$0
Total expenditure (excludes stock control)	\$2,084,588	\$2,084,588	\$2,084,588	\$2,084,588
Surplus/Deficit	\$83,842	\$33,481	-\$93	\$0

52. The following assumptions have been made:

- That the known number of dogs (15,910) will increase by 3.6% to 16,516 in 2025/26
- That the penalty registration fee will be set at an additional 50% to the standard fee (i.e. if the standard fee is \$125, the penalty fee will be \$187.50)
- That 4% of dogs will receive a waived registration fee (police and qualified disability assist dogs)
- That 5% of dogs will not be registered
- That 5% of dogs will pay a pro-rate fee (puppies/dogs that die during the year), 86% will pay the standard fee, and 9% will pay the penalty fee.

STATUTORY CONTEXT

53. Dog control is legislated for at a national level by the Dog Control Act 1996 and implemented at a local level via Council’s Dog Management Policy and Bylaw. Dog registration fees must comply with the parameters set by Council’s Revenue and Financing Policy.

STRATEGIC ALIGNMENT

54. This contributes to the promotion or achievement of the following strategic community outcome:

	Contributes
We are an inclusive city	✓
We value, protect and enhance the environment	✓
We are a well-planned city	<input type="checkbox"/>
We can move around our city easily	<input type="checkbox"/>
We are a city that supports business and education	<input type="checkbox"/>

55. Dog control contributes to enhancing nature and biodiversity by reducing the undesirable impacts of dogs on wildlife, as well as contributing to community safety and wellbeing.

LEGAL IMPLICATIONS / RISKS

56. All options proposed in this report are compliant with the Dog Control Act 1996, Council’s Dog Management Policy and Bylaw and Council’s Revenue and Financing Policy.

TE AO MĀORI APPROACH

57. Not applicable. Managing dog registration is a regulatory procedure, as required under the Dog Control Act 1996.

CLIMATE IMPACT

58. Not applicable. Managing dog registration is a regulatory procedure, as required under the Dog Control Act 1996.

CONSULTATION / ENGAGEMENT

59. Council’s approach to meeting the costs of the Animal Services activity was consulted on as part of the 2024-2034 Long-term Plan (Revenue and Financing Policy).

SIGNIFICANCE

60. 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.
61. In making this assessment, consideration has been given to the likely impact, and likely consequences for:
- (a) the current and future social, economic, environmental, or cultural well-being of the district or region
 - (b) any persons who are likely to be particularly affected by, or interested in, the decision.
 - (c) the capacity of the local authority to perform its role, and the financial and other costs of doing so.
62. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the decision is of low significance.

ENGAGEMENT

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

NEXT STEPS

64. Implement the decisions of this report, with invoices for 2025/26 dog registration fees scheduled to be sent out on 1 June 2025.

ATTACHMENTS

1. **Attachment 1 - Cross-Council comparison of Dog Registration Fees - A17835885** [↓](#) 

11.4 Land Transport Management (Time of Use Charging) Amendment Bill - TCC submission

File Number: A17909696

Author: Sarah Dove, Principal Strategic Transport Planner

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

PURPOSE OF THE REPORT

1. To present the Tauranga City Council submission on Land Transport Management (Time of Use Charging) Amendment Bill for consideration and approval.

RECOMMENDATIONS

That the Council:

- (a) Receives the report "Land Transport Management (Time of Use Charging) Amendment Bill - TCC submission".
- (b) Approves the Tauranga City Council submission (as per attachment 1).
- (c) Requests an opportunity to make an oral submission when responding with the written submission.

DISCUSSION

2. The Parliament Transport and Infrastructure Select Committee is currently inviting public submissions on the Land Transport Management (Time of Use Charging) Amendment Bill (https://www.parliament.nz/en/pb/sc/make-a-submission/document/54SCTIN_SCF_0580BAA4-9E7B-4BF6-6CF8-08DD1E07A2B1/land-transport-management-time-of-use-charging-amendment).
3. TCC have obtained a deadline extension from 27 April to 29 April to allow for the draft submission to be approved at the 28 Apr Council meeting.
4. The submission (attached) is in general supportive of the intent of the Bill, to enable a future scheme that could help address peak-time congestion in Tauranga and improve the reliability of the road network.
5. The submission however also sets out a number of concerns, and requests for amendments and clarifications with the proposed legislation. The three most significant matters are:
 - Local authorities being involved in any decision to proceed with a Charging Scheme, rather than NZTA on direction of a Minister making and implementing that decision.
 - Local authorities having the casting vote on the Scheme Board.
 - All revenue from the Scheme to be managed by the relevant local authority and utilised in the area of charging.
6. TCC have provided the draft submission to BOPRC for consideration and the opportunity to support the submission. However, it is noted that BOPRC are also involved in a broader Regional and Unitary Councils Transport Special Interest Group submission.
7. TCC's submission on the Bill is separate to any future decision making by the Council on the initiation of a Time of Use (ToU) charging scheme in the region. Supporting the Bill is not concurrent with supporting the establishment of a ToU charging scheme for the City. That would be considered separately and include public engagement and consultation through a Scheme assessment and design process.

SIGNIFICANCE

8. 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.
9. In making this assessment, consideration has been given to the likely impact, and likely consequences for:
 - (a) the current and future social, economic, environmental, or cultural well-being of the district or region
 - (b) any persons who are likely to be particularly affected by, or interested in, the decision.
 - (c) the capacity of the local authority to perform its role, and the financial and other costs of doing so.
10. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the issue is of high significance. However, the decision in this report is of low significance.

ENGAGEMENT

11. Taking into consideration the above assessment, that the decision is of low significance, and that consultation will occur through the process of development of any future Time of Use Charging Scheme, officers are of the opinion that no further engagement is required prior to Council making a decision on whether to approve the submission on the Bill.

NEXT STEPS

12. TCC officers will submit TCC's written submission to the Parliament Transport & Infrastructure Select Committee, noting a request to make an oral submission to the committee in addition to this written one.
13. A Hearing / oral submissions will be heard around June/July 2025.
14. Once the new legislation is enacted through Royal Assent, the Bill will become an Act (law), anticipated towards end of 2025. Scheme development will then be enabled, but it is anticipated that establishment of any potential Scheme will take a minimum of a year.

ATTACHMENTS

1. **LTMA ToU Amendment Bill_TCC submission_v3 - A17924863** [↓](#) 

11.5 Elected Members' Expenses and Resources Policy - proposed leave of absence section

File Number: A17127223

Author: Jane Barnett, Policy Analyst
Coral Hair, Manager: Democracy and Governance Services

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

PURPOSE OF THE REPORT

1. To present the revised Elected Members' Expenses and Resources Policy 2025 and associated proposed amendment to Standing Order 13.3 for Council for consideration and adoption.

RECOMMENDATIONS

That the Council:

- (a) Receives the report "Elected Members' Expenses and Resources Policy - proposed leave of absence section".
- (b) Adopts Tauranga City Council's Elected Members' Expenses and Resources Policy 2025 (**Attachment One**) to take effect immediately.
- (c) Adopts the proposed amendment to standing order 13.3 – Leave of Absence (**Attachment Two**).

EXECUTIVE SUMMARY

2. Each electoral term, Council is required to adopt an Elected Members' Expenses and Resources Policy (policy). This policy provides the rules for elected members' reimbursement for expenses incurred while on council business and for the payment of allowances.
3. On 15 August 2024 Council adopted the Elected Members' Expenses and Resources Policy 2024 and resolved to review it in February 2025. The review was postponed until after Council's information session on Standing Orders, Leave of Absence and Code of Conduct (held on 13 March 2025).
4. A revised policy (**Attachment One**) is presented to Council for adoption. The revised policy includes a proposed leave of absence section.
5. The proposed leave of absence section sets out:
 - requirement for Councillors and the Mayor to apply for a leave of absence if they do not expect to be participating in council business for 14 days or longer
 - Mayor has delegated authority to decide on leave of absence applications that are between 14 days and 30 days and to decide whether this leave, if approved, is to be paid or not
 - Councillors' requests for leave of absence for periods longer than 30 days, including if any approved leave will be paid or not, will be decided by Council

- Council will make decisions on the Mayor’s request for leave of absence for periods longer than 14 days. Approved leave between 14 days and 30 days will be paid, and Council will decide if any approved leave of absence of 30 days or longer will be paid.
 - That for Mayor’s leave of absence of more than 30 days without pay, the Deputy Mayor, while acting as the Mayor, will receive the Mayor’s remuneration, allowances and benefits in accordance with the Local Government Members (2024/25) Determination 2024 and associated guidance.
6. There are no financial implications in adopting the revised Elected Members’ Expenses and Resources Policy.
 7. A consequence of the proposed leave of absence section is that Standing Order 13.3 will also require amendment. **Attachment Two** sets out the proposed amendment to ensure alignment with the policy. The adoption of any amendment to standing orders requires a vote of not less than 75% of the members present (cl. 27(3) Schedule 7, Local Government Act 202).
 8. If Council decides to adopt the revised policy and amend Standing Order 13.3, the policy and amended standing orders will be placed on Council’s website and take effect immediately.

BACKGROUND

9. When Council adopted the policy on 15 August 2024 the following changes were made to the previous policy:

Key change	Reason for change
Inclusion of public transport travel section	To promote the use of public transport.
Provision for media subscription	To provide access to news content and analysis.
Changes to fees for hearings	To align with the current Local Government Members Determination.
Changes to the receipt of gifts	To align with the pecuniary interest requirements in section 54F (1) (b) Local Government Act 2002.

STATUTORY CONTEXT

10. The Remuneration Authority requires Council to include all approved allowances for their elected members in an expenses policy and publish this on its website.

OPTIONS ANALYSIS

11. The revised policy includes the following changes (shown in red in the revised policy).

Proposed Change	Reason for Change
Inclusion of leave of absence section	To set out the criteria for considering leave of absence and delegation for considering if any leave of absence is paid or not paid.

12. The table below sets out the advantages and disadvantages of adopting the revised Elected Members’ Expenses and Resources Policy 2025.

Option	Advantages	Disadvantages
1 Adopt the revised Elected Members’ Expenses and Resources Policy 2025. Recommended (Resolution (b))	<ul style="list-style-type: none"> • The policy will provide guidance on making decisions on leave of absence. 	<ul style="list-style-type: none"> • None

Option		Advantages	Disadvantages
2	Do not adopt the revised Elected Members' Expenses and Resources Policy 2025.	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> The policy will not incorporate leave of absence provisions.

13. If Council decide to adopt the revised Elected Members' Expenses and Resources policy, consideration will also need to be given to the proposed amendment to Standing Order 13.3 set out in attachment 2. The proposed changes ensure the standing orders are consistent with the new leave of absence section in the revised policy. The table below sets out the advantages and disadvantages of adopting the proposed amendment to Standing Order 13.3 leave of absence.

Option		Advantages	Disadvantages
1	Adopt the proposed amendment to standing order 13.3. Recommended (Resolution (c))	<ul style="list-style-type: none"> Ensures the Elected Members' Expenses and Resources policy and Standing Orders have a consistent position on leave of absence. 	<ul style="list-style-type: none"> None
2	Do not adopt the proposed amendment to Standing Order 13.3.	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> The Elected Members' Expenses and Resources policy and Standing Orders will be inconsistent.

FINANCIAL CONSIDERATIONS

14. The financial implications for the proposed policy are covered within existing budgets.

LEGAL IMPLICATIONS / RISKS

15. The expenditure that is subject to this policy is sensitive expenditure. The policy needs to withstand community scrutiny.
16. Each member's expenses are provided to the community on the council's website and audited annually by Audit New Zealand.
17. There are no identified legal implications with the proposed changes to the policy.

TE AO MĀORI APPROACH

18. Decisions on elected members' expenses are not directly impacted by the Te Ao Māori approach.

CLIMATE IMPACT

19. The current policy supports the use of public transport including micro mobility vehicles (such as ebikes and escooters). While there are cost efficiency reasons for this, it also demonstrates climate impact awareness and aligns with Council's commitment to reduce emissions.
20. There are no direct or specific climate change impacts resulting from adopting the revised Elected Members' Expenses and Resources Policy 2025.

SIGNIFICANCE

21. 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.
22. In making this assessment, consideration has been given to the likely impact, and likely consequences for:
 - (a) the current and future social, economic, environmental, or cultural well-being of the district or region
 - (b) any persons who are likely to be particularly affected by, or interested in, the decision.
 - (c) the capacity of the local authority to perform its role, and the financial and other costs of doing so.
23. In accordance with the considerations above, criteria and thresholds in the policy, it is considered that the decision is of low significance given it is an administrative matter.

ENGAGEMENT

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

NEXT STEPS

25. If Council decide to adopt the Revised Elected Members' Expenses and Resources Policy and amend Standing Order 13.3, the policy and amended standing orders will be placed on Council's website and take effect immediately.

ATTACHMENTS

1. **Revised Elected Members' Expenses and Resources Policy 2025 - A17789683** [↓](#) 
2. **Proposed amendment to Standing Order 13.3 - A17846561** [↓](#) 

12 DISCUSSION OF LATE ITEMS

13 PUBLIC EXCLUDED SESSION

Nil

14 CLOSING KARAKIA