



# **AGENDA**

## **Council Meeting**

**I hereby give notice that a Meeting of the Kapiti Coast District Council  
will be held on:**

**Date: Thursday, 30 June 2022**

**Time: 9.30am**

**Location: Council Chamber  
Ground Floor, 175 Rimu Road  
Paraparaumu**

**Sean Mallon  
Acting Chief Executive**

**Kapiti Coast District Council**

**Notice is hereby given that a meeting of the Kapiti Coast District Council will be held in the Council Chamber, Ground Floor, 175 Rimu Road, Paraparaumu, on Thursday 30 June 2022, 9.30am.**

**Council Members**

Mayor K Gurunathan	Chair
Deputy Mayor Janet Holborow	Deputy
Cr Angela Buswell	Member
Cr James Cootes	Member
Cr Jackie Elliott	Member
Cr Gwynn Compton	Member
Cr Jocelyn Prvanov	Member
Cr Martin Halliday	Member
Cr Sophie Handford	Member
Cr Robert McCann	Member
Cr Bernie Randall	Member



## Order Of Business

<b>1</b>	<b>Welcome.....</b>	<b>5</b>
<b>2</b>	<b>Council Blessing.....</b>	<b>5</b>
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<b>4</b>	<b>Declarations of Interest Relating to Items on the Agenda .....</b>	<b>5</b>
<b>5</b>	<b>Presentation of Petition.....</b>	<b>5</b>
	Nil	
<b>6</b>	<b>Hearings .....</b>	<b>5</b>
	Nil	
<b>7</b>	<b>Public Speaking Time for Items Relating to the Agenda.....</b>	<b>5</b>
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	Nil	
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	Nil	



**1 WELCOME****2 COUNCIL BLESSING**

“As we deliberate on the issues before us, we trust that we will reflect positively on the communities we serve. Let us all seek to be effective and just, so that with courage, vision and energy, we provide positive leadership in a spirit of harmony and compassion.”

I a mātou e whiriwhiri ana i ngā take kei mua i ō mātou aroaro, e pono ana mātou ka kaha tonu ki te whakapau mahara huapai mō ngā hāpori e mahi nei mātou. Me kaha hoki mātou katoa kia whaihua, kia tōtika tā mātou mahi, ā, mā te māia, te tiro whakamua me te hihiri ka taea te arahi i roto i te kotahitanga me te aroha.

**3 APOLOGIES****4 DECLARATIONS OF INTEREST RELATING TO ITEMS ON THE AGENDA**

Notification from Elected Members of:

4.1 – any interests that may create a conflict with their role as an elected member relating to the items of business for this meeting, and

4.2 – any interests in items in which they have a direct or indirect pecuniary interest as provided for in the Local Authorities (Members' Interests) Act 1968

**5 PRESENTATION OF PETITION**

Nil

**6 HEARINGS**

Nil

**7 PUBLIC SPEAKING TIME FOR ITEMS RELATING TO THE AGENDA****8 MEMBERS' BUSINESS**

(a) Public Speaking Time Responses

(b) Leave of Absence

(c) Matters of an Urgent Nature (advice to be provided to the Chair prior to the commencement of the meeting)

**9 MAYOR'S REPORT**

Nil

## 10 REPORTS

### 10.1 ADOPTION OF THE 2022/23 ANNUAL PLAN

Kaituhi | Author: **Jo Bryan, Manager Corporate Planning and Reporting**

Kaiwhakamana | Authoriser: **Mark de Haast, Group Manager Corporate Services**

#### TE PŪTAKE | PURPOSE

- 1 This report seeks the Council adoption of the 2022/23 Annual Plan.

#### HE WHAKARĀPOPOTO | EXECUTIVE SUMMARY

- 2 An Executive Summary is not required for this report.

#### TE TUKU HAEPAHA | DELEGATION

- 3 The Council has delegated authority to adopt the 2022/23 Annual Plan under Section 2A of the 2019-2022 Triennium Governance Structure and Delegations.

#### TAUNAKITANGA | RECOMMENDATIONS

It is recommended that the Council:

- A. **adopts** the 2022/23 Annual Plan in Appendix 1 to this report;
- B. **delegates** to the Mayor, Deputy Mayor and the Acting Chief Executive authority to make minor editorial changes to the 2022/23 Annual Plan, prior to its publication if required; and
- C. **notes** that the final 2022/23 Annual Plan will be published within one month of adoption and will be made available on the Council's website and in service centres and libraries.

#### TŪĀPAPA | BACKGROUND

- 4 Under Section 95 (A and B) of the Local Government Act 2002, the Council is responsible for adopting an Annual Plan. In this case, the 2022/23 Annual Plan represents year two of the Long Term Plan (LTP) that was adopted in June 2021.
- 5 Work began on developing the 2022/23 Annual Plan in November/December 2021, with a series of Council workshops on 9 December 2021, 10 February and 24 February 2022.
- 6 Through this process, the Council determined a draft 2022/23 Annual Plan.

#### Information campaign

- 7 The overarching direction of the draft 2022/23 Annual Plan was to stick to year two of the LTP. Because no significant or material differences were proposed compared to what was included in year two of the LTP, the Council decided formal consultation was not required and instead conducted an information campaign to increase community awareness of the draft 2022/23 Annual Plan.
- 8 The information campaign ran from 5 April to 10 May 2022 and included communication through print media, digital and social media platforms (360 Facebook page views). The campaign had three objectives:

- To celebrate what we achieved in year one of the LTP, signal challenges that we face as a district and the process we had underway for the draft 2022/23 Annual Plan.
  - To inform the community we are largely sticking to the LTP and detailing what we intend to deliver in 2022/23 as well as minor changes and a draft average rate increase of 7.5%.
  - Closing the loop (post adoption) to keep the community informed of next steps and when the plan is adopted.
- 9 While public submissions were not invited, a total of 9 responses were received, with most respondents objecting to the proposed rates increase and some raising value for money questions relating to road and footpath maintenance, Maclean Park, the need for more toilets and changes to the Waikanae Library.
- 10 Feedback from the community and financial considerations were considered at the Council briefing on 31 May 2022.

### Fees and charges

- 11 The Council adopted the 2022/23 Fees and Charges Schedule at its meeting of 26 May 2022. Most fees and charges increased by the Local Government Cost Index (2.4%) with a small number of identified exceptions.

## HE KŌRERORERO | DISCUSSION

- 12 The 2022/23 Annual Plan explains minor changes from year two of the LTP.
- 13 As a result, the budget for some projects has been rephased to ensure the funding allocation aligns with our ability to deliver.

### He take | Issues

#### Financial strategy limits

- 14 Our financial strategy specifies limits for rates increases, capex and debt. The table below compares the 2022/23 Annual Plan against the financial strategy limits and the LTP.

	Target range	Preferred range	Annual Plan	LTP
Rates increase 2022/23	3% – 9%	4.5% – 6.9%	7.5%	8%
Capex 2021/22	\$30m – \$80m	\$40m – \$60m	\$42.8m	\$73.4m
Capex 2022/23	\$30m – \$80m	\$40m – \$60m	\$85m (\$70m deliverability maximum, for rating and debt calculations)	\$79m
Net debt (June 2023)	< 280%	< 250%	\$225m (213%)	\$246m (220%)

- 15 The proposed 2022/23 capex budget makes allowance for all projects that are intended to be active during the year. It should be noted however, that in total this is likely to exceed what can actually be delivered so for rating and debt calculation purposes a total capex spend of \$70 million has been assumed, which is within the financial strategy limit of \$80 million.

**Capital budgets and carryovers**

- 16 The capex outturn for 2021/22 is forecast to be \$42.8 million, \$30.6 million lower than budget. This is summarised by activity in the following table:

<b>Activity</b>	<b>Forecast 2021/22 \$000's</b>	<b>Budget 2021/22 \$000's</b>	<b>Variance \$000's under / (over)</b>
Access and Transport	8,844	17,199	8,355
Coastal Management	1,184	3,260	2,076
Community Facilities	6,180	12,276	6,096
Corporate	7,100	4,833	(2,266)
Districtwide Planning	90	919	829
Economic Development	593	2,815	2,222
Tāngata Whenua	3	3	-
Parks and Open Spaces	1,697	4,248	2,552
Recreation and Leisure	498	859	360
Regulatory Services	53	11	(41)
Sustainability & Resilience	191	132	(59)
Stormwater Management	6,223	6,223	-
Wastewater Management	3,989	3,979	(11)
Water Management	6,192	16,707	10,515
<b>TOTAL CAPEX</b>	<b>42,836</b>	<b>73,464</b>	<b>30,628</b>

- 17 Officers seek approval to carry over the net capital expenditure underspend of \$30.6 million, to 2022/23 and later years.
- 18 The proposed capital programme for 2022/23, inclusive of carry overs and rephasing adjustments, is \$84.7 million. This is summarised by activity in the table below, and a further breakdown by project within each activity is included in the 2022/23 Annual Plan document, which is attached as Appendix 1 to this report.

<b>Activity</b>	<b>AP 2022/23 (\$m)</b>	<b>LTP 2022/23 (\$m)</b>	<b>Variance (\$m) less / (more)</b>
Access and Transport	19.0	29.6	10.6
Coastal Management	5.1	5.2	0.1
Community Facilities	10.0	8.3	(1.7)
Corporate	5.1	6.0	0.9
Districtwide Planning	-	1.1	(1.1)
Economic Development	3.1	0.9	(2.2)
Governance	0.1	0.1	-
Parks and Open Spaces	6.5	3.3	(3.2)
Recreation and Leisure	2.3	2.1	(0.2)
Sustainability & Resilience	0.6	0.6	-
Stormwater Management	6.4	6.4	-
Wastewater Management	7.7	7.7	-
Water Management	18.8	8.1	(10.7)
<b>TOTAL CAPEX</b>	<b>84.7</b>	<b>79.4</b>	<b>(5.3)</b>

19 The main changes relative to the LTP relate to:

- Access and transport – capex is \$10.6m lower than the LTP, mainly due to a delay in the development of the single stage detailed business case for Paraparaumu east-west connection (Ihakara-Arawata link road)
- Parks and open spaces – capex \$3.2m higher than the LTP, mainly due to Otaraia Park which the Council now proposes fully funding with no contribution from external parties.
- Water management – capex \$10.7m higher than the LTP, mainly due to the Waikanae Water Treatment Plant carried forward from 2021/22 due to delays in pricing, design and freight issues.

### Ngā kōwhiringa | Options

20 There are no options arising from this report.

### Tangata whenua

21 Mana whenua representatives were invited to Council workshops and briefings and the 2022/23 Annual Plan acknowledges our partnership arrangement under Te Tiriti o Waitangi.

### Panonitanga āhuarangi | Climate change

22 There are no climate change issues arising from this report.

### Ahumoni me ngā rawa | Financial and resourcing

23 There are no financial and resourcing considerations in addition to those already covered in this report.

### Ture me ngā Tūraru | Legal and risk

24 By adopting the Annual Plan on 30 June 2022, the Council will meet its obligations under the Local Government Act 2002.

The 2022/23 Annual Plan is required to be published within one month after it is adopted. The final document will be made available on the Council website and in service centres and libraries.

### Ngā pānga ki ngā kaupapa here | Policy impact

28 There are no changes to the Council's existing policies contained in the 2021-41 LTP.

## TE WHAKAWHITI KŌRERO ME TE TŪHONO | COMMUNICATIONS & ENGAGEMENT

### Te mahere tūhono | Engagement planning

29 The Significant and Engagement Policy was not triggered for this 2022/23 Annual Plan process, so an information campaign was undertaken.

### Whakatairanga | Publicity

30 A media advisory is planned following Council adoption of the 2022/23 Annual Plan.

## NGĀ ĀPITI HANGA | ATTACHMENTS

1. 2022/23 Annual Plan (under separate cover) [⇒](#)

**10.2 SETTING OF RATES, DUE DATES AND PENALTIES FOR 2022/23**

Kaituhi | Author: **Vicky Silk, Rates Manager**

Kaiwhakamana | Authoriser: **Mark de Haast, Group Manager Corporate Services**

**TE PŪTAKE | PURPOSE**

- 1 This report requests that the Council set the rates, due dates and penalties regime for the 2022/23 financial year.

**HE WHAKARĀPOOTO | EXECUTIVE SUMMARY**

- 2 Setting of rates, due dates and penalties regime for the 2022/23 financial year.

**TE TUKU HAE PAPA | DELEGATION**

- 3 Only the Council can set the rates, due dates and penalties regime for the 2022/23 financial year.

**TAUNAKITANGA | RECOMMENDATIONS**

- A That the Council set the following rates under Section 23 of the Local Government (Rating) Act 2002, on rating units in the Kāpiti Coast District (District) for the financial year commencing on 1 July 2022 and ending 30 June 2023:

**(1) Districtwide General Rate**

A Districtwide general rate set under section 13(2)(b) of the Local Government (Rating) Act 2002, assessed on a differential basis on all rateable rating units in the District as follows:

- a rate of 0.35217 cents in the dollar (inclusive of GST) of land value on every rating unit in the urban rating area of the District as per the Council's rating area maps;
- a rate of 0.13382 cents in the dollar (inclusive of GST) of land value on rating units in the rural rating area Category R1 as defined in the Funding Impact Statement;
- a rate of 0.07748 cents in the dollar (inclusive of GST) of land value on rating units in the rural rating area Category R2 as defined in the Funding Impact Statement;
- a rate of 0.24652 cents in the dollar (inclusive of GST) of land value on rating units in the rural rating area Category R3 as defined in the Funding Impact Statement.

**(2) Districtwide Community Facilities Rate**

A Districtwide targeted rate for community facilities, set under section 16(3)(a) and 16(4)(b) of the Local Government (Rating) Act 2002, assessed on a differential basis on all rateable rating units in the District as follows:

- all rateable rating units other than Accommodation/Hospitality and Motels and camping grounds - \$859.00 (inclusive of GST) per separately used or inhabited part of a rating unit.
- Accommodation/Hospitality (other than motels and camping grounds) - \$1,718.00 (inclusive of GST) per separately used or inhabited part of a rating unit.
- Motels and camping grounds - \$257.70 (inclusive of GST) per separately used or inhabited part of a rating unit.

**(3) Districtwide Rooding Capital Value Rate**

A Districtwide targeted rate for rooding, set under section 16(3)(a) and 16(4)(a) of the Local Government (Rating) Act 2002, assessed on all rateable rating units in the District as follows:



- a rate of 0.05512 cents in the dollar (inclusive of GST) of capital value on all rateable rating units in the District

#### **(4) Districtwide Stormwater Rate**

A Districtwide targeted rate for stormwater, set under section 16(3)(b) and 16(4)(a) of the Local Government (Rating) Act 2002, on all rateable rating units in the District's stormwater rating areas as per the Council's stormwater rating area maps as follows:

- a rate of 0.01993 cents in the dollar (inclusive of GST) of capital value on all rating units.

#### **(5) Districtwide Water Supply Fixed Rate**

A Districtwide targeted rate set under section 16 of the Local Government (Rating) Act 2002, assessed on all rating units connected or capable of being connected to the District's water supply, assessed on a differential basis as below. The Districtwide water supply fixed rate is invoiced as a daily rate for convenience.

- General - \$222.00 (inclusive of GST) per separately used or inhabited part of a rating unit.
- Medium Scale - \$199.80 (inclusive of GST) per separately used or inhabited part of a rating unit.
- Large Scale - \$177.60 (inclusive of GST) per separately used or inhabited part of a rating unit.
- Accommodation/Hospitality – \$444.00 (inclusive of GST) per separately used or inhabited part of a rating unit.
- Serviceable - \$222.00 (inclusive of GST) per rating unit not connected to the district's water supply, but within 100 metres of a water main and capable of being connected.

#### **(6) Districtwide Water Supply Volumetric Rate**

A Districtwide targeted rate set under Section 19(2)(a) of the Local Government (Rating) Act 2002 on each rating unit which is provided with a metered water supply service.

- Volumetric rate of water consumed or supplied - \$1.19 (inclusive of GST) per cubic metre.

#### **(7) Hautere/Te Horo Water Supply Rate**

A targeted rate for water supply set under section 19(2)(a) of the Local Government (Rating) Act 2002 per unit of water supplied by the Hautere/Te Horo water supply.

- A fixed charge of \$399.00 (inclusive of GST) per unit of allocation to the Hautere/Te Horo water supply (annual allocation of 1 unit = 1 cubic metre of water per day).

#### **(8) Districtwide Wastewater Disposal Rate**

A Districtwide targeted rate for wastewater disposal, set under section 16(3)(b) and 16(4)(b) on rating units in the Waikanae, Paraparaumu, Raumati and Ōtaki rating areas, as per the Council's rating area maps.

- General - \$466.00 (inclusive of GST) per rating unit connected to the sewerage system.
- Community - \$233.00 inclusive of GST) per water closet or urinal connected to the sewerage system.
- Educational – \$209.70 (inclusive of GST) per water closet or urinal connected to the sewerage system.
- Recreational - \$116.50 (inclusive of GST) per water closet or urinal connected to the sewerage system.
- Large Scale Commercial/Residential - \$233.00 (inclusive of GST) per water closet or urinal connected to the sewerage system, where there is more than one water closet or urinal.

- Serviceable - \$233.00 (inclusive of GST) per rating unit not connected to the sewerage system but within 30 metres of a sewer main and capable of being connected.

#### **(9) Paraparaumu/Raumati Community Rate**

A targeted rate set under section 16(3)(b) and 16(4)(a) of the Local Government (Rating) Act 2002 as follows:

- a rate of 0.00216 cents in the dollar (inclusive of GST) of capital value on all rating units in the Paraparaumu and Raumati urban and rural rating areas as per the Council's rating area maps.

#### **(10) Waikanae Community Rate**

A targeted rate set under section 16(3)(b) and 16(4)(a) of the Local Government (Rating) Act 2002 as follows:

- a rate of 0.00183 cents in the dollar (inclusive of GST) of capital value on all rating units in the Waikanae urban and rural rating areas as per the Council's rating area maps.

#### **(11) Ōtaki Community Rate**

A targeted rate set under section 16(3)(b) and 16(4)(a) of the Local Government (Rating) Act 2002 as follows:

- a rate of 0.00256 cents in the dollar (inclusive of GST) of capital value on all rating units in the Ōtaki urban and rural rating areas as per the Council's rating area maps.

#### **(12) Paekākāriki Community Rate**

A targeted rate set under section 16(3)(b) and 16(4)(a) of the Local Government (Rating) Act 2002 as follows:

- a rate of 0.00879 cents in the dollar (inclusive of GST) of capital value on all rating units in the Paekākāriki urban and rural rating areas as per the Council's rating area maps.

#### **(13) Commercial Rate**

A targeted rate set under section 16(3)(b) and 16(4)(a) of the Local Government (Rating) Act 2002 as follows:

- a rate of 0.03665 cents in the dollar (inclusive of GST) of capital value assessed on all Commercial rating units (as defined in the Funding Impact Statement Rating Policies).

#### **(14) Water Conservation Device Loan Rate**

A targeted rate on those rating units that have received an interest free loan (up to \$5,000 plus GST) for approved water conservation devices from the Council that has not yet been fully repaid, set at 10% of the amount of the original loan plus GST.

- B That the Council agrees all property rates (including Hautere/Te Horo Water Supply Rate, but excluding Districtwide Water supply fixed and volumetric rates) be payable in four equal instalments due on:

<b>Instalment</b>	<b>Due Dates</b>	<b>Penalty Dates</b>
Instalment One	9 September 2022	12 September 2022
Instalment Two	9 December 2022	12 December 2022
Instalment Three	9 March 2023	10 March 2023
Instalment Four	9 June 2023	12 June 2023

All payments made will be receipted against the earliest outstanding rate amounts in accordance with authorised accounting procedures.

- C That the Council agrees water rates (excluding Hautere/Te Horo Water Supply Rate) be invoiced separately on a quarterly basis dependent on when the relevant meter is read. Due dates for each area are specified below:

Area	Water Meters invoiced During	Due Date	Penalty Date
Paraparaumu/Raumati/Raumati Beach/Raumati South/Paekākāriki	Jul-22	26-Aug-22	29-Aug-22
	Oct-22	25-Nov-22	28-Nov-22
	Jan-23	27-Feb-23	28-Feb-23
	Apr-23	29-May-23	30-May-23
Otaki/Peka Peka/Waikanae Beach	Aug-22	28-Sep-22	29-Sep-22
	Nov-22	4-Jan-23	5-Jan-23
	Feb-23	29-Mar-23	30-Mar-23
	May-23	28-Jun-23	29-Jun-23
Waikanae/Nikau Valley/Otaihanga/Paraparaumu Beach	Sep-22	27-Oct-22	28-Oct-22
	Dec-22	24-Jan-23	25-Jan-23
	Mar-23	28-Apr-23	1-May-23
	Jun-23	28-Jul-23	31-Jul-23

- D That the Council apply the following penalties on unpaid rates in accordance with sections 57 and 58 of the Local Government (Rating) Act 2002:

- a charge of ten per cent (10%) on so much of any property rate instalment that has been assessed after 1 July 2022 and which remains unpaid after the due dates as per paragraph B, to be added on the penalty dates above.
- a charge of ten per cent (10%) on so much of any property rates (including previously applied penalties) assessed before 1 July 2022 which remain unpaid on 7 July 2022. The penalty will be added on 8 July 2022.
- a charge of ten per cent (10%) will be added to any portion of a current water rates invoice that remains unpaid after the due date specified. Penalty will be added on the penalty dates shown as per paragraph C.

- E That the Council agrees property and water rates be payable by cash, and eftpos at any of the following places:

- Paraparaumu, Civic Building, 175 Rimu Road, Paraparaumu
- Waikanae Service Centre, Mahara Place, Waikanae
- Ōtaki Service Centre, Ōtaki Library, Main Street, Ōtaki
- New Zealand Post, countrywide
- Westpac Bank, countrywide
- Greater Wellington Regional Council, 100 Cuba Street, Te Aro, Wellington
- Greater Wellington Regional Council, 34 Chapel Street, Masterton

Alternatively, payment of rates can be made to the Council by direct debit, internet banking, direct credit, telephone banking and credit card (subject to a convenience fee) through the Council's website

## TŪĀPAPA | BACKGROUND

- 4 The Council must first adopt its 2022/23 Annual Plan before it can legally set the rates in accordance with the relevant provisions of the Funding Impact Statement Rating Policies for the 2022/23 financial year and its Revenue and Financing policy.

## HE KŌRERORERO | DISCUSSION

### He take | Issues

- 5 The setting of rates for the 2022/23 financial year follows the adoption of the 2022/23 Annual Plan and is not in itself a matter that triggers the Council's significance and engagement policy.

### Ngā kōwhiringa | Options

- 6 There are no options in addition to those already noted in this report.

### Tangata whenua

- 7 There are no tāngata whenua considerations arising from this report.

### Panonitanga āhuarangi | Climate change

- 8 There are no climate change considerations arising from this report.

### Ahumoni me ngā rawa | Financial and resourcing

- 9 The total rates revenue requirement for the 2022/23 financial year is \$96.24 million (inclusive of GST) but excludes the water conservation device loan rate.

The districtwide water supply fixed rate and districtwide water supply volumetric rates will remain the same in 2022/23 as those rates set for 2021/22.

### Ture me ngā Tūraru | Legal and risk

- 11 The Funding Impact Statement – Rating Policies and this report have been subject to a full and detailed legal review from Simpson Grierson.
- 12 A copy of the setting of rates, due dates and penalties regime resolution will be made available on the Council's website within 20 days of adoption.

### Ngā pānga ki ngā kaupapa here | Policy impact

- 13 This report is governed by the provisions of the Funding Impact Statement – Rating Policies.
- 14 No policy changes are proposed for the 2022/23 financial year.

## TE WHAKAWHITI KŌRERO ME TE TŪHONO | COMMUNICATIONS & ENGAGEMENT

### Te mahere tūhono | Engagement planning

- 15 There are no engagement plans required for this report.

### Whakatairanga | Publicity

- 16 A media release is planned subsequent to the Council adopting its 2022/23 Annual Plan.

## NGĀ ĀPITI HANGA | ATTACHMENTS

Nil

### 10.3 SEEKING APPROVAL FOR PUBLIC NOTIFICATION OF PROPOSED PLAN CHANGES 1D, 1F, 1K, AND 1L TO THE OPERATIVE DISTRICT PLAN 2021

Kaituhi | Author: **Jeanette Robinson, Intermediate Policy Planner**

Kaiwhakamana | Authoriser: **Angela Bell, Strategy Manager**

#### TE PŪTAKE | PURPOSE

- 1 To seek approval for public notification of the following proposed plan changes to the Operative Kapiti Coast District Plan 2021 (the District Plan):
  - 1.1 Plan Change 1D: Reclassification of Arawhata Road, Tutanekei Street, and Ventnor Drive (Attachment 1)
  - 1.2 Plan Change 1F: Modification of Indigenous Vegetation and Update to Key Indigenous Tree Species List (Attachments 2 and 3)
  - 1.3 Plan Change 1K: Electoral Signage (Attachment 4)
  - 1.4 Plan Change 1L: Council Site Rezoning (Attachment 5).

#### HE WHAKARĀPOPOTO | EXECUTIVE SUMMARY

- 2 Since the District Plan became operative on 30 June 2021, work has been undertaken on an “omnibus” package of thirteen plan changes (Plan Changes 1A – 1M) to ensure the District Plan is up to date and fit for purpose. This report seeks approval from Council to enable four of these plan changes to proceed to public notification.
- 3 In accordance with section 32 of the Resource Management Act 1991 (RMA), the four proposed plan changes have been evaluated and reports are provided outlining the appropriateness of the plan changes (Attachments 1-5). Council is required to have particular regard to these evaluation reports when deciding whether to proceed with the plan changes.  
1
- 4 The proposed plan changes have been through a stakeholder and public consultation process and amendments have been made, where applicable, in response to the feedback received. The evaluation reports detail consultation undertaken, and amendments made in response to feedback.
- 5 The plan changes and their associated evaluation reports are now ready for public notification. Subject to approval from Council, public notification of the proposed plan changes in accordance with Schedule 1 of the RMA will occur in July 2022 and will provide an opportunity for formal submissions to be made on the plan changes.

#### TE TUKU HAEPAPA | DELEGATION

- 6 Schedule 1, clause 5 (1)(b)(i) of the RMA requires that if a local authority decides to proceed with a proposed plan change then it must publicly notify the proposed plan change.
- 7 Council has authority to consider this matter.

#### TAUNAKITANGA | RECOMMENDATIONS

- A. That Council has particular regard to, and endorses the content of the Section 32 evaluation reports for the following proposed plan changes to the Operative Kapiti Coast District Plan 2021:
  - Plan Change 1D – Reclassification of Arawhata Road, Tutanekei Street, and Ventnor Drive

- Plan Change 1F – Modification of Indigenous Vegetation and Update to Key Indigenous Tree Species List
- Plan Change 1K – Electoral Signage
- Plan Change 1L – Council Site Rezoning

B. That Council agrees to proceed with the package of proposed plan changes and approves the public notification of the proposed plan changes in accordance with Clause 5 of Schedule 1 of the RMA.

## TŪĀPAPA | BACKGROUND

- 8 Since the District Plan became operative on 30 June 2021, work has been undertaken on an “omnibus” package of thirteen plan changes (Plan Changes 1A – 1M) to ensure the District Plan is up to date and fit for purpose. On 21 October 2021 the Strategy and Operations Committee approved preparation of these plan changes, and the undertaking of initial consultation under clauses 3 and 4A of Schedule 1 of the RMA. It noted further approval would be needed before formal public notification of any of these plan changes could occur.
- 9 Of the thirteen omnibus plan changes, four are the subject of this report:
  - 9.1 Proposed Plan Change 1D - Reclassification of Arawhata Road, Tutanekai Street, and Ventnor Drive (Street Reclassification)
  - 9.2 Proposed Plan Change 1F - Modification of Indigenous Vegetation and Update to Key Indigenous Tree Species List (Indigenous Vegetation)
  - 9.3 Proposed Plan Change 1K - Electoral Signage
  - 9.4 Proposed Plan Change 1L - Council Site Rezoning.
- 10 Of the remainder:
  - 10.1 Three have already been prepared, initial consultation completed, and further approval given by the Strategy and Operations Committee for public notification.<sup>1</sup>
  - 10.2 One has been prepared and initial consultation completed as part of the preparation of the draft intensification planning instrument.<sup>2</sup>
  - 10.3 Five are at various stages of preparation, with none having yet proceeded to initial consultation on draft provisions at the time of writing.<sup>3</sup>
- 11 The four plan changes subject to this report have progressed through pre-notification consultation. This included engagement with iwi, communication with statutory parties listed in clause 3 to Schedule 1 of the RMA, and communication with the general public via the Council website. Potentially affected landowners were also consulted directly for Plan Change 1D (Street Reclassifications) and Plan Change 1L (Council Site Rezoning). All feedback has been carefully considered, and in the case of Plan Change 1F (Indigenous Vegetation) consideration of feedback has led to recommended improvements to the proposed plan change.

<sup>1</sup> Public notification of proposed Plan Change 1A (Accessible Car Parking), Plan Change 1B (Liquefaction Risk Management for New Buildings) and Plan Change 1C (Cycle Parking) were approved by the Strategy and Operations Committee on 10 February 2022, and were publicly notified on 17 February.

<sup>2</sup> Plan Change 1I (New Waahi Tapu Listing for Kārewarewa Urupā) was initially included in the omnibus package. With the approval of Strategy and Operations Committee on 24 March 2022 it has subsequently been included within the scope of draft Proposed Plan Change 2 (Intensification).

<sup>3</sup> The five omnibus plan changes yet to proceed to initial consultation are Plan Change 1E (Development Incentives), Plan Change 1G (Revise Plan Provisions for New Buildings on Wāhanga Rima Waahi Tapu Sites), Plan Change 1H (New Waahi Tapu Listing for Te Rua Tūpāpaku o Te Rangihiroa, Waiorua Bay, Kāpiti Island), Plan Change 1J (Amend Extent of Takamore Waahi Tapu Listing), and Plan Change 1M (Remove Bylaw Duplication). Capacity issues are the root cause for delayed progress.

- 12 Evaluation reports for the proposed plan changes have been prepared as required by Section 32 of the RMA and are included with the plan changes in Attachments 1 to 5 of this report. Under clause 5(1)(a) of Schedule 1 to the RMA, Council must have particular regard to these evaluation reports when deciding whether to proceed with the proposed plan changes.
- 13 Council are now being asked to approve the content of Proposed Plan Changes 1D, 1F, 1K and 1L for public notification.

## HE KŌRERORERO | DISCUSSION

### Plan Change 1D (Street Reclassification)

- 14 Plan Change 1D proposes to reclassify three streets (Arawhata Road, Tutanekai Street, and Ventnor Drive) in the District Plan's transport network hierarchy. This hierarchy differentiates streets by function, with streets at the higher end of the hierarchy typically having higher levels of traffic.
- 15 Reclassifying Arawhata Road and Tutanekai Street from a Neighbourhood Access Route in the District Plan to the higher level of Local Community Connector Road reflects their functions in the transport network hierarchy and will help ensure those routes are safe and fit for purpose.
- 16 Ventnor Drive's reclassification from Local Community Connector Road to the lower status of Neighbourhood Access Route corrects a historical error in the District Plan and more accurately reflects its actual function.
- 17 Plan Change 1D (Street Reclassification) only amends the transport hierarchy classification of these streets on District Plan maps. It does not propose any changes to the District Plan's objectives, policies, or rules. The reclassifications mean that:
  - 17.1 New developments along Arawhata Road and Tutanekai Street will be required to provide for on-site manoeuvring of vehicles, so that vehicles will not have to back onto these roads. Developers not wishing to provide for on-site manoeuvring will have the option of applying for a resource consent.
  - 17.2 New developments on Ventnor Drive will no longer be subject to the requirement for on-site manoeuvring.
- 18 The reclassifications are timely given that Tutanekai Street, and part of Arawhata Road, lie within a walkable catchment of the Paraparaumu Metropolitan Centre Zone and Rail Station. Under the NPS-UD and Resource Management (Enabling Housing and Other Matters) Amendment Act 2021, Council is required to notify a plan change no later than 20 August 2022 to increase the amount of permitted development within the District's General Residential Zone, and further enable higher density residential development within a walkable catchment of the District's centres zones and rapid transit stops. The amount of additional residential development this will enable presents an increased risk to the safe and efficient operation of these streets if their place in the transport hierarchy is left unchanged.
- 19 During the preparation of Plan Change 1D consultation occurred with:
  - The Minister for the Environment
  - Other Councils within the Greater Wellington region
  - The three iwi who hold mana whenua within the district
  - Property owners in Arawhata Road, Tutanekai Street and Ventnor Drive
  - Local resource management consultancies (Land Link, Land Matters, Cuttriss, and Leith Consulting)
  - The general public (through the Council website).
- 20 All consultation included provision of draft District Plan map changes. A description of the reasons for the plan change was included on the Council website. District Planning staff

wrote directly to adjoining property owners about the changes, potential implications, and invited feedback on Plan Change 1D.

- 21 Other than from landowners, no comment was received.
- 22 Seven property owners contacted directly provided feedback. No objections to reclassification of roads were received. Some concerns were raised related to traffic speeds and volumes in Tutanekai Street and Arawhata Road. These matters were referred to the Access and Transport activity of Council for action as they were outside the scope of the District Plan and this plan change.
- 23 Attachment 1 includes the evaluation report for this plan change required by section 32 of the RMA. The report considered reasonably practicable alternatives and provides a qualitative evaluation of costs and benefits. The report concludes that Plan Change 1D (Street Reclassification) is the most appropriate way to achieve the purpose of the RMA, the objective of the Plan Change, and the objectives of the District Plan.

#### **Plan Change 1F (Indigenous Vegetation)**

- 24 Plan Change 1F proposes to address an implementation issue with a rule in the Plan, and to update the list of Key Indigenous Trees.
- 25 The implementation issue was identified during the implementation of controlled activity<sup>4</sup> rule ECO-R6. Resource consent information has shown that the rule can be used to modify (including remove) large amounts of protected significant indigenous vegetation without the need to consider the resulting negative effects on indigenous ecology and biodiversity values. The existing rule can result in significant adverse effects on protected indigenous vegetation and habitats of significant indigenous fauna, resulting in a loss of indigenous biodiversity values that the Council is required to maintain under the RMA. Left unaddressed, this risks the Council not meeting one of its core functions under the RMA<sup>5</sup>.
- 26 Plan Change 1F (Indigenous Vegetation) seeks to rectify the implementation issue by reducing the scale of modification of protected indigenous vegetation possible under the controlled activity rule, while ensuring that the intent of the rule is largely retained, that is, to enable property owners to manage significant health and safety risks to people and buildings posed by dangerous trees. To facilitate this, the plan change proposes to:
  - 26.1 Shift the focus of the relevant standards within the rule from 'indigenous vegetation' to 'indigenous trees'
  - 26.2 Limit the number of protected indigenous trees that can be modified within a specified time period under the rule, and to narrow its focus to addressing imminent safety risks to people and property arising from protected indigenous trees.
  - 26.3 Ensure future resource consent applications under the rule do not result in significant adverse effects on indigenous biodiversity.
  - 26.4 Ensure council is able to meet its duty to maintain indigenous vegetation by requiring a restricted discretionary activity resource consent for the modification of protected indigenous trees beyond the limits set by the controlled activity rule. Modification that falls beyond the limits of the rule will fall under an existing restricted discretionary rule<sup>6</sup>.
  - 26.5 Ensure proposals that would result in significant adverse effects on indigenous biodiversity are processed as a restricted discretionary activity with expert ecological input into the decision making processes as required.

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<sup>4</sup> A controlled activity must be approved by the Council if all standards are met (pursuant to section 87A(2) of the RMA)

<sup>5</sup> Functions of territorial authorities under the RMA: Section 31(1)(b)(iii) – the maintenance of indigenous biological diversity.

<sup>6</sup> District Plan Rule ECO-R7.



- 26.6 Ensure arborists supporting resource consent applications under ECO-R6 are appropriately qualified to assess health and safety risks posed by trees.
- 26.7 Assist the Council in achieving the purpose of the RMA, in particular the requirement to protect areas of significant indigenous vegetation and significant habitats of indigenous fauna<sup>7</sup>.
- 27 The trimming of protected significant indigenous vegetation will remain a permitted activity under rule ECO-R3. This means property owners can continue to address safety risks posed by protected indigenous trees via trimming as a permitted activity, but they will be limited in the number of protected indigenous trees they can remove under amended controlled activity rule ECO-R6 without the need for ecological evidence.
- 28 The update to the list of Key Indigenous Trees (ECO-Table 1 in the District Plan) was identified through an independent ecological review (see Attachment 3). Currently, the table incorrectly identifies two species of Kānuka as having the same height and circumference measurements at maturity. If left unaddressed, this would mean the smaller coastal Kānuka species would never qualify for protection under the relevant rules despite their considerable age and ecological significance. Plan Change 1F (Indigenous Vegetation) proposes to correct ECO-Table 1 to separately list both Kānuka species and set out each species' specific height and circumference measurements at maturity.
- 29 During the preparation of Plan Change 1F (Indigenous Vegetation) consultation occurred with:
- The Minister for the Environment
  - Other Councils within the Greater Wellington region
  - The three iwi who hold mana whenua within the district
  - Local resource management consultancies (Land Link, Land Matters, Cuttriss, and Leith Consulting); and
  - The general public (through the Council website).
- 30 All consultation included provision of draft District Plan changes and a description of the reasons for the plan change.
- 31 Feedback was received from:
- Te Ātiawa ki Whakarongotai;
  - Wellington Regional Council (WRC);
  - Cuttris Consultants Ltd;
  - Royal Forest and Bird Protection Society of New Zealand Inc. (Forest and Bird).
- 32 In response to this feedback, a number of amendments have been made to improve the clarity of the rule, and to address some unintended consequences.
- 33 Attachment 2 includes the evaluation report for this plan change required by section 32 of the RMA. The report includes details of feedback received and amendments made to Plan Change 1F (Indigenous Vegetation) in response. Attachment 3 is an independent ecology report which informed the preparation of the plan change, and which is part of the section 32 report.
- 34 The section 32 report describes the matters Council must have regard to when preparing a plan change,<sup>8</sup> considered reasonably practicable alternatives, and provided a qualitative

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<sup>7</sup> RMA Section 6(c) – Matters of National Importance.

<sup>8</sup> On 9 June 2022 the Ministry for the Environment released an exposure draft of the National Policy Statement on Indigenous Biodiversity (NPS-IB). An exposure draft has no statutory weight and the final content of the NPS-IB will not be known until it is formally gazetted. Progression of the draft NPS-IB will be monitored and addressed as the plan change progresses.

evaluation of costs and benefits, before concluding that Plan Change 1F (Indigenous Vegetation) is the most appropriate way to achieve the purpose of the Act, the objective of the Plan Change, and the objectives of the District Plan.

### **Plan Change 1K (Electoral Signage)**

- 35 Plan Change 1K proposes to amend an election signage rule in the District Plan to align with the election advertisements requirements of the Electoral (Advertisements of a Specific Kind) Regulations 2005.
- 36 This plan change responds to an implementation issue identified during the local election 2019 and the general election in 2020. Currently, the District Plan rule SIGN-R2 allows a smaller maximum signage area for both local and national election signage than authorised under the Electoral Regulations. Standard 1 of that rule restricts the maximum area of an election sign to 2 square metres, compared to the Electoral Regulations which provide for a maximum sign area of 3 square metres. This creates confusion relating to signage requirements prior to and during election (local/national) periods.
- 37 Council made available to the community a draft version of Plan Change 1K (Electoral Signage) and invited feedback. No feedback was received by Council through this process. Consultation with iwi was undertaken through the wider Omnibus Plan Change process during 2021.
- 38 During the preparation of the plan change consultation occurred with:
- The Minister for the Environment
  - Other Councils within the Greater Wellington region
  - The three iwi who hold mana whenua within the district
  - Local resource management consultancies (Land Link, Land Matters, Cuttriss, and Leith Consulting); and
  - The general public (through the Council website).
- 39 All consultation included provision of the draft District Plan change and a description of the reasons for the plan change.
- 40 No feedback was received on this plan change.
- 41 Attachment 4 includes the evaluation report for this plan change required by section 32 of the RMA. The report describes the matters Council must have regard to when preparing a plan change, considered that no reasonably practicable alternative existed, and provided a qualitative evaluation of costs and benefits. The report concludes that Plan Change 1K (Electoral Signage) is the most appropriate way to achieve the purpose of the Act, the objective of the Plan Change, and the objectives of the District Plan.

### **Plan Change 1L (Council Site Rezoning)**

- 42 Plan Change 1L proposes to rezone a number of Council-owned sites to a zone that accurately reflects and provides for their purpose and use.
- 43 Proposed rezonings include:
- 43.1 Rezoning the following sites from General Residential Zone to Open Space Zone (Recreation Precinct)<sup>9</sup>:
- 43.1.1 104 Ngarara Road, Waikanae
  - 43.1.2 Vallance Lane, Raumati Beach

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<sup>9</sup> Recreation Precincts are typically larger reserves that comprise sportsgrounds and destination parks designed for active recreation. A Recreation Precinct typically provides for building at a scale and intensity that can enhance recreational amenity and retain general open space character.

- 43.2 Rezoning the following sites from General Residential Zone to Open Space Zone (Local Parks Precinct):<sup>10</sup>
- 43.2.1 Albizia Grove Accessway, Waikanae
  - 43.2.2 Arawa Street Reserve, Raumatī Beach
  - 43.2.3 Gardner Place Reserves, Ōtaki
  - 43.2.4 Kotuku Reserve, Paraparaumu Beach
  - 43.2.5 Matuhi Street Playground, Waikanae
  - 43.2.6 Matuhi Street Reserve, Waikanae
  - 43.2.7 Mirek St Reserve, Waikanae
  - 43.2.8 Pateke Way connection with Kotuku Drive, Paraparaumu
  - 43.2.9 Seagrass Place Reserve, Ōtaki (lot providing accessway to stream)
  - 43.2.10 Tui Crescent Reservoir, Waikanae.
- 43.3 Rezoning the following sites from General Residential Zone to Natural Open Space Zone:
- 43.3.1 Kereru Street Reserve, Waikanae
  - 43.3.2 Millhaven Place Reserve, Ōtaki
  - 43.3.3 Seagrass Place Reserve, Ōtaki (lot adjacent to stream).
- 43.4 Rezoning the following sites from Natural Open Space Zone to Open Space Zone (Recreation Precinct):
- 43.4.1 Jim Cooke Memorial Park, Waikanae (toilet block/car park)
  - 43.4.2 Maclean Park, Paraparaumu Beach (public park area).
- 44 Further details of the sites proposed to be rezoned are provided in Attachment 5 (particularly Annexes 1 and 2 within that attachment).
- 45 Sites proposed to be rezoned from General Residential Zone to Open Space Zone or Natural Open Space Zone were vested in Council for reserve purposes during past subdivision. Plan Change 1L (Council Site Rezoning) will update the zones of these properties in the District Plan from General Residential Zone to reflect their intended public open space use.
- 46 The rezoning of the toilet block/car park area of Jim Cooke Memorial Park and the public park area of Maclean Park will ensure that the zoning of those sites more accurately reflects and provides for their community use.
- 47 Plan Change 1L (Council Site Rezoning) amends the zoning of these sites on District Plan maps, and does not itself propose any changes to the District Plan's objectives, policies, or rules. The rezonings mean that:
- 47.1 Activities within the sites would be managed by District Plan provisions more suited to the kinds of activities anticipated to occur in that zone (and in some cases, precinct).
  - 47.2 Some adjoining landowners would be subject to different fencing requirements as a consequence of rezoning the Council site to an Open Space or Natural Open Space Zone. In short, the maximum height of a new fence along the boundary between a General Residential Zone and an Open Space / Natural Open Space Zone site is 1.8m,

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<sup>10</sup> Local Parks Precincts are usually smaller than a Recreation Precinct, which are generally destination parks or sportsgrounds. Local Parks Precincts include small local parks, playgrounds, seating, paths, cemeteries, cycleways, walkways or bridleways. These reserves provide local, day to day open space, are easily accessible to neighbourhoods and connections through urban areas. They generally contain fewer and smaller buildings than Recreation Precincts.

whereas a 2.0m high fence is a permitted activity between General Residential Zoned sites.<sup>11</sup>

- 48 During the preparation of the plan change consultation occurred with:
- The Minister for the Environment
  - Other Councils within the Greater Wellington region
  - The three iwi who hold mana whenua within the Kapiti District
  - Property owners adjoining sites proposed to be rezoned from General Residential Zone to an Open Space Zone or Natural Open Space Zone, excluding those already subject to a consent notice restricting fence heights registered on the titles for their properties<sup>12</sup> (as these restrictions overrule the District Plan)
  - Local resource management consultancies (Land Link, Land Matters, Cuttriss Consultants, and Leith Consulting)
  - The general public (through the Council website).
- 49 Consultation included provision of the draft changes to the District Plan Maps and a description of the reasons for the plan change. Potentially affected adjoining property owners received a letter with further background including potential implications.
- 50 Four property owners provided feedback. There was no objection or opposition to the plan change *per se*, but questions were raised about retaining existing tall fences or building higher fences in future. Answers were provided clarifying that:
- 50.1 This change would not compel property owners to lower existing lawfully established fences above 1.8m high
- 50.2 Property owners have rights under section 10 of the RMA to replace existing lawfully established fences above 1.8m high
- 50.3 In any other situation property owners can apply for a resource consent.
- 51 Transpower also provided feedback. It had no objection to the plan change but enquired about the Council's ability to continue to provide access to adequately maintain and operate transmission towers, as two areas to be rezoned lie under or near the national grid.
- 52 The District Plan is compliant with the National Policy Statement – Electricity Transmission and there will be no change to Transpower's ability to maintain the network. This concern has been addressed through the section 32 evaluation report.
- 53 Attachment 5 includes the evaluation report for this plan change required by section 32 of the RMA. The report describes the matters Council must have regard to when preparing a plan change, considered reasonably practicable alternatives and provides a qualitative evaluation of costs and benefits. The report concludes that Plan Change 1L (Council Site Rezoning) is the most appropriate way to achieve the purpose of the RMA, the objective of the Plan Change, and the District Plan's objectives.

### He take | Issues

54. The issues for the relevant plan changes have been outlined in the sections above and are further explored in the attached section 32 evaluation reports.

### Ngā kōwhiringa | Options

55. Options for the relevant plan changes are outlined above and further explored in the attached section 32 evaluation reports.

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<sup>11</sup> See relevant rule GRZ-R3, Standard 1.

<sup>12</sup> Imposed during subdivision consent pursuant to section 221 of the RMA.

**Tangata whenua**

56. Over the past 12 months the District Planning team have been engaging with mana whenua on these four proposed plan changes via email and at a number of face-to-face engagements. Engagement with iwi provided an opportunity to discuss the intent of the plan changes and address questions of clarification.
57. No specific comments were received from iwi on Plan Change 1D (Street Reclassification), Plan Change 1K (Electoral Signage) or Plan Change 1L (Council Site Rezoning). Te Atiawa ki Whakarongotai provided feedback expressing support for Plan Change 1F (Indigenous Vegetation).

**Panonitanga āhuarangi | Climate change**

58. Plan Change 1D (Street Reclassification) and Plan Change 1K (Electoral Signage) are not considered to have any climate change implications.
59. There may be a minor benefit to climate change mitigation efforts as a result of Plan Change 1F (Indigenous Vegetation) supporting the protection of significant indigenous vegetation, and by Plan Change 1L (Council Site Rezoning) better enabling open space activities on Council-owned sites.

**Ahumoni me ngā rawa | Financial and resourcing**

60. The LTP provided for this package of plan changes as part of the activities and services for district-wide planning and regulatory services. The costs of preparing this package of plan changes for notification to the wider public have already been factored into the District Planning team's operating expenses.
61. There are no additional financial considerations resulting from the preparation of these plan changes.

**Ture me ngā Tūraru | Legal and risk**

62. The proposed plan changes have gone through the evaluation required by section 32 of the RMA (see Attachments 1 to 5) and consultation on draft plan change provisions has been completed in accordance with clauses 3 and 4A of Schedule 1 of the RMA. The next steps for these plan changes are to proceed through the formal public notification, submissions, and hearings (if a hearing is required) processes as required by Schedule 1 of the RMA.
63. Schedule 1, clause 5(1)(a) and (b)(i) of the RMA requires if a local authority decides to proceed with a proposed plan change after having particular regard to the section 32 evaluation, then it must publicly notify the proposed plan change. Approval is now sought from Council to proceed with the proposed plan changes and to publicly notify the proposed plan changes alongside the supporting section 32 evaluation in accordance with the RMA.
64. In accordance with section 86B(3)(b) and (c) of the RMA, Proposed Plan Change 1F (Indigenous Vegetation) will have immediate legal effect from notification. The other plan changes will have legal effect once decisions on submissions are made (s.86B(1)).
65. This is not the final decision-making step for Council in the plan change process. Following a hearing of submissions (assuming submissions are received), Council will need to make a decision on provisions and matters raised in submissions. This next step in Council's decision-making process is anticipated to occur in early-mid 2023. This period will allow for the required submission and further submission periods, analysis of submissions, the opportunity for a hearing to be held and hearing panel recommendations on submissions to be prepared for consideration by this Committee.

**Ngā pānga ki ngā kaupapa here | Policy impact**

66. Plan Change 1D (Street Reclassification), Plan Change 1F (Indigenous Vegetation), Plan Change 1K (Electoral Signage), and Plan Change 1L (Council Site Rezoning) will contribute to the following LTP Community Outcomes:

- 66.1. *Our communities are resilient, safe, healthy and connected. Everyone has a sense of belonging and can access the resources and services they need.* Plan Change 1D (Street Reclassification) contributes to achieving the outcome for community wellbeing as reclassified routes in the transport network hierarchy will help better connect the Kapiti District's community. In addition, rezoning areas from General Residential Zone to Open Space and Natural Open Space Zone through Plan Change 1L (Council Site Rezoning) will ensure that these are clearly defined in the District Plan, and will provide appropriately zoned open space for community wellbeing, exercise, connection, leisure activities.
- 66.2. *Our natural environment is restored and enhanced as we transition to a low-carbon future.* Plan Change 1F (Indigenous Vegetation) will assist in protecting indigenous biodiversity, while Plan Change 1L (Council Site Rezoning) will enable open space uses of Council-owned sites, which may include some plantings and habitat restoration.
- 66.3. *Democratic local decision-making and action by, and on behalf of local communities, and to promote the social, economic, environmental and cultural wellbeing of communities in the present and future.* Plan Change 1K (Electoral Signage) contributes positively to the achievement of the community outcomes and the overall vision, as the changes proposed will ensure clarity and understanding around election signage.
- 66.4. *Democratic local decision-making and action by, and on behalf of local communities and to promote the social, economic, environmental and cultural wellbeing of communities in the present and future.* Plan Change 1K (Electoral Signage) will facilitate public participation in the democratic process by ensuring clarity and consistency relating to election signage, allowing this aspect of the election process to operate effectively.
67. The attached evaluation reports have regard to Council management plans, strategies, frameworks and policies relevant to each plan change. Of particular note:
- 67.1. Plan Change 1D (Street Reclassification) will contribute to achieving the outcomes intended by the '*Streetscape Strategy and Guideline (2009)*', and the '*Sustainable Transport Strategy 2020*'. The proposed changes support a rapidly growing District by ensuring streets are safe for users faced with increased vehicular, pedestrian and cycle traffic. In addition, the proposed changes relate to the role and functions of roads as laid out in the District Plan.
- 67.2. Plan Change 1D (Street Reclassification), Plan Change 1F (Indigenous Vegetation) and Plan Change 1L (Council Site Rezoning) will contribute to achieving the broader environmental and community wellbeing outcomes intended by '*Te tupu pai – Growing Well. Our Strategy for enabling sustainable growth in Kapiti 2021*').
- 67.3. Plan Change 1F (Indigenous Vegetation) and Plan Change 1L (Council Site Rezoning) will contribute to the outcomes intended by the '*Open Spaces Strategy 2022*' by providing healthy natural systems which people can enjoy, retaining local character within a cohesive district, and by improving and preserving biodiversity.

## TE WHAKAWHITI KŌRERO ME TE TŪHONO | COMMUNICATIONS & ENGAGEMENT

### Te mahere tūhono | Engagement planning

68. The Council's Significance and Engagement Policy does not apply to the engagement or consultation processes that are required under the RMA.
69. Consultation to inform the preparation of these plan changes has been carried out in accordance with Clauses 3 and 4A of Schedule 1 of the RMA. The Minister for the Environment and regional territorial authorities have been consulted, and tāngata whenua have been consulted through iwi authorities. Local resource management consultancies were directly consulted on all four plan changes. The general public was offered opportunity to provide

comments via the Council website from 20 April – 11 May 2022. Potentially affected landowners were also consulted directly on Plan Change 1D (Street Reclassification) and Plan Change 1L (Council Site Rezoning).

70. As noted earlier in the report, consultation provided iwi and landowners (in particular) with opportunities to ask questions of clarification. While limited (or no) feedback was received on three of the four plan changes, feedback on Plan Change 1F (Indigenous Vegetation) while supportive did identify opportunities for improvements which have been included in the plan change for Council's consideration.
71. Public notification of the proposed plan changes will provide an opportunity for formal submissions to be received.

### Whakatairanga | Publicity

72. Subject to obtaining Council approval as per the recommendations in this report, next steps of public notification, submissions and further submissions, and hearings for the proposed plan changes will occur in accordance with the requirements of the RMA.

### NGĀ ĀPITI HANGA | ATTACHMENTS

1. Attachment 1: Proposed Plan Change 1D (Reclassification of Arawhata Road, Tutanekai Street, and Ventnor Drive) and Section 32 Report [↓](#)
2. Attachment 2: Proposed Plan Change 1F (Modification of Indigenous Vegetation and Update to Key Indigenous Tree Species List) and Section 32 Report [↓](#)
3. Attachment 3: Proposed Plan Change 1F Section 32 Report Appendix 1 (Ecology Report) [↓](#)
4. Attachment 4: Proposed Plan Change 1K (Electoral Signage) and Section 32 Report [↓](#)
5. Attachment 5: Proposed Plan Change 1L (Council Site Rezoning) and Section 32 Report [↓](#)

# **Kapiti Coast District Plan Change 1D: Reclassification of Arawhata Road, Ventnor Drive, and Tutanekai Street**

## **Section 32 of the Resource Management Act 1991 – Evaluation Report**

June 2022



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## 1. Introduction

This evaluation report has been prepared, in accordance with section 32 of the Resource Management Act 1991 (the RMA), to support a proposed change to the Operative Kapiti Coast District Plan 2021 (the District Plan) titled Plan Change 1D.

Plan Change 1D seeks to reclassify three roads in the Kapiti District in the District Plan's transport network hierarchy<sup>1</sup>, which differentiates roads by function. Routes at the top of the hierarchy are generally main arterial routes with higher traffic volumes and may have a higher speed limit. Routes at the lower end tend to have a local access function with lower traffic volumes, and as a result offer higher levels of safety for access to sites. The management of activities for road safety purposes depends on the status of the route under this hierarchy, such as seeking to avoid reversing from a site onto a road on those routes that carry more traffic where this increases the safety risk.

There are two parts to Plan Change 1D:

- 1) to reclassify Arawhata Road from a Neighbourhood Access Route/Local Road in the District Plan to the higher level of Local Community Connector Road to reflect its function in the roading hierarchy and to ensure the route is safe, fit for purpose, and does not have its function and operation unreasonably compromised by other activities<sup>2</sup>; and
- 2) to correct a historical error in the classification of Tutanekai Street and Ventnor Drive to ensure that their transport network hierarchy classification is accurate, aligns with their function, and reflects the projected transport demand safely and efficiently.<sup>3</sup>

## 2 The Issues

### Reclassification of Arawhata Road

Plan Change 1D seeks to reclassify Arawhata Road from a Neighbourhood Access Route in the District Plan (i.e. at the lowest level in the transport network hierarchy as identified in TR-Table-7 – Transport Network Hierarchy and District Plan Map 12 Historical, Cultural, Infrastructure, Districtwide) to the higher level of Local Community Connector Route. Local Community Connector Routes are defined as larger urban roads linking local roads to the connector network.

The differences between the two road classifications under the Transport Network Hierarchy are shown in the table below:

Neighbourhood Access Route	Local Community Connector Route
<p>Roads providing direct access for residential and other areas of development in urban areas, with more than one intersection to other local or collector roads, and:</p> <ul style="list-style-type: none"> <li>• provides access to: <ul style="list-style-type: none"> <li>○ local residential neighbourhoods;</li> <li>○ schools;</li> <li>○ reserves.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Larger urban roads linking local roads to the connector network.</li> <li>• In rural areas, includes minor roads linking smaller rural communities to the connector network;</li> <li>• provides main access routes through suburbs;</li> <li>• connect local centres;</li> </ul>

<sup>1</sup> See Table TR-7 in the Transport section of the District Plan.

<sup>2</sup> See District Objective DO-14 Transport and Access in the District Plan.

<sup>3</sup> See Policy TR-P1 Integrated Transport and Urban Form in the District Plan.

<ul style="list-style-type: none"> <li>• can include local walkways, beach access, residential lanes;</li> <li>• will be low speed;</li> <li>• will have low traffic volume.</li> </ul>	<ul style="list-style-type: none"> <li>• traffic movements mainly locally generated;</li> <li>• significant walkways/cycleways between local centres, schools and employment areas;</li> <li>• may be some routes with relatively high traffic volumes;</li> <li>• expect moderate speed.</li> </ul>
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Arawhata Road plays an important role as a local community connector road that connects Kapiti Road to Mazengarb Road and Tutaneikai Street. Traffic levels on this road are also similar to other Local Community Connectors and higher than would be expected on a neighbourhood access route. Despite its role and importance in the transport network, it is not currently recognised as a Local Community Connector Route in the District Plan. Changes in use and development of land accessing Arawhata Road (that propose reversing onto the road) can have negative impacts on the road's safe and efficient operation.

The reclassification is more appropriate for the existing and projected traffic volume in Arawhata Road and will align its classification with that of Mazengarb Road (from which Arawhata Road's traffic flows to and from) as a Local Community Connector Route. It will also align it with Waka Kotahi's One Network Road Classification 'movement' categories,<sup>4</sup> which shift the focus from the volume of vehicles on a road to the functional importance of a road for moving people and goods.

Reclassifying Arawhata Road as a Local Community Connector Route will introduce more stringent controls for new developments that rely on Arawhata Road for vehicle access. New developments will need to be designed so that where onsite parking or loading is provided, a vehicle can turn around on-site to avoid reversing into Arawhata Road.

The reclassification proposed by Plan Change 1D will not affect existing properties that gain access via Arawhata Road unless additional residential units or subdivision are proposed. Property owners will not be required to provide additional space in which to manoeuvre vehicles to leave in a forward direction simply because the classification of the road is changing. However, proposed subdivision and development would trigger the requirement for on-site manoeuvring under permitted activity rule TR-R3, standard 12 – Manoeuvring, as follows:

*Site access and loading for vehicles.*

**12. Manoeuvring –**

- a. Private residential access - unless the driveway accesses directly from a Neighbourhood Access Route, sufficient manoeuvring space must be provided on-site to ensure no reversing onto the road is necessary. Note: for clarification see the Transport Network Hierarchy.*

<sup>4</sup> <https://www.nzta.govt.nz/planning-and-investment/planning/one-network-framework/movement-and-place-classification/>

### **Ensuring the correct classification of Tutanekai Street and Ventnor Drive in the transport network hierarchy**

Plan Change 1D also seeks to correct a historical classification error of Tutanekai Street and Ventnor Drive.

The 1999 version of the District Plan shows Tutanekai Street as a Community Connector Route and Ventnor Drive as a notional road<sup>5</sup>. Prior to the Expressways project a notional road was marked on the District Plan's map as it had been proposed to extend Ventnor Drive to connect Old State Highway One to Mazengarb Road (the map in Annex 1 shows the current District Plan map).

When the 2012 Proposed District Plan was drafted, the Local Community Connector Route location was erroneously moved to Ventnor Drive and Tutanekai Street appeared as a Neighbourhood Access Route. This does not reflect actual use of Ventnor Drive, which is a relatively small, largely residential, no exit cul de sac. The notional road was not progressed and existing physical and legal barriers, including crossing a railway and crossing privately owned land, would make the construction of such a road today extremely difficult. Removing the notional road from the District Plan map requires correction through a statutory plan change process.

This error also means despite the Tutanekai Street's actual role and function being that of a Local Community Connector Route, it is not managed or considered in this way under the District Plan. This has potential to create adverse transport network safety and efficiency effects and needs to be amended through the plan change process. Tutanekai Street also has several community facilities located along the route including a hospital, and childcare and recreational facilities.

The timing of Plan Change 1D to correct this error is important as Tutanekai Street (and part of Arawhata Road) lies within a walkable catchment of the Metropolitan Centre Zone and the Paraparaumu Rail Station. Under the National Policy Statement on Urban Development 2020, and the Resource Management (Enabling Housing and Other Matters) Amendment Act 2021, the Council is required to notify a plan change no later than 20 August 2022 to increase the amount of permitted development within the General Residential Zone across the District, and further enable higher density residential development within a walkable catchment of the District's centres zones and rapid transit stops. The amount of additional permitted residential development this will enable presents a greatly increased risk to the safe and efficient operation of Tutanekai Street if permitted activity development is not required to provide for vehicles leaving a site in a forward direction onto the road.

Plan Change 1D aims to remove the Local Community Connector Route status from Ventnor Drive (reverting Ventnor Drive to a Neighbourhood Access Route), and to reinstate Local Community Connector Route status to Tutanekai Street on the District Plan's Transport Network Hierarchy and District Plan Map 12. These proposed changes are shown in the attached map (Annex 2).

## **3 Strategic Directions**

The aim of this plan change is to ensure that the district's transport network is accurately classified so the Council can sustainably manage the district's physical resources to meet the reasonably foreseeable needs of future generations, and to enable people and communities to provide for their health and safety under the RMA (Part 2, s5).

Relevant objectives from the Strategic Directions chapter of the Plan are tabled below.

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<sup>5</sup> A 'notional road' is used to show a possible or intended route, but the actual road may never be created.

<b>DO-14</b>	<b>Access and Transport</b>
To ensure that the transport system in the District:	
<ol style="list-style-type: none"> <li>1. integrates with land use and urban form and maximises accessibility;</li> <li>2. improves the efficiency of travel and maximises mode choice to enable people to act sustainably as well as improving the resilience and health of communities;</li> <li>3. contributes to a strong economy;</li> <li>4. avoids, remedies or mitigates adverse effects on land uses;</li> <li>5. does not have its function and operation unreasonably compromised by other activities;</li> <li>6. is safe, fit for purpose, cost effective and provides good connectivity for all communities; and</li> <li>7. provides for the integrated movement of people, goods and services.</li> </ol>	

This objective outlines how the Council will manage the transport system to ensure it is well integrated with land use and urban form, is efficient, safe, and does not have its function and operation unreasonably compromised by other activities.

<b>DO-15</b>	<b>Economic Vitality</b>
To promote sustainable and on-going economic development of the local economy, including the rural sector, with improved number and quality of jobs and investment through:	
<ol style="list-style-type: none"> <li>1. <ol style="list-style-type: none"> <li>a. encouraging <i>business activities</i> in appropriate locations within the District, principally through differentiating and managing various types of <i>business activities</i> both on the basis of the activity, and the potential local and strategic <i>effects</i> of their operation;</li> <li>b. reinforcing a compact, well designed and sustainable regional form supported by an integrated <i>transport network</i>;</li> <li>c. enabling opportunities to make the economy more resilient and diverse;</li> <li>d. providing opportunities for the growth of a low carbon economy, including clean technology;</li> <li>e. minimising <i>reverse sensitivity effects</i> on <i>business activities</i>, including <i>primary production activities</i>; and</li> <li>f. enhancing the amenity of <i>Working Zones</i>;</li> </ol> </li> </ol>	
while:	
<ol style="list-style-type: none"> <li>2. <ol style="list-style-type: none"> <li>a. ensuring that economic growth and development is able to be efficiently serviced by <i>infrastructure</i>;</li> <li>b. encouraging commercial consolidation and the co-location of community services and facilities primarily within the <i>Paraparaumu Sub-Regional Centre</i> and <i>Town Centres</i>; and</li> <li>c. managing contamination, pollution, odour, noise and glare, associated with <i>business activities</i>, including <i>primary production activities</i>.</li> </ol> </li> </ol>	



This strategic direction recognises the role the transport network plays in supporting and serving economic growth and the development of a sustainable regional form.

#### **4 Response to the Issue: Proposed Plan Change 1D**

The Plan Change proposes to resolve the issues by reclassifying routes appropriately for their current use. The map attached (Annex 2) illustrates the proposed changes to the District Plan maps.

The traffic levels on Arawhata Road are almost identical to those on Mazengarb Road, yet the roads are currently classified differently in the transport network hierarchy. Arawhata Road is identified as being the lowest Neighbourhood Access Route level, whilst Mazengarb Road is classified at a higher level on the hierarchy as a Local Community Connector Route. This is even though both routes:

- form part of the same link on the transport network;
- are larger roads;
- provide a main access route through the suburbs; and
- provide cycle, walking, public transport, and road access between schools, residential and employment areas.

Reclassifying Arawhata Road as a Local Community Connector Route will align it with Mazengarb Road's classification and with Waka Kotahi's national movement classification system. This is appropriate for Arawhata Road as it does not meet the definition of a Neighbourhood Access Route. Neighbourhood Access Routes typically have lower levels of traffic, are narrower, provide more localised access, and do not accommodate the levels of public transport, walking and cycling activity that a road such as Arawhata Road does.

The current classification as a Neighbourhood Access Route under the District Plan allows reversing onto Arawhata Road. There are safety risks with this due to the relatively high traffic levels, number of vehicle crossings and intersections, and use of the road by pedestrians, cyclists and buses. The reclassification will attribute to a safer environment on Arawhata Road as new developments that provide parking or loading onsite will be required to provide onsite manoeuvring areas so that vehicles can exit in a forward direction onto Arawhata Road.

#### **5 Section 32 Requirements**

Section 32 of the RMA requires, broadly, that before advancing plan provisions a Council must evaluate whether the proposed provisions are the most appropriate way to achieve the purpose of the RMA.

S.32 (1)(a) of the RMA requires that an evaluation must examine the extent to which any proposed objectives are the most appropriate way to achieve the purpose of the RMA. No new objectives, and no changes to existing District Plan objectives, are proposed by the Plan Change. The relevant District Plan objectives for character and amenity values, and access and transport remain appropriate.

S.32 (1)(b) of the RMA requires an evaluation of whether the provisions proposed by the Plan Change are the most appropriate way to achieve the District Plan objectives. S.32 (3) clarifies that, for a plan change, this evaluation must consider both the objective of the plan change (the purpose of the plan change) and the District Plan objectives, to the extent that those objectives remain relevant. The evaluation is required to:

- identify and consider other reasonably practicable options for achieving the objectives (s.32 (1) (b) (i)); and
- assess the efficiency and effectiveness of the proposed provisions in achieving the objectives (s.32 (1) (b) (ii)) and this is most usefully done by comparison with the reasonably practicable alternative options.

The assessment of efficiency and effectiveness required by s.32 (1) (b) (ii) is required to identify and assess the benefits and costs of the environmental, economic, social and cultural effects anticipated from implementing the proposed provisions. This must include consideration of opportunities for economic growth and employment that are anticipated to be provided or reduced. Benefits and costs are to be quantified, if practicable. The s.32 (1) (b) (ii) assessment is also required to assess the risk of acting or not acting, if there is insufficient information about the subject matter of the provisions.

The evaluation is required to contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects anticipated from implementing the proposal.

## 6 Purpose of the Plan Change

The Plan Change is an 'amending proposal' for the purpose of s.32 of the RMA. This evaluation is required to consider the objective or purpose of the Plan Change, in addition to the District Plan's objectives.

The route classifications in the District Plan's transport network hierarchy are not aligned with current use of Arawhata road, Tutanekai Street or Ventnor Drive. Plan Change 1D seeks to align classifications of these roads in the District Plan with their respective uses. The plan change will also require most new developments to provide an onsite area for vehicles to manoeuvre so that they can exit onto the road in a forward manner.

The plan change will ensure that the safety and efficiency of the three roads and the effects that arise from the current and future use of these roads are appropriate and consistent with the objectives of the district plan and the purpose of the RMA.

## 7 Relevant considerations under Part 2 of the RMA

In carrying out a s.32 analysis, an evaluation is required as to how the proposal achieves the purpose and principles in Part 2 of the RMA. Section 5 sets out the purpose of the RMA, which is to promote the sustainable management of natural and physical resources.

Sustainable management '*means managing the use, development, and protection of natural and physical resources to enable people and communities to provide for their social, economic and cultural wellbeing and for their health and safety, while –*

- sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- avoiding, remedying, or mitigating any adverse effects of activities on the environment'.*

In achieving this purpose, authorities need also to recognise and provide for the matters of national importance identified in s.6, have particular regard to other matters referred to in s7, and take into account the principles of the Treaty of Waitangi referred to in s8.

### Section 6 – Matters of national importance

There are no s.6 matters relevant to this topic.

### Section 7 – Other matters

S.7(b), “the efficient use and development of natural and physical resource” is relevant to this topic as classifying routes in the transport network is a physical resource that we want to ensure operates safely and efficiently.

### Section 8

As part of the draft consultation Council consulted with the three local iwi, Te Āti Awa ki Whakarongotai, Ngā Hapū o Ōtaki, and Ngāti Toa Rangātira, as a statutory party under the RMA. There were no issues raised during this time, and there are no particular s.8 matters directly relevant to this topic.

## 8 Relevant Higher-Order Statutory Instruments

Under s.75(3) of the RMA, a district plan must give effect to:

- (a) any national policy statement; and
- (b) any New Zealand Coastal Policy statement (the NZCPS);
- (ba) any national planning standard; and
- (c) any regional policy statement.

The relevance of the higher-level statutory planning documents to the amendments proposed by the Plan Change are discussed below.

### 8.1 National Policy Statements

There are five National Policy Statements (NPSs) currently in force:

- New Zealand Coastal Policy Statement 2010
- NPS for Electricity Transmission 2008
- NPS for Renewable Electricity Generation 2011
- NPS for Freshwater Management 2020
- NPS on Urban Development 2020

The NPS on Urban Development is relevant to this topic, in particular the part in bold below.

NPS	Relevant Objectives / Policies
<i>NPS on Urban Development 2020</i>	<p><i>Objective 1: New Zealand has well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.</i></p> <p><i>Policy 1: Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:</i></p> <ul style="list-style-type: none"> <li><i>a) have or enable a variety of homes that:</i> <ul style="list-style-type: none"> <li><i>(i) meet the needs, in terms of type, price, and location, of different households; and</i></li> <li><i>(ii) enable Māori to express their cultural traditions and norms; and</i></li> </ul> </li> </ul>



	<p>b) <i>have or enable a variety of sites that are suitable for different business sectors in terms of location and site size; and</i></p> <p>c) <i>have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport; and</i></p> <p>d) <i>support, and limit as much as possible adverse impacts on, the competitive operation of land and development markets; and</i></p> <p>e) <i>support reductions in greenhouse gas emissions;</i></p> <p>f) <i>and are resilient to the likely current and future effects of climate change.</i></p>
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## 8.2 New Zealand Coastal Policy Statement

The purpose of the New Zealand Coastal Policy Statement 2010 (NZCPS) is to state objectives and policies to achieve the purpose of the RMA in relation to the protection and enhancement of the coastal environment of New Zealand. The NZCPS 2010 took effect on 3 December 2010.

There are no NZCPS provisions relevant to Plan Change 1D.

## 8.3 National Planning Standards

National Planning Standards are intended to reduce plan complexity and provide a home for national direction. The purpose of the National Planning Standards is to improve the efficiency and effectiveness of the planning system by providing nationally consistent structure, format, definitions, noise and vibration metrics, electronic functionality and accessibility for regional policy statements, regional plans, district plans and combined plans under the RMA. The intention is that this will make council plans and policy statements more efficient and easier to prepare and use<sup>6</sup>. The Council issued a public notice in 2021 notifying amendments to the District Plan to give effect to the National Planning Standards 2019<sup>7</sup>.

The National Planning Standards require that transport-related matters be included in the Transport chapter in the in the Energy, Infrastructure and Transport section of the District Plan. The transport network hierarchy is identified on the District Plan maps, which have also been amended to be consistent with National Planning Standards requirements.

The proposed amendments to the District Plan are consistent with the requirements of the National Planning Standards.

## 8.4 National Environmental Standards

There are nine National Environmental Standards (NESs) currently in force:

- NES for Air Quality 2011
- NES for Sources of Human Drinking Water 2007

<sup>6</sup> <https://www.environmentguide.org.nz/rma/planning-documents-and-processes/national-planning-standards/>

<sup>7</sup> <https://www.kapiticoast.govt.nz/whats-on/have-your-say/public-notice/operative-kapiti-coast-district-plan-2021-recognition-of-national-planning-standards-2019/>

- NES for Telecommunication Facilities 2016
- NES for Electricity Transmission Activities 2009
- NES for Assessing and Managing Contaminants in Soil to Protect Human Health 2011
- NES for Plantation Forestry 2017
- NES for Freshwater 2020
- NES for Marine Aquaculture 2020
- NES for Storing Tyres Outdoors 2021.

There are no National Environment Standards relevant to Plan Change 1D.

### 8.5 Wellington Regional Policy Statement

The Operative Wellington Regional Policy Statement 2013 (RPS) provides an overview of regional resource management issues and the ways in which integrated management of natural and physical resources will be achieved.

District plans are required to give effect to the policies 1-34 of the RPS, and to have particular regard to policies 35-60.

Reclassifying routes under the District Plan's transport network hierarchy is important to recognise actual use of the routes, and attributes to economic, social wellbeing, and health and safety outcomes. Arawhata Road and Tutanekai Street are important local connectors which provide access for people between key facilities.

The table below identifies the relevant provisions and resource management topics for transport contained in the RPS relevant to Plan change 1D. Plan Change 1D is considered to give effect to Objective 22 and the related policies.

Regional Policy Statement for the Wellington Region	
<b>Objective 22</b>	<p>A compact well designed and sustainable regional form that has an integrated, safe and responsive transport network and:</p> <p>(a) ...</p> <p>(b) ...</p> <p>(c) ...</p> <p>(d) ...</p> <p>(e) ...</p> <p>(f) ...</p> <p>(g) ...</p> <p>(h) ...</p> <p>(i) integrated land use and transportation</p> <p>(j) ...</p> <p>(k) efficiently use existing infrastructure (including transport network infrastructure)</p> <p>(l) ...</p>
<b>Policy 54</b>	<b>Achieving the region's urban design principles – consideration</b>

(R)	When considering an application for a notice of requirement or a change, variation or review of a district or regional plan, for development, particular regard shall be given to achieving the region's urban design principles in Appendix 2 (including considerations of choice in transport options, creating urban environments that provide opportunities for all, ensuring public spaces are accessible by everybody, including people with disabilities, and good connectivity).
<b>Policy 57</b> (R)	<b>Integrating land use and transportation – consideration</b> When considering an application for a resource consent, notice or requirements, or a change, variation or review of a district plan, for subdivision, use or development, particular regard shall be given to the following matters, in making progress towards achieving the key outcomes of the Wellington Regional Land Transport Strategy: (a)... (b) connectivity, with, or provision of access to, public services or activities, key centres of employment activity or retail activity, open spaces or recreational areas;....
<b>Policy 58</b> (R)	<b>Co-ordinating land use with development and operation of infrastructure – consideration</b> When considering an application for a resource consent, notice of requirement, or a plan change, variation or review of a district plan for subdivision, use or development, particular regard shall be given to whether the proposed subdivision, use or development is located and sequenced to: a. make efficient and safe use of existing infrastructure capacity; and/or b. coordinate with the development and operation of new infrastructure.

M = policies which must be **implemented** in accordance with methods stated in the RPS

R = policies to which **particular regard** must be had when varying a district plan

The district plan must have particular regard to policies 54, 57, and 58 of the RPS.

## 8.6 Regional Plans

There are currently five operative regional plans for the Wellington Region (which will be replaced by the proposed Natural Resources Plan for the Wellington Region), listed below:

- Regional Freshwater Plan for the Wellington Region, 1999
- Regional Coastal Plan for the Wellington Region, 2000
- Regional Air Quality Management Plan for the Wellington Region, 2000
- Regional Soil Plan for the Wellington Region, 2000
- Regional Plan for Discharges to Land, 1999

These plans assist the regional council to carry out its functions in order to achieve the purpose of this RMA. These plans set out how the regional council manages natural and physical resources under the jurisdiction of the regional council under s.30 of the RMA.

The Plan Change manages activities that fall under the jurisdiction of the Kāpiti Coast District Council under s.31(1)(b)(iii) and does not venture into the jurisdiction of the Regional Council. On this basis none of these regional plans are relevant to the plan change.

## 8.7 Proposed Natural Resources Plan – Appeals Version (PNRP)

The PNRP is still in the process of settling appeals to the Environment Court, however, once those are resolved it will replace the existing five operative regional plans identified above.

In a similar light to the assessment above regarding the relevance of the five operative regional plans, the PNRP is not directly relevant to this plan change.

## 9 Other Relevant Plans and Strategies

### 9.1 Kapiti Coast District Long Term Plan (LTP)

The Council's LTP (2021-2041)<sup>8</sup> addresses four aspects of wellbeing: social, cultural, economic, and environmental wellbeing. The overall goal is for a vibrant and thriving Kāpiti with healthy, safe, and resilient communities. Underlying these four aspects is the principle that Mana Whenua and Council have a mutually mana-enhancing partnership.

The stated outcome for community wellbeing is that 'communities are resilient, safe, healthy and connected. Everyone has a sense of belonging and can access the resources and services they need'. This is explained as meaning that:

*'Our communities (groups and individuals) have access to services and facilities necessary to meet their basic needs to cope with the demands of, and unforeseen disruptions to, their daily lives. They have access to adequate permanent shelter; necessary health services; food; water; education; transport options and networks (roading, rail, cycle, sea and air); telecommunications; and social networks, that they may prosper and thrive to fulfil their potential'.*

Plan Change 1D contributes to achieving the outcome for community wellbeing as reclassified routes in the transport network hierarchy will help to better connect the Kapiti District's community. New developments on Arawhata Road, where owners choose to provide off street carparking, will need to provide onsite turning areas which will contribute to increased safety to road users including vehicles, cycles and pedestrians.

The LTP 2021– 41 sets out the aims to secure the district's future over the next 20 years. This includes the investment needed to support a thriving community and ensure that the district has the infrastructure, services and facilities needed to meet current and future challenges.

Strategic directions of the LTP include planning for growth. This is relevant to ensuring that roads are correctly classified in the District Plan to reflect current use and to plan for future growth where necessary.

### 9.2 Other relevant central and local government plans and strategies

The following central government and Kāpiti Coast District Council plans/strategies are also relevant to Plan Change 1D:<sup>9</sup>

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<sup>8</sup> <https://www.kapiticoast.govt.nz/your-council/forms-documents/annual-and-long-term-plans/long-term-plan/>

<sup>9</sup> <https://www.kapiticoast.govt.nz/your-council/forms-documents/policy-and-strategy/council-strategies/>



Plan / Strategy	Organisation	Relevant Provisions
Te Tupu Pai – Growing Well	Kāpiti Coast District Council	This document sets out the proposed approach for growing the Kapiti District over the next 30 years. It links to the NPS-UD and reflects the need for the Kapiti Coast, as a Tier 1 urban environment, to allow for walkable neighbourhoods and access to open spaces as denser urban areas are developed.
Te Ara ki te Ora – Road to Zero	Ministry of Transport	The Road to Zero strategy sets out a vision for New Zealand where no one is killed or seriously injured in road crashes. It includes guiding principles for road network design and road safety decisions and sets safety targets for 2030. It defines 5 focus areas for the next decade and includes an accountability framework to achieve these.
Government Policy Statement on land transport 2021 <sup>10</sup>	Ministry of Transport	The Government Policy Statement on land transport (GPS) sets out how money from the National Land Transport Fund is allocated towards the Government's transport priorities. It sets out funding ranges for activities such as public transport, state highway improvements, local and regional roads and road safety. Each GPS sets out the priorities for the following 10-year period and is reviewed and updated every 3 years.
Streetscape Strategy and Guideline (2008)	Kāpiti Coast District Council	The Kāpiti Coast district is a rapidly growing area. There is a need to ensure streets are safe for users faced with increased vehicular, pedestrian and cycle traffic. This document sets out the process to resolve competing interests in regard to streetscapes.
Sustainable Transport Strategy 2020	Kāpiti Coast District Council 2020	Focus Area 2: Integrating Land Use and Development, and Focus Area 3: Safety are relevant to Plan change 1D as they relate to role and functions of roads as laid out in the District Plan.
Wellington Regional Land Transport Plan 2021	Greater Wellington Regional Council	Objective 2 Transport and land use are integrated to support compact urban form, liveable places, and a strong regional economy.  Policy 2.4

<sup>10</sup> <https://www.transport.govt.nz/area-of-interest/strategy-and-direction/government-policy-statement-on-land-transport-2021/>

		<p>Ensure new transport infrastructure is designed and located to enhance access and support compact urban form consistent with the Regional Policy Statement.</p> <p>Objective 4</p> <p>People can move around the Wellington Region safely.</p>
Kāpiti Coast District Council Subdivision and Development Principles and Requirements 2012 (SDPR)		<p>The SDPR applies to all subdivision and development in the District via the District Plan<sup>11</sup>.</p> <p>The SDPR includes provisions that require resource consents to include design and access statements and road safety audits. The requirements are to identify and address potential road safety issues that could arise from proposed subdivision and development.</p> <p>The road network hierarchy is used in the SDPR to specify the functions, examples, and design comments relevant when considering resource consent applications that access a road in the hierarchy.</p>

In addition to the above, Council's Plan Change 2, an intensification planning instrument, will be publicly notified by 20 August 2022. This plan change will incorporate the Medium Density Residential Standards into the General Residential Zone provisions of the District Plan. The draft plan change also suggests all of Tutanekai Street and a significant part of Arawhata Road fall within a 800m walkable catchment of the Paraparaumu Metropolitan Centre. This increases the importance of amending the District Plan to ensure future developments on these streets are suitably designed with traffic safety in mind.

## 10 Planning Documents Recognised by Iwi Authorities

There are three iwi recognised as holding mana whenua within the Kāpiti Coast District:

- Te Ātiawa ki Whakarongotai;
- Ngāti Toa Rangātira; and
- Ngā Hapū o Ōtaki.

There are four documents recognised by iwi authorities and lodged with the Council in the Kāpiti Coast District, comprising:

- a) Proposed Ngāti Raukawa Ōtaki River and Catchment Iwi Management Plan 2000 (operative 10 April 2001);
- b) Nga Korero Kaupapa mo Te Taiao: Policy Statement Manual for Kapakapanui: Te Runanga O Āti Awa ki Whakarongotai Inc;

<sup>11</sup> Note that the Land Development Minimum Requirements (LMDR) is proposed to replace the SDPR as part of Plan Change 2.

- c) Te Haerenga Whakamua – A Review of the District Plan Provisions for Māori: A Vision to the Future for the Kāpiti Coast District Council District Plan Review 2009-12 – 2012; and
- d) Whakarongotai o te moana Whakarongotai o te wā – Kaitiakitanga Plan for Te Ātiawa ki Whakarongotai. 2019.

The changes sought to the transport network hierarchy under Plan Change 1D fall within the rohe of Te Ātiawa ki Whakarongotai, therefore the documents Nga Korero Kaupapa, Te Haerenga Whakamua, and Whakarongotai o te moana Whakarongotai o te wā are relevant to this plan change.

#### **Nga Korero Kaupapa o Te Taiao**

The document outlines the vision, intent and objectives for compliance with tikanga standards for the protection and management of the environment as determined by Te Runanga O Āti Awa ki Whakarongotai Inc with respect to the following topics:

- Disposal and treatment of effluent;
- Stormwater and runoff;
- Heritage protection and management; and
- Representation.

Plan Change 1L does not create any inconsistency between the District Plan and this document.

#### **Te Haerenga Whakamua**

Input from tāngata whenua was an important part of developing the Proposed District Plan (PDP), with 23 meetings held from December 2010 through October 2012 between Council staff and a Tāngata Whenua working party nominated by Te Whakaminenga o Kāpiti.

The Tāngata Whenua Working Party was established in 2010 as a mechanism for the District's three iwi (Te Āti Awa ki Whakarongotai, Ngāti Raukawa (Ngā Hapū o Ōtaki) and Ngāti Toa Rangātira) to participate in the review of the District Plan. The mandate for the working party was to review all aspects of the District Plan on behalf of Te Whakaminenga o Kāpiti and recommend the direction for iwi policy and the Māori world view within the PDP process. This process resulted in the document Te Haerenga Whakamua being approved by Te Whakaminenga o Kāpiti in March 2012 and endorsed by Council on 27 September 2012. There are no relevant provisions to the plan change and the change is consistent with the principles of this document.

#### **Whakarongotai o te moana Whakarongotai o te wā**

The purpose of this document is to identify the key values, objectives and policies of Te Ātiawa ki Whakarongotai that guide their kaitiakitanga as mana whenua. The key intention of the plan is to be internally focused, however it is deliberately lodged with the Council to be taken into account when district plans are prepared or changed<sup>12</sup>. There are no relevant provisions to the plan change and the change is consistent with the principles of this document.

## **11 Engagement and Feedback**

During the preparation of the Plan Change the Council consulted with statutory parties, as required under clause 3 and 4A of Schedule 1 of the RMA, on or by 20 April 2022 with a 15

<sup>12</sup> <https://teatiawakikipiti.co.nz/key-documents/takw-kaitiakitanga-plan-v6-online/>

working day period (closing 11 May), in which parties could provide feedback. The statutory parties that were consulted on draft Plan Change 1D are: the Ministry for the Environment, other councils within the greater Wellington region, iwi in the Kapiti District, and property owners in Arawhata Road, Tutanekai Street and Ventnor Drive.

No concerns or objections were raised by Ministry for the Environment, iwi, or other councils.

Council received feedback from seven property owners. There were no objections to reclassification of the roads, but some concerns were raised about traffic speeds and volumes in Tutanekai Street and Arawhata Road. These matters have been referred to the Transport and Roading section of the Council. Feedback about traffic speed and volume is out of scope of the plan change as route reclassification does not mean that there will be any increase in traffic speed or volume on any of the streets.

## 12 Scale and Significance

Having regard to the relevant District Plan objectives and relevant provisions of higher order documents, strategies and other documents discussed in Sections 8 to 11 of this report, this section evaluates the scale and significance of the effects of the Plan Change.

The proposed reclassifications:

- Are necessary to ensure a safe and efficient local road network.
- Are limited in scale and geographical area as they are relevant to three roads in the district – Arawhata Road, Tutanekai Street and Ventnor Drive.
- Are relatively minor in that there will be no change to traffic volume, speed or flow, but technical inconsistencies and a past classification error will be corrected.
- Will result in a minor shift from the status quo for properties accessing Tutanekai Street and Arawhata Road by requiring new subdivision and development to provide sufficient on-site manoeuvring space to enable vehicle to leave in a forward direction if on-site parking is proposed.
- Are not related to any significant matter in any higher-level statutory planning document.
- Are not understood to impact negatively on the interests of iwi.
- Will result in positive road safety and efficiency effects that are well understood and carry a low degree of risk and uncertainty.

Feedback from consultation did not identify any concerns with the Plan Change to reclassify the routes in the District Plan's transport network hierarchy.

Overall, the scale and significance of the proposed amendments is low.

Section 32(2)(b) of the RMA requires that, where practicable, the benefits and costs of a proposal are to be quantified. Taking in to account the low scale and significance associated with this plan change, the quantification of costs and benefits is not considered necessary.

## 13 Reasonably Practicable Alternatives

Option 1: Status quo (retain current transport network hierarchy classifications in the District Plan, without change).

Option 2: Plan Change 1D:

- (i) reclassify Arawhata Road to Local Community Connector to accurately reflect its use and function, as a connection with Mazengarb Road;



- (ii) remove the notional road from Ventnor Drive as shown on the District Plan maps;
- (iii) reclassify Ventnor Drive to Neighbourhood Access Route to accurately reflect its use and function; and
- (iv) reinstate Tutanekai Street as a Local Community Connector route to accurately reflect its use and function.

## 14 Evaluation of Plan Change

	<b>Option 1:</b> Status quo (retain current classifications in the District Plan's transport network hierarchy without change)	<b>Option 2:</b> (Plan Change 1D) reclassify Arawhata Road from Neighbourhood Access Route to Local Community Connector, reinstate Tutanekai Street from Neighbourhood Access Route to Local Community Connector, and remove the notional road from Ventnor Drive and correct its classification to Neighbourhood Access Route.
<b>Benefits and Costs: Environmental</b>	Neutral: there are no environmental costs or benefits.	Neutral: there are no environmental costs or benefits.
<b>Benefits and Costs: Economic</b>	<p>Costs: Potential economic costs associated with reduced safety and efficiency of the road network.</p> <p>Benefit: Potential economic benefit to developers who will continue to not need to provide sufficient on-site manoeuvring space to enable vehicles to leave in a forward direction, if proposing on-site car parking.</p>	<p>Costs: Potential additional economic costs to developers to provide sufficient on-site manoeuvring space to enable vehicles to leave in a forward direction.</p> <p>Benefit: roads will be properly classified. Routes will be aligned (e.g. Arawhata Road and Tutanekai Street). Arawhata Road as a Local Community Connector Route better reflects its actual use as an important arterial route in the Kapiti District.</p> <p>It will allow for safer developments on Arawhata Road and Tutanekai Street.</p>
<b>Benefits and Costs: Social</b>	<p>Cost: There is a safety issue for Arawhata Road and Tutanekai Street if new developments do not provide onsite areas for vehicles to turn.</p> <p>Benefit: There are no social benefits.</p>	<p>Benefit: If there are new developments on Arawhata Road or Tutanekai Street that provide access for vehicles these will need to provide onsite turning areas, which will provide for improved road safety and efficiency for people and goods moving around the district.</p>

<b>Benefits and Costs: Cultural</b>	There are no cultural benefits or costs.	There are no cultural benefits or costs.
<b>Economic Growth and Employment Impacts</b>	There are no economic growth and employment impacts.	Benefit: Arawhata Road is recognised under the District Plan as an important local connector that connects people to workplaces, and key local amenities. Greater safety and efficiency of movement of people and goods through the district supports economic growth and employment.
<b>Risks of Acting / Not Acting</b>	Incorrect classification of routes in the District Plan means potential road safety and efficiency effects affecting Arawhata Road and Tutanekai Street are not addressed. Conversely, potential subdivision and development accessing Ventnor Drive will be unnecessarily constrained to require vehicle to leave sites in a forward direction despite the real-world safety and efficiency reasons for requiring this not being relevant to Ventnor Drive.	Option 2 will eliminate the risks identified under Option 1.  There are no risks associated with this option.
<b>Scale and Significance</b>	District-wide scale and low significance.	District-wide scale and low significance.
<b>Efficiency</b>	Retaining the current classifications could create issues for property owners or developers in future through the creation of unsafe vehicle departures from sites.  The current classifications do not reflect actual use of the roads in question.  This option is less efficient at achieving the objectives of the district plan and the objectives of the plan change, as it would leave the identified road safety and efficiency effects unaddressed.	Reclassifying the routes will reflect the actual use of the roads in question. It will allow for new developments on Arawhata Road and Tutanekai Street to be safer, and correctly classifies Ventnor Drive and Tutanekai Street under the District Plan.  This option would efficiently achieve the objectives of the district plan and the objectives of the plan change by addressing and correcting identified road safety and efficiency effects.

<b>Effectiveness</b>	<p>The current classification is not appropriate and therefore not effective.</p> <p>This option is not effective at achieving the objectives of the district plan. The identified road safety and efficiency issues would remain at odds with the direction of the objectives of the district plan and would fail to address the objectives of the plan change.</p>	<p>Option 2 will ensure the District Plan's transport network hierarchy is up to date and reflects actual use of community routes.</p> <p>This option is effective at achieving the objectives of the district plan and the plan change as it will ensure the road hierarchy operates in a safe and efficient manner.</p>
<b>Overall evaluation</b>	<p><b>Option 2 (Plan Change 1D) will best reflect the use of these roads and their route-level in the District Plan's transport network hierarchy. It is the most efficient and effective method to achieve the objectives of the District Plan and the plan change. Ensuring correct route classification under the District Plan will address the road safety and efficiency issues identified under the current classification of the roads. Plan Change 1D is the most appropriate method to achieve Part II of the RMA.</b></p>	

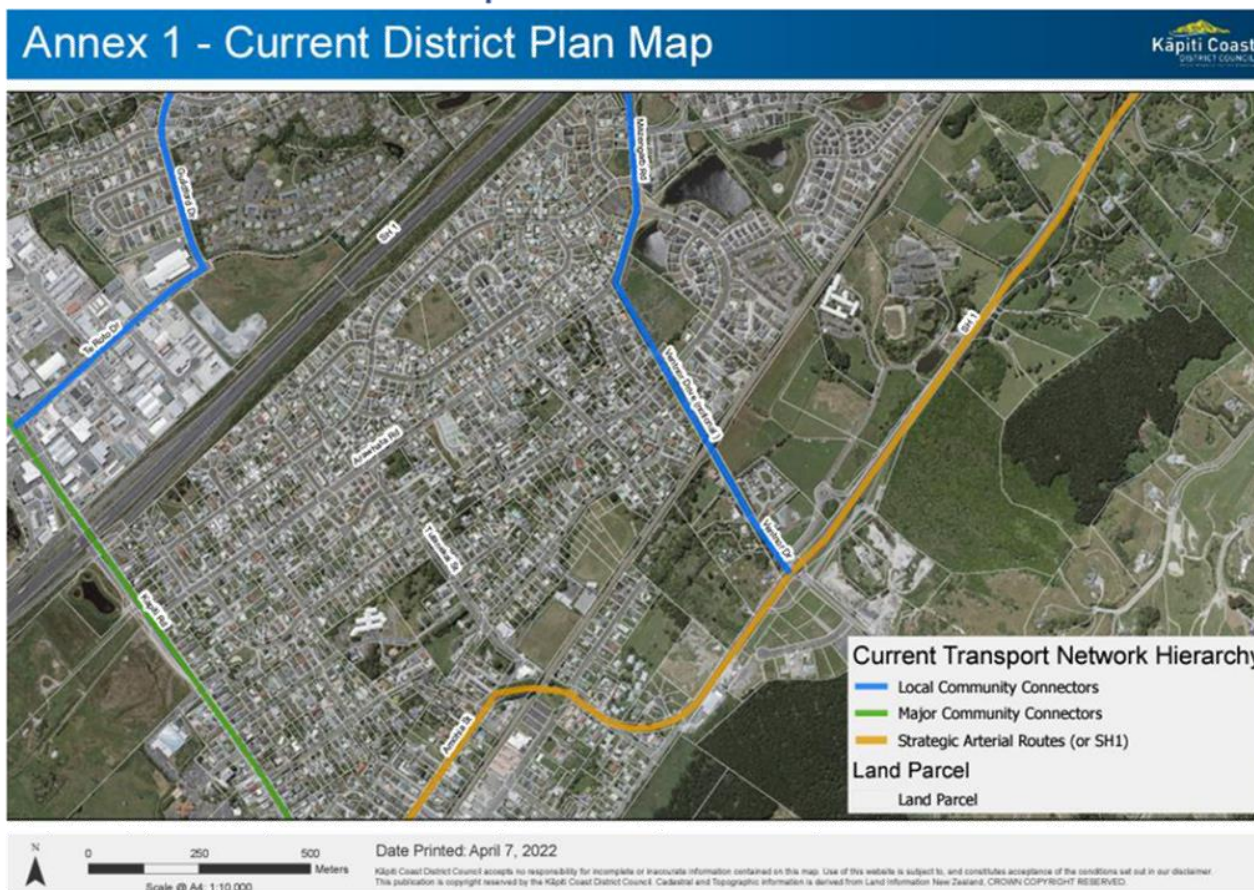
## 15 Overall Conclusion

This evaluation has been undertaken in accordance with section 32 of the RMA in order to identify the need, benefits and costs and the appropriateness of the proposed plan change having regard to its effectiveness and efficiency relative to other means in achieving the purpose of the RMA.

The evaluation demonstrates that this proposed plan change is the best option as it:

- (i) Best gives effect to the higher order statutory planning documents
- (ii) Is the most efficient and effective way to achieve the purpose of the RMA, the District Plan objectives, and the objectives of the plan change
- (iii) Addresses the identified issue.

## Annex 1: Current District Plan Map





**Annex 2 – Map Showing proposed District Plan changes****Annex 2 - Map showing proposed District Plan changes**

**Kapiti Coast District Plan  
Proposed Plan Change 1F  
(Modification of Indigenous  
Vegetation and Update to Key  
Indigenous Tree Species List)  
and Section 32 Evaluation  
Report**

June 2022

## Proposed Plan Change 1F - Amendments to Rule ECO-R6 and ECO-Table 1

Notes:

1. Deletion is shown as strike-through (example)
2. Addition is shown as underlined (example)

*Note: In accordance with section 86B(3)(b) and (c) the following proposed changes to the Kapiti Coast District Plan have immediate legal effect on and from the date on which this plan change is publicly notified under clause 5 of Schedule 1 of the Resource Management Act 1991. This note is for explanatory purposes and does not form part of the plan change.*

### Amend rule ECO-R6 as follows:

<b>ECO-R6</b>	<p>The modification of <del>any</del> indigenous vegetation, that is:</p> <ol style="list-style-type: none"> <li>1. located within an ecological site listed in <u>Schedule 1</u> <del>excluding trees on an urban environment allotment that are not listed in Schedule 2</del>; or</li> <li>2. a key indigenous tree listed in <u>ECO-Table 1</u> and exceeds either of the maximum size criteria diameter or height (excluding trees planted by humans; and <del>excluding trees on an urban environment allotment that are not listed in Schedule 2</del>); or</li> <li>3. a key indigenous tree listed in <u>Schedule 2</u>; or</li> <li>4. a rare and threatened vegetation species listed in <u>Schedule 3</u>; or</li> <li>5. in or within 20 metres of a waterbody or the coastal marine area where it not within the urban environment, (excluding planted vegetation);</li> </ol> <p>is a controlled activity within the following zones and precincts:</p> <ol style="list-style-type: none"> <li>a) General Residential Zone</li> <li>b) Ngārara Development Area</li> <li>c) Waikanae North Development Area</li> <li>d) Airport Zone</li> <li>e) Town Centre Zone</li> <li>f) Metropolitan Centre Zone</li> <li>g) Hospital Zone</li> <li>h) General Industrial Zone</li> <li>i) Local Centre Zone</li> <li>j) Mixed Use Zone</li> <li>k) Rural Lifestyle Zone</li> <li>l) Rural Eco-Hamlet Precinct</li> <li>m) Future Urban Zone</li> <li>n) Open Space Zone</li> </ol>
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Controlled Activity	Standards	Matters of Control
	<p>1. The <i>modification</i> of <i>indigenous vegetation</i> must be limited to:</p> <ul style="list-style-type: none"> <li>• <u>up to a maximum of two indigenous vegetation trees within a five year period on an allotment.</u></li> <li>• <i>modification</i> of <i>vegetation trees</i> that <i>is</i> <u>are</u> damaged, dead or dying; or <i>has</i> sustained storm damage; or <i>is</i> <u>are</u> fatally diseased such that:</li> </ul> <ol style="list-style-type: none"> <li>1. <ul style="list-style-type: none"> <li>a. <del>the indigenous vegetation is no longer independently viable; or</del></li> <li>ii. <u>the tree(s) presents a demonstrable imminent risk of serious harm to people or property a building(s) or risks significantly damaging surrounding protected vegetation; and</u></li> <li>ii. <u>The demonstrable imminent risk of serious harm to people or buildings cannot be addressed via trimming under rule ECO-R3.</u></li> <li>iii. <u>an arborist who has attained the New Zealand Qualifications Authority National Certificate New Zealand Diploma in Arboriculture Level 4 or equivalent qualification has</u></li> </ul> </li> </ol>	<ol style="list-style-type: none"> <li>(i) The <u>necessity</u>, extent and method of <u>the proposed vegetation removal modification</u> of indigenous <i>trees</i> to address <u>the imminent demonstrated risk.</u></li> <li>(ii) The <u>species</u>, <u>size</u>, <u>location</u>, and timing of planting of <u>any plant species replacement indigenous vegetation</u> to <u>compensate</u> <u>remedy</u> for the loss of indigenous <i>tree(s)</i> <u>vegetation.</u></li> <li>(iii) Any remedial work necessary to restore the site after the <i>modification</i> activity is complete.</li> <li>(iv) Public safety.</li> <li>(v) Measures to avoid, remedy or mitigate <i>effects</i> on <i>tāngata whenua</i> values.</li> <li>6. <u>Methods and activities to ensure the maintenance of indigenous biodiversity.</u></li> <li>7. <u>Methods and activities to ensure positive ecological contributions of the modified trees on the application property.</u></li> </ol>



certified in writing  
that Conditions (i) and  
(ii) above is are met;  
or

- b. c. *Modification of*  
planted *indigenous vegetation*  
where the applicant  
can demonstrate that it was  
not legally required to be  
planted for ecological  
restoration or enhancement  
purposes or as a *biodiversity*  
*offset*.

**Note:** For *notable trees* listed  
in [Schedule 8](#) see [TREE-R2](#), [TREE-R3](#), and [TREE-R4](#).

**Criteria for notification**

The written approval of persons will  
not be required and applications  
under this rule will not be served on  
any person or notified.

**Amend ECO-Table 1 as follows:**

Common Name	Species	Māori Name	Dimensions That Relate to Rules	
			Diameter (circumference in cm)	Height (m)
White tea tree	<del>Kunzea robusta</del> or <del>Kunzea amathicola</del>	Kānuka	<del>15.0 (47)</del>	<del>3</del>
Coastal kānuka	<u>Kunzea amathicola</u>	Rawiritoa, kānuka	<u>5.0 (15)</u>	<u>1</u>
Kānuka	<u>Kunzea robusta</u>	Rawirinui, kānuka	<u>15.0 (47)</u>	<u>3</u>

## Proposed Plan Change 1F – Section 32 Evaluation

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## 1 Overview and Purpose

### 1.1 Introduction to the resource management issue

This evaluation report has been prepared, in accordance with section 32 of the Resource Management Act 1991 (RMA), to support a proposed change to the Operative Kapiti Coast District Plan 2021 (the District Plan).

This section 32 evaluation report addresses how the District Plan:

1. provides for the *modification*<sup>1</sup> of significant indigenous vegetation as a controlled activity under Rule ECO-R6; and
2. identifies and distinguishes between two species of indigenous kānuka (*Kunzea robusta* and *Kunzea amathicola*) by diameter and height.

Implementation of this rule has demonstrated the rule can be used to modify (including remove) large amounts of protected significant indigenous vegetation, and this can result in significant adverse effects on significant indigenous vegetation and habitats of significant indigenous fauna. This outcome is at odds with the relevant objectives and policies of the District Plan, the Regional Policy Statement for the Wellington Region (RPS), and Section 6 (c) of the RMA.

The Council has a specific function under Section 31()(b)(iii) of the RMA to maintain indigenous biodiversity. Implementation of Rule ECO-R6 has identified unanticipated outcomes leading to biodiversity loss that are at odds with this requirement.

The purpose of the plan change is to rectify this by reducing the scale of modification possible under the controlled activity rule while ensuring the intent of the rule is largely retained – i.e. to provide a simple consent path for the modification of indigenous vegetation where permitted activity trimming is insufficient to address an imminent significant risk to other indigenous vegetation, or the health and safety of people and buildings. To facilitate this, the plan change also proposes to shift the focus of the rule from indigenous vegetation to indigenous trees.

It is important to note the *trimming*<sup>2</sup> of protected significant indigenous vegetation for the following reasons will remain a permitted activity under rule ECO-R3:

- Trimming that is necessary to avoid an imminent threat to the safety of persons or damage to lawfully established buildings;
- Trimming of indigenous vegetation that is broken, deadwood or chronically diseased;
- Trimming that is necessary to provide for the ongoing safe and efficient operation and maintenance of telecommunications, radio communication and other *network utility*;

There are a number of other permitted activity standards for trimming, however the above are those that are also addressed under the status quo for ECO-R6. The existence of the permitted activity trimming standards will limit the impact of the proposed changes to ECO-R6, as the

<sup>1</sup> The District Plan definition for modification is: **Modification** of vegetation means the felling, removal, damage or destruction of the vegetation including the following activities within the vegetation drip line:

- a) work that involves compaction, sealing or removal of soil; or
- b) drilling or excavation; or
- c) discharge of toxic substances;

but excludes any *trimming* authorised as a *permitted activity* under this Plan.

<sup>2</sup> The District Plan definition for trimming is: **Trimming** of vegetation means:

1. pruning of vegetation and *trees* including the removal of broken branches, deadwood or diseased vegetation;
2. selective branch removal to increase light and air movement or to improve *tree* health; and
3. but excludes *modification*.

proposed changes will only affect persons wishing to modify significant indigenous vegetation beyond *trimming*.

The plan change also seeks to update and correct the indigenous vegetation species table *ECO-Table 1*. This table identifies the species, circumference and heights of indigenous vegetation that is protected under specific rules within the Ecosystems and Indigenous Biodiversity chapter. Currently, the table incorrectly identifies two species of Kānuka as having the same height and circumference measurements at maturity. As identified in the ecology advice contained in Appendix 1, this is incorrect. One of the species is a much smaller coastal species that has significantly less height and circumference at maturity than the other species. If left unaddressed, this would mean the smaller coastal Kānuka species would never qualify for protection under the relevant rules despite their considerable age and ecological significance.

## 2 Strategic Directions

The following objectives from the Strategic Directions chapter of the District Plan are relevant to this plan change:

### DO-O1 Tāngata Whenua

To work in partnership with the *tāngata whenua* of the District in order to maintain *kaitiakitanga* of the District's resources and ensure that decisions affecting the natural *environment* in the District are made in accordance with the principles of Te Tiriti o Waitangi (Treaty of Waitangi).

This strategic objective outlines how the Council approaches its partnership approach with *tāngata whenua* when carrying out its resource management functions and duties. Specifically, the Council has engaged with all three iwi authorities<sup>3</sup> during the development of this plan change, and considered all input from *mana whenua* in the development of the proposed provisions in a genuine and meaningful way.

### DO-O2 Ecology and Biodiversity

To improve indigenous biological diversity and ecological resilience through:

- protecting areas of *significant indigenous vegetation* and *significant habitats of indigenous fauna*;
- encouraging restoration of the ecological integrity of indigenous ecosystems;
- enhancing the health of terrestrial and aquatic ecosystems; and
- enhancing the *mauri* of *waterbodies*.

This strategic objective is relevant as the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna is a matter of national importance under section 6 (c) of the RMA. In its current form, Rule ECO-R6 fails to appropriately recognise and provide for this matter of national importance.

### DO-O3 Development Management

To maintain a consolidated urban form within *existing urban areas* and a limited number of *identified growth areas* which can be efficiently serviced and integrated with existing townships, delivering:

<sup>3</sup> The iwi authorities are Te Rūnanga o Toa Rangatira, Te Atiawa ki Whakarongotai, and Ngā Hapū o Ōtaki.



2. urban areas which maximise the efficient end use of energy and integration with *infrastructure*;
3. a variety of living and working areas in a manner which reinforces the function and vitality of centres;
4. resilient communities where *development* does not result in an increase in *risk* to life or severity of damage to property from *natural hazard* events;
5. higher residential densities in locations that are close to centres and public *open spaces*, with good access to public transport;
6. management of *development* in areas of special character or amenity so as to maintain, and where practicable, enhance those special values;
7. sustainable natural processes including *freshwater* systems, areas characterised by the *productive potential* of the *land*, ecological integrity, identified landscapes and features, and other places of significant natural amenity;
8. an adequate supply of housing and areas for business/employment to meet the needs of the District's anticipated population which is provided at a rate and in a manner that can be sustained within the finite carrying capacity of the District; and
9. management of the location and *effects* of potentially incompatible land uses including any interface between such uses.

This strategic objective is relevant as it seeks to maintain a compact urban form that delivers sustainable natural processes including ecological integrity. Many areas of significant indigenous vegetation are located within existing urban areas or are located on land that is zoned for urban development that is yet to occur.

#### DO-04 Coastal Environment

To have a coastal environment where:

- a. areas of outstanding *natural character* and *high natural character*, *outstanding natural features and landscapes*, areas of *significant indigenous vegetation* and *significant habitats of indigenous fauna* are identified and protected;
- b. areas of outstanding *natural character* and *high natural character* are restored where degraded;
- c. the *effects* of inappropriate *subdivision*, use and *development* are avoided, remedied, or mitigated;
- d. public access to and along the coast to facilitate active and passive recreational use is maintained and enhanced while managing inappropriate *vehicle access*; and
- e. Inappropriate *development* does not result in further loss of coastal dunes in the area mapped as the coastal environment.

This strategic objective is relevant as many identified areas of significant indigenous vegetation and significant habitats of indigenous fauna on the Kāpiti Coast are found within the coastal environment. The objective aims to identify and protect areas of significant indigenous vegetation and significant habitats of indigenous fauna within the coastal environment.

In addition, the effects of subdivision, use and development that results in the loss of indigenous biodiversity within the coastal environment may be considered inappropriate under clause 3 of the objective.

**DO-O8 Strong Communities**

To support a cohesive and inclusive community where people:

- have easy access and connectivity to quality and attractive public places and local social and community services and facilities;
- have increased access to locally produced food, energy and other products and resources;
- have improved health outcomes through opportunities for active living or access to health services; and
- have a strong sense of safety and security in public and private spaces.

This strategic objective is relevant as it aims to ensure people have a strong sense of safety in public and private spaces. One of the reasons for rule ECO-R6 is to enable people to address risks to the health and safety of themselves and buildings, by providing a simple consent path to remove indigenous vegetation that poses a safety risk. This objective has links to the purpose of the RMA, which includes managing the use, development and protection of natural and physical resources in a way that enables people and communities to provide for their social, economic and cultural wellbeing and for their health and safety.

### 3 Response to the Issue: Proposed Plan Change 1F

The proposed amendments to the District Plan rule ECO-R6 and ECO-Table 1 are contained in the Proposed Plan Change 1F section of this report, above this section 32 evaluation report. In summary the proposed amendments:

1. change the standards to limit modification to indigenous *trees*<sup>4</sup> rather than all *indigenous vegetation*<sup>5</sup>;
2. introduce a limit on the number of trees that can be modified on an allotment to two indigenous trees within a five year period;
3. focus the standards of the rule to addressing demonstrable imminent risk of serious harm to people or property, or risk of significantly damaging surrounding protected vegetation;
4. update and upgrade the required level of qualification for an arborist to identify risks posed by trees;
5. change and add to the matters of control to address potential adverse effects on indigenous biodiversity, including methods to ensure positive ecological contributions of the modified vegetation on the application site; and
6. update ECO-Table 1 to correct errors to the circumference and height specifications for Coastal kānuka (*Kunzea amathicola*).

### 4 Section 32 Requirements

Section 32 of the Resource Management Act 1991 (RMA) requires, broadly, that before advancing plan provisions a Council must evaluate whether the proposed provisions are the most appropriate way to achieve the purpose of the RMA.

<sup>4</sup> The District Plan defines trees as: **Trees** means a woody plant 3 metres or greater in *height* includes a Tree Fern, but excludes a vine with a stem diameter less than 50 mm.

<sup>5</sup> The District Plan defines trees as: **Indigenous vegetation** means vegetation or plant species, including trees, which are native to the Kapiti Coast District. Indigenous Vegetation does not include "indigenous vegetation" as defined in and regulated by the NES-PF.

Section 32 (1)(a) of the RMA requires that an evaluation must examine the extent to which any proposed objectives are the most appropriate way to achieve the purpose of the RMA. No new objectives, and no changes to operative Plan objectives, are proposed by PC1F. The relevant operative Plan objectives remain appropriate.

Section 32 (1)(b) of the RMA requires an evaluation of whether the provisions proposed by PC1F are the most appropriate way to achieve the District Plan objectives. Section 32 (3) clarifies that, for a plan change, this evaluation must consider both the objective of the plan change (the purpose of the plan change) and the operative District Plan objectives, to the extent that those objectives remain relevant. The evaluation is required to:

- a. identify and consider other reasonably practicable options for achieving the objectives (s. 32 (1) (b) (i)); and
- b. assess the efficiency and effectiveness of the proposed provisions in achieving the objectives (s. 32 (1) (b) (ii)), and this is most usefully done by comparison with the reasonably practicable alternative options.

The assessment of efficiency and effectiveness required by s. 32 (1) (b) (ii) is required to identify and assess the benefits and costs of the environmental, economic, social and cultural effects anticipated from implementing the proposed provisions. This must include consideration of opportunities for economic growth and employment that are anticipated to be provided or reduced. Benefits and costs are to be quantified, if practicable. The s. 32 (1) (b) (ii) assessment is also required to assess the risk of acting or not acting, if there is insufficient information about the subject matter of the provisions.

The evaluation is required to contain a level of detail that corresponds to the scale and significance of the environmental, economic, social and cultural effects anticipated from implementing the proposal.

## 5 Purpose of the Plan Change

PC1F is an 'amending proposal' for the purpose of section 32. This evaluation is required to consider the objective or purpose of the proposed Plan change, in addition to the objectives of the operative Plan.

Currently, the District Plan controlled activity rule ECO-R6 provides for the modification<sup>6</sup> of indigenous vegetation, including indigenous vegetation that is identified and protected as ecological sites, or is a rare and threatened vegetation species where:

- a) *The modification of indigenous vegetation must be limited to:*
  - a. *modification of vegetation that is damaged, dead or dying; or has sustained storm damage; or is fatally diseased such that:*
    - i. *the indigenous vegetation is no longer independently viable or presents a risk of serious harm to people or property or risks damaging surrounding protected vegetation; and*
    - ii. *an arborist who has attained the New Zealand Qualifications Authority National Certificate in Arboriculture Level 4 or equivalent qualification has certified in writing that Condition (i) above is met; or*

<sup>6</sup> Definition: **modification** of vegetation means the felling, removal, damage or destruction of the vegetation including the following activities within the vegetation drip line:

- 1. work that involves compaction, sealing or removal of soil; or
- 2. drilling or excavation; or
- 3. discharge of toxic substances;

but excludes any *trimming* authorised as a *permitted activity* under this Plan.

*b. Modification of planted indigenous vegetation where the applicant can demonstrate that it was not planted for ecological restoration or enhancement purposes or as a biodiversity offset.*

There are no limits on the amount of indigenous vegetation that can be modified under the existing rule, and any actual and potential ecological effects are not a relevant matter. The 'viability' of indigenous vegetation is required to be determined by an arborist, who are unlikely to have qualifications and experience in ecology to enable them to identify the potential resulting adverse ecological effects that could occur through the use of the rule at large scale.

The intent of the rule is to enable the modification of dangerous, dying or diseased vegetation to be removed where the vegetation is no longer independently viable and poses a risk to the health and safety of people, property and other protected vegetation.

Implementation of this rule has identified an instance where the Council was required to issue a controlled activity resource consent for the removal of 104 protected indigenous trees from a lowland coastal remnant ecological site. The actual and potential adverse effects on the indigenous biodiversity values that would result from this scale of removal of mature indigenous trees from the ecological site, and the issues associated with relying on advice from an arborist to grant the resource consent are discussed in the independent ecological report prepared by Cardno (Appendix 1). It is noteworthy that Council resource consent records show the Council has issued only two resource consents under the rule since it had legal effect upon public notification in September 2015, and one of those resource consents is that described above.

Following the granting of the controlled activity resource consent for the removal of 104 protected trees, a subdivision consent application was lodged for the same site. It appears the modification (removal) of the 104 indigenous trees was carried out under the controlled activity resource consent to assist, at least in part, in the preparation of the site for the desired layout of the subdivision. An assessment of the resulting adverse ecological effects was not carried out under the controlled activity resource consent, therefore the use of the rule in this way enabled the consent path for the subdivision consent application to proceed without having to address the adverse effects on indigenous vegetation and biodiversity authorised under the controlled activity rule. The resulting adverse effects on the significant indigenous vegetation (and potentially, fauna) are described by the independent ecologist as potentially significant adverse effects. This outcome is contrary to Part II of the RMA and the objectives and policies of the district plan. It also means the status quo can result in the Council failing to meet its duty to maintain indigenous biodiversity under section 31 of the RMA.

The purpose of the plan change is to:

1. limit the extent of vegetation modification possible under the rule, and to narrow its focus to address safety issues associated with indigenous trees.
2. ensure future resource consent applications under the rule do not result in significant adverse effects on indigenous biodiversity.
3. ensure the Council is able to meet its duty to maintain indigenous vegetation by requiring a restricted discretionary activity resource consent for proposals that propose modification beyond the controlled activity rule.
4. ensure proposals that would result in significant adverse effects on indigenous biodiversity are processed as a restricted discretionary activity with expert ecological input into the decision making processes as required.
5. ensure arborists supporting resource consent applications under ECO-R6 are appropriately qualified to assess health and safety risks posed by trees.

Permitted activity standards for the trimming of protected indigenous vegetation to address safety risks and to trim dead and chronically diseased branches will remain unchanged.



## 6 Regulatory and policy direction

In carrying out a section 32 analysis, an evaluation is required of how the proposal achieves the purpose and principles contained in Part 2 of the RMA.

Section 5 sets out the purpose of the RMA, which is to promote the sustainable management of natural and physical resources.

Sustainable management *means managing the use, development, and protection of natural and physical resources to enable people and communities to provide for their social, economic and cultural wellbeing and for their health and safety, while -*

1. *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
2. *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
3. *avoiding, remedying, or mitigating any adverse effects of activities on the environment’.*

In achieving this purpose, authorities also need to recognise and provide for the matters of national importance identified in section 6, have particular regard to other matters referred to in section 7 and take into account the principles of the Treaty of Waitangi referred to in section 8.

### RMA Section 6 – Matters of national significance

The section 6 matters relevant to this plan change are:

Section	Relevant matters
Section 6(a)	<p>This section of the Act requires the Council to recognise and provide for, as a matter of national importance the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development.</p> <p>Many indigenous trees and areas of significant vegetation and significant habitats of indigenous fauna are located within the coastal environment.</p>
Section 6(c)	<p>This section of the Act requires the Council to recognise and provide for, as a matter of national importance the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna.</p> <p>This is directly relevant to the plan change.</p>
Section 6(e)	<p>This section of the Act requires the Council to recognise and provide for, as a matter of national importance, the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.</p> <p>This is relevant to the plan change as one of the criteria used in the identification of areas of significant biodiversity in the district plan (as required by the RPS) is:</p> <p><i>Tāngata whenua values: the ecosystem or habitat contains characteristics of special spiritual, historical or cultural significance to tāngata whenua, identified in accordance with tikanga Māori.</i></p>

### RMA Section 7 – Other matters

Section 7 of the Act requires the Council in exercising its functions and powers in relation to managing the use, development and protection of natural and physical resources to have particular regard to a number of matters. The section 7 matters relevant to this plan change are:

Section	Relevant matters
Section 7(a)	Kaitiakitanga
7(aa)	The ethic of stewardship
7(b)	The efficient use and development of natural and physical resources
7(c)	The maintenance and enhancement of amenity values
7(d)	Intrinsic values of ecosystems
7(f)	Maintenance and enhancement of the quality of the environment
7(g)	Any finite characteristic of natural and physical resources

These section 7 matters are all relevant to the plan change. The maintenance and enhancement of the quality of the environment, the intrinsic values of ecosystems, and the recognition of any finite characteristic of natural and physical resources are directly relevant to the significant indigenous vegetation and habitat types addressed by the plan change. Many of the lowland coastal remnants of significant vegetation and habitats managed under the rule are a finite resource in the district, with only a small fraction of them remaining. All these matters are linked to the Council's section 31 duty to maintain indigenous biodiversity.

The feeling of safety from hazards in private spaces can contribute toward the maintenance and enhancement of amenity values.

### RMA Section 8 – Treaty of Waitangi

The section 8 principles that are relevant to this topic are

Section	Relevant matters
Section 8	<p>Section 8 requires the Council to take into account the principles of the Treaty of Waitangi. This requires the Council to work in partnership with mana whenua to actively protect their interests.</p> <p>The Council and mana whenua have worked in the spirit of partnership to review and develop this plan change.</p>

### RMA Section 31 – Maintenance of indigenous biological diversity

Section 31(1)(b)(iii) requires that every territorial authority, as a function of giving effect to the purpose of the RMA, controls the actual or potential effects of the use of land including where necessary for the maintenance of indigenous biological biodiversity. The plan change addresses this section 31 requirement.

### RMA Section 76 - Urban Environment Allotments

Section 76 (4A) - (4D) of the RMA put in place specific identification requirements for district plan rules seeking to protect trees on "urban environment allotments". The district plan rules already give effect to these requirements through the structure and content of the relevant rules and schedules. The plan change does not propose any changes to this rule framework, and is therefore in compliance with section 76(4A – (4D) of the RMA.

### RMA Section 86B - Legal effect of proposed provisions

Under section 86B of the RMA, rules in proposed plans that protect areas of significant indigenous vegetation or habitats of indigenous fauna have immediate legal effect from the date of notification. As the plan change proposes amendments to a rule that protects areas of significant indigenous vegetation or habitats of indigenous fauna, it will have immediate legal effect from the date of public notification.

### RMA Section 104 - Offsetting and compensation

Section 104(1) (ab) states that when considering an application for a resource consent, the consent authority must have regard to any measure proposed or agreed to by the applicant for the purpose of ensuring positive effects on the environment to offset or compensate for any adverse effects on the environment that will or may result from allowing the activity. This is requirement for the resource consent process, and it is not required to specify this in any relevant district plan rules. However, as the rule is a controlled activity, to assist the Council in considering positive effects, the plan change proposes to add specific matters of control that give the Council the ability to ensure positive ecological effects, and in doing so ensure indigenous biodiversity is maintained in accordance with section 31 of the RMA.

## 6.1 National Instruments

Under section 75(3) of the RMA, a district plan must give effect to:

- (a) any national policy statement; and
- (b) any New Zealand Coastal Policy statement (the NZCPS);
- (ba) any national planning standard; and
- (c) any regional policy statement.

The relevance of these higher-level statutory planning documents is identified below.

### National Policy Statements (NPS) & New Zealand Coastal Policy Statement

There are currently fits:

- 1) National Policy Statement for Freshwater Management 2020 (NPS-FM)
- 2) National Policy Statement on Urban Development 2020 (NPS-UD)
- 3) National Policy Statement for Renewable Electricity Generation 2011 (NPS-REG)
- 4) New Zealand Coastal Policy Statement 2010 (NZCPS)
- 5) National Policy Statement for Electricity Transmission 2008 (NPS-ET)

Of these NPS only the NZCPS is relevant.

The purpose of the NZCPS is to state objectives and policies in order to achieve the purpose of the RMA in relation to the protection and enhancement of the coastal environment of New Zealand. It took effect on 3 December 2010.

The following NZCPS provisions are relevant to the plan change:

#### **Objective 1**

*To safeguard the integrity, form, functioning and resilience of the coastal environment and sustain its ecosystems, including marine and intertidal areas, estuaries, dunes and land, by:*

- *maintaining or enhancing natural biological and physical processes in the coastal environment and recognising their dynamic, complex and interdependent nature;*

- *protecting representative or significant natural ecosystems and sites of biological importance and maintaining the diversity of New Zealand's indigenous coastal flora and fauna; and*
- *maintaining coastal water quality, and enhancing it where it has deteriorated from what would otherwise be its natural condition, with significant adverse effects on ecology and habitat, because of discharges associated with human activity.*

### **Objective 3**

*To take account of the principles of the Treaty of Waitangi, recognise the role of tangata whenua as kaitiaki and provide for tangata whenua involvement in management of the coastal environment by:*

- (i) *recognising the ongoing and enduring relationship of tangata whenua over their lands, rohe and resources;*
- (ii) *promoting meaningful relationships and interactions between tangata whenua and persons exercising functions and powers under the Act;*
- (iii) *incorporating mātauranga Māori into sustainable management practices; and*
- (iv) *recognising and protecting characteristics of the coastal environment that are of special value to tangata whenua.*

### **Objective 6**

*To enable people and communities to provide for their social, economic, and cultural wellbeing and their health and safety, through subdivision, use, and development, recognising that:*

- (i) *the protection of the values of the coastal environment does not preclude use and development in appropriate places and forms, and within appropriate limits;*
- (ii) *some uses and developments which depend upon the use of natural and physical resources in the coastal environment are important to the social, economic and cultural wellbeing of people and communities;*
- (iii) *functionally some uses and developments can only be located on the coast or in the coastal marine area;*
- (iv) *the coastal environment contains renewable energy resources of significant value;*
- (v) *the protection of habitats of living marine resources contributes to the social, economic and cultural wellbeing of people and communities;*
- (vi) *the potential to protect, use, and develop natural and physical resources in the coastal marine area should not be compromised by activities on land;*
- (vii) *the proportion of the coastal marine area under any formal protection is small and therefore management under the Act is an important means by which the natural resources of the coastal marine area can be protected; and*
- (viii) *historic heritage in the coastal environment is extensive but not fully known, and vulnerable to loss or damage from inappropriate subdivision, use, and development.*

### **Policy 2 The Treaty of Waitangi, tangata whenua and Māori heritage**

*In taking account of the principles of the Treaty of Waitangi (Te Tiriti o Waitangi), and kaitiakitanga, in relation to the coastal environment:*

- a. *recognise that tangata whenua have traditional and continuing cultural relationships with areas of the coastal environment, including places where they have lived and fished for generations;*

- b. involve iwi authorities or hapū on behalf of tangata whenua in the preparation of regional policy statements, and plans, by undertaking effective consultation with tangata whenua; with such consultation to be early, meaningful, and as far as practicable in accordance with tikanga Māori;
- c. with the consent of tangata whenua and as far as practicable in accordance with tikanga Māori, incorporate mātauranga Māori in regional policy statements, in plans, and in the consideration of applications for resource consents, notices of requirement for designation and private plan changes;
- d. provide opportunities in appropriate circumstances for Māori involvement in decision making, for example when a consent application or notice of requirement is dealing with cultural localities or issues of cultural significance, and Māori experts, including pūkenga, may have knowledge not otherwise available;
- e. take into account any relevant iwi resource management plan and any other relevant planning document recognised by the appropriate iwi authority or hapū and lodged with the council, to the extent that its content has a bearing on resource management issues in the region or district; and
  - i. where appropriate incorporate references to, or material from, iwi resource management plans in regional policy statements and in plans; and
  - ii. consider providing practical assistance to iwi or hapū who have indicated a wish to develop iwi resource management plans;
- f. provide for opportunities for tangata whenua to exercise kaitiakitanga over waters, forests, lands, and fisheries in the coastal environment through such measures as:
  - i. bringing cultural understanding to monitoring of natural resources;
  - ii. providing appropriate methods for the management, maintenance and protection of the taonga of tangata whenua;
  - iii. having regard to regulations, rules or bylaws relating to ensuring sustainability of fisheries resources such as taiāpure, mahinga mātaītai or other non commercial Māori customary fishing; and
- g. in consultation and collaboration with tangata whenua, working as far as practicable in accordance with tikanga Māori, and recognising that tangata whenua have the right to choose not to identify places or values of historic, cultural or spiritual significance or special value:
  - i. recognise the importance of Māori cultural and heritage values through such methods as historic heritage, landscape and cultural impact assessments; and
  - ii. provide for the identification, assessment, protection and management of areas or sites of significance or special value to Māori, including by historic analysis and archaeological survey and the development of methods such as alert layers and predictive methodologies for identifying areas of high potential for undiscovered Māori heritage, for example coastal pā or fishing villages.

**Policy 11 Indigenous biological diversity (biodiversity)**

To protect indigenous biological diversity in the coastal environment:

1. avoid adverse effects of activities on:



- a. *indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System lists;*
  - b. *taxa that are listed by the International Union for Conservation of Nature and Natural Resources as threatened;*
  - c. *indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare;*
  - d. *habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare;*
  - e. *areas containing nationally significant examples of indigenous community types; and*
  - f. *areas set aside for full or partial protection of indigenous biological diversity under other legislation; and*
2. *avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on:*
- a. *areas of predominantly indigenous vegetation in the coastal environment;*
  - b. *habitats in the coastal environment that are important during the vulnerable life stages of indigenous species;*
  - c. *indigenous ecosystems and habitats that are only found in the coastal environment and are particularly vulnerable to modification, including estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass and saltmarsh;*
  - d. *habitats of indigenous species in the coastal environment that are important for recreational, commercial, traditional or cultural purposes;*
  - e. *habitats, including areas and routes, important to migratory species; and*
  - f. *ecological corridors, and areas important for linking or maintaining biological values identified under this policy.*

#### National Environmental Standards

There are currently nine national environmental standards (NES):

1. National Environmental Standards for Freshwater 2020 (NES-F)
2. National Environmental Standards for Plantation Forestry 2017 (NES-PF)
3. National Environmental Standards for Telecommunication Facilities 2016 (NES-TF)
4. National Environmental Standards for Air Quality 2011 (NES-AQ)
5. National Environmental Standards for Assessing and Managing Contaminants in Soil to Protect Human Health 2011
6. National Environmental Standards for Electricity Transmission Activities 2009 (NES-ETA)
7. National Environmental Standards for Sources of Drinking Water 2007 (NES-SDW)
8. National Environmental Standards for Marine Aquaculture 2020 (NES-MA)
9. National Environmental Standards for Storing Tyres Outdoors 2021 (NES-STO)

The NES-F manages the modification of indigenous vegetation within and in close proximity to wetlands, however the implementation of this NES falls under the jurisdiction of the Regional Council.

The NES-PF manages the modification of indigenous vegetation within plantation forestry. However, under Regulation 6(2)(b) of the NES-PF, rules in the District Plan may be more stringent than those in the NES if protecting significant natural areas. Rules in the District Plan that have been developed to give effect to Policy 11 of the NZCPS may also be more stringent than the rules under the NES-PF.

Regulation 93(2)(d) of the NES-PF permits the clearance of indigenous vegetation in a significant natural area associated with a plantation forestry activity if the indigenous vegetation is overgrowing a forestry track that has been used within the last 50 years.

The NES-ETA manages the modification vegetation in relation to existing transmission lines. The NES sets out the consenting pathway for the modification of vegetation, requiring controlled or restricted discretionary activity consent if the vegetation proposed for modification is restricted by a rule in a plan. The Kāpiti Coast District Council is responsible for the implementation of these vegetation provisions.

Regulations 44, 45, 48 and 49 of the NES-TF address the management of trees, significant trees, significant habitats for indigenous vegetation, and significant habitats of indigenous fauna in relation to Telecommunications Facilities. These regulations state that regulated activities under the NES-TF that affect these matters must comply with any relevant rules in the district plan.

There are no other NESs relevant to the plan change.

#### National Planning Standards

The District Plan has been amended to give effect to the National Planning Standards requirements for structure, defined terms, and mapping. Plan Change 1F addresses the modification of indigenous vegetation across the entire district.

The amendments proposed by Plan Change 1F are located in the Ecosystems and Indigenous Biodiversity Chapter of the District Plan. The plan change is drafted in accordance with the structure, defined terms, and all other relevant requirements of the National Planning Standards.

#### National Guidance Documents

The following national guidance documents and reports are considered relevant to this plan change.

Note: proposed national direction, such as proposed national policy statements, that have completed the public consultation phase but have not yet been released in their final form have been considered as guidance until they are gazetted. While draft national policy documents do not have any legal weight, they can provide an indication of the Government's priorities and therefore have been considered in the drafting of this plan change.

Document	Relevant matters
Proposed National Policy Statement for Indigenous Biodiversity (NPS-IB)	<p>The initial draft NPS-IB was consulted on as a discussion document between November 2019 and March 2020. The Government planned to finalise the NPS-IB in mid-2020, and then again by the end of 2021.</p> <p>An updated exposure draft of NPS-IB was released for consultation on 9 June 2022. The Ministry for the Environment's webpage<sup>7</sup> states the expected gazettal date of the NPS-IB is December 2022.</p> <p>The exposure draft of the NPS-IB sets out a range of measures that require councils to take a more proactive role</p>

<sup>7</sup> [Proposed national policy statement for indigenous biodiversity | Ministry for the Environment](#)



	<p>in protecting biodiversity. It is likely the NPS-IB will require the Council to carry out additional indigenous biodiversity surveys and protection via rules in the district plan, and change existing rules in the district plan to ensure they give effect to the NPS-IB.</p> <p>At this time the final content of the NPS-IB is not known. This will need to be carefully considered should a hearing be held and decisions released after gazettal of the NPS-IB to ensure the plan change is not inconsistent with any new requirements.</p>
Environment Aotearoa 2019, Theme 1: Our Ecosystems and Biodiversity, Ministry for the Environment & Stats NZ.	<p>The report is the Ministry's three-year report on the state of the environment in New Zealand.</p> <p>The report identifies that:</p> <p><i>Our unique native biodiversity is under significant pressure from introduced species, pollution, physical changes to our landscapes and coast, harvesting of wild species, and other factors. Almost 4,000 of our native species are currently threatened with or at risk of extinction.</i></p> <p>The report identifies a continued loss of biodiversity, with farming and urban expansion as key contributors to the loss.</p>
Statement of National Priorities for Protecting Rare and Threatened Species on Private Land, Department of Conservation (2007)	<p>The Statement identifies four national priorities for protecting indigenous biodiversity:</p> <ol style="list-style-type: none"> <li>1. To protect indigenous vegetation associated with land environments, that have 20% or less remaining in indigenous cover (as defined by Land Environments of New Zealand).</li> <li>2. To protect indigenous vegetation associated with sand dunes and wetlands; ecosystem types that have become uncommon due to human activity.</li> <li>3. To protect indigenous vegetation associated with 'originally rare' terrestrial ecosystem types not already covered by priorities 1 &amp; 2.</li> <li>4. To protect habitats of acutely and chronically threatened indigenous species.</li> </ol>
New Zealand Biodiversity Strategy Department of Conservation (2000-2020)	<p>The Strategy establishes goals for the protection of indigenous biodiversity. The directly relevant goals are:</p> <ol style="list-style-type: none"> <li>1. Treaty of Waitangi – Protect iwi and hapū interests in biodiversity and strengthen partnerships between government and iwi and hapū in protecting and sustainably using indigenous biodiversity.</li> <li>2. Halt the decline of New Zealand's indigenous biodiversity – maintain and restore natural habitats and ecosystems; and maintain and restore populations of indigenous species and subspecies. The remaining two goals are still considered relevant, but to a lesser degree:</li> <li>3. Community and individual action, responsibility and benefits – improve community understanding of</li> </ol>

	<p>biodiversity and the importance of protecting it and allow communities to enjoy the benefits of protecting biodiversity.</p> <p>4. Genetic resources of introduced species – maintain introduced species that are important for economic, biological and cultural reasons.</p>
New Zealand Biodiversity Action Plan, Department of Conservation (2016-2020)	<p>The Biodiversity Action Plan is an update on the biodiversity strategy. The Action Plan has five goals. Of relevance are the following two goals:</p> <ul style="list-style-type: none"> <li>• Reduce pressures on biodiversity and promote sustainable use.</li> <li>• Safeguard ecosystems, species and genetic diversity.</li> </ul>
New Zealand Threat Classification System, Department of Conservation, 2018	<p>The NZ Threat Classification System is used to assess the threat status of taxa (species, subspecies, varieties and forma). There are thirty publications that list New Zealand's wild species, according to their threat of extinction.</p>

Although the District Plan is not required to give effect to any of these documents, they provide useful information on the resource management issues and challenges facing the state of indigenous biodiversity in New Zealand.

#### Regional Policy Statement and Regional Plans

The following identifies the provisions of the RPS and Regional Plans that are relevant to the plan change.

#### Regional Policy Statement for the Wellington Region 2013 (RPS)

The RPS sets out the framework and priorities for resource management in the region. The RPS identifies the regionally significant issues around the management of the Region's natural and physical resources and sets out what needs to be achieved (objectives) and the way in which the objectives will be achieved (policies and methods). District plans are required to give effect to the policies 1-34 of the RPS, and to have particular regard to policies 35-60.

The following RPS provisions are of particular relevance to this plan change:

3.10 Resource management with tangata whenua	
RPS provisions	Description
Objective 23	<i>The region's iwi authorities and local authorities work together under Treaty partner principles for the sustainable management of the region's environment for the benefit and wellbeing of the regional community, both now and in the future.</i>
Policy 66 (R)	Policy 66 aims to enhance involvement of tangata whenua in resource management local authority decision-making.
Objective 24	<i>The principles of the Treaty of Waitangi are taken into account in a systematic way when resource management decisions are made.</i>
Policy 48 (R)	When considering a plan change, Policy 48 requires particular regard is given to the principles of the Treaty of Waitangi, and Tribunal reports and settlements relating to the region.

Objective 25	<i>The concept of kaitiakitanga is integrated into the sustainable management of the Wellington region's natural and physical resources.</i>
Objective 26	<i>Mauri is sustained, particularly in relation to coastal and fresh waters.</i>
Policy 49 (R)	<i>When considering a plan change, Policy 48 requires particular regard be given to recognising and providing for matters of significance to tangata whenua, including kaitiakitanga, mauri, mahinga kai, and significant sites.</i>
<b>3.6 Indigenous Ecosystems</b>	
Objective 16	<i>Indigenous ecosystems and habitats with significant biodiversity values are maintained and restored to a healthy functioning state.</i>
Policy 23 (M)	<p><i>Identifying indigenous ecosystems and habitats with significant indigenous biodiversity values – district and regional plans District and regional plans shall identify and evaluate indigenous ecosystems and habitats with significant indigenous biodiversity values; these ecosystems and habitats will be considered significant if they meet one or more of the following criteria:</i></p> <ol style="list-style-type: none"> <li><i>1. Representativeness: the ecosystems or habitats that are typical and characteristic examples of the full range of the original or current natural diversity of ecosystem and habitat types in a district or in the region, and:</i> <ol style="list-style-type: none"> <li><i>a. are no longer commonplace (less than about 30% remaining); or</i></li> <li><i>b. are poorly represented in existing protected areas (less than about 20% legally protected).</i></li> </ol> </li> <li><i>2. Rarity: the ecosystem or habitat has biological or physical features that are scarce or threatened in a local, regional or national context. This can include individual species, rare and distinctive biological communities and physical features that are unusual or rare.</i></li> <li><i>3. Diversity: the ecosystem or habitat has a natural diversity of ecological units, ecosystems, species and physical features within an area.</i></li> <li><i>4. Ecological context of an area: the ecosystem or habitat:</i> <ol style="list-style-type: none"> <li><i>a. enhances connectivity or otherwise buffers representative, rare or diverse indigenous ecosystems and habitats; or</i></li> <li><i>b. provides seasonal or core habitat for protected or threatened indigenous species.</i></li> </ol> </li> <li><i>5. Tangata whenua values: the ecosystem or habitat contains characteristics of special spiritual, historical or cultural significance to tangata whenua, identified in accordance with tikanga Māori.</i></li> </ol>
Policy 24 (M)	<i>Protecting indigenous ecosystems and habitats with significant indigenous biodiversity values – district and regional plans.</i>

	<i>District and regional plans shall include policies, rules and methods to protect indigenous ecosystems and habitats with significant indigenous biodiversity values from inappropriate subdivision, use and development.</i>
<b>Allocation of responsibilities</b>	
Policy 61 (R)	<p><i>Allocation of responsibilities for land use controls for indigenous biodiversity Regional and district plans shall recognise and provide for the responsibilities below, when developing objectives, policies and methods, including rules, to maintain indigenous biodiversity:</i></p> <ul style="list-style-type: none"> <li><i>Wellington Regional Council shall be responsible for developing objectives, policies, and methods in the regional policy statement for the control of the use of land to maintain indigenous biological diversity;</i></li> <li><i>Wellington Regional Council shall be responsible for developing objectives, policies, rules and/or methods in regional plans for the control of the use of land to maintain and enhance ecosystems in water bodies and coastal water. This includes land within the coastal marine area, wetlands and the beds of lakes and rivers; and</i></li> <li><i>City and district councils shall be responsible for developing objectives, policies, rules and/or methods in district plans for the control of the use of land for the maintenance of indigenous biological diversity. This excludes land within the coastal marine area and the beds of lakes and rivers.</i></li> </ul>

M = policies which must be **implemented** in accordance with methods stated in the RPS

R = policies to which **particular regard** must be had when varying a district plan

The District Plan must give effect to RPS policies 23 and 24. The District Plan must have particular regard to policies 48, 49 and 66.

### Operative regional plans

There are currently five operative regional plans for the Wellington region, listed below:

- Regional Freshwater Plan for the Wellington Region, 1999
- Regional Coastal Plan for the Wellington Region, 2000
- Regional Air Quality Management Plan for the Wellington Region, 2000
- Regional Soil Plan for the Wellington Region, 2000
- Regional Plan for Discharges to Land, 1999

These will all be replaced by the proposed Natural Resources Plan for the Wellington Region.

These plans assist the regional council to carry out its functions in order to achieve the purpose of this RMA. These plans set out how the regional council manages the natural and physical resources that fall under the jurisdiction of the regional council under section 30 of the RMA.

The plan change manages activities that fall under the jurisdiction of the Kāpiti Coast District Council under section 31 (1)(b)(iii) and does not venture into the jurisdiction of the Regional Council. On this basis none of these regional plans are relevant to the plan change.

### Proposed Natural Resources Plan – Appeals Version (PNRP)

The PNRP is still in the process of settling appeals to the Environment Court, however, once those are resolved it will replace the existing five operative regional plans identified above.

In a similar light to the assessment above regarding the relevance of the five operative regional plans, the PNRP is not directly relevant to this plan change. Areas of jurisdictional responsibilities between the Kāpiti Coast District Council and the Wellington Regional Council for the management of indigenous vegetation are not affected by the plan change. The plan change is consistent with the allocation of responsibilities specified in RPS Policy 61 (identified in the RPS section above).

## 7 Planning Documents Recognised by Iwi Authorities

There are currently four documents recognised by iwi authorities in the Kāpiti Coast District. These comprise:

- Ngāti Raukawa Ōtaki River and Catchment Iwi Management Plan 2000;
- Nga Korero Kaupapa mo Te Taiao: Policy Statement Manual for Kapakapanui: Te Runanga O Ati Awa ki Whakarongotai Inc;
- Te Haerenga Whakamua – A Review of the District Plan Provisions for Māori: A Vision to the Future for the Kāpiti Coast District Council District Plan Review 2009-12 – 2012; and
- *Whakarongotai o te moana o te wai*’ Kaitiakitanga Plan for Te Atiawa ki Whakarongotai (2019).

### Ōtaki River and Catchment Iwi Management Plan 2000 (confirmed 10 April 2001)

The Plan sets out a vision for Ngāti Raukawa’s (Ngā Hapū o Ōtaki) exercise of kaitiakitanga in respect of the Ōtaki River and its catchments. The plan provides policy aimed at providing for the ongoing development of a comprehensive framework from which Ngā Hapū o Ōtaki can engage in the management of the Ōtaki River and its resources to ensure fulfilment of its Kaitiakitanga responsibilities. It contains recommendations for action by various agencies to ensure the successful implementation of the Plan. The following provisions are relevant to the plan change:

#### 2.1 Ko te tino tumanako/Primary Vision Statement

- 2.11 *The mauri of the Ōtaki River and its people are restored and revitalised.*

#### Secondary Vision Statements

##### 2.2.1 Te Taiao me nga Taonga (Environment)

*The mauri of the Ōtaki River and Catchment is protected, sustained, nurtured and enhanced so that Ngāti Raukawa in turn may be protected, sustained, nurtured and enhanced by it.*

- *For more than a century the resource of the Ōtaki River have been taken or destroyed at the expense of the taonga. The forests, the land, the water, the food and even the gravel. It is time, now, to restore the balance.*

#### 4.1.2 Ecological Restoration

- 4.1.2.1 *Objective: To ensure that all future management decisions lead cumulatively to the enhancement of the mauri of the Ōtaki River and Catchment.*
- 4.1.2.2 *Policy: NHO considers that the environment of the Ōtaki River and catchments has suffered ongoing degradation. In the absence of a*



*set of Ngāti Raukawa Environmental Principles it is considered that all policy established by any agency for management of the Ōtaki River catchment must seek ultimately to restore the natural processes necessary for a healthy functioning ecosystem.*

**4.1.2.3 Explanation:**

*4.1.2.3.3 NHoO is concerned that agencies involved in resource management decision-making may accept further degradation or continuation of the status quo rather than advancing restoration as an acceptable baseline.*

**4.1.2.4 Methods**

*(c) NHoO requests all agencies involved in resource consent processing to ensure that any activities that limit or degrade the ecosystems of the Ōtaki river are balanced by measures that contribute to the overall restoration of the environment. NHoO will weigh all applications for resource consent within the Ōtaki River catchments against this objective in considering such applications.*

**4.1.5 Protected Natural Areas (PNA)**

*4.1.5.1 Objective: To ensure the ongoing protection of the indigenous biodiversity and ecosystems of the Ōtaki River. To provide for the ongoing enhancement of the mauri of the Tararua Ranges and other PNAs.*

*4.1.5.2 Policy*

- (a) NHoO will advocate for and endorse the continuing management of the Tararua State Forest Park and other protected natural areas in a manner that ensures that the biodiversity and indigenous ecological systems of these is maintained and enhanced.*
- (b) NHoO seeks real and ongoing participation by Ngāti Raukawa in the management of the Tararua State Forest Park and other protected natural areas.*

These provisions are directly relevant to the plan change as the Ōtaki River catchment contains many areas of significant indigenous vegetation and significant habitats of indigenous fauna. It can be seen in the above provisions, that Ngā Hapū o Ōtaki seek greater participation in decision making including resource consents that affect identified protected natural areas. Further degradation of natural systems, including forests, within the catchment of Ōtaki River is identified as a concern to Ngā Hapū o Ōtaki.

**Nga Korero Kaupapa mo Te Taiao**

The document outlines the vision, intent and objectives for compliance with tikanga standards for protection and management of the environment as determined by Te Runanga O Ati Awa ki Whakarongotai Inc with respect to disposal and treatment of effluent, stormwater runoff, heritage protection and management, and representation. Proposed Plan Change 1F does not address any of the above matters.

**Te Haerenga Whakamua**

Input from tangata whenua was an important part of developing the Proposed District Plan 2012, with 23 meetings held from December 2010 through October 2012 between Council staff and a Tangata Whenua working party nominated by Te Whakaminenga o Kāpiti.



The Tāngata Whenua Working Party was established in 2010 as a mechanism for iwi to participate in the review of the District Plan and to represent the District's three iwi (Te Āti Awa ki Whakarongotai, Ngā Hapū o Ōtaki and Ngāti Toa Rangatira).

The mandate for the working party was to review all aspects of the District Plan on behalf of Te Whakaminenga o Kāpiti and recommend to this forum the direction for iwi policy and Māori world view within this process. This resulted in the preparation of the document Te Haerenga Whakamua being approved by Te Whakaminenga o Kāpiti and endorsed by Council in 2012.

The following provisions of Te Haerenga Whakamua are relevant to the plan change:

Biodiversity Suggested Kaupapa and Tikanga	
<b>Manaakitanga</b> Behaviour featuring generosity, care, respect and reciprocity toward others. Greater emphasis should be placed on regulatory measures to ensure that development or economic imperatives are not able to override the need for biodiversity protection. <b>Tikanga:</b> Biodiversity and biological protection is equally as important as development and economics. <b>Tikanga:</b> Development needs to demonstrate an enhancement of biodiversity measures as an outcome from the activity.	
Biodiversity Iwi Sub Themes	
<b>Ūkaipōtanga</b> The importance of tūrangawaewae, a place where one belongs, feels valued and is able to contribute	<b>Kaitiakitanga</b> Caring for creation including natural resource, inherited treasures, other forms of wealth and community, including Māori as people.
<b>Ngāti Toa</b> Consider the effects of activities on indigenous biodiversity when assessing resource consent applications and ensure that adverse impacts are avoided. <b>Tikanga:</b> Adverse effects from activities must be avoided or remedied.	<b>Ngāti Toa</b> Ensuring that the benefits of growth and the use of physical resource do not come at the expense of biodiversity.

The above provision of Te Haerenga Whakamua are directly relevant to the plan change as they highlight the concerns of iwi with respect to how biodiversity is managed against competing matters including development. There is also a clear desire expressed in the Plan to see adverse effects on biodiversity avoided or mitigated.

#### Whakarongotai o te moana o te wai Kaitiakitanga Plan

This Plan identifies the key kaupapa, huanga and tikanga values, objectives and policies of Te Ātiawa ki Whakarongotai to guide kaitiakitanga. The document is internally focused, in order to support the kaitiaki practice of the iwi, but also to inform other agencies.

The following provisions of Whakarongotai o te moana o te wai are relevant to the plan change:

**7.2 Mauri: Nga Huanga**

*The following are the key objectives of Te Atiawa ki Whakarongotai that relate to mauri"*

- F. Biodiversity is strong in that the full suite of mahinga kai species can be found in our catchments.*

**7.3 Mauri: Nga Tikanga**

*The implementation of the following tikanga will support the achievement of nga huanga:*

- H. Prioritise the protection of species that are threatened.*

These provisions demonstrate the importance of biodiversity to the identity of, and traditional customary uses of biodiversity by Te Atiawa.

## 8 Any relevant plans or strategies

The following identifies other relevant plans and strategies.

### **Te tupu pai – Growing Well. Our Strategy for enabling sustainable growth in Kāpiti 2021**

The Te tupu pai strategy outlines the community's approach to accommodating growth over the next 30 years. Although not specifically relevant to the plan change, the strategy notes the existence of ecological sites are a constraint on future development, and they will be identified as a 'qualifying matter' constraint under the District Plan as it is amended to give effect to the intensification requirements of the NPS-UD and the Medium Density Residential Standards (MDRS) under the RMA.

The strategy also identifies the district's natural assets as a matter to be kept, protected and enhanced. The overall approach to development includes fostering development in a way that protects and enhances natural habitats.

### **Climate Emergency Action Framework 2021**

The framework is intended to be considered as part of all Council decision making. It has the following vision:

*a thriving, vibrant and strong Kāpiti that has reduced its carbon footprint significantly, transitioned to a low-carbon future, and prepared for challenges and opportunities that come from responding to the climate crisis.*

The following provisions are relevant to the plan change:

#### **4. Principles**

- 4.1 Council demonstrates strong and effective leadership on climate change mitigation and adaptation to support Toitū Kāpiti and give effect to the climate change emergency; this includes a commitment to act in the face of uncertainty using the best scientific information available.*
- 4.2 Council honours Te Tiriti o Waitangi and its partnership with mana whenua. Ngāti Raukawa ki te Tonga, Ātiawa ki Whakarongotai, and Ngāti Toa Rangatira will be involved as partners in Council's climate change response and any projects that arise from this Framework to ensure a mana enhancing partnership is nurtured throughout.*
- 4.4 Decision making is inclusive, transparent, and based on ongoing collaboration and consultation with the wider community, businesses, social service organisations, and key sectors from industry and science.*
- 4.5 Decision making will acknowledge the depth of knowledge that Ngāti Raukawa ki te Tonga, Ātiawa ki Whakarongotai, and Ngāti Toa Rangatira hold in terms of climate change and the value of māramatanga (lessons learned through centuries of*

*kaitiakitanga, manaakitanga, and whanaungatanga). Council will draw on this knowledge during the decision-making process to reflect the value of māramatanga and the expertise that mana whenua have in this area.*

4.6 *Decision making will consider:*

- 4.6.1 *Best practice guidance and recommendations*
- 4.6.2 *Costs and benefits, including broader co-benefits to the four well-beings*
- 4.6.3 *Level of risk, particularly if an action is not taken*
- 4.6.4 *Urgency of any issues at hand*
- 4.6.5 *How effectively a proposed action will address any issues at hand*
- 4.6.6 *Avoiding any actions that might worsen inequity or compromise future generations*
- 4.6.7 *Promotion of actions that will allow mana whenua to act as kaitiaki, supporting them to create sustainable practices that they can implement within their rohe*
- 4.6.8 *Mana whenua advice, community feedback, and potential alignment with neighbouring councils*
- 4.6.9 *Long-term effectiveness of proposed actions, regardless of current or future trends or pressures*

Many of these matters, and particularly those listed within section 4.6 are relevant to the plan change and issues that must be evaluated within this section 32 evaluation. These relevant matters include the consideration of best practice, benefits and costs, levels of risk and uncertainty, the effectiveness of a proposed action, and the consideration of advice from mana whenua, community feedback, expert ecology advice, and the potential alignment with neighbouring councils.

#### Coastal Strategy 2006

The Coastal Strategy is a guiding document which aims to ensure the community's vision to restore and enhance the wild and natural feel of the coast is achieved. The focus of the strategy is on the coastal margin including foredunes, and addresses matters such as access, ecological restoration, and the impacts of development on the natural character of the coast. The document includes the identification of area-specific challenges and responses.

The strategy is of limited relevance to the plan change, but it notes:

- *The quality of indigenous ecosystems on the coast and retention of the wild natural feel of the coastal margin is at risk due to human actions on the coast.*

#### Open Spaces Strategy 2022

The Open Space Strategy aims to safeguard and guide the provision of open space in the District for the next 30 years to ensure the right types of open spaces are provided in the right places. It sets the direction for providing and managing the network until 2050, giving a framework for growth while remaining flexible to respond to challenges and opportunities that arise.

One of the ten priorities of the Strategy is:

*Continuing protection, restoration, connection and enhancement of the natural environment, including the restoration of the ecology and biodiversity of the District and the remediation of contamination in open spaces.*

Biodiversity is identified in the Strategy as an important component of open spaces. The Strategy identifies the improvement and preservation of biodiversity as part of the future view of open spaces in the district.



### Long Term Plan 2021-41

The Long Term Plan identifies the following as part of the District Plan work programme:

*District plan work programme committed to include review of coastal and development incentives provisions, plan changes on urban development, indigenous biodiversity, freshwater and highly productive land. Provide for 5-year efficiency and effectiveness review and full plan review after rolling review phase.*

This plan change can be considered part of this work. It responds to issues identified during district plan effectiveness monitoring during implementation, primarily resource consenting involving the modification of protected indigenous vegetation. The District Plan work identified in the Long Term Plan regarding biodiversity largely relates to future work that will be necessary to implement an expected future National Policy Statement on Indigenous Biodiversity. However, this plan change also falls under this heading because it addresses an identified shortcoming in the existing indigenous vegetation protection rules, which risks the Council not meeting its statutory function of maintaining indigenous vegetation under Section 31 of the RMA.

This plan change is consistent with the Long Term Plan community outcome:

*Our natural environment is restored and enhanced as we transition to a low-carbon future.*

As the plan change also aims to ensure the ability of people to provide for their health and safety in response to threats posed by dangerous trees, the plan change is also consistent with the following LTP community outcome:

*Our people have access to suitable housing in Kāpiti so that they can live and thrive.*

*This means: Kāpiti residents have access to suitable safe, healthy, warm shelter (including houses, apartments, units, townhouses and other domestic dwellings) to meet their needs, and enable them to live and thrive where they choose, how they choose.*

### Other relevant legislation or regulations

There is no other relevant legislation or regulations.

## 9 Evidence Base – Research, Consultation, Information and Analysis undertaken

### District Plan Implementation Monitoring - Resource Consents

A resource consent application made under controlled activity rule ECO-R6, and the associated unanticipated outcomes and likely significant adverse effects on indigenous biodiversity was the catalyst for this plan change. Council records show the rule has been used twice, with a total of two resource consent applications lodged since the rule had legal effect. A summary of the resource consents, and the identified issues are provided below.

Details of a 45 lot residential subdivision on the same site as the application to remove 123 protected indigenous trees are also provided, as this application helps demonstrate the resource management issue and the potential misuse of rule ECO-R6.

The three relevant resource consents are:

Resource Consent Application	Issues identified
<b>RM200102</b> Modify 123 trees within ecological site K189.	<b>Tree viability</b> The rule requires an arborist who has obtained the New Zealand Qualifications Authority (NZQA) National Certificate in Arboriculture Level 4 or equivalent qualification to certify that either the tree is no longer independently viable or presents a risk of serious harm to

<p>Activity Status: Controlled</p>	<p>people or property or risks damaging surrounding protected vegetation. According to the NZQA webpage<sup>8</sup>, Level 4 of this National Certificate does not appear to qualify an arborist to fully assess risk posed by trees. Level 4 qualifies an arborist to visually identify symptoms of trees that have the potential for mechanical failure, but this is to identify where further investigation is necessary. The 'further investigation' component to confirm any risk posed by trees is not taught until the New Zealand Diploma in Arboriculture (Level 6) qualification is obtained<sup>9</sup>.</p> <p>The independent ecology advice commissioned by the Council (Appendix 1) notes many of the trees were incorrectly determined to be not independently viable by both the arborist acting for the applicant, and the arborist commissioned by the Council to review the application. The independent arborist considers many of the trees were in fact in their healthy natural state for the species, including the visible imperfections to the trunk integrity, and would in fact likely not present a safety risk. The ecologist also notes the trees would likely be independently viable, and that no assessment was made by the arborists of the health of the canopy of the trees.</p> <p><b>Scale of tree modification (including removal) and assessment of effects</b></p> <p>The scale of trees removal under the controlled activity rule is unlimited. Any actual or potential adverse effects on the environment that may result from the removal of protected indigenous trees, including significant adverse effects, are not a relevant matter under the rule. Because ecological effects are not relevant under the rule, an assessment of the effects cannot be required by the Council.</p> <p><b>Lack of ability for Council to notify or refuse the consent</b></p> <p>Despite the ability for actual and potential effects on the environment under the rule being significant, there is no ability for the Council to refuse consent for a controlled activity. Although the Council could use special circumstances to notify an application, the ecological effects are not a relevant matter under the rule, so an applicant would need to agree to the commissioning of an ecology report to determine the level of adverse effects for this purpose. This situation highlights the inappropriateness of the rule in its current form in terms of the requirements of sections 6 and 31 of the RMA.</p>
<p><b>RM200156</b> To undertake the removal of a key indigenous tree (Titoki) listed in Schedule 3.2A.</p>	<p>There are no issues associated with this resource consent. The rule was used appropriately to remove a single protected indigenous tree that was confirmed as presenting a risk.</p>
<p><b>RM200227</b> Undertake a 45 lot residential</p>	<p><b>Summary of issues</b></p> <p>The date on the subdivision scheme plan for the same property shows it was prepared while the above controlled activity consent for</p>

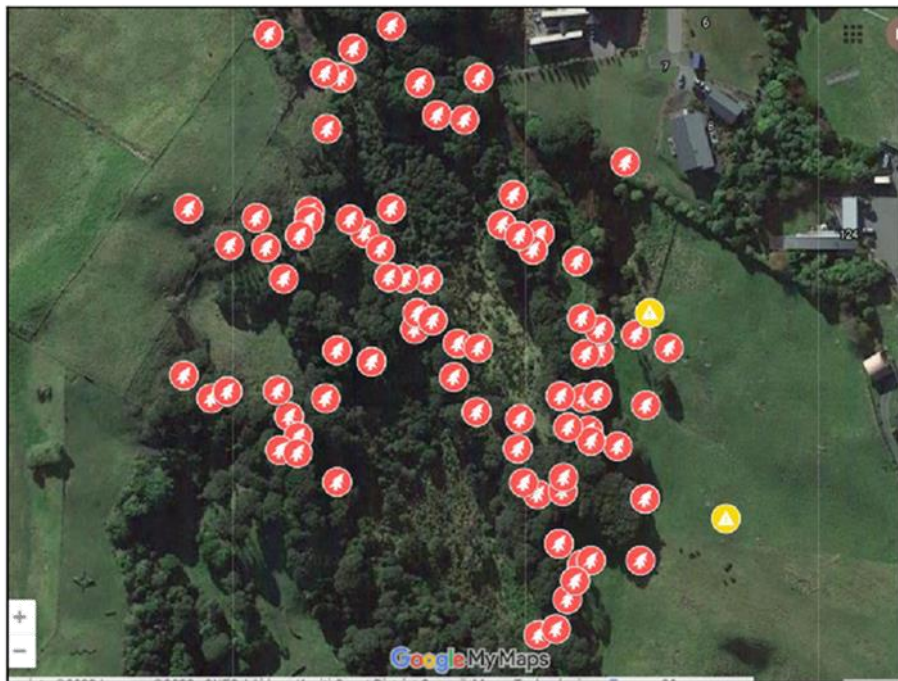
<sup>8</sup> <https://www.nzqa.govt.nz/nqfdocs/units/pdf/31189.pdf>

<sup>9</sup> NZ Diploma in Arboriculture (Level 6):

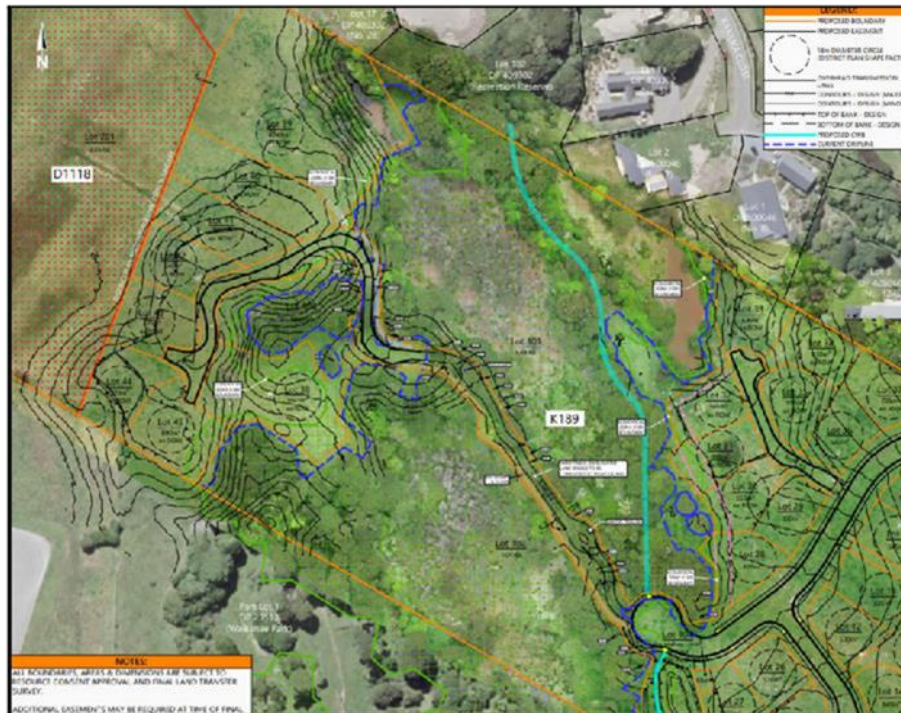
<https://www.nzqa.govt.nz/nzqf/search/displayQualificationOverviewWidgetJS.do?&selectedItemKey=2669>



<p>subdivision, construction of a new road, four local purpose reserves, undertake earthworks that do not meet the permitted activity standards and modification of vegetation within ecological site K189.</p> <p>Activity status: Restricted Discretionary</p>	<p>the removal of the 123 protected indigenous trees was being processed by the Council.</p> <p>A plan from the controlled activity resource consent to remove the trees is provided in Figure 1 below. Figure 2 shows the layout of the subdivision under RM200227. The subdivision scheme plan shows a right of way running through the ecological site, effectively widening an existing farm track through the site. A comparison of the plans shown in Figures 1 and 2 appear to show the proposed right of way following a very similar path to a row of approximately 30 protected trees that are to be removed.</p> <p>It could be reasoned from this the controlled activity rule has been used to remove trees that were located along the proposed route of the right of way for the subdivision, without the need for what would typically require a restricted discretionary activity resource consent and the consideration of any actual or potential adverse effects on indigenous biodiversity. If this was the intention, it demonstrates how the existing wording of rule ECO-R6 is able to be misused in a way that could result in significant adverse effects on indigenous biodiversity. If this was a coincidence rather than a deliberate approach to provide a smoother consent path for the removal of protected trees, it demonstrates how the rule could potentially be deliberately misused in this way in the future.</p>
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**Figure 1:** Location of trees within ecological site K189 to be removed under RM200102



**Figure 2:** Subdivision scheme plan from RM200227. Note route of right of way in relation to the location of approximately 30 protected trees to be removed under RM200102 shown in **Figure 1** above.

#### Independent Ecological Assessment and Advice

In response to the issues identified by the processing of the resource consent listed above, the Council commissioned independent ecological advice that:

- Provides an ecological assessment of the likely adverse effects on indigenous biodiversity that would result from the implementation of the case study resource consent;
- Highlights evidential issues and shortcomings that resulted from relying on arboriculture advice during processing of the case study resource consent;
- Identifies an error in ECO-Table 1 regarding the dimensions of two species of Kānuka;
- Provides recommendations on correcting the error in ECO-Table 1; and
- Provides high-level recommendations on potential approaches to amending ECO-R6 to address the identified issues.

Consultation was initially carried out with Council staff from the Open Spaces and Parks team, and the Resource Consents and Compliance teams. This consultation included sharing the draft ecology advice and potential draft amendments to ECO-R6 and ECO-Table 1 to address the identified issues. This consultation led to amendments to the draft amendments to ECO-R6 before consultation with other parties was carried out on draft provisions.

## 10 Engagement and Feedback

### 10.1 Iwi Engagement

The Council sought feedback from all three iwi who hold mana whenua within the District on 20 April 2022. Iwi were provided with a complete copy of draft provisions. The Council received the following feedback:

Name	Summary of feedback	Response to feedback
Te Atiawa ki Whakarongotai	<p>Ātiawa supports the intent of the Plan Change, to give effect to section 6(c) of the Resource Management Act, by protecting significant indigenous vegetation and significant habitats of indigenous fauna as a matter of national importance.</p> <p>Ātiawa also support the proposed amendments to:</p> <ul style="list-style-type: none"> <li>Refer to the modification of indigenous <i>trees</i>, thereby excluding other indigenous vegetation from the controlled activity status for modification.</li> <li>Limit the number of trees that can be removed, in a 5yr period as a controlled activity, to 2 trees.</li> <li>Include the <i>necessity</i> of the proposed modification of indigenous trees to address the imminent and demonstrated risk, as a Matter of Control</li> <li>Increase the threshold for the removal of trees from 'no longer independently viable' to 'presents a demonstrable imminent risk of serious harm to people or property or significantly damaging surrounding protected vegetation'</li> <li>Differentiate between Rawiritōa, kānuka and Rawirinui, kānuka that are currently listed as one species – Kānuka.</li> </ul>	Support for the amendments is noted.



Ngā Hapū o Ōtaki	No response.	N/A
Ngāti Toa Rangatira	No response.	N/A

#### Response to feedback from Iwi

Support from Te Atiawa ki Whakarongotai Inc for the plan change is acknowledged. Amendments have been made to the rule in response to feedback from other parties on draft provisions. The purpose of these amendments is to improve functionality and to avoid unintended consequences. However, the overall intent and requirements of the rule as commented on by Iwi remains largely unchanged.

With respect to the lack of official responses from Ngā Hapū o Ōtaki and Ngāti Toa Rangatira, both iwi have been briefed by the Council's District Planning team on this plan change prior to the official consultation occurring pursuant to RMA Schedule 1 clauses 3 and 4A.

### 10.2 Statutory Parties

The Council provided copies of draft provisions to the following statutory parties on 20 April 2022. Any feedback received is also summarised in the table below:

Name	Summary of feedback	Response
Iwi authorities	As above.	As above.
Ministry for the Environment	No response.	N/A
Minister for the Environment David Parker	No response.	N/A
Wellington Regional Council	<p>Suggestions and questions:</p> <ol style="list-style-type: none"> <li>1. Would you now need a definition for 'indigenous tree' in the plan to note that this means 'any tree that is native to the Kāpiti Coast District' or similar?</li> <li>2. Are there any perverse outcomes to removing non-woody vegetation from the controlled activity status? Effectively means it is harder to modify non-woody vegetation as it jumps straight to restricted discretionary status (though I understand why given it is mainly about the hazard of falling trees and branches). Are there circumstances where you might, for example, want to clear diseased non-woody species to protect adjacent</li> </ol>	<p>Responses to the points raised are:</p> <ol style="list-style-type: none"> <li>1. Amendment made to draft provisions to retain reference to <i>indigenous vegetation</i>, but retaining the new reference to <i>trees</i>. Both these terms are defined by the plan, therefore eliminating any potential need for a new defined term.</li> <li>2. Non-woody vegetation can still be <i>trimmed</i> as a permitted activity under rule ECO-R3 for the same purposes originally authorised by controlled activity rule ECO-R6. However, <i>modification</i> that falls beyond the limits of permitted activity rule ECO-R3 would require resource consent as a restricted discretionary activity.</li> </ol> <p>Amendment made to rule wording to make the tree number and time period a standard under the rule. This means clause b) that refers</p>

	<p>healthy vegetation? Would the change to standard 1(b) mean that the modification of non-woody indigenous vegetation that was not planted for restoration of offsetting purposes would be a restricted discretionary activity?</p> <p>3. ECO-R6(b) excludes trees planted by humans. Does that in any way conflict with standard 1(b) which seeks to protect trees planted by humans for restoration and offsetting?</p> <p>4. Matter of control 2, I would suggest changing the wording from 'compensate for' to 'redress'. This is because 'compensate' could be confused with 'biodiversity compensation' which is not provided for under this plan as the effects management hierarchy stops at 'offset'. Interested in your thoughts here?</p> <p>5. Matter of control 7 talks about providing positive ecological effects. I associate providing positive effects entirely with the use of offsetting and compensation (as opposed to redressing adverse effects which is what remedy and mitigate steps do). The advice from Astrid was concerned with acknowledging the positive contributions of the modified vegetation (e.g., nutrients release if left to rot on site rather than being removed from site). Does this wording need to be modified to ensure there is no confusion between the contribution of the modified (or pre-modified?) trees to the ecological values of the site</p>	<p>to restoration or offsetting planting retains its current meaning.</p> <p>3. Rule ECO-R6 excludes key indigenous trees planted by humans where the tree is a key indigenous tree listed in ECO-Table 1. It also excludes planted vegetation not within an urban environment where located in or within 20 metres of a waterbody or the coastal marine area. This is to avoid providing a disincentive for people to plant indigenous vegetation.</p> <p>An amendment to the exclusion under clause b) (to be reassigned as c)) has been made to make it clear the provision is referring to planted vegetation that was legally required be planted as ecological restoration, enhancement, or as a biodiversity offset.</p> <p>4. Matter of Control 2 wording amended to refer to 'remedy' rather than 'compensate'. This amendment aligns with the direction of policy ECO-P2 – Management Approach to Biodiversity Protection.</p> <p>5. Matter of control 7 is amended to refer to positive ecological contributions of the modified trees on the application property.</p>
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	versus the positive ecological effects of any suggested offset measures?	
Porirua City Council	No response.	N/A
Wellington City Council	No response.	N/A
Upper Hutt City Council	No response.	N/A
Hutt City Council	No response.	N/A
Masterton District Council	No response.	N/A
South Wairarapa District Council	No response.	N/A
Horowhenua District Council	No response.	N/A

### 10.3 District Plan Users – Local Consultants

The Council sent a copy of the draft plan change directly to local planning consultants to seek their feedback on 20 April 2022. Their feedback is shown in the table below:

Name	Summary of feedback	Response to feedback
Leith Consulting Ltd	No response.	N/A
Land Matters Ltd	No response.	N/A
Landlink Ltd	No response.	N/A
Cuttriss Consultants Ltd	Oppose the draft amendments on the grounds it does not exclude indigenous trees on urban environment allotments as required by RMA s.76(4A).	Clarification added to clauses of rule ECO-R6 that exclude indigenous trees on urban environment allotments that are not listed in Schedule 2.

### 10.4 Community and Other Stakeholders / Interest Groups

The Council initiated public consultation on draft provisions on the Council's website on 20 April 2022.

The following feedback was received:

Name	Summary of feedback	Response to feedback
Royal Forest and Bird Protection Society of New Zealand Inc.	1. Forest & Bird's preference to see Rule ECO-R6 changed to Restricted Discretionary instead. Controlled activity status, no matter how tightly controlled, will ultimately lead	1. The amendments to the rule seek to balance the requirements of the following plan provisions: DO-O2 – Ecology and Biodiversity

	<p>to incremental loss of habitat over time to due to Council having no ability to retain discretion to decline consent.</p> <p>2. Suggest that retaining ECO-R6 as a controlled activity rule would not be giving effect to s6(c) of the RMA requirement that Council protects significant indigenous vegetation and significant habitats of indigenous fauna as a matter of national importance. The sheer fact that a tree might be a threatened species is enough to warrant discretion if consent is applied for to cut it down.</p> <p>3. Threatened and rare species should be protected, and all of the areas listed in the rule (a – e) are sensitive and have high ecological values so any use or loss should not be as of right, for any purpose.</p> <p>4. As currently drafted, Forest &amp; Bird is concerned that the rule enables the felling of two trees every five years, enabling the incremental loss of habitat over time. While this might sound small scale, the removal of two trees, particularly in the coastal environment, could have significant impacts.</p> <p>5. If the rule is to remain a controlled activity, the matters of control need to be expanded to include issues like bird breeding season, surveillance for bat roosts, presence of endangered fauna such as <i>Powelliphanta spp.</i> and the intrinsic value of the tree if it's part of a bigger piece of forest.</p> <p>6. Standards under 1 b. need to be improved and expanded. Planted trees, particularly old</p>	<p><i>ECO-P2: Management Approach to Biodiversity Protection:</i></p> <p><i>avoiding where practicable the modification of significant indigenous vegetation, in particular all indigenous vegetation within ecological sites.</i></p> <p>And</p> <p><i>DO-O8 – Strong Communities</i></p> <p><i>To support a cohesive and inclusive community where people:</i></p> <p>4 <i>have a strong sense of safety and security in public and private spaces.</i></p> <p>It is noted all the provisions identified above assist the council in achieving the purpose of the RMA by managing the protection of natural and physical resource in a way which enables people to provide for their social wellbeing and for their health and safety.</p> <p>The amendments to the rule seek to significantly reduce the identified issues with the extent of adverse effects on indigenous biodiversity possible under the existing wording of the rule, while still enabling people to provide for their health and safety where this can be clearly demonstrated and agreed to by the Council. In these limited circumstances it is considered unlikely a restricted discretionary rule would achieve a different environmental outcome than the controlled activity rule.</p> <p>2. With regard to threatened species, it is noted none of the species listed as a rare and threatened vegetation species in Schedule 3 of the District Plan are tree species.</p> <p>3. It is unclear what different environmental outcomes would result from restricted discretionary status where:</p>
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	<p>ones, can have important biodiversity values and contribute to a mosaic of habitat, particularly in urban areas. For example, trees over a certain DBH could require an assessment by Council officers before being granted or declined consent.</p>	<ul style="list-style-type: none"> <li>a. A protected indigenous tree is proven to present a demonstratable imminent risk to people and property; and</li> <li>b. It has been determined the risk cannot be addressed via trimming as a permitted activity under rule ECO-R3; and</li> <li>c. The Council agrees the removal of the tree is necessary to address an imminent risk to people and property.</li> </ul> <p>To further clarify the limitations of the rule, and in response to this feedback from Forest and Bird, an additional standard has been included to require applications to demonstrate the imminent risk to people and buildings cannot be removed via permitted activity trimming under rule ECO-R3. An arborist is already required to confirm the imminent safety risk, so this additional standard will not place an additional cost burden on applicants</p> <ul style="list-style-type: none"> <li>4. As discussed above, the circumstances under which the removal of a tree under the rule are constrained to where a demonstrable imminent risk to people and buildings can be demonstrated. An additional standard has been added requiring applications to demonstrate the risk cannot be addressed via permitted activity trimming. Activity status, and the consideration of ecological effects is unlikely to have an effect on the environmental outcomes when addressing significant imminent risk to people and property.</li> </ul>
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		<p>5. The additional matters of control suggested would require expert ecological input, however despite such ecological advice the modification of tree(s) may still be required to address imminent risk to people and property, where trimming cannot address the risk.</p> <p>6. Planted vegetation has been deliberately excluded to avoid the situation where people are encouraged to plant exotic vegetation rather than indigenous vegetation to avoid the need to obtain resource consent in future if the modification of planted indigenous vegetation is necessary.</p>
Hendrika Catsburg	<p>1. The Council has promised via the 'Climate Change Strategy' to firmly embed climate change considerations in all Council does.</p> <p>2. How does removing the word 'vegetation' and replacing it with 'max of two trees' save our native habitat when we have a diverse range of habitats from wetlands, dunes, scrub, shrubs, herb fields, forests (with trees) etc. All vegetation types are under threat.</p> <p>3. How will the new wording protect trees in the long term when the wording is for 'a five year limit per allotment'.</p> <p>4. How will this wording protect trees and the diverse range of habitats when removed trees can be replaced with vegetation and yet vegetation has no protection? Replacement needs to be like for like.</p> <p>5. I disagree with this new wording as I can't see how it gives existing vegetation and</p>	<p>1. The Kāpiti Coast District Council has not published a Climate Change Strategy. The Council has published a Climate Emergency Action Framework, however no references or quotes corresponding to those raised in the feedback could be identified in the Framework.</p> <p>2. Focusing the rule on trees rather than vegetation means the rule only provides for the modification of trees. All other vegetation is managed by other existing indigenous vegetation rules in the District Plan.</p> <p>3. The proposed amendments to the rule seek to significantly reduce the number of protected indigenous trees that can be modified compared to the status quo. This seeks to provide a balance between maintaining indigenous biodiversity while enabling people to provide for their health and safety.</p> <p>4. In some instances, when a dangerous tree has been removed it might be inappropriate to replace like for like due to proximity to buildings and the likelihood of</p>

	<p>diverse habitats any protection. It allows development to degrade, destroy, and remove vegetation immediately and trees in 5 years time? How is this going to mitigate climate change and make life worth living especially for our future generations?</p> <p>6. Would like to see the rule go back to the original wording because vegetation includes trees. If you feel it does not properly protect trees then add the words 'all forms of vegetation' and put in a footnote of all the vegetation habitats in Kāpiti.</p>	<p>replacement trees presenting health and safety risks in the future.</p> <p>5. The rule, as reworded, only provides for the modification of up to two dangerous trees every five years as a controlled activity. Demonstrating an imminent and significant health and safety risk is a standard that must be demonstrated. If this cannot be done, resource consent would be required as a restricted discretionary activity under rule ECO-R7.</p> <p>6. The existing wording of the rule enables the modification of all indigenous vegetation (grasses, shrubs, ferns mosses etc.). This includes trees. The proposed amendments to the rule will limit this modification to only two dangerous trees in a five year period. All other indigenous vegetation types are proposed to be removed and managed under the other trimming and modification rules, thereby providing greater protection for these vegetation types than that offered under the existing rule.</p>
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### 10.5 Summary of feedback and any resulting amendments to the provisions

As can be seen in the consultation summary tables above, consultation on the draft provisions resulted in useful feedback that resulted in a number of recommended amendments.. Those amendments include:

- (i) Moving the limitation on the number of trees and time period from the rule to a standard. This addresses an unintended consequence that would have meant standard (c) would not be applicable under the wording of the rule with respect to indigenous vegetation.
- (ii) Amending standard (1)(c) to clarify the standard only refers to planted indigenous vegetation that was legally required to be planted for restoration, enhancement or biodiversity offsetting. Left unaddressed, the standard may disincentivise people from planting indigenous vegetation.
- (iii) Amending matter of control 2 to refer to *remedying* the loss of indigenous trees, rather than *compensating*. This change aligns with the wording of Policy ECO-P2, and avoids confusion as the District Plan does not specifically enable ecological compensation.
- (iv) Adding exclusions to clauses (a) and (b) within the rule to clarify the rule does not apply to indigenous *trees on urban environment allotments* unless they are specifically identified in Schedule 2. This change ensures there is no confusion regarding the rule meeting the requirements of section 76(4A) and (4B) of the RMA.



- (v) Adding an additional standard to require resource consent applications under the rule to demonstrate the imminent risk to people and buildings posed by protected indigenous trees cannot be addressed via permitted activity *trimming* under rule ECO-R3.

As discussed in the consultation summary tables above, some of the feedback and suggested amendments did not result in amendments to the provisions, as they were found to be less effective at meeting the objectives of the plan, statutory planning documents, and the purpose of the RMA with respect to enabling people to provide for their health and safety.

## 11 Analysis of other District Plan provisions for this topic

The following is an analysis of how other district plans address the matter of the modification of indigenous vegetation, and allowances for modification. Due to the RPS direction to identify and protect significant indigenous vegetation and significant habitats of indigenous fauna, Councils in the Wellington Region that have recent district plan or proposed district plan provisions on this topic are considered most relevant. However, due to many Councils in the region being still in the process of developing plan changes to address indigenous biodiversity, other recent district plans and proposed district plans from around the country have also been analysed.

District Plan	Summary of approach	Comments
Porirua City Proposed District Plan 2020	<p>Proposed ECO-R1 would enable as a permitted activity the removal of vegetation within a Significant Natural Area where the purpose is to address an imminent threat to people or property, represented by deadwood, diseased or dying vegetation and the following are complied with:</p> <ol style="list-style-type: none"> <li>1. <i>The works are essential due to the imminent threat to the safety of people or property and Council is advised of this threat as soon as practicable;</i></li> <li>2. <i>All trimming or pruning must be undertaken to a growth point or branch union and in accordance with the New Zealand Arboricultural Association Incorporated Best Practice Guideline 'Amenity Tree Pruning' Version 3 dated April 2011 to avoid irreversible damage to the health of the tree;</i></li> <li>3. <i>Any removal is undertaken or supervised by a suitably qualified arboricultural expert.</i></li> <li>4. <i>Porirua City Council is provided with written documentation by a works arborist confirming that the works were undertaken in accordance with good arboricultural practice no later than 10 working days after the works have been completed, including</i></li> </ol>	<p>Permitted activity status for these types of works is untested in Porirua. Prior to the notification of the Proposed District Plan in August 2020, Porirua's district plan had no indigenous vegetation protection rules in urban areas.</p> <p>In terms of the removal of trees within a Significant Natural Area (SNA), the proposed rule focuses on imminent threat to the safety of people or property. There is no 'viability' component to the rule. In this regard, apart from activity status, proposed plan change 1F also proposes to focus the rule on the imminent threat to the safety of people or property.</p> <p>Similar to the Kāpiti Coast District Plan, the Porirua Proposed District Plan rule seeks to ensure the person carrying out tree removal is appropriately qualified.</p> <p>It is too early to draw any conclusions on the effectiveness of the Porirua City PDP rule; however it appears to suffer from the same potential avenue for misuse as ECO-R6, only as a permitted activity rather than a controlled activity. It is noted the number of protected trees that can be removed from a property under Porirua's PDP is unlimited, with a requirement to inform the</p>

	<p><i>why any vegetation was an immediate threat to the safety of people or property.</i></p> <p>The Section 42A report writer has recommended amendments to the hearings panel that would add trimming and pruning to the rule. Amendments are also recommended to standard ECO-S1 to:</p> <ul style="list-style-type: none"> <li>a) clarify the type or arborist that can supervise or carry out the works; and</li> <li>b) Require written confirmation from an arborist to be provided to the Council confirming the works were undertaken in accordance with good arboricultural practice no later than 10 working days after the works have been completed, including why any vegetation was an immediate threat to the safety of people or property.</li> </ul>	<p>Council within 40 days after the works have been completed that the tree removal was necessary. This approach appears to be open to misuse on a scale greater than the status quo approach of rule ECO-R6 under the Kapiti Coast District Plan. The Kapiti Coast District Plan rule at least requires the trees to be clearly identified and assessed as part of a controlled activity resource consent. No tree removal is authorised before the resource consent is granted.</p>
New Plymouth District Council Proposed District Plan 2019	<p>Permits vegetation removal within SNAs where the vegetation endangers human life or existing buildings or structures.</p> <p>Non-complying activity where permitted standards are not met.</p>	<p>One of the proposed permitted standards of rule ECO-R1 allows for removal of vegetation within an SNA where it endangers human life of existing buildings. This standard has no other requirements such as an arborist report or notification to the Council prior to the removal. The draft rule appears to be open to misuse similar to the Porirua PDP, only with fewer restrictions.</p> <p>Drafting of permitted standards all contain and/or after them in the list, so it is unclear whether all the standards must be read as one and complied with for an activity to be permitted or whether each standard stands on its own depending on the circumstances.</p> <p>The PDP was notified for further submissions in May 2022. There are many submissions on this topic. It is therefore too early to determine what the final form of provisions will be.</p>
Dunedin City Council Proposed	<p>Rule framework that permits "small scale" vegetation clearance for specific activities and identifies all other vegetation clearance within an</p>	<p>The PDP is still under appeal. There are no permitted or controlled activity provisions that manage the removal</p>

District Plan 2015	<p>Area of Significant Biodiversity Value (ASBV) as a restricted discretionary activity.</p> <p>Vegetation clearance is not permitted where it involves any of the following:</p> <ul style="list-style-type: none"> <li>(i) any of the threatened plant species listed in Appendix 10A.1;</li> <li>(ii) any mature examples (greater than 15 years old) of the important indigenous tree species listed in</li> <li>(iii) Appendix 10A.3; or</li> <li>(iv) any threatened indigenous fauna species listed in Appendix 10A.2.</li> </ul>	<p>of significant indigenous vegetation for safety purposes.</p> <p>The removal of vegetation that is threatened, or a specific species that is greater than 15 years old are not permitted.</p>
Christchurch City Council District Plan 2019	<p>Rule framework that permits some minor vegetation trimming but generally identifies most vegetation removal within identified SNAs as a restricted discretionary activity.</p>	<p>Permitted activity rules for indigenous vegetation removal does not cover risk, safety, disease or damage etc.</p> <p>There are no controlled activities listed for the removal of indigenous vegetation.</p> <p>Vegetation removal for the purposes covered by rule ECO-R6 would be a restricted discretionary activity under the Christchurch City District Plan.</p>
Queenstown Lakes District Council Proposed District Plan 2015	<p>Rule framework that permits some minor vegetation clearance within SNAs.</p> <p>Breaching permitted standards results in a discretionary activity status.</p>	<p>The 'Stage 1' component of the PDP was notified in 2015. This included the provisions that address indigenous biodiversity.</p> <p>The PDP is still under appeal; however the appeals do not appear to seek additional permitted activity standards or controlled activity rules that would provide for the removal of significant indigenous biodiversity for the same purposes as those provided for by rule ECO-R6.</p> <p>The permitted Queenstown Lakes PDP provisions for clearance of significant indigenous vegetation are not comparable to the Kapiti Coast District Plan.</p>
Rotorua District Council	<p>Indigenous vegetation disturbance in a SNA is a permitted activity for a variety of purposes under ECO-R4, including:</p>	<p>The permitted status does not place a limit on the number of trees that may be removed, or require any expert input into determining risk.</p>

District Plan 2016	<ul style="list-style-type: none"> <li>removal of trees that endanger human life, structures or utilities or obstruct existing access to utilities.</li> </ul> <p>If permitted standards are not met the vegetation disturbance is a discretionary activity.</p>	The Rotorua District Plan approach appears to be open to misuse, only the misuse could be more extensive than that able to be carried out under the Kapiti Coast District Plan rule ECO-R6.
Taupo District Council District Plan 2007	<p>Rule 4e.6.1 provides for indigenous vegetation clearance within a SNA for a number of purposes including the removal of trees that endanger human life, structures or utilities or obstruct existing access to utilities. The vegetation and trees to be removed must be mapped and provided to the Council prior to clearance.</p> <p>Vegetation clearance that is not a permitted activity is a restricted discretionary activity. There are no controlled activity rules for vegetation clearance.</p>	<p>The removal of trees from within a SNA for the purpose of addressing risk to human life, buildings and utilities is a permitted activity, but is subject to a requirement for the trees to be mapped and provided to the Council prior to the removal. With no limit on the number of trees that can be removed and no confirmation of the risk by Council, this rule appears to be open to misuse at large scale.</p> <p>There are no controlled activity rules for clearance, with restricted discretionary being the next rule category where permitted standards are not met.</p>

### 11.1 Summary of District Plan and Proposed District Plan Provisions

Of the district plans identified that provide for the removal of significant indigenous vegetation within identified significant natural areas as a permitted activity, it is noted those rules would be very difficult to enforce or confirm the vegetation was necessary and in accordance with permitted activity standards. This is because these plan provisions do not place any limits on the number of trees that can be removed, nor do they require the Council to confirm the works are necessary to address safety risk prior to the trees being removed.

Many of the district plans above enable the identification of safety risk posed by trees to be determined by a lay person. This approach places significant trust on landowners and developers. In the event of a complaint being received by Council for protected indigenous tree removal, the approach of many of the above district plans would make it very difficult for compliance officers to confirm whether permitted activity standards were met. In the case of the Porirua PDP, this could be up to 40 days after the works have been carried out. This raises significant questions and concerns regarding the effectiveness of the permitted activity rules and standards approach taken by some of the district plans identified above.

The Kapiti Coast District Plan ECO-R6 attempts to address the effectiveness issues that would result from permitted activity status by requiring a controlled activity rule and arboricultural advice confirming the works are necessary, or that the vegetation is no longer independently viable. A controlled activity resource consent must be granted prior to any works to the protected vegetation being carried out. The case study resource consent and the likely resulting significant adverse effects identified by the independent ecologist demonstrate the current rule is not fit for purpose. Therefore, the rule requires amendment to ensure the Council is meeting its RMA s.6(c) and s.31(1)(b)(iii) functions and obligations.

The analysis of the district plans and proposed district plans of other councils above demonstrates an amended controlled activity rule ECO-R6 would overcome the compliance issues other district plans may face with permitted activity status for indigenous vegetation removal, while still providing for a simpler and more affordable consent path for property owners



who genuinely need to address safety concerns posed by protected indigenous trees. The resource consent example of the potential misuse of the controlled activity rule and the resulting significant adverse effects on indigenous biodiversity would be prevented from occurring in the future. Importantly, the Kapiti Coast District Plan still enables the trimming of protected indigenous vegetation as permitted activity for the same reasons as those provided for under ECO-R6, meaning safety and disease risks can still be addressed as a permitted activity as long as the indigenous vegetation is not modified beyond the definition for *trimming*.

It is noted the resource consent that identified the need for this plan change was prepared and submitted to the Council by a resource management consultant on behalf of a developer. Therefore, should a similar opportunity arise in the future it is possible the same approach could be taken to gain approval for large-scale removal of protected indigenous vegetation without an appropriate assessment of environmental effects. For these reasons, none of the approaches taken in the other district plans reviewed above appear to be appropriate to manage the modification (including removal) of protected indigenous vegetation in the Kāpiti Coast District. It is possible none of the other Councils identified above have experienced the misuse of the District Plan and Proposed District Plan indigenous vegetation protection rules, and on this basis they remain comfortable with permitted activity status for modification and removal.

It is also noted that the Dunedin City Proposed District Plan and Christchurch City District Plan are both more restrictive for indigenous vegetation modification than the other councils analysed, and also more restrictive than the Kapiti Coast District Plan. This demonstrates there is no nationally consistent approach to this issue, and each Council therefore produces district plan provisions that it considers best manage the issue in response to local circumstances.

## 12 Scale and Significance Evaluation

Under section 32(1)(c) of the RMA, this evaluation report needs to contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.

The following assessment considers the proposed changes to rule ECO-R6 and ECO-Table 1 in relation to eight factors and scores each factor out of 5 in terms of its scale and significance (where 1 is low and 5 is high).

There is a degree of subjectivity about this evaluation, and its primary purpose is to broadly determine the level of analysis required for this topic. It is not intended to be an economic cost-benefit analysis although it will help determine if one is required. The assessment concludes with a summary table that provides a final overall score for the scale and significance of the proposed provisions, and therefore the level of analysis required.

### Factor 1: Reason for the Change

The Council is responding to unanticipated outcomes resulting from the implementation of rule ECO-R6. The extent and level of adverse effects on indigenous biodiversity values possible under the controlled activity rule are at odds with the controlled activity status and the policies of the District Plan. The independent ecology advice of the case study resource consent identifies likely significant adverse effects on indigenous biodiversity values resulting from the controlled activity resource consent issued by the Council.

The assessment of the actual and potential effects on biodiversity values is not a relevant matter under the existing rule, despite strong District Plan policy direction requiring indigenous biodiversity values are maintained.

The amendments to the rule ECO-R6 and ECO-Table 1 are necessary to ensure the Council is meeting its statutory obligations under RMA s.6(c) and s.31(1)(b)(iii).

**Factor 1 score is moderate/high (4)**



**Factor 2: Resource Management Issues / Problem Definition**

The importance of halting the decline in biodiversity is recognised within the statutory direction of the RMA. The Part 2 purpose of the RMA specifically identifies the protection of "significant indigenous vegetation and significant habitats of indigenous fauna" as a matter of national importance (section 6(c)).

Section 7 of the RMA also requires particular regard to the intrinsic values of ecosystems when making decisions on managing the use, development and protection of natural and physical resources. The RPS 2013 requires significant natural areas to be identified and policies and rules to protect remaining indigenous biodiversity.

The indigenous biodiversity outcomes possible under ECO-R6 have been shown to be inconsistent with the legislative and policy requirements. This places the Council at risk of not meeting its RMA section 31 obligations to maintain indigenous biodiversity.

**Factor 2 score is moderate/high (4)****Factor 3: Degree of Shift from the Status Quo**

The proposed amendments to rule ECO-Table 1 aim to ensure the intent of the rule is retained, while limiting the potential adverse effects on indigenous biodiversity to the degree where the Council is meeting its statutory obligations.

It is considered for the majority of persons who wish to remove a dangerous protected indigenous tree, the proposed changes will have limited effect. The trimming of protected indigenous vegetation to address safety risk or to remove chronically diseased vegetation remains a permitted activity under rule ECO-R3. However, should a person wish to use the rule in a similar way to the resource consent example to remove many protected trees to seemingly facilitate the future subdivision and development of a site, the proposed amendments will mean a restricted discretionary activity resource consent would be required. This will ensure the actual and potential adverse effects on indigenous biodiversity are appropriately identified, considered and addressed as intended by the District Plan policies.

The proposed amendments to the rule seek to change the standards of the rule from indigenous vegetation to indigenous trees, and to shift the focus on risk to people and buildings. This means the proposed removal of protected indigenous vegetation that are not trees will require a restricted discretionary activity resource consent, however trimming for the same purposes is still a permitted activity under rule ECO-R3.

The proposed amendment to ECO-Table 1 corrects an error and will ensure the smaller coastal species of Kānuka will be protected under the general indigenous vegetation protection rules and standards.

**Factor 3 score is low (2)****Factor 4: Who and How Many Will be Affected/Geographical Scale of Effects**

Protected indigenous vegetation under the District Plan can be found in most zones across the District. The geographical scale of effects of the proposed change to the rule will only affect proposed modification of indigenous vegetation for the purposes specified under rule ECO-R6, but it will include the following:

1. All indigenous vegetation within the 171<sup>10</sup> ecological sites listed in Schedule 1 to the District Plan.
2. The 18 species of rare and threatened vegetation listed in Schedule 3 of the District Plan.

<sup>10</sup> Note the ecological site identification numbers in Schedule 1 do not align with the actual number of ecological sites listed.

3. All key indigenous tree species not within an urban environment allotment that meet the size thresholds identified in Schedule 2 of the District Plan.
4. All key indigenous trees listed in ECO-Table 1 that exceed either of the maximum size criteria diameter or *height*.
5. All indigenous vegetation that is in or within 20 metres of a waterbody or the coastal marine area where it is not within the urban environment.

Rule ECO-R6 has had legal effect since the Council notified its Proposed District Plan in November 2012. Despite the rule being in place for approximately 10 years, Council records show the Council has only received two resource consent applications under the rule. This demonstrates that proposed changes to the rule will not impact a great number of persons, as the rule is rarely used. This may be due to the majority of persons concerned about the safety or health of protected indigenous vegetation are able to address their concerns via permitted activity trimming under rule ECO-R3.

Importantly, the plan change will ensure the extent of potential adverse effects on indigenous biodiversity that the community expects the District Plan to manage as a restricted discretionary activity will occur.

The management of significant indigenous biodiversity is also managed under other rules, including permitted activity and restricted discretionary rules. These rules are used more regularly than ECO-R6 and are to remain unchanged under the plan change.

#### **Factor 4 score is low (1)**

##### **Factor 5: Degree of Impact on or Interests from Iwi/Māori**

The values of Iwi/Māori are explicitly required in the assessment of ecological sites in accordance with Policy 23(e) of the RPS. The policy criteria states indigenous ecosystems and habitats will be considered significant if the tangata whenua values identify them as containing characteristics of special spiritual, historical or cultural significance to tangata whenua, identified in accordance with tikanga Māori.

This plan change does not address the identification or assessment of the values present within ecological sites, as this task was carried out prior to the notification of the PDP in 2012.

Notwithstanding this, the interests of Iwi as expressed within documents recognised by Iwi authorities with respect to this plan change have been assessed above. In addition, Iwi have been directly engaged and consulted on the draft plan change.

Feedback from Iwi was supportive of the intent of the plan change and the draft provisions.

The plan change seeks to better protect indigenous biodiversity in response to unintended consequences identified during the implementation of the rule through a resource consent. On this basis, the plan change is considered consistent with the interests of Iwi as expressed in the Iwi management plans and other documents lodged with the Council.

#### **Factor 5 Score is moderate (3)**

##### **Factor 6: Timing and Duration of Effects**

In accordance with section 86F of the RMA, the proposed amendments to rule ECO-R6 and ECO-Table 1 will have legal effect once formally notified. Once beyond challenge, the operative provisions will have an ongoing effect until reviewed as part of the Council's statutory requirements to undertake a plan review or as otherwise directed by any future gazettal of a National Policy Statement on Indigenous Biodiversity (which would define statutory time periods the Council must meet in order to implement any plan changes to achieve the NPS-IB requirements).

Notwithstanding the timing and duration of the effects of the proposed changes to the rule, it is important to note rule ECO-R6 and ECO-Table 1 are part of a larger existing rule framework

that protects significant indigenous vegetation. Council records show the rule is rarely used, but when it is there is a risk of misuse that will result in significant adverse effects. Resource consent applications under the proposed amendments to the rule would need to comply with the amendments from the date the plan change is notified.

If the plan change proposed to introduce a suite of wide-ranging new rules and standards for the protection of significant indigenous vegetation, the plan change would score high under this *timing and duration of effects* assessment. However, as the plan change seeks to make minor improvements to the rule to address unintended consequences and does not seek to change the existing rule framework or policy direction, it scores low.

**Factor 6 score is low (1)**

**Factor 7: Type of Effects**

The impact of the proposed changes to Rule ECO-R6 and ECO-Table 1 would shift some activities that are currently a controlled activity to a restricted discretionary activity, while focusing the application of the rule to addressing safety effects on people, buildings and infrastructure.

The modification of indigenous vegetation to remove vegetation that may be dying or diseased, or may risk damaging other protected vegetation will move from the controlled activity rule to the catch-all restricted discretionary rule. The reason for this is these matters require a closer evidential basis to confirm they are actual risks. As demonstrated by the independent ecology assessment of the case study resource consent, the two arborists involved in the resource consent (one for the applicant, and one for the Council to carry out a peer review) both incorrectly concluded the majority of the indigenous vegetation sought for removal under the rule was damaged, unsafe, and not independently viable.

The type of effects addressed by the plan change are those that fall under section 6(c) of the RMA as a Matter of National Importance, and section 7(d) as an Other Matter. Taking into account the majority of other reasons for seeking to modify protected indigenous vegetation are managed under other rules in the District Plan, the type of effects addressed by the plan change are considered to be moderate.

**Factor 7 score is moderate (3)**

**Factor 8: Degree of Risk and Uncertainty**

The District Plan already contains a comprehensive suite of objectives, policies, rules, standards and schedules that identify, protect and manage significant indigenous vegetation and significant habitats of indigenous fauna. Excluding the identified problems associated with the implementation of Rule ECO-R6 and ECO-Table 1, the plan provisions appear to be working well. The processing of resource consents under the other plan provisions that manage this topic is relatively common, and no other problems or unintended consequences have been identified to date.

The implementation issues of rule ECO-R6 and ECO-Table 1 have been identified and are well understood. The proposed amendments to these provisions intend to overcome the potential significant adverse effects that can result from the status quo. The amendments propose, among other things, limiting the number of indigenous trees that can be modified within a five year period. Consultation on draft provisions resulted in the identification of several improvements to the rule that have been incorporated into the plan change. These matters demonstrate there is a low level of uncertainty associated with this plan change.

**Factor 8 score is low (1)**



### 12.1 Overall Scale and Significance

The table summarises the scale and significance of the factors discussed above and the scores for each factor. The scores are then combined to give a total scale and significance score for the proposed plan change.

**Table 1 Summary of Scale and Significance**

Factor	Score
1. Reason for the Change	4
2. Resource Management Issues / Problem Definition	4
3. Degree of Shift from Status Quo	2
4. Who and How Many Will be Affected/ Geographical Scale of Effects	1
5. Degree of Impact on or Interest from Iwi/Māori	3
6. Timing and Duration of Effects	1
7. Type of Effects	3
8. Degree of Risk and Uncertainty	1
<b>Total (out of 40)</b>	<b>19</b>

#### Total Score Interpretation

0-10 Scale and Significance = Low

11-20 Scale and Significance = Moderate

21-30 Scale and Significance = High

31-40 Scale and Significance = Very High

The overall scale and significance of this plan change has been assessed as moderate. This means that this evaluation report needs to contain a moderate level of detail and analysis including:

- (i) A detailed planning analysis of the impact of the proposed changes;
- (ii) Expert ecology advice on actual and potential adverse effects;
- (iii) Thorough reasoning for each of the proposed amendments within the plan change;
- (iv) Demonstrate reasonable levels of consultation and consideration of feedback has taken place.

### 12.2 Quantification of Benefits and Costs

Section 32(2)(b) of the RMA requires that, where practicable, the benefits and costs of a proposal are to be quantified.

It is noted that:

- (i) The plan change will result in a more restrictive regime for a small number of uncommon activities compared to the status quo.
- (ii) The majority of concerns regarding the safety and health of significant indigenous vegetation can continue to be managed via permitted activity trimming under rule ECO-R3.

- (iii) Evidence demonstrates that the status quo can result in significant adverse effects on indigenous biodiversity values.
- (iv) The plan change will not result in a loss of development opportunity compared to the status quo, but it would require an appropriate assessment of actual and potential adverse effects on indigenous biodiversity (as intended by the objectives and policies of the District Plan).
- (v) The plan change will not result in the loss of employment opportunities.
- (vi) The plan change addresses concerns regarding the Council not meeting its section 6 and 31 RMA obligations.
- (vii) There is little likelihood of indirect flow-on effects that would arise from the plan change.
- (viii) The proportion of the district affected by the plan change, taking into account the limited application of the rule, is considered to be small.
- (ix) There is a high level of information available on the actual and potential effects that can arise from the status quo, and these effects will be significantly reduced by the plan change.

Considering these factors, and the fact the scale and significance of the plan change are assessed as being moderate, a quantification of costs and benefits is not considered necessary. In addition to this lack of necessity, it is not considered practicable to undertake specific quantification of the benefits and costs for the purposes of this report due to the intrinsic values of biodiversity which are better assessed in a qualitative manner as contained in the evaluation of the benefits and costs of the plan change below.

### 13 Reasonably Practicable Alternatives

The following identifies the alternatives considered to the proposed plan change.

#### Alternative 1: Status Quo

Maintaining the status quo is not considered to be a reasonably practicable alternative. The case study resource consent assessed by the independent ecologist demonstrates the significant adverse effects on indigenous vegetation that can result from the status quo.

The significance of the effects that have been shown as possible under the status quo are contrary to Part II of the RMA, and fail to give effect to the relevant objectives of the District Plan and requirements of the higher-level statutory planning documents.

#### Alternative 2: Delete Rule ECO-R6, Amend ECO-Table 1

One reasonably practicable alternative option would be to delete the controlled activity rule to eliminate the unanticipated outcomes that can give rise to significant adverse effects. This option would see the activities currently managed under the rule default to a restricted discretionary activity. This alternative approach would be consistent with the approaches used by a number of other district plans and proposed district plans as identified and discussed above. Although this would be an effective approach, it would not recognise and provide for the risk posed to people, buildings and infrastructure via a faster and more certain resource consent process.

This option would still amend ECO-Table 1 to ensure both species of Kānuka are protected under the relevant rules.

#### Alternative 3: Delete Rule ECO-R6, Amend ECO-Table 1, Amend Permitted Activity Rule ECO-R2

This option would be the same as the option above, only with additional amendments to add some or all of the activities managed under ECO-R6 to the permitted activity rule ECO-R2. This



option would be a similar approach to some of the district plans and proposed district plans identified and discussed above, however it would also result in the same ineffectiveness and compliance challenges identified. For these reasons this alternative is not considered appropriate.

### 13.3 Summary of Reasonably Practicable Alternatives

The only practicable alternative that would also achieve the objective of the plan change is Alternative 2. However, this option carries greater costs to persons who wish to address the potential risks that arise from unsafe protected trees.

Alternatives 1 and 3 are not considered to be reasonably practicable and are therefore not analysed further in this evaluation report. In addition to the plan change itself, Alternative 2 is taken forward for further evaluation below.

## 14 Evaluation of Benefits, Costs, and Risks

This section of the report evaluates the proposed amendments to the rule, standards, and ECO-Table 1, as they relate to the associated objectives of the plan and the plan change.

In addition to the proposed plan change, the Council has identified a reasonably practicable alternative to be evaluated below.

The evaluation method is qualitative, as this is considered appropriate for indigenous biodiversity and ecosystems, including their associated intrinsic values.

For the purpose of this evaluation, the following two potential options are evaluated:

1. The proposed provisions.
2. Alternative 2: Delete Rule ECO-R6, Amend ECO-Table 1.

Proposed plan change (recommended)	Costs	Benefits	Risks of Acting / Not Acting if there is uncertain or insufficient information about the subject matter of the provisions
Amend standards to limit application of the rule to the modification of two indigenous trees within a five year period on an allotment, rather than an unlimited amount of indigenous vegetation.	<p><b>Environmental</b></p> <p>Although this amendment will significantly reduce the extent of significant adverse effects on the environment compared to the status quo, removal of indigenous vegetation under this amended rule could still result in significant adverse effects on the environment by removing two significant indigenous trees. If the trees that can be removed under this amendment are an important habitat for endangered or at risk indigenous species, those adverse effects will not be identified via an ecological assessment, and any resulting adverse ecological effects are not a consideration under the controlled activity rule.</p>	<p><b>Environmental</b></p> <p>The number of indigenous trees that can be modified under the rule without having to assess and consider adverse effects on indigenous biodiversity is significantly reduced. This will significantly reduce the adverse effects on the environment possible under the rule.</p> <p>Protected indigenous vegetation species within ecological sites that are not trees can no longer be removed under the rule. Restricted discretionary resource consent will be required.</p>	<p>The risk of not acting is the controlled activity rule can be used to modify an unlimited number of indigenous trees without any consideration of the actual or potential adverse effects on the environment.</p> <p>The risk of acting is that the draft NPS-IB may come into force in December 2022, potentially making this option inconsistent with the NPS-IB requirements. Should this occur, Alternative Option 2 will</p>

	<p><b>Economic</b></p> <p>If a person desires to remove more than two significant indigenous trees within a five year period, they will generally be required to employ an ecologist to prepare an assessment of effects identifying the actual and potential adverse effects on indigenous biodiversity as part of a restricted discretionary activity resource consent.</p> <p>Restricted discretionary resource consents may be notified if adverse effects are more than minor or where the Council identifies affected persons. Such resource consent processes cost significantly more than a controlled activity resource consent, and obtaining approval for the consent from the Council is not guaranteed.</p> <p><b>Social</b></p> <p>Uncertainty regarding whether consent will be granted if seeking the removal of more than two significant indigenous trees from an allotment within a five year period.</p> <p><b>Cultural</b></p> <p>Similar to the environmental costs identified above, significant adverse effects can still occur under this amendment. Such an outcome would be contrary to the stated objectives of the documents recognised by mana whenua. No other cultural effects are identified.</p>	<p>Amendments to the standards require a suitably qualified arborist to certify the imminent risk posed by a tree cannot be addressed via permitted activity trimming, rather than modifying or removing the tree.</p> <p><b>Economic</b></p> <p>Persons wishing to heavily modify or remove significant indigenous trees will continue to be able to do so via a controlled activity resource consent but will be limited in the number of trees that can be removed under the rule. Resource consents for controlled activities cost less to lodge with the Council, and an ecology assessment with its associated costs is not required.</p> <p><b>Social</b></p> <p>People are able to provide for their health and safety via a simple consent process with the assistance of a qualified arborist.</p> <p><b>Cultural</b></p> <p>Limits adverse effects on indigenous biodiversity. Ensures adverse effects that would be more than minor will need to be processed as a restricted discretionary activity. This approach is more consistent with mana whenua aspirations for indigenous biodiversity as expressed in the documents recognised by iwi authorities and lodged with the Council.</p>	<p>likely be the most efficient and effective method to achieve the relevant objectives and Part II of the RMA.</p>
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		There are no other cultural benefits.	
Amend standards to limit the application only to the modification of protected indigenous trees that are posing a demonstrable imminent risk to people, buildings, or infrastructure.	<p><b>Environmental</b></p> <p>There are no environmental costs.</p> <p><b>Economic</b></p> <p>Persons wishing to remove protected indigenous vegetation due to fears it risks damaging other protected vegetation or spread disease to other vegetation will need to apply for a restricted discretionary activity resource consent. However, this economic effect is reduced as trimming to remove broken, deadwood or chronically diseased indigenous vegetation is a permitted activity under rule ECO-R3.</p> <p><b>Social</b></p> <p>There are no identified social costs.</p> <p><b>Cultural</b></p> <p>There are known no cultural costs.</p>	<p><b>Environmental</b></p> <p>The determination of whether a tree is fatally diseased, or no longer independently viable will generally need to be determined by an ecologist rather than an arborist. This will prevent the erroneous determination and removal of significant indigenous trees that have been misidentified as no longer viable by a person who is not suitably qualified (such as the errors made in the assessment of the viability of trees in the resource consent case study).</p> <p><b>Economic</b></p> <p>There are no economic benefits identified.</p> <p><b>Social</b></p> <p>Less protected indigenous vegetation may be removed under this option due to the higher evidential requirements of a restricted discretionary activity. Indigenous vegetation can be appreciated by society for its aesthetic and intrinsic values.</p> <p><b>Cultural</b></p> <p>Limits adverse effects on indigenous biodiversity. Ensures adverse effects that would be more than minor will need to be processed as a restricted discretionary activity. This approach is more consistent with mana whenua</p>	Low risk. This option addresses the identified issue of the lack of ecology advice for the modification of an unlimited number of protected indigenous trees.

		<p>aspirations for indigenous biodiversity as expressed in the documents recognised by iwi authorities and lodged with the Council.</p> <p>There are no other cultural benefits.</p>	
<p>Amend the standards to introduce the requirement for an appropriately qualified arborist to certify that the imminent safety risk posed by the tree(s) cannot be addressed via permitted activity trimming under rule ECO-R3.</p>	<p><b>Environmental</b></p> <p>There are no environmental costs.</p> <p><b>Economic</b></p> <p>If trimming can address the imminent safety risk posed by protected indigenous trees, resource consent as a restricted discretionary activity would be required if modification is still required or desired (taking into account trimming is a defined term and works beyond the limits specified in the defined term are deemed to be modification). The employment of an arborist is already required to confirm the imminent safety risk, therefore any additional economic costs arising from this standard would be minor.</p> <p><b>Social</b></p> <p>There are no identified social costs.</p> <p><b>Cultural</b></p> <p>There are no known cultural costs.</p>	<p><b>Environmental</b></p> <p>Will encourage permitted activity trimming rather than modification and removal, thereby potentially retaining more significant indigenous biodiversity.</p> <p><b>Economic</b></p> <p>Potential saving of costs if trees can be pruned rather than modified or removed.</p> <p><b>Social</b></p> <p>People are still able to address identified imminent safety risks posed by protected indigenous trees via permitted activity trimming.</p> <p><b>Cultural</b></p> <p>Limits adverse effects on indigenous biodiversity. Ensures adverse effects that would be more than minor will need to be processed as a restricted discretionary activity. This approach is more consistent with mana whenua aspirations for indigenous biodiversity as expressed in the documents recognised by iwi authorities and lodged with the Council.</p>	<p>The risks are low under this amendment. This amendment further reduces the likelihood of significant adverse effects by requiring demonstration that permitted activity trimming is insufficient to address the identified and confirmed imminent risk.</p>



Amend the standard to delete references to an arborist certifying that indigenous vegetation is no longer independently viable.	<p><b>Environmental</b></p> <p>There are no environmental costs.</p> <p><b>Economic</b></p> <p>Less removal of protected indigenous vegetation as a controlled activity would result under this option. Resource consent as a restricted discretionary activity, potentially with the costs of supporting ecological evidence will be required for modification of protected indigenous vegetation beyond the proposed limits for modification.</p> <p><b>Social</b></p> <p>There are no social costs identified.</p> <p><b>Cultural</b></p> <p>There are no cultural costs identified.</p>	<p><b>Environmental</b></p> <p>The case study resource consent demonstrates that under this option less protected indigenous vegetation is likely be removed unnecessarily due to incorrect determination of its independent viability.</p> <p><b>Economic</b></p> <p>There are no identified economic benefits.</p> <p><b>Social</b></p> <p>Less protected indigenous vegetation may be removed under this option due to the higher evidential requirements of a restricted discretionary activity. Indigenous vegetation can be appreciated by society for its aesthetic and intrinsic values.</p> <p><b>Cultural</b></p> <p>Limits adverse effects on indigenous biodiversity. Ensures adverse effects that would be more than minor will need to be processed as a restricted discretionary activity. This approach is more consistent with mana whenua aspirations for indigenous biodiversity as expressed in the documents recognised by iwi authorities and lodged with the Council.</p> <p>There are no other cultural benefits.</p>	Low risk. The ecology advice demonstrates why it is inappropriate to rely on arboricultural advice to determine independent viability of indigenous species (at least for the species involved under the case study resource consent).
Update the necessary qualification arborist	<b>Environmental</b>	<b>Environmental</b>	Low risk. This amendment will ensure arborists are

must have to ensure they are qualified to assess risks posed by trees.	<p>There are no environmental costs.</p> <p><b>Economic</b></p> <p>NZQA Level 4 qualified arborists currently able to support resource consent applications under Rule ECO-R6 will only be considered suitably qualified under amended Rule ECO-R6 if they have obtained a higher level arboriculture qualification than the status quo requires. They can still support an application for a restricted discretionary activity resource consent.</p> <p><b>Social</b></p> <p>There are no identified social costs.</p> <p><b>Cultural</b></p> <p>There are no identified cultural costs.</p>	<p>Only trees that pose a genuine and demonstrable imminent risk to the safety of people and buildings will be able to be consented for removal under ECO-R6. The resource consent case study shows both arborists involved in the resource consent incorrectly determined the risk posed by the trees sought for removal. The environmental benefit is fewer protected indigenous trees will be removed without the necessary ecological assessment of environmental effects.</p> <p><b>Economic</b></p> <p>There are no identified economic benefits.</p> <p><b>Social</b></p> <p>There are no identified social benefits.</p> <p><b>Cultural</b></p>	<p>appropriately trained and qualified to identify the risks posed by trees, rather than only being qualified to identify that additional risk assessment needs to be carried out by an arborist who has higher qualifications.</p> <p>There is a risk there may be fewer suitably qualified arborists available for persons to employ to prepare information to support a resource consent application under rule ECO-R6. This may result in time delays in finding an arborist to assess risk.</p>
Amend ECO-Table 1 to recognise the two species of Kānuka have significantly different height and diameters at maturity.	<p><b>Environmental</b></p> <p>There are no environmental costs.</p> <p><b>Economic</b></p> <p>Resource consent may be required for the removal of the coastal species of Kānuka, whereas it is currently a permitted activity by way of the error in the height and circumference specifications for this species in the District Plan.</p> <p><b>Social</b></p> <p>There are no social costs.</p>	<p><b>Environmental</b></p> <p>The smaller coastal species of Kānuka will be protected under the relevant rules, rather than being deemed to be immature and able to be removed. This will improve indigenous biodiversity values in the District by appropriately describing and protecting this species.</p> <p><b>Economic</b></p> <p>There are no economic benefits.</p> <p><b>Social</b></p>	<p>The risk of not acting is that more of the coastal Kānuka species will be able to be removed without any consideration of the actual and potential adverse effects.</p> <p>The ecological advice notes the coastal Kānuka may appear to be immature Kānuka, but is in fact mature and can be many</p>

	<p><b>Cultural</b></p> <p>There are no cultural costs.</p>	<p>There are no social benefits.</p> <p><b>Cultural</b></p> <p>The better protection of an endemic indigenous species of Kānuka fits well with the objectives of the documents recognised by mana whenua. There are no other cultural benefits.</p>	<p>decades old despite its small relative size.</p>
<b>Effectiveness and Efficiency</b>			
<p><b>Effectiveness</b></p> <p>This option is less effective at achieving the objectives of the plan and the objective of the plan change when compared to Option 2. As explained in the independent ecology advice in <b>Appendix 1</b> significant adverse effects on protected indigenous biodiversity may still occur under some circumstances. This is also a potential outcome identified by Forest and Bird during consultation on draft provisions.</p> <p>However, this option will considerably reduce the potential for significant adverse effects from occurring compared to the status quo, while recognising the importance of enabling people to address genuine health and safety risks. An amendment has been proposed to the rule in response to the issues raised by Forest &amp; Bird to require the demonstration that the identified imminent safety risk cannot be addressed via permitted activity trimming. The Council also retains control over the necessity for the works.</p> <p>The ability to justifiably remove protected significant indigenous trees that posed a demonstrable and imminent threat to people and buildings from protected significant indigenous trees is considered to be more efficient as a controlled activity than the restricted discretionary activity that would be required under Alternative 2, because a dangerous tree will generally be required to be removed regardless of resource consent activity status. Ensuring the danger is identified by an appropriately qualified person, and that the danger</p>		<p><b>Efficiency</b></p> <p>Enabling a limited number of protected indigenous trees that are posing a demonstrable imminent risk to people and buildings via a controlled activity resource consent with supporting information from a suitably qualified arborist (including demonstrating why the risk cannot be addressed via permitted activity trimming) is an efficient method to manage this issue. This option enables a faster and guaranteed consent process compared to a restricted discretionary consent process. Under this option the Council is enabled to check the supporting arborist information to confirm risk and necessity for carrying out the modification to protected trees.</p> <p>This option efficiently addresses the implementation and enforcement issues identified in this evaluation report with respect to other options considered such as permitted status for modification of protected indigenous trees, while still providing for a simplified consent path.</p> <p>The Council is able to efficiently meet its statutory duties, functions and responsibilities to maintain indigenous biodiversity under this option.</p>	

<p>cannot be addressed via trimming are considered the best approach to managing this issue.</p> <p>This option effectively addresses the implementation and enforcement issues identified in this evaluation report with respect to other options considered such as permitted status for modification of protected indigenous trees, while still providing for a simplified consent path.</p>			
<p><b>Overall evaluation</b></p> <p>Considering the identified costs and benefits, this is the most efficient and effective option to achieve the objectives of the District Plan, the objective of the plan change, and to achieve Part 2 of the RMA.</p> <p>Should the NPS-IB may come into force in December 2022, it could potentially result in the proposed changes to rule ECO-R6 inconsistent with NPS-IB requirements. Should this occur, Alternative Option 2 will likely be the most efficient and effective method to achieve the relevant objectives and Part II of the RMA. It is possible controlled activity status for modification under this rule may not enable the consideration of all relevant matters, and may not give the Council sufficient discretion over whether to grant a resource consent should the outcomes be inconsistent with the NPS-IB. This issue will be monitored and addressed as this plan change and the NPS-IB progress through their respective processes.</p>			
<b>Alternative 2: Delete Rule ECO-R6, Amend ECO-Table 1 (not recommended)</b>	<b>Costs</b>	<b>Benefits</b>	<b>Risks of Acting / Not Acting if there is uncertain or insufficient information about the subject matter of the provisions</b>
Delete ECO-R6 in its entirety.	<p><b>Environmental</b></p> <p>There are no environmental costs.</p> <p><b>Economic</b></p> <p>Persons wishing to remove protected indigenous vegetation due to fears it risks damaging other protected vegetation or spread disease to other vegetation will need to apply for a restricted discretionary activity resource consent. However, this economic</p>	<p><b>Environmental</b></p> <p>All modification of protected indigenous vegetation will require a restricted discretionary resource consent. Trimming can still occur as a permitted activity, however any proposed modification beyond trimming may require ecological input. This option is superior to the recommended approach</p>	Risks are low under this option. There is sufficient information about the subject matter and no uncertainty regarding the impact of this option.

	<p>effect is reduced as trimming to remove broken, deadwood or chronically diseased indigenous vegetation is a permitted activity under rule ECO-R3.</p> <p><b>Social</b></p> <p>There are no social costs identified.</p> <p><b>Cultural</b></p> <p>There are no cultural costs identified.</p>	<p>under the plan change with respect to environmental benefits.</p> <p><b>Economic</b></p> <p>There are no known economic benefits.</p> <p><b>Social</b></p> <p>Less protected indigenous vegetation may be removed under this option due to the higher evidential requirements of a restricted discretionary activity. Indigenous vegetation can be appreciated by society for its aesthetic and intrinsic values.</p> <p><b>Cultural</b></p> <p>The better protection of an endemic indigenous species of Kānuka fits well with the objectives of the documents recognised by mana whenua. There are no other cultural benefits.</p>	
Amend ECO-Table 1 to recognise the two species of Kānuka have significantly different height and diameters at maturity.	<p><b>Environmental</b></p> <p>There are no environmental costs.</p> <p><b>Economic</b></p> <p>Resource consent may be required for the removal of the coastal species of Kānuka, whereas it is currently a permitted activity by way of the error in the height and circumference specifications for this species in the District Plan.</p> <p><b>Social</b></p> <p>There are no social costs.</p>	<p><b>Environmental</b></p> <p>The smaller coastal species of Kānuka will be protected under the relevant rules, rather than being deemed to be immature and able to be removed. This will improve indigenous biodiversity values in the District by appropriately describing and protecting this species.</p> <p><b>Economic</b></p> <p>There are no economic benefits.</p> <p><b>Social</b></p> <p>There are no social benefits.</p>	<p>The risk of not acting is that more of the coastal Kānuka species will be able to be removed without any consideration of the actual and potential adverse effects.</p> <p>The ecological advice notes the coastal Kānuka may appear to be immature Kānuka, but is in fact mature and can be many decades old despite its small relative size.</p>



	<b>Cultural</b> There are no cultural costs.	<b>Cultural</b> The better protection of an endemic indigenous species of Kānuka fits well with the objectives of the documents recognised by mana whenua. There are no other cultural benefits.	
<b>Effectiveness and Efficiency</b>			
<b>Effectiveness</b>  This option is effective at addressing the issue as it would eliminate the potential for significant adverse effects identified under the preferred option. However, this option fails to provide for the ability of persons to address significant imminent risks posed by protected indigenous trees to the health and safety of people and buildings. Therefore, although highly effective at addressing the issue of maintaining indigenous biodiversity, it is not as effective as the preferred option at enabling people to provide for their health and safety.		<b>Efficiency</b>  This option is efficient at addressing the objectives of the District Plan and the plan change, as it will eliminate the potential for significant adverse effects on indigenous biodiversity to occur in the absence of ecological evidence. However, this option is less efficient than the preferred option for persons who need to apply for resource consent as a restricted discretionary activity (rather than a controlled activity consent) to address significant imminent safety risks to themselves and others, and buildings posed by protected indigenous vegetation. This option would result in increased economic and social costs to these people as a result of the increased time and evidence required to obtain a resource consent, which the Council has the discretion to notify and decline.	
<b>Overall evaluation</b>  This option is more effective than the recommended approach at addressing the issue of maintaining indigenous biodiversity but is less effective at enabling people to provide for their health and safety. Similarly, this option is more efficient at addressing the issue of maintaining indigenous biodiversity as it would require a restricted discretionary resource consent application to be made with supporting ecological advice either at the time of application or provided in response to a Council request for further information. For persons needing to address significant imminent health and safety risks posed by protected indigenous trees, this option is not as efficient as the recommended option.  Taking into account the identified costs and benefits, this option is not as efficient or effective at addressing the objectives of the plan, the plan change, or Part II of the RMA, chiefly as it does not balance the need to maintain indigenous biodiversity with the purpose of the RMA to enable people to provide for their health and safety (section 5(2)). This may change should the NPS-IB be gazetted in December 2022. This issue will be monitored and addressed as this plan change and the NPS-IB progress through their respective processes.			

## 15 Overall conclusion

This evaluation has been undertaken in accordance with Section 32 of the RMA in order to identify the need, benefits and costs and the appropriateness of the proposed plan change having regard to its effectiveness and efficiency relative to other means in achieving the purpose of the RMA.

The evaluation demonstrates that this proposed plan change is the most appropriate option as it:

- (i) Best gives effect to the higher order statutory planning documents;
- (ii) Is the most effective and efficient way to achieve the purpose of the RMA, the District Plan objectives, and the objectives of the plan change;
- (iii) Ensures the Council will meet the requirements of section 31 of the RMA;
- (iv) Addresses the identified issues.

## Appendix 1 – Ecological Advice

NZ0121076-001:AvMD  
2 May 2022

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Our Ref: NZ0121076-001:AvMD  
Contact: Astrid van Meeuwen-Dijkgraaf

2 May 2022

Kāpiti Coast District Council  
175 Rimu Road  
Paraparaumu 5032

Attention: Jason Holland

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Dear Jason,

## KĀPITI COAST DISTRICT PLAN REVIEW TREE MODIFICATION RULE 3A.2.2.1(A)

### Introduction

The Kāpiti Coast District Plan is undergoing a limited review to address aspects of the plan that are not functioning in the way that was intended. One of these aspects relates to Controlled Activity Rule ECO-R6 of the Kāpiti Coast Proposed District Plan that is:

1. The modification of indigenous vegetation must be limited to:

- a) modification of vegetation that is damaged, dead or dying; or has sustained storm damage; or is fatally diseased such that:
  - i. the indigenous vegetation is no longer independently viable or presents a risk of serious harm to people or property or risks damaging surrounding protected vegetation; and
  - ii. an arborist who has attained the New Zealand Qualifications Authority National Certificate in Arboriculture Level 4 or equivalent qualification has certified in writing that Condition (i) above is met.

The full text of Rule ECO-R6 is provided in Table 1-1, below.

A resource consent application<sup>1</sup> was received by Kāpiti Coast District Council (KCDC) for the removal of 123 protected indigenous trees from within an Ecological Site in Waikanae on the basis that:

*"All vegetation proposed to be removed meets the criteria set out within Rule 3A.2.2<sup>2</sup> and is either dead or fatally diseased such that it is no longer independently viable as assessed by an arborist who has attained the NZQA National Certificate in Arboriculture Level 4"*

The full Ecosystems and Indigenous Biodiversity chapter from Operative District Plan is provided in Appendix A.

Given the matters of control specified in the rule, the Council was required to **grant** a resource consent to modify (remove) 104 trees within the Ecological Site. KCDC sought independent arboriculture advice and the 19 remaining trees were considered to be still viable.

A 45-lot residential subdivision consent application<sup>3</sup> was soon lodged with the KCDC for the same site following the granting of the resource consent to remove the 104 indigenous trees. The application shows the survey plan was prepared while the controlled activity consent to remove the trees was still being processed by the KCDC.

<sup>1</sup> Resource consent reference RM200102.

<sup>2</sup> Note, the pre-National Planning Standards reference for Rule ECO-R6 was 3A.2.2.

<sup>3</sup> Resource consent reference RM200227.



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Table 1-1 Full text of Controlled Activity Rule ECO-R6 Kāpiti Coast District Plan

<b>ECO-R6</b>	<p>The <i>modification of any indigenous vegetation</i>, that is:</p> <ol style="list-style-type: none"> <li>located within an ecological site listed in <a href="#">Schedule 1</a>; or</li> <li>a key indigenous tree listed in <a href="#">ECO-Table 1</a> and exceeds either of the maximum size criteria diameter or height (excluding trees planted by humans); or</li> <li>a key indigenous tree listed in <a href="#">Schedule 2</a>; or</li> <li>a rare and threatened vegetation species listed in <a href="#">Schedule 3</a>; or</li> <li>in or within 20 metres of a waterbody or the coastal marine area where it not within the urban environment, (excluding planted vegetation);</li> </ol> <p>is a controlled activity within the following zones and precincts:</p> <ul style="list-style-type: none"> <li>General Residential Zone</li> <li>Ngārara Development Area</li> <li>Waikanae North Development Area</li> <li>Airport Zone</li> <li>Town Centre Zone</li> <li>Metropolitan Centre Zone</li> <li>Hospital Zone</li> <li>General Industrial Zone</li> <li>Local Centre Zone</li> <li>Mixed Use Zone</li> <li>Rural Lifestyle Zone</li> <li>Rural Eco-Hamlet Precinct</li> <li>Future Urban Zone</li> <li>Open Space Zone</li> </ul>	
Controlled Activity	<p><b>Standards</b></p> <ol style="list-style-type: none"> <li>The <i>modification of indigenous vegetation</i> must be limited to: <ol style="list-style-type: none"> <li><i>modification of vegetation that is damaged, dead or dying; or has sustained storm damage; or is fatally diseased such that:</i></li> <ol style="list-style-type: none"> <li>the indigenous vegetation is no longer independently viable or presents a risk of serious harm to people or property or risks damaging surrounding protected vegetation; and</li> <li>an arborist who has attained the New Zealand Qualifications Authority National Certificate in Arboriculture Level 4 or equivalent qualification has certified in writing that Condition (i) above is met; or</li> </ol> </ol></li> <li><i>Modification of planted indigenous vegetation where the applicant can demonstrate that it was not planted for ecological restoration or enhancement purposes or as a biodiversity offset.</i></li> </ol> <p><b>Note:</b> For notable trees listed in <a href="#">Schedule 8</a> see <a href="#">TREE-R2</a>, <a href="#">TREE-R3</a>, and <a href="#">TREE-R4</a>.</p> <p><b>Criteria for notification</b> The written approval of persons will not be required and applications under this rule will not be served on any person or notified.</p>	<p><b>Matters of Control</b></p> <ol style="list-style-type: none"> <li>The extent and method of vegetation removal.</li> <li>The location and timing of planting of any plant species to compensate for the loss of vegetation.</li> <li>Any remedial work necessary to restore the site after the <i>modification</i> activity is complete.</li> <li>Public safety.</li> <li>Measures to avoid, remedy or mitigate effects on <i>tāngata whenua</i> values.</li> </ol>

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In light of the granting of the above-mentioned resource consents, KCDC is concerned that the rule (ECO-R6) is not being used as intended, which is resulting in potentially perverse outcomes. Concerns are primarily that the actual and potential effects on significant indigenous biodiversity and habitats of indigenous fauna that may be authorised under the rule may be contrary to the plan's objectives and policies, the RMA, and the Regional Policy Statement.

### Scope of works

KCDC has requested that Cardno now Stantec undertake a review of rule ECO-R6 to investigate the potential adverse ecological effects that may result from the current rule, and to provide recommendations on a potentially more appropriate approach from an ecology perspective that would ensure potentially perverse outcomes on significant indigenous biodiversity are prevented in the future. Copies of the abovementioned resource consents were provided to Cardno now Stantec to provide real-world examples of the issue identified with the district plan provisions.

Cardno now Stantec is to provide an understanding the values that may be affected by the potentially perverse use of ECO-R6, such as the presence of threatened species and effects on other healthy components of the site such as vines and epiphytes. The advice addresses whether a scale of effects element should be introduced and whether the rule should apply within an Ecological Site at all. KCDC would also appreciate a discussion on whether an ecological assessment should be required and whether a definition of 'independently viable' may be needed to better support this rule.

District plan policy on the Management Approach to Biodiversity Protections<sup>4</sup> seeks to avoid where practicable the modification of significant indigenous vegetation, in particular all indigenous vegetation within Ecological Sites. To do this, a re-assessment of this controlled activity rule against the Natural Environment Objectives and Policies, the RMA, and the Regional Policy Statement particularly for Ecological Sites needs to be undertaken.

As a real-world example is available to evaluate in the form of the abovementioned resource consent, our advice draws on this and focuses on the potential unanticipated ecological and biodiversity outcomes that may result from similar resource consents being granted in the future.

### Case Study - Description of ecological site affected by granted resource consent

The district plan describes the ecological values within the affected Ecological Site (Table 1-2).

This Ecological Site spans two properties (Figure 1-1).

The site subject to the resource consent for the removal of 104 protected indigenous trees is shown on Figure 1-1.

Approximately 27,000 m<sup>2</sup> (2.7 hectares) of Ecological Site K189 falls within the subject site.

Table 1-2 Brief ecological description of Ecological Site K189.

K189	Ngarara Road, Wakanāe	Between Ngarara Road and Park Avenue, Wakanāe 1,772,533 E 6,035,444 N	4.27 ha Foxton (4.27ha)	Kanuka treeland, wetland	Regenerating early successional forest type induced to treeland due to clearance and grazing, wetland is dominated by exotics; 1 kahikatea and 1 rimu in canopy. At Risk-Naturally Uncommon dwarf mistletoe ( <i>Korthalsella salicornioides</i> ) and common skink (Not Threatened) reported; acutely threatened land environment. Potential for restoration given moderate size but would require major effort removal of grazing, gaps in canopy planted, animal and plant pests controlled, Foxton ED RAP(2)-1	<b>Overall: Yes</b> RPS23a: Yes RPS23ab: Yes RPS23c: No RPS23d: No RPS23e: Unknown
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The rear portion of the subject site (nearest the new State Highway 1; SH1) is zoned as General Rural and the remainder of the subject site that contains the K189 is zoned as General Residential. There are several areas of Open Space adjacent to the subject site and a small area of Future Urban Zone.

<sup>4</sup> Policy ECO-P3.

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Figure 1-1 Extent of Ecological Site K189 and the case-study subject site

The district plan also identifies that the subject site is within Special Amenity Landscape (SAL19) and is fully within the Coastal Environment and in the PREC48 - Rural Dunes Precinct.

The topography of the subject site is undulating dunes alternating with hollows. Much of the area comprises grassland, but the hollow in the middle portion of the site includes some treeland and wetland within Ecological Site K189 (Table 1-2).

#### Ecological values

Ecological sites have been identified based on ecological values sufficient to meet Section 6(c) of the Resource Management Act (RMA 1991) – Matters of National Importance; and Greater Wellington Regional Council (GWRC) Regional Policy Statement for Wellington (RPS, GWRC 2015) Policy 23. This Ecological Site meets two of the RPS Policy 23 criteria; RPS23a representativeness and RPS23b rarity.

The undulating topography of the property reflects its history as part of the largest dune system in New Zealand (Foxton Ecological District; McEwen 1987). Wetlands and wet hollows occurred between the dunes. Less than 5% indigenous vegetation remains in this ecological district after clearance by both Māori and Europeans.

The property and the surrounding area are classified in the highest Threatened Land Environment classification (less than 10% indigenous cover left; Walker *et al.* 2015).

Indigenous ecosystems in dune systems were identified as national priorities for protection (Ministry for the Environment 2007).

It is estimated that only 10% of the original coverage of wetlands remains in New Zealand, that there is less than 3% of the original extent of wetland remaining in the Wellington Region and that this continues to decline further (Ausseil *et al.* 2008, 2017).

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The GWRC Proposed Natural Resources Plan (pNRP) identifies in the definition of natural wetlands, that all natural wetlands will meet the representativeness and rarity criteria listed in Policy 23 of the Regional Policy Statement 2013 and therefore meet the definition of significant natural wetland.

K189 is described as kānuka treeland. This is confirmed to be *Kunzea amathicola*<sup>5</sup>, a species that is currently classified as Threatened–Nationally Vulnerable (de Lange *et al.* 2018), and classified as At Risk – Declining (de Lange *et al.* 2013) previously before the arrival of myrtle rust (*Austropuccinia psidii*). The increased threat ranking is because myrtle rust presents an additional threat to all myrtle species including this species.

Kānuka is also host for a species of dwarf mistletoe *Korthalsella salicornioides* which is classified as Threatened–Nationally Critical.

No species list is available for the subject site or K189 on the New Zealand Plant Conservation Network. Nearby plant lists include Nga Manu with 72 indigenous species including 3 Threatened plant species (Mitalfe and Home 2000) and 133 species including 12 Threatened and 8 At Risk plant species (WEA Field Group Wellington 1989) and Lion Downs Bush with 37 plant species (Anonymous 1972).

At least 90 indigenous plant species are recorded from the vicinity on iNaturalist including nationally and regionally threatened species such as: Taurepo (*Rhabdothamnus solandri*), large-leaved milk tree (*Streblus banksia*), swamp maire (*Syzygium maire*), green mistletoe (*Ileostylus micranthus*), climbing rātā (*Metrosideros fulgens*) and akatea (*Metrosideros perforata*). Nearby areas include 15 epiphytic and climbing plant species, 12 fern species, 13 orchid species and 3 podocarp species, and more than 200 indigenous fauna species.

There is a record in the Department of Conservation herpetofauna database of northern grass skink (*Oligosoma polychroma*) within K189 in the subject site, and various other species are known from within 5 km of the site and/or the subject site provides suitable habitat for these lizard species (Table 1-3).

Table 1-3 Lizard species that could occur at the case study site, their likelihood of occurrence and habitat requirements.

Scientific name	Common name	Conservation Status <sup>6</sup>	Likelihood of occurrence	Habitat requirements <sup>7</sup>
<i>Oligosoma polychroma</i>	Northern grass skink	Not threatened	High – reported from the site	Sand dunes, grasslands, herbfields, wetlands, rocky areas including rock piles and scree, and scrub. From the coast up to at least 1800 m above sea level. Seral scrub. May live on ground, among rocks or among low dense vegetation; 'striped' form favours grass habitats.
<i>Naultinus punctatus</i>	Barking gecko	At Risk – Declining	High – reported within 2 km, likes manuka and kānuka.	Arboreal species that uses forest and scrub, including manuka/kānuka shrubland. Known from lowland areas.
<i>Oligosoma ornatum</i>	Omate skink	At Risk – Declining	High – reported within 2 km, and habitat is suitable.	Forest or open areas with deep leaf litter or rank grass, or stable cover such as deep rock piles.
<i>Woodworthia maculatus</i>	Raukawa gecko	Not Threatened	High – reported within 5 km, found beneath flaky bark on dead standing trees.	Arboreal and terrestrial species that inhabits forest trees. Retreat sites are beneath loose bark or in deep hollows, often on standing dead trees. Also in creviced rock outcrops, bluffs and rock tumbles, including associated scrubby vegetation, in open or scrubby areas. And on coastlines among driftwood and boulders banks, including associated dense vegetation such as pohuehue, often down to high-tide line. rank grass
<i>Oligosoma zelandicum</i>	Glossy brown skink	At Risk – Declining	Low – no records within 5 km, but habitat is suitable.	Densely vegetated and typically damp habitats in lowland areas, including forest, scrub, farmland and coastlines, including among pohuehue on boulder banks. Seral scrub and rank grass.

<sup>5</sup> <https://www.inaturalist.org/observations/104537870> - the trees on Waikanae Pony Club land.

<sup>6</sup> Lizard threat classification as per Hitchmough *et al.* (2021).

<sup>7</sup> From [Atlas of the amphibians and reptiles of New Zealand](#) (doc.govt.nz).

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Scientific name	Common name	Conservation Status <sup>6</sup>	Likelihood of occurrence	Habitat requirements <sup>7</sup>
<i>Oligosoma aeneum</i>	Copper skink	At Risk – Declining	Low – no records within 5 km, but habitat is suitable.	Forest and open or shaded areas with adequate groundcover such as logs, rocks or long grass or deep leaf litter. Also encountered in urban areas: compost heaps, rock gardens etc. Occurs close to the high-tide line in coastal situations.
<i>Mokopirirakau</i> 'Southern North Island'	Ngahere gecko	At Risk – Declining	Low – no records within 5 km.	Arboreal species that occurs in forest and shrublands. Generally found on trunks and larger branches of trees, but occasionally found nearer to ground in shrubs or ferns, or in creviced clay banks.

It is likely that some of the species that have been observed nearby also occur within that part of K189 affected by tree clearance authorised under the resource consent. The controlled activity rule ECO-R6 did not require an ecological assessment to be made or supplied with the resource consent application on how these species will be affected by the loss of their habitat (the trees to be removed), in particular the rare plant species, areas of wetland, epiphytic and climbing plant species and indigenous fauna species, and less mobile species such as lizards.

#### Site visit

A brief visit was undertaken to the neighbouring property on 8 January 2022 which enabled part of the site to be viewed. The area was more diverse than was expected from an area that is being grazed. This was primarily because of areas of wetland and a remnant understorey.

#### Policy overview

A brief overview of the relevant policy requirements for the management of indigenous biodiversity is provided below.

#### Resource Management Act 1991 (RMA)

The protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna is a Matter of National Importance under section 6(c) of the RMA. The district plan identifies and applies protection to significant indigenous fauna through its rule and policy framework.

Section 31 identifies that one of the functions of the Council in giving effect to the RMA is the control of any actual or potential effects of the use, development, or protection of land for the purpose of the maintenance of indigenous biological diversity.

#### New Zealand Coastal Policy Statement 2010 (NZCPS)

The protection of indigenous biodiversity in the coastal environment is managed by Policy 11 of the New Zealand Coastal Policy Statement 2010 (NZCPS) as follows:

#### **Policy 11 Indigenous biological diversity (biodiversity)**

*To protect indigenous biological diversity in the coastal environment:*

*(a) avoid adverse effects of activities on:*

- (i) indigenous taxa that are listed as threatened or at risk in the New Zealand Threat Classification System lists;*
- (ii) taxa that are listed by the International Union for Conservation of Nature and Natural Resources as threatened;*
- (iii) indigenous ecosystems and vegetation types that are threatened in the coastal environment, or are naturally rare;*

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- (iv) *habitats of indigenous species where the species are at the limit of their natural range, or are naturally rare;*
- (v) *areas containing nationally significant examples of indigenous community types; and*
- (vi) *areas set aside for full or partial protection of indigenous biological diversity under other legislation; and*
- (b) *avoid significant adverse effects and avoid, remedy or mitigate other adverse effects of activities on:*
  - (i) *areas of predominantly indigenous vegetation in the coastal environment;*
  - (ii) *habitats in the coastal environment that are important during the vulnerable life stages of indigenous species;*
  - (iii) *indigenous ecosystems and habitats that are only found in the coastal environment and are particularly vulnerable to modification, including estuaries, lagoons, coastal wetlands, dunelands, intertidal zones, rocky reef systems, eelgrass and saltmarsh;*
  - (iv) *habitats of indigenous species in the coastal environment that are important for recreational, commercial, traditional or cultural purposes;*
  - (v) *habitats, including areas and routes, important to migratory species; and*
  - (vi) *ecological corridors, and areas important for linking or maintaining biological values identified under this policy*

Many ecological sites, including K189 are within the existing identified extent of the coastal environment in the district plan.

#### National Policy Statement for Freshwater Management 2020 (NPS-FM)

The National Policy Statement for Freshwater Management (NPS-FM; MfE 2020)<sup>8</sup> and the National Environmental Standards-Freshwater (NES-F; RMA 2020) have increased the protection of natural wetlands. The draft Essential Freshwater Interpretation Guidance: Wetlands Definitions (MfE 2021a) clarifies that there is no minimum size limit as to what constitutes a wetland and that degraded wetlands and wetlands dominated by exotic species are still considered to be natural wetlands.

Under the NES-F the following activities are non-complying activities if they are not for the purpose of wetland restoration or maintenance of existing structures and utilities:

- (a) vegetation clearance within, or within a 10 m setback from, a natural wetland;
- (b) earthworks within, or within a 10 m setback from, a natural wetland;
- (c) the taking, use, damming, diversion, or discharge of water within, or within a 100 m setback from, a natural wetland.
- b) Works within a wetland, or changes to wetland hydrology within 200 m of a wetland are currently prohibited activities under the NES.

Implementation of the NES-F and the pNRP falls under the jurisdiction of the Regional Council. These statutory documents are relevant as the example resource consent includes activities that are managed under them – specifically the removal of indigenous vegetation from within an adjacent to a wetland.

#### Regional Policy Statement for the Wellington Region 2013 (RPS)

The district plan must give effect to the RPS. Decisions on resource consents must have regard to the RPS. The most relevant provisions of the RPS are:

##### **Objective 16**

*Habitats with significant biodiversity values are maintained and restored to a healthy functioning state.*

<sup>8</sup> Published: 1 August 2020 and came into force from 3 September 2020.



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**Policy 23: Identifying indigenous ecosystems and habitats with significant indigenous biodiversity values – district and regional plans**

District and regional plans shall identify and evaluate indigenous ecosystems and habitats with significant indigenous biodiversity values; these ecosystems and habitats will be considered significant if they meet one or more of the following criteria:

- (a) *Representativeness*: the ecosystems or habitats that are typical and characteristic examples of the full range of the original or current natural diversity of ecosystem and habitat types in a district or in the region, and:
  - i. are no longer commonplace (less than about 30% remaining); or
  - ii. are poorly represented in existing protected areas (less than about 20% legally protected).
- (b) *Rarity*: the ecosystem or habitat has biological or physical features that are scarce or threatened in a local, regional or national context. This can include individual species, rare and distinctive biological communities and physical features that are unusual or rare.
- (c) *Diversity*: the ecosystem or habitat has a natural diversity of ecological units, ecosystems, species and physical features within an area.
- (d) *Ecological context of an area*: the ecosystem or habitat:
  - i. enhances connectivity or otherwise buffers representative, rare or diverse indigenous ecosystems and habitats; or
  - ii. provides seasonal or core habitat for protected or threatened indigenous species.
- (e) *Tangata whenua values*: the ecosystem or habitat contains characteristics of special spiritual, historical or cultural significance to tangata whenua, identified in accordance with tikanga Māori.

**Policy 24: Protecting indigenous ecosystems and habitats with significant indigenous biodiversity values – district and regional plans**

District and regional plans shall include policies, rules and methods to protect indigenous ecosystems and habitats with significant indigenous biodiversity values from inappropriate subdivision, use and development.

**Policy 47: Managing effects on indigenous ecosystems and habitats with significant indigenous biodiversity values – consideration**

When considering an application for a resource consent, notice of requirement, or a change, variation or review of a district or regional plan, a determination shall be made as to whether an activity may affect indigenous ecosystems and habitats with significant indigenous biodiversity values, and in determining whether the proposed activity is inappropriate particular regard shall be given to:

- (a) maintaining connections within, or corridors between, habitats of indigenous flora and fauna, and/or enhancing the connectivity between fragmented indigenous habitats;
- (b) providing adequate buffering around areas of significant indigenous ecosystems and habitats from other land uses;
- (c) managing wetlands for the purpose of aquatic ecosystem health;
- (d) avoiding the cumulative adverse effects of the incremental loss of indigenous ecosystems and habitats;
- (e) providing seasonal or core habitat for indigenous species;
- (f) protecting the life supporting capacity of indigenous ecosystems and habitats;
- (g) remedying or mitigating adverse effects on the indigenous biodiversity values where avoiding adverse effects is not practicably achievable; and

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- (h) *the need for a precautionary approach when assessing the potential for adverse effects on indigenous ecosystems and habitats.*

Although Policy 47 ceases to have effect once policies 23 and 24 are in place in an operative district or regional plan, items (a) to (h) remain relevant and useful parameters against which to assess a resource consent.

For the case study the removal of trees will result in:

- (a) Removal of connections and corridors between and within habitats of indigenous flora and fauna.
- (b) Removes an area of significant indigenous ecosystems and habitats and also removes the buffer to the other part of the Ecological Site on the adjacent property. It fails to provide adequate buffering to K189.
- (c) The loss of an area of wetland. It is anticipated that aquatic ecosystem health of the wetlands, including on the adjacent property, will be significantly and adversely affected by the proposed works. The value of the wetlands could not be assessed, acknowledged or protected under ECO-R6 Matters of Control.
- (d) Ongoing cumulative adverse effects of the incremental loss of indigenous ecosystems and habitats, including threatened species.
- (e) Loss of important indigenous habitat. There was no assessment if the trees and area to be removed provide seasonal or core habitat for indigenous species. Small remnants of indigenous vegetation in highly modified urban or rural landscapes are often disproportionately of greater importance to indigenous fauna than their size might suggest.
- (f) The loss of life supporting capacity of indigenous ecosystems and habitats.
- (g) An overall loss of indigenous biodiversity and ecosystems as no mitigation of effects was proposed.
- (h) A failure to apply precautionary approach when assessing the potential for adverse effects on indigenous ecosystems and habitats.

#### **Proposed Natural Resources Plan for the Wellington Region (pNRP)**

Rules R104 to R108 in the pNRP seek to protect and restrict activities in wetlands including replacement of existing structures and restoration activities. The take, use, damming or diverting water into, within, or from the significant natural wetland, or the take and use of water within 50 m of the significant natural wetland, land disturbance including excavation and deposition and reclamation (including and drainage or diverting of water to an extent that the area affected ceases to have the characteristics of a significant natural wetland) are non-complying activities.

The NPS-FM, NES-F and the pNRP seek to ensure that any areas of wetland have been appropriately defined and assessed. If works cannot avoid a wetland, then any proposed loss of natural wetland needs to be sufficiently offset (both the extent and the values). Implementation of these statutory documents fall under the jurisdiction of regional councils.

#### **Potential effects of the removal of indigenous vegetation under controlled activity rule ECO-R6**

Using the example of the controlled activity resource consent granted for the removal of 104 protected indigenous trees, the removal of those trees from the part of Ecological Site K189 on the subject property will result in:

- > Further loss of already rare vegetation types including:
  - Indigenous vegetation in the Foxton Ecological District.
  - Indigenous vegetation in a Threatened Land Environment classification with less than 10% indigenous cover left.

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- Wetland.
- Coastal dune forest.
- > Further loss of already rare species including:
  - *Kunzea amathicola* (Threatened-Nationally Vulnerable).
  - *Korthalsella salicornioides* (Threatened-Nationally Critical).
  - Potentially loss of other rare species as no ecological survey has been undertaken.
- > Increased fragmentation and loss of connectivity between Ecological Sites.
- > Increased edge effects for the remaining area of K189 – likely to result in further degradation (cumulative effects).
- > Loss of canopy will affect understorey species including wetland species.
- > Loss of canopy trees will affect the hydrology within the wetland (cumulative effects).
- > Vegetation removal within or within 20 m of a wetland.
- > Loss of natural character in the coastal environment.
- > Loss of habitat for indigenous fauna, especially important for less mobile species such as lizards.
- > Loss of habitat for epiphytic and climbing plant species.
- > Potentially loss of habitat of other nationally and regionally threatened species.
- > Removal of trees can destabilise surrounding trees, and increase wind throw.
- > Clearing and felling of trees can result in collateral damage such as dragging down other trees or branches of other trees, pulling indigenous vines out of the canopy, and damage to the understorey.

The subject site is proposed to be developed and this will likely require earthworks within the rootzone of the remaining trees. This has the potential for further adverse ecological effects including:

- > Further vegetation clearance.
- > Changes to the hydrology of the wetland.
- > Damage and cutting through large roots causing ill health or death of trees and plants, including outside the works footprint.
- > Drying of the soil near cut faces causing ill health or death of trees and plants, including outside the works footprint.
- > Deposition and compaction of soil on top of roots causing ill health or death of trees and plants, including outside the works footprint.
- > Changes to subsoil and surface hydrology causing ill health or death of trees and plants, including outside the works footprint.
- > Increased edge effects resulting in drying out and other changes in the habitat and species composition.
- > Increased edge habitat enabling rapidly colonising exotic and pest plant species to establish including penetrating more interior parts of the site.
- > Trimming or other modification of trees and shrubs causing ill health or death of trees and plants.
- > The limit of the extent of vegetation clearance and earthworks needs to be carefully and robustly identified on the ground to prevent accidentally clearing a larger area.
- > Construction equipment and tools if not cleaned properly prior to arrival at the site can import viable pest plants material (seeds, plant fragments) resulting in greater abundance of pest plants or novel to the property pest plants.
- > Soil and gravel and other such material introduced to site can also introduce viable pest plants material and novel species.

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The activities under the resource consent are non-complying activities under various legal mechanisms if they occur in a wetland (these other legal mechanisms are not under the jurisdiction of KCDC). The actual and potential adverse effects on indigenous biodiversity that will result from the exercise of the resource consent also appear to be at odds with the requirements of in the RMA, the NZCPS, and the RPS identified above.

The above does not include a full assessment of potential adverse effects on the ecological values of the site that would result under the 45-lot residential subdivision consent for this site.

The controlled activity resource consent granted to remove 104 protected indigenous trees from within the ecological site demonstrates the existing rule provides an avenue that can be used to avoid the requirement to consider the adverse ecological effects of the removal of significant indigenous vegetation as part of their development plans. This can result in significant adverse effects.

KCDC was not able to consider the ecological effects and the policy framework for the removal of the trees due to the controlled activity status, and the standards and matters of control under the rule being insufficient to address these matters.

Controlled activities must be granted provided that the matters of control have been satisfied, and should be limited to activities where the actual and potential adverse effects are limited and well understood. ECO-R6 in its current form does not include any matters that would prevent the adverse ecological effects outlined above, and is clearly open to be used in a manner that can result in significant adverse effects on indigenous biodiversity that is inconsistent with the intent of the rule, and the requirements of the RMA and other statutory planning documents to maintain indigenous biodiversity.

### Issues with granting the consent

The following is an evaluation of the ecological issues identified when reviewing the controlled activity resource consent issued by the KCDC and the information supporting the application.

The Objectives and Policies of the district plan advocate for protection and enhancement of significant indigenous vegetation. However, under the controlled activity rule KCDC was unable to meaningfully consider these objectives and policies nor other important ecological aspects as outlined above and identified in the description for K189 – such as wetland, loss of rare species, ecosystems and habitats and ecological landscape effects.

The applicant was not required to demonstrate any application of the "Management Approach to Biodiversity Protection" required by Policy ECO-P2 of the district plan, due to the controlled activity status and the specific standards and matters of control retained by the KCDC under rule ECO-R6.

KCDC Rule ECO-R7e. regulates trimming or modification of any indigenous vegetation that is in or within 20 metres of a waterbody. However, the controlled activity status of rule ECO-R6 overrides this requirement. This means that no other KCDC rules can be triggered to enable the consideration of the ecological effects of modification of significant indigenous vegetation if all controlled activity standards of Rule ECO-R6 are met.

### Rule ECO-R6 - Matters of control

This section only reviews ecological matters of control.

#### 1. The extent and method of vegetation removal.

There was inadequate evaluation provided in the resource consent application of the extent of vegetation removal. It is not clear from the report if the 123 trees that were sought for removal comprise all of the trees on the site or only a proportion. The only matters that appeared to have been considered were the number of trees to be removed, with the following matters not considered:

- The extent of area of Ecological Site to be affected. The total area to be affected was not clarified in the application, thus it was unclear if all, or only part of, the vegetation within the Ecological Site on the subject property (2.7 hectares) was to be affected. Ecological Site K189 on the subject property comprises over half of Ecological Site K189 (4.27 hectares).
- The effects on the wetland, or on the remnant of Ecological Site K189 on the adjacent property.
- How many trees would remain once the 'unviable' trees were removed, and the long-term viability of the remaining trees and vegetation.

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- The effects on threatened fauna (especially less mobile species such as lizards) and flora.
- Ecological landscape matters such as connectivity.

The total number of trees to be removed from an Ecological Site on the basis of being 'no longer viable' could potentially comprise all trees and thus the ecological effects would be far from negligible. Moreover, dead and dying trees still provide valuable ecological services that are discussed in more detail below.

The applicant indicated that the proposal to remove dead or fatally diseased trees from within the ecological site would have positive effects for creating more area for regenerative vegetation to establish. This failed to address all the other adverse ecological effects outlined previously. In my opinion the overall effect of the modification of trees within K189 will be substantially negative.

#### Further information

Further information was sought from the applicant with regards to extent and method of vegetation removal. The response was:

*"The methods used to remove the vegetation will be climbing and rigging where required and controlled felling techniques to enable the Arborist Team to protect other trees and undergrowth. The heavy machinery used will be truck and chipper and a 4wd ute. To limit damage to tree roots by way of compaction, the heavy machinery use will be limited to the existing farm track. Branches will be chipped to mulch and could be left onsite or removed, same for the heavy wood. The Arborist Team could process to rings for firewood or leave in manageable pieces and they could be left or removed as per the consent holder's preference."*

#### Conditions

Council included a range of conditions to minimise potential adverse effects as far as possible at the subject site given that the Matters of Control limited what could be assessed. These conditions included:

- > Identifying specific trees that were to be retained as they were considered to be still viable.
- > The requirement to undertake a drone survey for dwarf mistletoe, and advice that trees that host dwarf mistletoe (*Korthalsella salicornioides*) are to be retained.
- > The trees to be modified can only be accessed on foot and no motorised vehicles are to access Ecological Site K189.
- > Modification of trees will need to be supervised by a suitably qualified arborist.
- > A requirement to undertake a survey for nesting birds during the peak breeding season and limitations on tree modification whilst At Risk or Threatened species are nesting.
- > That trees to be modified must be climbed and dismantled unless it is unsafe to do so, with all major limbs and trunk sections rope lowered to ground level and placed to minimise damage to surrounding vegetation and site disturbance.
- > All wood and cut vegetation is to be left on site and placed as directed by an arborist.

The Advice Notes in the KCDC resource consent approval outline the ecological values and rarity of the site. KCDC recommends that the applicant should obtain expert ecological advice to balance the arborists' assessments, which do not contain any appraisal of the subject trees' ecological value or of the adverse ecological effects of modification. Although KCDC cannot require this through conditions, it is recommended as the most environmentally responsible and appropriate course of action in consideration of the ecological site's values and integrity

#### Potential adverse effects from conditions

Dwarf mistletoe is, as the name implies, a very small plant and difficult to see. The mature length is often less than 10 cm (de Lange 2022d), and in areas lacking possum and rodent control there may only be haustoria<sup>9</sup> left with the fleshy parts of the plant eaten off. Haustoria may not even protrude outside the tree, or could be small knob-like projections. Despite the requirement for a drone survey, given the small size of these plants, there still is a real risk that trees that host dwarf mistletoe may be removed.

<sup>9</sup> The knob-like root structure that parasitic angiosperms use to penetrate the host plant.



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It is not clear from the conditions if the felled trees and limbs will be chipped or left entire. Chipping and cutting of the trees has the potential to damage or kill fauna such as lizards that may inhabit the trees. All native lizards are 'absolutely protected' under the Wildlife Act (1953, s63 (1) (c)). To avoid and minimise adverse effects on indigenous lizards, lizard-sensitive clearance protocols should have been adopted, searches for lizards undertaken and an application made to the Department of Conservation for a Wildlife Authority to relocate lizards should they occur at the site. It would be best for lizards if the felled trees and limbs are left more or less entire so that lizards can escape or adopt these areas as new refuges.

## **2. The location and timing of planting of any plant species to compensate for the loss of vegetation.**

Initially the applicant did not propose to mitigate for the loss of the 'unviable' trees as the proposed activity did not represent net loss of living or healthy vegetation on the application site.

KCDC included a condition that prior to modification the applicant shall obtain from a suitably qualified ecologist and submit for Council approval a restoration plan for Ecological Site K189 to compensate for the loss of vegetation. Once approved, the applicant must implement the plan within 12 months of modification starting.

Ideally the minimum standard for such a restoration plan should be to achieve no net loss of biodiversity and preferably a net gain.

The current risk to the health of K189 is from stock grazing. Fencing the whole area to exclude stock would have been desirable.

The KCDC Advice Notes identify that exclusion of livestock and reduction in pest animal numbers as a consequence of urban development will kick-start regeneration beneath the old trees. Therefore, removing a large number of these trees would be a destructive intervention.

## **3. Any remedial work necessary to restore the site after the modification activity is complete.**

No remedial work was proposed by the applicant to restore the site after the modification activity was completed. The reason given was that the trees are located within an ecological site and that remedial works would further disturb the ecological site and remaining healthy vegetation and result in additional damage.

Remedial work could have included control of pest plant species as these may become more prevalent with the opening up of the canopy. If undertaken carefully this type of remedial work would result in little additional damage of indigenous ecosystem values.

As outlined above, KCDC required that a planting be developed and undertaken as part of the subdivision consent.

## **Adherence to national and regional policy**

The consequences of retaining Rule ECO-R6 in its current form is that it will not be consistent with:

- > RMA S6(c) significant indigenous vegetation and significant habitats of indigenous fauna.
- > RMA S7(d) the intrinsic values of ecosystems.
- > The requirements of Policies 23, 24 and 47 of the RPS.
- > The requirements of Policy 11 of the NZCPS.

The case study resource consent identified a range of potential adverse ecological effects that cannot be addressed under the current controlled activity rule. Thus, this rule appears to be contrary to the following Kāpiti Coast District Objectives and Policies:

- > DO-02 – To improve indigenous biological diversity and ecological resilience.
- > ECO-P1 – negates the protocols to assess and identification of habitats and vegetation with significant biodiversity values.
- > ECO-P2 – fails to enforce the Management Approach to Biodiversity Protection.
- > ECO-P3 – fails to ensure the maintenance of indigenous biodiversity.

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- > ECO-P4 – fails to encourage enhancement of rare and threatened vegetation species and Ecological Sites.

On the basis of the identified unanticipated consequences resulting from the implementation of the controlled activity rule, it is clear the adverse effects that can result under the status quo are significant and are inconsistent with the requirements of the Act and the statutory planning documents.

### Issues with the arborists reports

The following is an evaluation of two arborist reports; one that supported the resource consent application and other the peer review requested by KCDC. These are reviewed to provide a real-world demonstration of the ecological matters that can be overlooked or misunderstood, and the issues that can arise from the controlled activity rule requiring arborist advice, rather than ecological advice for matters that may have significant adverse effects on protected significant indigenous biodiversity and habitats.

#### Arborist for the applicant

The *Kunzea* species is misidentified in the arborist report (Darbyshire 2020). *Kunzea ericoides* only occurs in northern South Island, not at all in the North Island (de Lange 2020b) and this has been known since 2014 (de Lange 2014). The species that occurs at the site is *Kunzea amathicola* and this species will never reach the height stature and form that the other *Kunzea* native to the Kāpiti Coast achieves (*Kunzea robusta*; de Lange 2022c). *Kunzea amathicola* is also more amenable to growing in wetland areas compared to *Kunzea robusta* (Figure 1-2).

Tree health assessments should be appropriate for the type of tree and the environment. It is not appropriate to expect lush symmetrical trees and tree canopies with lovely straight upright trunks in windswept coastal environments where stock graze the understorey. Species such as coastal kānuka often have patchy and/or open canopies (Figure 1-2 and Figure 1-3).



Figure 1-2 Wind-swept but viable *Kunzea amathicola* in a grazed wetland area south of Hokio Beach (October 2017).

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Figure 1-3 Short-stature (less than 1 metre tall) *Kunzea amathicola* with patchy wind-swept canopy on the coastal cliffs at Pukerua Bay (March 2019). Stock do not have access to this site.

Table 1-4 summarises the health of the trees as noted by Darbyshire (2020). In total, 55 of the 123 trees are described as Dead. The remaining 69 are considered 'unviable' for a range of reasons. The assessment appears to have been made solely on the state of the trunk of the tree, not the canopy.

In comparison, the USDA Forest Health Monitoring Publications<sup>10</sup> are largely focussed on the quality and vigour of the canopy, with limited attention to potential faults in the trunk (and then mainly for timber harvesting purposes; Dunn 1999).

Species such as cabbage trees (not identified as to species in the arborist report but probably *Cordyline australis*), māhoe (*Melicactus ramiflorus*) and kānuka can live for decades with even large hollows and areas of rot. Thus, it seems unlikely that they are no longer viable, especially after viewing the photos in the arborists report and viewing trees from the neighbouring property.

A tree leaning over, especially in windy coastal conditions, does not necessarily imply that it is no longer viable (Figure 1-2).

The photographs in Darbyshire (2020) do not include images of the canopy and therefore it is difficult to ascertain if the trees are dead or diseased or 'unviable'. Often parts of the canopy of trees in the background are visible in these photos and these portions of canopy look as I would expect under these coastal conditions for these species.

Figure 1-4 shows part of the canopy of Ecological Site K189. This canopy is not as healthy and intact as on the adjacent property (Figure 1-6), but in my opinion would still be viable for many years, especially if the area is fenced off and pest plants controlled.

<sup>10</sup> <https://www.fs.fed.us/foresthealth/publications/fhm/fhm-publications.shtml>



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Figure 1-4 View into the case study site from the adjoining property. Pink flagging tape can be seen on some trees, and was part of the method used to assess trees as described in the resource consent application. Many of the trees with flagging tape appear to be appropriately healthy for the species.



Figure 1-5 Part of the *Carex* wetland is visible in this view into the case study site from the adjoining property.

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Figure 1-6 Ecological Site K189 on adjoining property is not grazed and has a healthy tree canopy and a natural little dune wetland. The cessation of grazing on the neighbouring application site has the potential to result in a similar healthy ecosystem.

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Table 1-4 Summary of issues identified in the applicant's arborist report (Darbyshire 2020).

Issue Identified	Kānuka ( <i>Kunzea ericoides</i> )	Cabbage tree	Māhoe
<b>Total number of trees</b>	<b>114</b>	<b>4</b>	<b>5</b>
Dead	49	2	4
Split storm damage			1
Structurally unsound-Hollow	1	2	
Hazardous Unsustainable lean. Remaining trunk viable.	1		
Storm Damage			
Tree in decline. Structurally Unsound.	1		
Unviable	63		
<b>Subcategories for: Kānuka (<i>Kunzea ericoides</i>)</b>			
<b>Dead</b>			
Dead	32		
Dead Standing	1		
Dead Stump	3		
Dead Tree	10		
Ganoderma	1		
Storm Damage	1		
<b>Unviable</b>			
Significant rot hollow at base - structurally unsound	1		
Considerable hollow Cracks	1		
Considerable hollow Significant rot	1		
Structurally unsound Hollows	1		
Unsustainable Lean	4		
Considerable Hollow Structurally unsound	1		
Ganoderma	9		
Rot at Base	1		
Tree in decline	9		
Hollow at base	1		
Rot pockets Unsustainable Lean	2		
Ganoderma Tree in Decline	2		
Rot Pockets Hollows	1		
Compromised structure			
Compromised Base Unsustainable Lean	1		
Exposed Roots - Hollows Underground Unstable Bank	1		
Structurally Unsound	4		
Exposed Roots Tree in Decline	1		
Included Stems Considerable Rot	1		
Considerable Rot Hollow	1		
Unstable Base	1		
Structurally Unsound Storm Damage	1		
Structurally Unsound Storm Damage - Rot Pockets	1		
Structurally Unsound Rot Pockets	3		
Structurally Unsound Unsustainable Lean - Rot	1		
Structurally Unsound - Unsustainable Lean Rot	1		
Half fallen Roots Exposed - Unsustainable Lean	1		
Rot	1		
Structurally Unsound			
Co-joined Stem Fallen & Snagged	1		
Structurally Unsound - Included Stems Storm Damage	1		
Rot	1		
Split Trunk	1		
Split/Fractured Unsustainable Lean	1		
Split Ganoderma	1		
Split	1		
Fractured Rot			
Prior Felling Fallen - (re rooted)	1		
Storm Damage Tree in Decline	1		
Included forks Stress Fractures - Instability	1		

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#### Arborist for KCDC

Partridge (2020) undertook a site visit and peer review of initial tree assessments (Darbyshire 2020) for KCDC.

Partridge (2020) used the Mattheck Visual Tree Assessment (VTA) methodology and experience to assess the trees on the subject site. This is a method to assess urban trees, not forest or naturally established treeland (as will be discussed further).

Partridge (2020) noted additional species on the site including an exceptional quality mātai (*Prumnopitys taxifolia*) worthy of being designated a Notable Tree, and kaikōmako (*Pennantia corymbosa*) that were not reported in Darbyshire (2020). Partridge (2020) estimates that most of the kānuka are aged between 60 and 90 years old and that many are in poor condition with defects such as decay, root lift, and broken branches being common. They note that intensive grazing may have compacted and damaged soil and roots leading to instability and poor tree form which is exasperated by browsing.

Partridge (2020) does not identify the species of kānuka on the site, but from the description of "failure to attain a larger structure" appears to assume it is a species other than *Kunzea amathicola*. *Kunzea amathicola*, as explained previously, does not grow as tall or large as *Kunzea robusta*. Partridge (2020) also indicates that close canopy proximity likely limits the ability of individual trees to attain a larger structure with stronger roots. To me this indicates that the canopy of this area is nearly closed – which in one aspect that confirms viability of a vegetation type.

There is a lack of succession with recruitment limited or absent likely due to grazing pressure, apart from in wetland areas. Partridge (2020) identified wetlands, as did the applicant but potential adverse effects on rare and ecologically very valuable wetland were not required to be considered under Rule ECO-R6 in its current form. It is unknown whether the applicant has, or intends to comply with the regional consent and national requirements that manage wetlands.

I agree with Partridge (2020) that trees with defects such as 'rot at the base', affected by fungi such as 'Ganoderma', have 'hollows', 'leans', 'exposed roots', or are 'in decline' may yet remain upright and alive for many years. I also agree that this depends on the extent of those defects, their effect upon the health or structural integrity of the tree, and the tree species' usual lifespan. Veteran trees that live for hundreds of years generally have many such defects, and as trees age, they often shed upper branches and are affected by decay.

I concur with Partridge (2020) that it would be useful to establish a definition of 'viable' for trees. However, both the Australian Standard 4970 Protection of Trees on Development Sites and the British Standard 5837 Trees in Relation to Construction relate to protection of trees on development sites to reduce risks to human habitation and infrastructure, such as falling on a person, house, power pylons, or uprooting a road or house foundations. In my opinion these documents are not applicable to maintaining the health of natural vegetation within Ecological Sites.

Additionally, dead, dying, and damaged trees are important components of a natural ecosystem. Death and decay are a natural process, Ecological Sites should not be managed as gardens with all deadwood and understorey vegetation removed.

#### Appropriateness of using urban tree assessments

Visual tree assessment protocols used by arborist have all been developed to assess the health of trees and risk of damage to property and people in urban environments, not forest settings. The risk that is being assessed is how likely is it that a tree will break and fall on property and people – not how likely is it that the tree will survive past 5 years.

The load, and thus risk of failure, to a common urban tree mainly comes from wind and is proportional to tree height and the load-carrying capacity of the stem cross-sections, which depends on their diameter. The older mature trees have higher basic stability due to increasing girth without increasing height. The more stable they are the more defects they can tolerate without becoming hazardous (Rinn 2018).

Even tiny radial increments lead to a significant annual growth of the load-carrying capacity and thus correspondingly higher basic stability. This explains the fact that mature trees can obviously tolerate significantly more and bigger defects without being more likely to break as compared to young (and even intact) trees. Countless numbers of mature trees, hollowed out for decades but surviving strong winds, prove this as a fact (Rinn 2018).

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The *Kunzea amathicola* of the size and girth seen at the site will be many decades old, if not several centuries. Mean annual diameter growth for *Kunzea* on dunes in the Bay of Plenty was 3.0 mm/yr at Whale Island and 2.8 mm/yr at Thornton<sup>11</sup> (Smale 1994). *Kānuka* in east Otago<sup>12</sup> had more or less annual growth rings with a maximum growth rate of about 3.0 mm/yr (Allen *et al.* 1992). Extrapolating that to trees with diameters up to 200 mm gives an age of up to 300 years, which is considerably more than Partridge's (2020) estimate.

The One-Third Rule ( $t/R > 1/3$ ), that is central to many visual tree inspections, posited that as soon as the thickness of the outer intact shell-wall ( $t$ ) of a hollow or decayed tree stem is less than  $1/3$  of the local radius ( $R$ ), this stem section was supposed to be significantly more likely to break under wind loads. However, this rule should not be applied to trees that have an irregular cross-section, as most of the *Kunzea amathicola* have (Figure 1-4). The  $t/R$  ratios of such cross-sections do not provide relevant information for determining load-carrying capacity of the corresponding cross-sections (Rinn 2018).

Trees in natural ecosystems are often damaged and/or shaped by falling limbs and trees, strong winds, frosts, erosion, the location of light gaps and browsing by mammals and invertebrates. This does not necessarily reduce their long-term viability, despite not having a uniform, balanced, symmetrical appearance as assessed by the Visual Tree Assessment (Mattheck and Breloer 1994a, b) or the Basic Tree Risk Assessment<sup>13</sup>.

Thus, urban tree valuation methods are not suitable to assess trees in naturally established forests and treelands. It would be better to adopt a method that assesses the viability of trees in a forest situation such as USDA Forest Service (Dunn 1999).

Additionally, the methods used would not be suitable for non-tree vegetation types. The wording in ECO-R6 refers to indigenous vegetation, which also encompasses groundcover, understorey, subcanopy, climbers and epiphytes. Vegetation can also be non-woody, such as within a *Carex* wetland.

#### Ecological value of dead and hollow trees

Dead and dying trees are an essential and important part of forest ecosystems. Dead trees and fallen wood play an important role in ecosystems by providing wildlife habitat, cycling nutrients, aiding plant regeneration, decreasing erosion, and influencing drainage and soil moisture and carbon storage, among other values (Wuerthner 2018). Dead standing trees can continue to be a structural part of an ecosystem for years to decades, the woody structure providing perches for fauna and plants and retaining some of the canopy functions. Decomposing parts of a tree provide rich habitat for fungi and invertebrates, which in turn are consumed by other species such as birds. The process of a tree falling or the crown dying back creates light gaps enabling other plants to grow and a toppled root plate creates new habitat and mixes the soil (Franklin *et al.* 1987). These are all expected natural successional processes in an ecosystem.

In New Zealand, hollow trees provide nesting holes for a range of indigenous bird species, bat roosts, hiding places for arboreal gecko and a wide range of invertebrates. Plants establish on fallen logs as these are nutrient rich locations and often have more light due to the creation of light gaps. The Department of Conservation promotes leaving fallen and illegally logged trees in-situ as these are an important source of nutrients. Nutrient retention and recycling will be even more important in relatively poor soils such as sand.

So dead, dying, and defective trees are a normal part of ecosystem processes. They should be left in the ecosystem unless there are really good reasons to remove them, such as the risk of widescale spread of disease or damage to property and people.

#### Options

Tree modification rule ECO-R6 was never intended to be used to completely eliminate substantial areas of indigenous vegetation within an Ecological Site and all its associated values. As an extreme example, the rule in its current form would enable the removal of all 'unviable' trees or vegetation in Ecological Site K017-Tararua Ranges and foothills (41,273.09 ha).

<sup>11</sup> In 1994 thought of as *Kunzea ericoides* var. *ericoides*, but most likely *Kunzea salterae* on Whale Island and *Kunzea toelkenii* at Thornton (de Lange 2014).

<sup>12</sup> In 1992 thought of as *Kunzea ericoides* but most likely *Kunzea robusta* (de Lange 2014).

<sup>13</sup> [https://www.isa-arbor.com/education/resources/BasicTreeRiskAssessmentForm\\_Print\\_2017.pdf](https://www.isa-arbor.com/education/resources/BasicTreeRiskAssessmentForm_Print_2017.pdf)



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We understand the purpose of the rule was to provide a mechanism to remove vegetation that was anticipated to cause serious harm to either humans and human infrastructure or to the ecological values of the area (e.g. eliminate the spread of disease). Clearly the rule has been used for a purpose it was not intended, resulting in perverse outcomes including significant adverse effects on the environment.

The rule could be improved in various ways as described below. One or more of these options may be required to ensure that rule functions as intended<sup>14</sup>.

The current controlled activity rule ECO-R6 is provided in Table 1-1.

#### Conclusions and Options for Potential Amendments to rule Eco-R6

The scale of adverse effects that can result from the use of Rule ECO-R6 appears to exceed those that were anticipated when the rule was prepared. The rule was intended to provide property owners with a reduced consenting pathway for the modification or removal of dangerous or diseased trees. As can be seen from the case study, the rule can also be used to modify vegetation at a scale where it will result in significant adverse effects on protected significant indigenous vegetation and habitats. Changes to the rule to address the significant adverse effects on indigenous biodiversity that can result from the status quo are needed.

We recommend amendments to rule ECO-R6 should be considered to address the following matters:

1. The number of trees that can be modified on a property within a specified time period. This would enable property owners to remove trees that present an imminent risk to the safety of people, property or the health of other indigenous vegetation. An example could be the removal of two trees within a five-year period as a controlled activity.
2. If controlled activity status is to be retained for the modification of indigenous vegetation, we recommend ecological advice is required with respect to:
  - a. the viability of the trees proposed for modification;
  - b. providing a description of the ecological values present;
  - c. the actual and potential effects on indigenous biodiversity values (including cumulative effects), and methods to ensure indigenous biodiversity is maintained.
  - d. Confirming the trees do not provide habitat for Threatened or At Risk species, or are not Threatened or At Risk species.
  - e. Methods to ensure planting and remedial work is undertaken to ensure that there is no net loss of biodiversity values, including cumulative and wider ecological effects.
  - f. Opportunities for the modified vegetation to provide positive ecological effects such as providing habitat for other indigenous species (i.e. leaving the felled vegetation on the site to provide habitat for indigenous fauna).
3. We also recommend the controlled activity rule should be reviewed/amended to:
  - a. Apply to indigenous *trees*, rather than *indigenous vegetation*, as in our view the rule should focus on the most significant risks to people, buildings, infrastructure and other vegetation. These risks are chiefly associated with trees rather than non-woody indigenous vegetation species.
  - b. Amend the matters of control to include methods to ensure the maintenance of indigenous biodiversity.
  - c. Require the imminent risk to existing infrastructure, buildings and human health and safety to be demonstrated rather than presumed due to the structural integrity or viability of a tree.
  - d. Provide for the removal of trees only if they are 'no longer viable' **and** pose a real and demonstrated risk to property and people (and potentially areas of significant vegetation).
  - e. Determine whether New Zealand Qualifications Authority National Certificate in Arboriculture Level 4 is a sufficient level of qualification for identifying risk. Level 5 may be more appropriate.

<sup>14</sup> Note that I am an ecologist, not a policy analyst and the suggesting wording will require further consideration and refinement.

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We also note there are two species of *Kunzea* that occur in the Kāpiti Coast District – these are currently listed on one line in ECO-Table 1 even though the species are quite different in size and threat status. We recommend updating ECO-Table 1 of the district plan to recognise this as follows:

Common Name	Species	Māori Name	Dimensions That Relate to Rules	
			Diameter (circumference in cm)	Height (m)
White-tea-tree	<i>Kunzea robusta</i> or <i>Kunzea amathicola</i>	Kānuka	45.0 (47)	3
Coastal kānuka	<i>Kunzea amathicola</i>	Rawiritōa, kānuka	5.0 (15)	1
Kānuka	<i>Kunzea robusta</i>	Rawirinui, kānuka	15.0 (47)	3

Yours sincerely,

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APPENDIX

A

OPD OBJECTIVES, POLICIES AND RULES





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Objectives, policies and rules to manage ecosystems and indigenous biodiversity in the Operative District Plan (ODP) for Kāpiti Coast District.

## ECO - Ecosystems and Indigenous Biodiversity

Biodiversity relates to the diversity of and within all living systems including the habitats of plants and animals. This section will focus on significant indigenous vegetation and significant habitats of indigenous fauna in accordance with section 6(c) of the Resource Management Act 1991 (RMA).

For the purposes of this Plan significant indigenous vegetation and significant habitats of indigenous fauna are grouped together into Ecological Sites, rare and threatened vegetation species, key indigenous tree species or notable trees. These features have been assessed, scheduled and/or mapped in the Plan.

In addition, general natural areas and features have provisions in this section which relate to the maintenance and enhancement of biodiversity values.

### Strategic Context

The primary Objectives that this chapter implements are:

- [DO-01](#) - Tāngata Whenua;
- [DO-02](#) - Ecology and Biodiversity;
- [DO-03](#) - Development Management; and
- [DO-011](#) - Character Amenity Values.

#### DO-01 Tāngata Whenua

To work in partnership with the *tāngata whenua* of the District in order to maintain *kaitiakitanga* of the District's resources and ensure that decisions affecting the natural *environment* in the District are made in accordance with the principles of Te Tiriti o Waitangi (Treaty of Waitangi).

#### DO-02 Ecology and Biodiversity

To improve indigenous biological diversity and ecological resilience through:

1. protecting areas of *significant indigenous vegetation* and *significant habitats of indigenous fauna*;
2. encouraging restoration of the ecological integrity of indigenous ecosystems;
3. enhancing the health of terrestrial and aquatic ecosystems; and
4. enhancing the *mauri* of *waterbodies*.

#### DO-03 Development Management

To maintain a consolidated urban form within existing urban areas and a limited number of identified growth areas which can be efficiently serviced and integrated with existing townships, delivering:

1. urban areas which maximise the efficient end use of energy and integration with infrastructure;
2. a variety of living and working areas in a manner which reinforces the function and vitality of centres;
3. resilient communities where development does not result in an increase in risk to life or severity of damage to property from natural hazard events;
4. higher residential densities in locations that are close to centres and public open spaces, with good access to public transport;
5. management of development in areas of special character or amenity so as to maintain, and where practicable, enhance those special values;
6. sustainable natural processes including freshwater systems, areas characterised by the productive potential of the land, ecological integrity, identified landscapes and features, and other places of significant natural amenity;
7. an adequate supply of housing and areas for business/employment to meet the needs of the District's anticipated population which is provided at a rate and in a manner that can be sustained within the finite carrying capacity of the District; and
8. management of the location and effects of potentially incompatible land uses including any interface between such uses.

#### DO-011 Character and Amenity Values

To maintain and enhance the unique character and amenity values of the District's distinct communities so that residents and visitors enjoy:

1. relaxed, unique and distinct village identities and predominantly low-density residential areas characterised by the presence of mature vegetation, a variety of built forms, the retention of landforms and unique community identities;
2. vibrant, lively *town centres* supported by higher density residential and mixed use areas;
3. neighbourhood *centres*, village communities and employment areas characterised by high levels of amenity, accessibility and convenience;
4. productive rural areas, characterised by openness, natural landforms, areas and corridors of *indigenous vegetation*, and *primary production activities*; and
5. well managed interfaces between different types of land use areas (e.g. between living, working and rural areas and between potentially conflicting land uses, so as to minimise adverse effects).

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The rules in this chapter apply to all land and activities in all zones unless otherwise specified. Provisions in other chapters of the Plan may also be relevant.

## Policies

### ECO-P1 Criteria For Identification Of Significant Biodiversity

*Indigenous vegetation* and habitats of indigenous fauna in the District will be considered significant if they meet one or more of the following criteria:

1. Representativeness: the ecosystems or habitats that are typical and characteristic examples of the full range of the original or current natural diversity of ecosystem and habitat types in the District or in the region, and:
  - a. Are no longer commonplace (less than about 30% remaining); or
  - b. are poorly represented in existing protected areas (less than about 20% legally protected).
2. Rarity: the ecosystem or habitat has biological physical features that are scarce or threatened in a local, regional or national context. This can include individual species, rare and distinctive biological communities and physical features that are unusual or rare.
3. Diversity: the ecosystem or habitat has a natural diversity of ecological units, ecosystems, species and physical features within an area.
4. Ecological context of an area: the ecosystem or habitat:
  - a. enhances connectivity or otherwise buffers representative, rare or diverse indigenous ecosystems and habitats; or
  - b. provides seasonal or core habitat for protected or threatened indigenous species.
5. *Tāngata whenua* values: the ecosystem or habitat contains characteristics of special spiritual, historical or cultural significance to *tāngata whenua*, identified in accordance with *tikanga Māori*.

### ECO-P2 Management Approach to Biodiversity Protection

Adverse effects, including cumulative effects, from subdivision, use and development on significant indigenous vegetation and significant habitats of indigenous fauna including aquatic ecosystems will be avoided, or where it cannot be avoided, remedied or mitigated in order to maintain the values and characteristics of the significant indigenous vegetation or significant habitats of indigenous fauna, including by:

1. avoiding where practicable the modification of significant indigenous vegetation, in particular all indigenous vegetation within *Ecological Sites*;
2. managing land use activities resulting in increased sediment and contaminant levels of surface water, including storm water, to reduce the likelihood of aquatic ecosystems being detrimentally affected;
3. creating and maintaining appropriate buffers around *Ecological Sites*, key indigenous trees and rare and threatened vegetation species, significant habitats of indigenous fauna including aquatic ecosystems to ensure that wider ecological processes are considered when making decisions about applications for subdivision and land use consent;
4. preventing where practicable the introduction or spread of exotic weed species and pest animals both terrestrial and aquatic;
5. enabling pest and weed management and passive recreational activities within *Ecological Sites* including the associated construction and maintenance of tracks (where the biodiversity gains from pest control will outweigh the loss of significant indigenous vegetation from track construction) and the construction and maintenance of fences at the margins of *Ecological Sites*;
6. providing for appropriate trimming of indigenous vegetation while avoiding inappropriate trimming of significant indigenous vegetation;
7. ensuring that subdivision which creates allotments which are entirely within an *Ecological Site* or which necessitate modification of any key indigenous tree species or rare and threatened vegetation species protects the values and characteristics of those areas;
8. ensuring that subdivision which creates boundaries that cut through any *Ecological Site*, or any key indigenous tree species or rare and threatened vegetation species, protects the values and characteristics of those areas.

### ECO-P3 Maintenance of indigenous biodiversity

Subdivision, land use and development shall be undertaken in a manner to maintain indigenous biodiversity within large areas of contiguous indigenous vegetation and riparian and coastal vegetation.

### ECO-P4 Enhancement

Where a subdivision or development is undertaken on land containing rare and threatened vegetation species, or an *Ecological Site*, enhancement of the *Ecological Site* or rare and threatened vegetation species will be encouraged.

### ECO-P5 Tāngata Whenua

To enable *tāngata whenua* to maintain and enhance their traditional relationship with the natural environment, while:

1. supporting the enhancement of the *mauri* of aquatic environments; and
2. having particular regard to the exercise of *kaitiakitanga* by *tāngata whenua* in the management of the District's resources.

### ECO-P6 Monitoring

Monitoring of levels of biodiversity in the District will be undertaken through:

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1. periodic monitoring of the District's *indigenous vegetation* and habitats of indigenous fauna by desktop methods including aerial photography analysis, and site inspections;
2. monitoring of compliance with *resource consent conditions* affecting the District's *significant indigenous vegetation* and habitats of indigenous fauna;
3. complementing monitoring work undertaken by other relevant authorities or suitably qualified persons on the state of *environment* in the Kāpiti Coast District;
4. reviewing District Plan policies in response to *development* pressures, expressed community outcomes and environmental changes which may reduce the policies' effectiveness;
5. requiring that data for monitoring purposes is collected and analysed in a scientifically defensible manner; and
6. including monitoring and review conditions on *resource consents* where required for base level and performance monitoring and to implement adaptive management if unanticipated effects occur.

## Rules

<b>ECO-R1</b>	Any activity which is not otherwise specified as a Permitted, Controlled, Restricted Discretionary, Discretionary, or Non-complying activity in this chapter.
Permitted Activity	<b>Standards</b>
	1. The activity complies with all permitted activity standards in this chapter.
<b>ECO-R2</b>	Trimming or modification of any <i>indigenous vegetation</i> within the following zones and precincts, except for <i>indigenous vegetation</i> covered by <a href="#">ECO-R3</a> , <a href="#">ECO-R6</a> , <a href="#">ECO-R7</a> , <a href="#">TREE-R2</a> , <a href="#">TREE-R3</a> , and <a href="#">TREE-R4</a> is a permitted activity.
	General Residential Zone Ngārara Development Area Waikanae North Development Area Airport Zone Town Centre Zone Metropolitan Centre Zone Hospital Zone General Industrial Zone Local Centre Zone Mixed Use Zone Rural Lifestyle Zone Rural Eco-Hamlet Precinct Future Urban Zone Open Space Zone
Permitted Activity	<b>Note 1:</b> for trimming and modification of <i>indigenous vegetation</i> listed in Schedules 1, 2, 3 and 8, and <a href="#">ECO-Table 1</a> see <a href="#">ECO-R3</a> , <a href="#">ECO-R6</a> , <a href="#">ECO-R7</a> , <a href="#">TREE-R2</a> , <a href="#">TREE-R3</a> , and <a href="#">TREE-R4</a> .  <b>Note 2:</b> "Indigenous vegetation" (see <i>NESPF</i> definition) clearance associated with <i>plantation forestry</i> activities carried out under the <i>NESPF</i> is excluded from this rule.
<b>ECO-R3</b>	Trimming of significant <i>indigenous vegetation</i> that is:
	1. located within an <i>Ecological Site</i> listed in <a href="#">Schedule 1</a> ; or 2. a <i>key indigenous tree</i> listed in <a href="#">ECO-Table 1</a> and exceeds either of the maximum size criteria diameter or height (excluding trees planted by humans); or 3. a <i>key indigenous tree</i> listed in <a href="#">Schedule 2</a> ; or 4. is rare and threatened vegetation species listed in <a href="#">Schedule 3</a>
	is a permitted activity within the following zones and precincts:
	General Residential Zone Ngārara Development Area Waikanae North Development Area Airport Zone Town Centre Zone Metropolitan Centre Zone Hospital Zone General Industrial Zone Local Centre Zone Mixed Use Zone Rural Lifestyle Zone Rural Eco-Hamlet Precinct Future Urban Zone Open Space Zone

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Permitted Activity	Standards
	<p>1. <i>Trimming</i> must be undertaken as specified in a) and b) below.</p> <p>a. Any <i>trimming</i> must be limited to the pruning of vegetation that:</p> <ul style="list-style-type: none"> <li>i. achieves compliance with the requirements of the Electricity (Hazards from Trees) Regulations 2003; or</li> <li>ii. is broken, deadwood or chronically diseased; or</li> <li>iii. does not form part of the main structure (the trunk or a primary structural limb) and: <ul style="list-style-type: none"> <li>a. is pruned up to 3m from a window of a <i>habitable room</i> including those used for hospital recovery but excluding those used for <i>visitor accommodation</i> which is not <i>temporary residential rental accommodation</i>; or</li> <li>b. is pruned up to 2m from the wall or roof of an existing permanent <i>building</i> (excluding <i>minor buildings</i>); or</li> <li>c. is restricting access along an existing <i>access leg</i>, right of way or <i>driveway</i>; or</li> </ul> </li> <li>iv. is carried out in accordance with a registered protective covenant under the Reserves Act 1977, Conservation Act 1986 or Queen Elizabeth the Second National Trust Act 1977; or Reserve Management Plan approved under the Reserves Act 1977; or</li> <li>v. is necessary to avoid an imminent threat to the safety of persons or damage to lawfully established <i>building</i> (excluding <i>minor buildings</i>) and</li> <li>vi. is necessary to provide for the ongoing safe and efficient operation and maintenance of telecommunications, radio communication and other <i>network utility</i>; and</li> </ul> <p>b. All <i>trimming</i> must be undertaken to a growth point or branch union and in accordance with the New Zealand Arboricultural Association Incorporated Best Practice Guideline 'Amenity Tree Pruning' Version 3 dated April 2011 to avoid irreversible damage to the health of the tree.</p> <p><b>Note 1:</b> The <i>Council</i> recommends that <i>trimming</i> is carried out by an arborist who has attained the New Zealand Qualifications Authority National Certificate in Arboriculture Level 4 or equivalent qualification.</p> <p><b>Note 2:</b> for <i>trimming</i> of indigenous vegetation listed as a <i>notable tree</i> in <a href="#">Schedule 8</a> see the <a href="#">Notable Trees chapter</a>.</p>
ECO-R4	Trimming or modification of indigenous vegetation that is within the Rural Production Zone, Rural Dunes Precinct, Natural Open Space Zone or a River Corridor.
Permitted Activity	Standards
	<p>1. <i>Trimming</i> or modification of indigenous vegetation must not be carried out on any indigenous vegetation that:</p> <ul style="list-style-type: none"> <li>a. is within an <i>Ecological Site</i> (<a href="#">Schedule 1</a>);</li> <li>b. is a <i>rare and threatened vegetation species</i> (<a href="#">Schedule 3</a>);</li> <li>c. is listed in the schedule of key indigenous tree species (<a href="#">ECO-Table 1</a>) and exceeds either of the maximum size criteria (diameter or height) (excluding planted vegetation) except that <a href="#">ECO-Table 1</a> shall not apply to indigenous vegetation in the Rural Hills Precinct; or</li> <li>d. forms a contiguous areas of more than 100m<sup>2</sup> (excluding planted vegetation); except that this contiguous area provision of more than 100m<sup>2</sup> of indigenous vegetation shall not apply within the Rural Hills Precinct; or</li> <li>e. is within 20 metres of a <i>waterbody</i> (including within the <i>waterbody</i> itself) or the coastal marine area excluding planted vegetation) except where required to restore or maintain river crossing structures or culverts to a maximum track width of 10 metres.</li> </ul> <p>2. Except that Standard 1 of this rule does not apply where trimming or modification is:</p> <ul style="list-style-type: none"> <li>a. necessary to enable weed management and pest control within the area of significant indigenous vegetation. For the purposes of this rule <i>trimming</i> and <i>modification</i> is limited to that necessary for: <ul style="list-style-type: none"> <li>i. the placement of traps and bait stations and to enable foot access to and between traps and bait stations;</li> <li>ii. to enable foot access for the removal or spraying / poisoning of plant pests;</li> <li>iii. for weed clearance within rivers where authorised by Greater Wellington Regional Council;</li> <li>iv. the maintenance of existing formed tracks used for pest and weed management purposes where <i>trimming</i> and <i>modification</i> may not extend beyond the formed width of the track;</li> </ul> </li> </ul>

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	<p>v. within K017 only, the formation and maintenance of tracks no wider than 1.5m to provide access to traps and bait stations (for the avoidance of doubt such tracks may only be formed and maintained where servicing active pest management programmes);</p> <p>b. within the Rural Hills Precinct and necessary to enable fire control (provided that for fire control, <i>trimming or modification</i> does not extend by more than 2 meters in width from the edge of an existing fire break not exceeding 30m in width);</p> <p>c. necessary for the safe and efficient operation of any formed public road, private access leg or driveway, right of way, walkway or to maintain existing farm tracks;</p> <p>d. trimming for the ongoing safe and efficient operation and maintenance of telecommunication, radio communication and other network utility structures, provided that all <i>trimming</i> must be undertaken to a growth point or branch union and in accordance with the New Zealand Arboricultural Association Incorporate Best Practice Guideline 'Amenity Tree Pruning' Version 3 dated 2011 to avoid irreversible damage to the health of the tree;</p> <p>e. necessary to enable to the maintenance of buildings (excluding minor buildings) where the <i>trimming or modification</i> of vegetation is limited to within 3m from a window of a habitable room (including those used for hospital recovery but excluding those used for visitor accommodation which is not temporary residential rental accommodation) or 2m from a wall or roof of a building (excluding minor buildings);</p> <p>f. <i>trimming or modification</i> to achieve compliance with the requirements of the Electricity (Hazards from Trees) Regulations 2003;</p> <p>g. for a new fence (including post holes), where the purpose of the fence is to exclude stock and/or pests from the areas referred to in Standard 1 or contain stock in, or exclude pests from, areas not referred to in Standard 1, and for the maintenance of existing fences provided that the <i>trimming or modification</i> does not exceed 2 metres in width either side of the fenceline;</p> <p>h. involves only indigenous vegetation specifically planted as amenity planting within K017;</p> <p>i. of dead, diseased or dying vegetation and vegetation <i>modification</i>; where imminent danger exists to life or property;</p> <p>j. by tāngata whenua for traditional cultural practices that do not result in the removal, or death of any indigenous tree; or</p> <p>k. for flood protection, erosion control and natural hazard mitigation authorised as a permitted activity under NH-FLOOD-R6.</p> <p>l. maintenance of existing water pipes provided that the <i>trimming or modification</i> does not exceed 1.0 metre in width either side of the water pipe.</p> <p><b>Note 1:</b> for <i>trimming and modification of indigenous vegetation</i> listed in Schedules 1, 2, 3, and 8 and ECO-Table 1 see ECO-R3, ECO-R6, ECO-R7, TREE-R2, TREE-R3, and TREE-R4.</p> <p><b>Note 2:</b> "Indigenous vegetation" (see NESPF definition) clearance associated with plantation forestry activities carried out under the NESPF is excluded from this rule.</p>
<b>ECO-R5</b>	Installation, maintenance and upgrading of underground network utilities within the drip line of significant indigenous vegetation in Schedules 1, 2 and 3 and ECO-Table 1.
Permitted Activity	<b>Standards</b>
	<ol style="list-style-type: none"> <li>1. Drilling must be a minimum of 1m below the root zone; or</li> <li>2. Hand dug trenches undertaken under the supervision of or by an arborist who has attained the New Zealand Qualifications Authority National Certificate in Arboriculture Level 4 or equivalent arboricultural qualification.</li> </ol>
<b>ECO-R6</b>	<p>The <i>modification</i> of any indigenous vegetation, that is:</p> <ol style="list-style-type: none"> <li>a. located within an Ecological Site listed in Schedule 1; or</li> <li>b. a key indigenous tree listed in ECO-Table 1 and exceeds either of the maximum size criteria diameter or height (excluding trees planted by humans); or</li> <li>c. a key indigenous tree listed in Schedule 2; or</li> <li>d. a rare and threatened vegetation species listed in Schedule 3; or</li> <li>e. in or within 20 metres of a waterbody or the coastal marine area where it not within the urban environment, (excluding planted vegetation);</li> </ol> <p>is a controlled activity within the following zones and precincts:</p> <p>General Residential Zone Ngārara Development Area Waikanae North Development Area Airport Zone Town Centre Zone Metropolitan Centre Zone Hospital Zone General Industrial Zone Local Centre Zone Mixed Use Zone Rural Lifestyle Zone</p>

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Rural Eco-Hamlet Precinct Future Urban Zone Open Space Zone		
Controlled Activity	<p><b>Standards</b></p> <p>1. The <i>modification of indigenous vegetation</i> must be limited to:</p> <ol style="list-style-type: none"> <li><i>modification of vegetation that is damaged, dead or dying, or has sustained storm damage; or is fatally diseased such that:</i> <ol style="list-style-type: none"> <li>the <i>indigenous vegetation</i> is no longer independently viable or presents a <i>risk</i> of serious harm to people or property or risks damaging surrounding protected vegetation; and</li> <li>an arborist who has attained the New Zealand Qualifications Authority National Certificate in Arboriculture Level 4 or equivalent qualification has certified in writing that Condition (i) above is met; or</li> </ol> </li> <li><i>Modification of planted indigenous vegetation where the applicant can demonstrate that it was not planted for ecological restoration or enhancement purposes or as a biodiversity offset.</i></li> </ol> <p><b>Note:</b> For <i>notable trees</i> listed in <a href="#">Schedule 8</a> see <a href="#">TREE-R2</a>, <a href="#">TREE-R3</a>, and <a href="#">TREE-R4</a>.</p> <p><b>Criteria for notification</b> The written approval of persons will not be required and applications under this rule will not be served on any person or notified.</p>	<p><b>Matters of Control</b></p> <ol style="list-style-type: none"> <li>The extent and method of vegetation removal.</li> <li>The location and timing of planting of any plant species to compensate for the loss of vegetation.</li> <li>Any remedial work necessary to restore the site after the <i>modification</i> activity is complete.</li> <li>Public safety.</li> <li>Measures to avoid, remedy or mitigate effects on <i>tāngata whenua</i> values.</li> </ol>
ECO-R7	<p><i>Trimming or modification of any indigenous vegetation that:</i></p> <ol style="list-style-type: none"> <li>is within an <i>Ecological Site</i> (<a href="#">Schedule 1</a>);</li> <li>a <i>key indigenous tree</i> (<a href="#">ECO-Table 1</a>) (excluding trees planted by humans);</li> <li>is a <i>key indigenous tree</i> (<a href="#">Schedule 2</a>);</li> <li>is a <i>rare and threatened vegetation species</i> (<a href="#">Schedule 3</a>);</li> <li>is in or within 20 metres of a <i>waterbody</i> or the coastal marine area where it is not within an <i>urban environment</i> (excluding planted vegetation);</li> </ol> <p>and does not meet the <i>permitted activity</i> standards in <a href="#">ECO-R3</a>, and is not a <i>controlled activity</i> under <a href="#">ECO-R6</a>, is a <i>restricted discretionary activity</i> within the following zones and precincts:</p> <p>General Residential Zone Ngārara Development Area Waikanae North Development Area Airport Zone Town Centre Zone Metropolitan Centre Zone Hospital Zone General Industrial Zone Local Centre Zone Mixed Use Zone Rural Lifestyle Zone Rural Eco-Hamlet Precinct Future Urban Zone Open Space Zone</p>	
Restricted Discretionary Activity	<p><b>Standards</b></p> <p><b>Note:</b> For <i>trees</i> listed as a <i>notable tree</i> in <a href="#">Schedule 8</a> see <a href="#">TREE-R2</a>, <a href="#">TREE-R3</a>, and <a href="#">TREE-R4</a>.</p>	<p><b>Matters of Discretion</b></p> <ol style="list-style-type: none"> <li>Effects on: <ol style="list-style-type: none"> <li>biodiversity values;</li> </ol> </li> </ol>

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		<ul style="list-style-type: none"> <li>b. visual, urban character and amenity values;</li> <li>c. the natural character of the coastal environment;</li> <li>d. public safety;</li> <li>e. any vegetation loss.</li> <li>f. <i>Tāngata whenua</i> values.</li> </ul>
<b>ECO-R8</b>	Modification of any significant indigenous vegetation to provide for a residential building, minor residential unit and associated accessory buildings (excluding minor buildings) on a site where K017 covers more than 90% of the total area of that site, within a single building platform (one building platform per allotment).	
Restricted Discretionary Activity	<p><b>Standards</b></p> <ol style="list-style-type: none"> <li>1. This rule shall only be applicable to the following properties: <ul style="list-style-type: none"> <li>• LOT 1 DP 79075</li> <li>• PT SEC 4 BLK III KAITAWA SD</li> <li>• PT SEC 15 BLK I AKATARAWA SD</li> <li>• NGĀRARA WEST C 18 SEC 2 BLKS II III AKATARAWA</li> <li>• LOT 2 DP 79075</li> <li>• PT LOT 1 DP 58689</li> <li>• LOT 4 DP 419643</li> <li>• SEC 6 DP 500 BLK VII KAITAWA SD</li> <li>• LOT 2 DP 91308 BLK I TAUNGATA SD</li> <li>• NGĀRARA WEST C4 BLK XIII KAITAWA SD</li> <li>• PT SECS 14 &amp; 15 BLK IV KAITAWA SD LOT 1 DP 84368</li> <li>• NGĀRARA WEST C 20 BLK II AKATARAWA SD</li> <li>• SUBDIVISION B PT SECS 41 NGĀRARA WEST C BLOCK LOT 1 DP 3433</li> <li>• LOT 2 DP 3433</li> <li>• SECTIONS 9 10 BLK VII KAITAWA SD</li> <li>• SEC 7 DP 500 BLK VII KAITAWA SD</li> <li>• PT SEC 7 BLK VIII KAITAWA SD</li> <li>• SEC 59 BLK X KAITAWA SD</li> <li>• SEC 13 BLK I AKATARAWA SD</li> <li>• LOT 2 DP 54995; and</li> <li>• LOT1 DP 80188</li> </ul> </li> <li>2. The building platform created must involve no more than 500m<sup>2</sup> of indigenous vegetation modification.</li> <li>3. Unless access is provided by an existing access track, the building platform must be located within 500m of the formed vehicle access or right of way to the site.</li> </ol>	<p><b>Matters of Discretion</b></p> <ol style="list-style-type: none"> <li>1. Effects biodiversity values;</li> <li>2. Effects on <i>Tāngata whenua</i> values;</li> <li>3. Effects on indigenous vegetation and habitat loss, with regard given to: <ul style="list-style-type: none"> <li>a. locating the building platform and aligning the access track so that the comparatively most significant (in the context of the site) vegetation and habitats are avoided;</li> <li>b. minimising the width of the access track and associated indigenous vegetation modification to the extent necessary to provide safe vehicular access between the road and building platform.</li> </ul> </li> <li>4. Ecological values, with regard to minimising the extent of earthworks required to form the building platform and access track.</li> </ol>
<b>ECO-R9</b>	Plantation forestry harvesting on land within Ecological Sites.	
Restricted Discretionary Activity	<p><b>Standards</b></p> <ol style="list-style-type: none"> <li>1. No more than 10ha of any contiguous area used for plantation forestry shall be harvested in any one calendar year.</li> </ol>	<p><b>Matters of Discretion</b></p> <ol style="list-style-type: none"> <li>1. The degree of compliance with the Kāpiti Coast District Council Subdivision and</li> </ol>

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	<p>2. No harvesting of <i>plantation forestry</i> shall be undertaken within 20 metres of any river whose bed has an average width of 3 metres or more where the river flows through or adjoins the forestry plantation.</p> <p>3. Each site containing a <i>plantation forest</i> activity shall have a <i>vehicle access</i> designed and built for the entry and exit of fire fighting vehicles and shall meet the following minimum requirements:</p> <p>a. 2.5 metres in width</p> <p>b. 2.8 metres in height clearance (i.e. clear from vegetation, <i>buildings</i> and structures.)</p> <p>4. A fire plan shall be completed for all forestry blocks prior to harvesting by the forest owner or harvesting company and certified by the Council's Rural Fire Officer prior to commencing any <i>plantation forest</i> harvesting.</p> <p><b>Note:</b> Council will accept, as compliance with this standard, activities which are demonstrated to be consistent with the New Zealand Environmental Code of Practice for Plantation Forestry.</p>	<p>Development Principles and Requirements 2012.</p> <p>2. <i>Effects on historic heritage</i> and landscape values.</p> <p>3. <i>Ecological effects</i>.</p> <p>4. <i>Visual and amenity effects</i>.</p> <p>5. <i>Traffic and transportation effects</i>.</p> <p>6. <i>Noise and nuisance effects</i>.</p>			
<b>ECO-R10</b>	Trimming or modification of indigenous vegetation that is within the Rural Production Zone, Rural Dunes Precinct, Natural Open Space Zone or a River Corridor that does not comply with one or more of the <i>permitted activity</i> standards in <a href="#">ECO-R4</a> .				
Restricted Discretionary Activity	<b>Standards</b>	<b>Matters of Discretion</b>			
		<p>1. Consideration of the <i>effects</i> of the standard not met.</p> <p>2. <i>Effects on the indigenous vegetation</i> and/or habitats of indigenous fauna including:</p> <p>a. habitat loss;</p> <p>b. biodiversity values;</p> <p>c. visual and <i>amenity values</i>;</p> <p>3. Measures to avoid, remedy or mitigate adverse <i>effects</i>.</p>			
<b>ECO-R11</b>	Installation, maintenance and upgrading of underground <i>network utilities</i> within the drip line of <i>indigenous vegetation</i> in Schedules 1, 2, 3 or <a href="#">ECO-Table 1</a> that does not comply with one or more of the <i>permitted activity</i> standards in <a href="#">ECO-R5</a> .				
Restricted Discretionary Activity	<b>Standards</b>	<b>Matters of Discretion</b>			
		<p>1. Consideration of the <i>effects</i> of the standard not met.</p> <p>2. <i>Effects on the indigenous vegetation</i> or habitats of indigenous fauna.</p> <p>3. Measures to avoid, remedy or mitigate adverse <i>effects</i>.</p>			
<b>ECO-R12</b>	Any activity which is identified as a restricted discretionary <i>activity</i> which does not comply with one or more of the relevant standards.				
Discretionary Activity	Note: This Rule does not apply to <i>earthworks</i> associated with activities permitted under <a href="#">NH-FLOOD-R4</a> , <a href="#">NH-FLOOD-R6</a> and <a href="#">NH-FLOOD-R7</a> .				
<b>ECO-R13</b>	<i>Buildings</i> (excluding <i>minor buildings</i> ) in and within 5 metres of an <i>Ecological Site</i> which are not a <i>restricted discretionary activity</i> under <a href="#">ECO-R8</a> .				
Discretionary Activity					
<b>ECO-R14</b>	Planting of <i>shelter belts</i> within <i>Ecological Sites</i> , or <i>geological feature</i> .				
Discretionary Activity					
<b>ECO-R15</b>	Planting of <i>plantation forestry</i> within <i>Ecological Sites</i> except replanting within 2 calendar years from completing harvesting of a <i>plantation forest</i> existing at the time of notification of this District Plan.				
Discretionary Activity					
<b>See also</b> - <a href="#">EW-R8</a> for <i>earthworks</i> within an <i>Ecological Site</i> .					
<b>ECO-Table 1 - Key Indigenous Tree Species by Size</b>	<b>Common Name</b>	<b>Species</b>	<b>Māori Name</b>	<b>Dimensions That Relate to Rules</b>	
				Diameter (circumference in cm)	Height (m)
	Black maire	<i>Nestegis cunninghamii</i>	Maire rau nui	15.0 (47)	4
	Black pine	<i>Prumnopitys taxifolia</i>	Mataī	15.0 (47)	4

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Broadleaf	Griselinia lucida	Puka	15.0 (47)	4
Brown pine	Prumnopitys ferruginea	Miro	15.0 (47)	4
Cabbage Tree	Cordyline australis	Ti kōuka	30.0 (95)	4
Cork Tree	Entelea arborescens	Whau	15.0 (47)	4
Hīnau	Elaeocarpus dentatus	Hīnau	15.0 (47)	4
Kaikōmako	Pennantia corymbosa	Kaikōmako	15.0 (47)	3
Kāmahi	Weinmannia racemosa	Kāmahi	15.0 (47)	4
Kohekohe	Dysoxylum spectabile	Kohekohe	15.0 (47)	4
Kōwhai	Sophora microphylla	Kōwhai	30.0 (95)	4
Lacebark	Hoheria sextylosa	-	15.0 (47)	4
Large leaved milk tree	Stebulus banksii	Turepo	15.0 (47)	4
Marbleleaf	Carpodetus serratus	Putaputaweta	15.0 (47)	4
Narrow leaved lacebark	Hoheria angustifolia	-	15.0 (47)	4
Narrow-leaved maire	Nestegis montana	Maire kōtae or rōro	15.0 (47)	4
New Zealand honeysuckle	Knightia excelsa	Rewarewa	15.0 (47)	4
New Zealand myrtle	Lophomyrtus bullata	Ramarama	15.0 (47)	4
New Zealand myrtle	Lophomyrtus obcordata	Rōhutu	15.0 (47)	4
Nikau	Rhopalostylis sapida	Nikau	15.0 (47)	4
Northern Rātā	Metrosideros robusta	Rātā	15.0 (47)	4
Pigeonwood	Hedycarya arborea	Porokaiwhiri	15.0 (47)	4
Poataniwha	Melicope simplex	Poataniwha	15.0 (47)	4
Pōkākā	Elaeocarpus hookerianus	Pōkākā	15.0 (47)	4
Pukatea	Laurelia novaezealandiae	Pukatea	15.0 (47)	4
Red mapou	Myrsine australis	Matipo	15.0 (47)	3
Red Pine	Dacrydium cupressinum	Rimu	15.0 (47)	4
Ribbonwood	Plagianthus regius	Mānatu	15.0 (47)	4
Small leaved milk tree	Streblus heterophyllus	Turepo	15.0 (47)	4
Swamp maire	Syzygium maire	Maire tawake	15.0 (47)	4
Tawa	Beilschmiedia tawa	Tawa	15.0 (47)	4
Tea tree	Leptospermum scoparium	Mānuka	15.0 (47)	3
Thin-leaved coprosma	Coprosma areolata	-	15.0 (47)	3
Titoki	Alectryon excelsus	Titoki	15.0 (47)	4
Toro	Myrsine salicina	Toro	15.0 (47)	4
Tōtara	Podocarpus tōtara	Tōtara	30.0 (47)	4
Tree fuchsia	Fuchsia excorticata	Kōtukutuku	15.0 (47)	4
Wharangi	Melicope ternata	Wharangi	15.0 (47)	3
White maire	Nestegis lanceolata	Maire rauriki	15.0 (47)	4
White Pine	Dacrycarpus dacrydioides	Kahikatea	15.0 (47)	4
White tea tree	Kunzea robusta or Kunzea amathicola	Kānuka	15.0 (47)	3
Whiteywood	Melicytus ramiflorus	Māhoe	30.0 (95)	4
Wire netting brush	Corokia cotoneaster	Korokio tāra	15.0 (47)	3

**ECO-Table 2 - Principles to be Applied When Proposing and Considering Biodiversity Offsets**

**Principles to be Applied When Proposing and Considering Biodiversity Offsets**

**1 Adherence to the mitigation hierarchy:**

*Biodiversity offsets* will only be considered where they are used to offset the anticipated significant residual adverse biodiversity effects of activities on *significant indigenous vegetation* or *significant habitats of indigenous fauna* after appropriate avoidance, minimisation and mitigation actions have occurred in accordance with the following mitigation hierarchy set out in Policy [NE-P3](#):

- avoiding as far as practicable, and where total avoidance is not practicable, minimising adverse effects;
- requiring remediation where adverse effects cannot be avoided;
- requiring mitigation where adverse effects on the areas identified above cannot be avoided or remediated; and
- where residual adverse effects remain that are more than minor, consider the appropriateness of using of *biodiversity offsets* through protection, restoration and enhancement actions to achieve no net loss and preferably a net gain in indigenous biodiversity values.

Any proposal will:

- document the appropriate measures taken to avoid, remedy or mitigate any adverse effects of the activity on biodiversity; and

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	b. demonstrate that the biodiversity offset addresses the residual adverse effects of the activity.
2	<p>No net biodiversity loss:</p> <p>Any proposals for <i>biodiversity offsets</i> will provide measurable positive effects on biodiversity at the <i>subject site</i>, or where appropriate, close to the <i>subject site</i> or within the ecological district, which can reasonably be expected to result in no net loss and preferably a net gain of biodiversity.</p> <p>No net loss of biodiversity is determined with respect to species composition (e.g. individual species or species groups), habitat structure (e.g. vegetation tiers), ecosystem health (e.g. nutrient cycling rates), and cultural use values (e.g. valued habitats or species).</p> <p>The offset is applied so that the ecological values being achieved through the offset are the same or similar to those being lost.</p> <p>Any proposals for <i>biodiversity offset</i> will demonstrate that:</p> <ol style="list-style-type: none"> <li>an explicit calculation of loss and gain has been undertaken and that demonstrates the manner in which no net loss or a net gain of biodiversity can be achieved; and</li> <li>the <i>biodiversity offset</i> design and implementation should include provisions for addressing sources of uncertainty and risk of failure in delivering the biodiversity offset.</li> </ol>
3	<p>Additional conservation outcomes:</p> <p>Any proposal for biodiversity offset will demonstrate that actions undertaken as a <i>biodiversity offset</i> are additional to what would otherwise occur, including that they are additional to any remediation or mitigation undertaken in relation to the adverse effects of the activity.</p>
4	<p>Limits to what can be offset:</p> <p>Biodiversity offsetting is inappropriate when an activity has the potential to cause adverse effects, or residual adverse effects, on an area:</p> <ol style="list-style-type: none"> <li>where the biodiversity values of that area are highly vulnerable or irreplaceable; or</li> <li>where there is no appropriate site, knowledge, proven methods, expertise or mechanism available to design and implement an adequate <i>biodiversity offset</i>.</li> </ol>
5	<p>Landscape context:</p> <p>Any proposals for <i>biodiversity offsets</i> will:</p> <ol style="list-style-type: none"> <li>be designed and implemented in a landscape context, i.e. with a demonstrated understanding of both the donor and recipient sites role, or potential role in the ecological context of the area.</li> <li>take into account available information on the full range of biological, social and cultural values of biodiversity and supports an ecosystem-scale approach; and</li> <li>take into account other likely future developments, such as competing land use pressures, within the landscape. Long- term outcomes:</li> </ol>
6	<p>The positive ecological outcomes of the offset last at least as long as the impact of the activity, and preferably in perpetuity. Adaptive management responses should be incorporated into the design of the offset, as required to ensure that the positive ecological outcomes are maintained over time.</p> <p>Any proposal for biodiversity offsetting will include a biodiversity offset management plan that:</p> <ol style="list-style-type: none"> <li>sets out baseline information on biodiversity that is potentially impacted by the proposal at both the donor and recipient sites; and</li> <li>demonstrates that management arrangements, legal arrangements (e.g. covenants) and financial arrangements (e.g. bonds) are in place that allow the positive effects to endure as long as the adverse effects of the activity, and preferably in perpetuity; and</li> <li>is able to be implemented and enforced in line with any resource consent conditions associated with the activity, including: <ol style="list-style-type: none"> <li>specific, measurable and time-bound targets, and</li> <li>mechanisms for adaptive management using the results of periodic monitoring and evaluation against identified thresholds to determine whether the mitigation or biodiversity offset is on track and how to rectify if necessary; and</li> </ol> </li> <li>establishes roles and responsibilities for managing, governing, monitoring and enforcing the biodiversity offset.</li> </ol>

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**Proposed Amendments:**

In the following District Plan Provisions:

Text that is struck through and in bold (**example**) is to be deleted from the District Plan

Text that is underlined and in bold (**example**) is to be inserted into the District Plan

1. Amend permitted activity rule SIGN-R2 as follows:

<b>SIGN-R2</b>	Election <i>signs</i> (local body/ national) in all <i>zones</i> .
Permitted Activity	<p><b>Standards</b></p> <ol style="list-style-type: none"> <li>1. The total area of election signage per person or party (whichever is the lesser) on an approved <i>subject site</i> or on private property must not exceed <b>23.0m<sup>2</sup></b>.</li> </ol> <p><b>Note:</b> A list of approved <i>subject sites</i> is included in the Council's Candidate Information Handbook a copy of which is available from the Council's Service Centres or on the Council's website.</p> <ol style="list-style-type: none"> <li>2. Election <i>signs</i> must be single faced i.e. one display face only, not 'V' or other multi-faced <i>signs</i>.</li> <li>3. Election <i>signs</i> must not exceed 1.8 metres in <i>height</i> (above <i>original ground level</i>).</li> <li>4. Election <i>signs</i> must meet the requirements of the Electoral (Advertisements of a Specified Kind) Regulations 2005.</li> <li>5. Election <i>signs</i> must only be erected and displayed during the period beginning 2 months before polling day and ending with the close of the day before polling day.</li> </ol> <p><b>Note:</b> This rule only applies outside the timeframes specified in Section 221B (1) of the Electoral Act 1993 and Regulation 4 of the Electoral (Advertisements of a Special Kind) Regulations 2005.</p>

# **Kāpiti Coast District Plan Change 1K Election Signage Provisions**

## **Section 32 Evaluation Report**

June 2022

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## 1. Introduction

This evaluation report has been prepared, in accordance with section 32 of the Resource Management Act 1991 (RMA), to support Proposed Plan Change 1K (the Plan Change) to the Operative Kāpiti Coast District Plan 2021 (the District Plan). The Plan Change is focussed on amending signage provisions (specifically permitted activity rule SIGN-R2) to align with the election advertisement requirements of the Electoral (Advertisements of a Specific Kind) Regulations 2005 (the Electoral Regulations).

Standard 1 of rule SIGN-R2 in the District Plan permits electoral signs up to 2.0m<sup>2</sup> in size per person or party, while the Electoral Regulations permit electoral signs of 3.0m<sup>2</sup> in size<sup>1</sup>.

The purpose of the Plan Change is to remove conflict between the electoral signage provisions of the District Plan by aligning them with the permitted size requirements for electoral signage as specified in the regulations for election advertisements. It is noted the electoral signage requirements of the Electoral Regulations override the District Plan provisions only during the electoral timeframes specified in the regulations, but outside of these timeframes the District Plan provisions apply.

## 2. The Issue

Currently the District Plan rules relating to election signage allow a smaller signage area for both local and national election signage than the sizes authorised under the Electoral Regulations. This creates confusion about signage requirements during election (local/national) periods.

## 3. Strategic Directions

The following objectives from the Strategic Directions chapter of the District Plan are relevant to this issue:

DO-011	Character and Amenity Values
To maintain and enhance the unique character and amenity values of the District's distinct communities so that residents and visitors enjoy:	
<ol style="list-style-type: none"> <li>1. relaxed, unique and distinct village identities and predominantly low-density residential areas characterised by the presence of mature vegetation, a variety of built forms, the retention of landforms and unique community identities;</li> <li>2. vibrant, lively <i>town centres</i> supported by higher density residential and mixed use areas;</li> <li>3. neighbourhood <i>centres</i>, village communities and employment areas characterised by high levels of amenity, accessibility and convenience;</li> <li>4. productive rural areas, characterised by openness, natural landforms, areas and corridors of <i>indigenous vegetation</i>, and <i>primary production activities</i>; and</li> <li>5. well managed interfaces between different types of land use areas (e.g. between living, working and rural areas and between potentially conflicting land uses, so as to minimise adverse <i>effects</i>).</li> </ol>	

<sup>1</sup> Electoral (Advertisements of a Specified Kind) Regulations 2005. Clause 3 – Interpretation.



This strategic direction outlines how the Council will manage character and amenity values to ensure they're appropriately maintained and enhanced for residents and visitors to the District.

<b>DO-14</b>	<b>Access and Transport</b>
To ensure that the transport system in the District:	
<ol style="list-style-type: none"> <li>1. integrates with land use and urban form and maximises accessibility;</li> <li>2. improves the efficiency of travel and maximises mode choice to enable people to act sustainably as well as improving the resilience and health of communities;</li> <li>3. contributes to a strong economy;</li> <li>4. avoids, remedies or mitigates adverse <i>effects</i> on land uses;</li> <li>5. does not have its function and operation unreasonably compromised by other activities;</li> <li>6. is safe, fit for purpose, cost effective and provides good connectivity for all communities; and</li> <li>7. provides for the integrated movement of people, goods and services.</li> </ol>	

This strategic direction addresses how Council addresses access and transport in the District, specifically for this issue, the function and operation of other activities.

#### 4. Response to the Issue: Plan Change 1K

The Plan Change proposes to resolve the issue by increasing the permitted electoral sign size in Standard 1 of rule SIGN-R2 of the District Plan to align with the Electoral Regulations.

The proposed District Plan amendments are contained in Attachment 1 to this report.

#### 5. Section 32 Requirements

Section 32 of the RMA requires, broadly, that before advancing plan provisions a Council must evaluate whether the proposed provisions are the most appropriate way to achieve the purpose of the RMA.

Section 32 (1)(a) of the RMA requires that an evaluation must examine the extent to which any proposed objectives are the most appropriate way to achieve the purpose of the RMA. No new objectives, and no changes to existing District Plan objectives, are proposed by the Plan Change. The relevant District Plan objectives for character and amenity values, and access and transport remain appropriate.

Section 32 (1)(b) of the RMA requires an evaluation of whether the provisions proposed by the Plan Change are the most appropriate way to achieve the District Plan objectives. Section 32 (3) clarifies that, for a plan change, this evaluation must consider both the objective of the plan change (the purpose of the plan change) and the District Plan objectives, to the extent that those objectives remain relevant. The evaluation is required to:

- identify and consider other reasonably practicable options for achieving the objectives (s. 32 (1) (b) (i)); and
- assess the efficiency and effectiveness of the proposed provisions in achieving the objectives (s. 32 (1) (b) (ii)) and this is most usefully done by comparison with the reasonably practicable alternative options.

The assessment of efficiency and effectiveness required by s. 32 (1) (b) (ii) is required to identify and assess the benefits and costs of the environmental, economic, social and cultural effects anticipated from implementing the proposed provisions. This must include consideration of opportunities for economic growth and employment that are anticipated to be provided or reduced. Benefits and costs are to be quantified, if practicable. The s. 32 (1) (b) (ii) assessment is also required to assess the risk of acting or not acting, if there is insufficient information about the subject matter of the provisions. The evaluation is required to contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects anticipated from implementing the proposal.

## 6. Purpose of the Plan Change

The Plan Change is an 'amending proposal' for the purpose of section 32. This evaluation is required to consider the objective or purpose of the Plan Change, in addition to the objectives of the District Plan.

Signs are an important and established means of communicating information during the election period (local/national). The size, shape, colour, illumination, and line spacing for electoral advertisements during the election period, 9 weeks prior to polling day of a general election, are legislated in the Electoral Regulations. Outside of this 9-week period, the District Plan provisions apply and must be complied with<sup>2</sup>.

Currently, the District Plan rules relating to electoral signage (specifically rule SIGN-R2) and the regulations do not align in relation to the maximum size of the advertisement. This plan change seeks to align the District Plan with the regulations.

## 7. Relevant Part 2 Considerations

In carrying out a s32 analysis, an evaluation is required of how the proposal achieves the purpose and principles contained in Part 2 of the RMA.

Section 5 sets out the purpose of the RMA, which is to promote the sustainable management of natural and physical resources.

Sustainable management '*means managing the use, development, and protection of natural and physical resources to enable people and communities to provide for their social, economic and cultural wellbeing and for their health and safety, while -*

- a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- c) avoiding, remedying, or mitigating any adverse effects of activities on the environment'.*

In achieving this purpose, authorities need also to recognise and provide for the matters of national importance identified in s6, have particular regard to other matters referred to in s7 and take into account the principles of the Treaty of Waitangi referred to in s8.

There are no Section 6 matters relevant to this issue.

The Section 7 matters that are relevant to this issue are:

Section	Relevant Matter
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<sup>2</sup> Electoral (Advertisements of a Specified Kind) Regulations 2005, Clause 4 (c).

s7(c)	In achieving the purpose of this Act, all persons exercising functions and powers under it, in relation to managing the use, development, and protection of natural and physical resources, shall have particular regard to— (c) the maintenance and enhancement of amenity values.
-------	--

The above matter is relevant when considering the management of election signage and that their placement and use is provided for in a manner that avoids, remedies, or mitigates adverse effects on the environment. Election signage would have an effect on the physical quality and characteristics of an area, while in place, which would contribute to people's appreciation of an area's pleasantness and aesthetic coherence attributes. However, the effects associated with the increase in size of election signage would be limited to the election period and this increase in size matches that which the national regulations provide for<sup>3</sup>. In addition, the election regulations contain requirements intended to manage the adverse effects associated with the placement of election signs on amenity values<sup>4</sup> which candidates are required to adhere to.

There are no Section 8 matters relevant to this issue.

### 7.1 RMA Section 86B - Legal effect of proposed provisions

Under section 86B(1) of the RMA the rules will not have legal effect until a decision on submissions relating to the rule are made and publicly notified under clause 10(4) of Schedule 1 of the RMA.

## 8. Relevant Higher-order Statutory Instruments

Under section 75(3) of the RMA, a district plan must give effect to:

- (a) any national policy statement; and
- (b) any New Zealand Coastal Policy statement (the NZCPS);
- (ba) any national planning standard; and
- (c) any regional policy statement.

The relevance of the higher-level statutory planning documents to the amendments proposed by the Plan Change are discussed below.

### 8.1 National Policy Statements

There are five National Policy Statements (NPSs) currently in force:

- New Zealand Coastal Policy Statement 2010;
- NPS for Electricity Transmission 2008;
- NPS for Renewable Electricity Generation 2011;
- NPS for Freshwater Management 2020;
- NPS on Urban Development 2020.

There are no NPSs relevant to election signage.

<sup>3</sup> Electoral (Advertisements of a Specified Kind) Regulations 2005, Clause 4 (b).

<sup>4</sup> Electoral (Advertisements of a Specified Kind) Regulations 2005, Clause 4-8.



## 8.2 New Zealand Coastal Policy Statement

The purpose of the NZCPS is to state objectives and policies in order to achieve the purpose of the RMA in relation to the protection and enhancement of the coastal environment of New Zealand. The NZCPS 2010 took effect on 3 December 2010.

There are no NZCPS provisions relevant to the size of election signage.

## 8.3 National Planning Standards

The Council amended the District Plan in June 2021 to give effect to the *National Planning Standards*.

The proposed amendments to the District Plan are consistent with the requirements of the National Planning Standards.

## 8.4 National Environmental Standards

There are nine National Environmental Standards (NESs) currently in force:

- NES for Air Quality 2004;
- NES for Sources of Human Drinking Water 2007;
- NES for Telecommunication Facilities 2016;
- NES for Electricity Transmission Activities 2009;
- NES for Assessing and Managing Contaminants in Soil to Protect Human Health 2011;
- NES for Plantation Forestry 2017;
- NES for Freshwater 2020;
- NES for Marine Aquaculture 2020;
- NES for Storing Tyres Outdoors 2021.

There are no NESs relevant to election signage.

## 8.5 Wellington Regional Policy Statement

The Operative Wellington Regional Policy Statement 2013 (RPS) provides an overview of the resource management issues in the Wellington Region, and the ways in which integrated management of the region's natural and physical resources will be achieved.

There are no objectives or policies in the RPS directly related to signage or election signage.

## 9. Other Relevant Council Plans

### 9.1 Long Term Plan

The Council's Long Term Plan (2021-2041) addresses four aspects of wellbeing: social, cultural, economic, and environmental wellbeing. The overall goal is for a vibrant and thriving Kāpiti with healthy, safe, and resilient communities.

Underlying all the outcomes for wellbeing is the outcome that Mana Whenua and Council have a mutually mana-enhancing partnership.

The stated outcome for community wellbeing is that '*communities are resilient, safe, healthy and connected. Everyone has a sense of belonging and can access the resources and services they need*'. This is explained as meaning that:

*'Our communities (groups and individuals) have access to services and facilities necessary to meet their basic needs to cope with the demands of, and unforeseen disruptions to, their daily lives. They have access to adequate permanent shelter; necessary health services; food; water; education; transport options and networks (roading, rail, cycle, sea and air); telecommunications; and social networks, that they may prosper and thrive to fulfil their potential. '*

Plan Change PC-1K contributes positively to the achievement of the community outcomes and the overall vision, as the changes proposed will ensure clarity and understanding around election signage which in turn supports governance.

Council plays a role in governance in our community to facilitate public participation in the democratic processes. A key activity is managing electoral processes, including representation reviews, local body elections and referenda. Council is mandated under the Local Government Act 2002, with the purpose of enabling *'democratic local decision-making and action by, and on behalf of local communities, and to promote the social, economic, environmental and cultural wellbeing of communities in the present and future.'*

Plan Change PC-1K contributes positively towards the role Council play in governance in our community to facilitate public participation in the democratic process by ensuring clarity and consistency relating to election signage, allowing this aspect of the election process to operate effectively.

## 10. Planning Documents Recognised by Iwi Authorities

There are four documents recognised by iwi authorities in the Kāpiti Coast District. These comprise:

- Ngātu Raukawa Ōtaki River and Catchment Iwi Management Plan 2000;
- Nga Korero Kaupapa mo Te Taiao: Policy Statements Manual for Kapakapanui: Te Runanga o Ati Awa ki Whakarongotai Inc;
- Te Haerenga Whakamua – A Review of the District Plan Provisions for Māori: A Vision to the Future for Kāpiti Coast District Council District Plan Review 2009-12 – 2012; and
- Whakarongotai o te moana Whakarongotai o te wā: Kaitiakitanga Plan for Te Ātiawa ki Whakarongotai 2019.

There are no specific provisions in these documents relevant to election signage.

## 11. Other Relevant legislation or regulations

The following additional legislative/regulatory requirements are also relevant to this topic:

Legislation/Regulation	Relevant Provisions
Electoral (Advertisements of a Specified Kind) Regulations 2005	The Electoral Regulations are the primary regulations for managing electoral signage in New Zealand. These regulations seek to provide national consistency for candidates and political parties around size, shape, colour, illumination and size and line spacing for electoral advertisements (such as posters and billboards) during the 9 weeks before polling day of a general election.
Electoral Act 1993	This act regulates the New Zealand elections. Section 221(B) relates to the display of advertisements of a specified kind.



Kāpiti Coast District Council 2017 Public Places Bylaw	<p>Clause 9 of this bylaw regulates the erection of Hoardings, Posters, Notices and Sandwich boards in a public place. The written approval from the Council is required before erecting any hoarding in a public place unless it is erected in a permitted area already approved by the Council for this purpose.</p> <p>District Plan provisions take precedence over this bylaw.</p>
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## 12. Engagement and Feedback

Council identified the inconsistency relating to the size of election advertisement during the implementation of the election signage provisions during the local elections in 2019 and the general election in 2020, when providing advice on signage provisions to electoral candidates who wished to erect election signs.

Discussions with relevant Council staff in December 2021 and January 2022 resulted in the identification of a relatively simple amendment to the District Plan that would bring the District Plan electoral signage provisions in line with the Electoral Regulations.

Consultation was also undertaken with iwi through the wider Omnibus Plan Change process during 2021.

In addition, a local body electoral candidate contacted a Kāpiti Coast District Council Electoral Officer in July 2019, seeking clarification of signage restrictions and the inconsistency between the District Plan and the Regulations.

A review of four resource consents issued by Kāpiti Coast District Council for election signage from 1998-2004 was undertaken. All consents included a condition specifying that the size of any signs erected under these consents were restricted to is 3m<sup>2</sup>. This is consistent with the government regulations.

Council made available to the community a draft version of PC-1K on 20 April 2022 and invited feedback by 11 May 2022. No feedback was received by Council relating to the draft version of PC-1K.

## 13. Scale and Significance

Having regard to the relevant District Plan objectives and the relevant provisions of the higher order documents, strategies and other relevant documents discussed in Sections 8 to 11 of this report, this section evaluates the scale and significance of the effects of the Plan Change.

The proposed amendments:

- affect the entire district due to the nature of the advertising on the election signs (national and district elections) therefore having wide scale implications during the pre-election period;
- would align the district plan rules with government regulations;
- do not change the intention of the rules relating to election signage;
- are a minor amendment to eliminate conflict between the two regulatory requirements; and
- relate to a matter which is not identified in any higher-level statutory planning document.

Overall, the scale and significance of the proposed amendments is low.

## 14. Reasonably Practicable Alternatives

Other options considered by Council included to retain the current rule SIGN-R2 as worded (status quo), or to remove any maximum total area requirements from that rule.

Neither of these options is considered to be 'reasonably practicable'. Failure to amend the status quo wording of Standard 1 of rule SIGN-R2 would likely lead to ongoing confusion and compliance issues. The Removal of any maximum size standard from that rule would likely create a new mis-alignment problem, potentially encouraging election signage to be erected that exceeded the national maximum area requirements, leading to potential future compliance issues with those regulations.

The proposed amendment to the election signage provisions will eliminate confusion about signage requirements during election (local/national) periods and bring the provisions in line with Electoral Regulations. Accordingly, it is considered the only reasonably practicable option.

## 15. Evaluation of Plan Change

<b>Plan Change (recommended)</b>	Amend the signage rules to align with the Electoral (Advertisements of a Specific Kind) Regulations 2005.
<b>Benefits and Costs: Environmental</b>	Neutral: there are no environmental costs or benefits.
<b>Benefits and Costs: Economic</b>	Benefit: Electoral candidates who have signage prepared in accordance with the size requirements of the Electoral Regulations will not require resource consent if they wish to erect the signage before the pre-election time periods specified in the Electoral Regulations.  Benefit: Saving Council compliance resources in addressing potential complaints with respect to the size of electoral signs.
<b>Benefits and Costs: Social</b>	Neutral: there are no social benefits or costs.
<b>Benefits and Costs: Cultural</b>	There are no cultural benefits or costs.
<b>Economic Growth and Employment Impacts</b>	There are no economic growth and employment impacts.
<b>Risk of Acting/Not Acting</b>	Neutral: this is minimal risk  There is reputational risk to Council of not addressing a known resource management issue that results in confusion and potential economic costs to electoral candidates every three years
<b>Scale and Significance</b>	District-wide scale and low significance.
<b>Efficiency</b>	Changing the wording of the signage provisions would result in District Plan rules being aligned with regulations and therefore eliminating confusion around the electoral sign size requirements.
<b>Effectiveness</b>	Will effectively achieve the objective of the plan change by aligning District Plan electoral sign size requirements with those of the Electoral Regulations.

<b>Overall Evaluation</b>	<p>This evaluation has been undertaken in accordance with section 32 of the RMA in order to identify the need, benefits and costs and the appropriateness of the plan change having regard to its effectiveness and efficiency relative to other means in achieving the purpose of the RMA.</p> <p>The evaluation demonstrates that this plan change is the only reasonably practicable option as it:</p> <ul style="list-style-type: none"><li>(i) Best gives effect to the higher order statutory planning documents</li><li>(ii) Is the most efficient and effective way to achieve the purpose of the RMA, the District Plan objectives, and the objectives of the plan change</li><li>(iii) Addresses the identified issue.</li></ul>
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## Appendix 1 – Proposed Plan Change 1K – Election Signage

### Proposed Amendments:

In the following District Plan Provisions:

Text that is struck through and in bold (**example**) is to be deleted from the District Plan

Text that is underlined and in bold (**example**) is to be inserted into the District Plan

2. Amend permitted activity rule SIGN-R2 as follows:

<b>SIGN-R2</b>	Election <i>signs</i> (local body/ national) in all <i>zones</i> .
Permitted Activity	<p><b>Standards</b></p> <p>6. The total area of election signage per person or party (whichever is the lesser) on an approved <i>subject site</i> or on private property must not exceed <b>23.0m<sup>2</sup></b>.</p> <p><b>Note:</b> A list of approved <i>subject sites</i> is included in the Council's Candidate Information Handbook a copy of which is available from the Council's Service Centres or on the Council's website.</p> <p>7. Election <i>signs</i> must be single faced i.e. one display face only, not 'V' or other multi-faced <i>signs</i>.</p> <p>8. Election <i>signs</i> must not exceed 1.8 metres in <i>height</i> (above <i>original ground level</i>).</p> <p>9. Elections <i>signs</i> must meet the requirements of the Electoral (Advertisements of a Specified Kind) Regulations 2005.</p> <p>10. Election <i>signs</i> must only be erected and displayed during the period beginning 2 months before polling day and ending with the close of the day before polling day.</p> <p><b>Note:</b> This rule only applies outside the timeframes specified in Section 221B (1) of the Electoral Act 1993 and Regulation 4 of the Electoral (Advertisements of a Special Kind) Regulations 2005.</p>



**Kapiti Coast District Plan Proposed  
Plan Change 1L (Council Site  
Rezoning) and Section 32 Evaluation  
Report**

June 2022

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## 1 Overview and Purpose of the Plan Change

### 1.1 Introduction to the resource management issue

This evaluation report has been prepared, in accordance with section 32 of the Resource Management Act 1991 (the RMA), to support a proposed change to the Operative Kapiti Coast District Plan 2021 (the District Plan), titled Plan Change 1L.

To keep the District Plan up to date and ensure newly created open space areas can operate and function as intended by the District Plan provisions, the Council periodically reviews and updates zonings. Plan Change 1L seeks to:

- update the zoning of a number of Council-owned sites from Residential Zone to Open Space Zone (and either to a Local Parks Precinct or a Recreation Precinct as appropriate) or to Natural Open Space Zone; and
- reassign two Council-owned sites from Natural Open Space Zone to Open Space Zone.

The areas to be rezoned from General Residential Zone have been created through residential subdivision that has occurred since 2012 when the District Plan was notified as a full District Plan review. Plan Change 1L aims to apply the correct zoning to land vested in Council at the time of subdivision, as public reserves.

Fourteen of the sites are currently General Residential Zone (GRZ) and are proposed to be zoned to either Open Space Zone (OSZ) or Natural Open Space Zone (NOSZ). Three sites (Keruru Street, Millhaven Place Reserve and Seagrass Reserve) will be rezoned from General Residential Zone to Natural Open Space Zone<sup>1</sup>. The other 11 sites will be rezoned from General Residential Zone to Open Space Zone.

The sites to be rezoned Open Space Zone in this report will fall into one of two categories, either:

- Open Space Zone: Recreation Precinct, or
- Open Space Zone: Local Parks Precinct.

Recreation precincts are usually larger areas of land, such as purpose-built sportsgrounds or destination parks. Local Precincts are smaller, local parks. Examples of Local Parks Precincts include parks with seating, playgrounds, or can include cemeteries, or areas that connect neighbourhoods such as walkways or cycleway corridors. Further detail on the sites evaluated in this report, and maps showing the sites are attached (Annexes 1 and 2).

There will be no associated changes to the wording of the objectives, policies, or rules in the District Plan.

The sites to be rezoned are listed by street name alphabetically below:

1. Albizia Grove Accessway, Waikanae (from GRZ to OSZ (Local Parks Precinct))
2. Arawa Street Reserve, Raumati Beach (from GRZ to OSZ (Local Parks Precinct))
3. Gardner Place Reserve, Ōtaki (GRZ to OSZ (Local Parks Precinct))
4. Kereru Street Reserve, Waikanae (GRZ to NOSZ)
5. Kotuku reserve, Paraparaumu Beach (GRZ to OSZ (Local Parks Precinct))

<sup>1</sup> Seagrass Reserve is comprised of Lot 101 and 103 under Deposited Plan 51638. Lot 101 is broadly an accessway and will be rezoned to Open Space Zone (Local Parks Precinct). Lot 103 will be rezoned to Natural Open Space Zone.

6. Matuhi Street Playground, Waikanae (GRZ to OSZ (Local Parks Precinct))
7. Matuhi Street Reserve, Waikanae (GRZ to OSZ (Local Parks Precinct))
8. Millhaven Place Reserve, Ōtaki (GRZ to NOSZ)
9. Mirek Street Reserve, Waikanae (GRZ to OSZ (Local Parks Precinct))
10. 104 Ngarara Road, Waikanae (GRZ to OSZ (Recreation Precinct))
11. Pateke Way connection with Kotuku Drive, Paraparaumu (GRZ to OSZ (Local Parks Precinct))
12. Seagrass Place Reserve, Ōtaki (GRZ to OSZ (Local Parks Precinct) and NOSZ)
13. Tui Crescent Reservoir, Waikanae (GRZ to OSZ (Local Parks Precinct))
14. Vallance Lane, Raumati Beach (GRZ to OSZ (Recreation Precinct))

In addition, two sites found to be incorrectly categorised as Natural Open Space Zone in the review of the District Plan would be rezoned to Open Space Zone (Recreation Precinct) to reflect their actual community use. These are:

1. Jim Cooke Memorial Park, Waikanae (toilet block/car park). It is proposed to rezone this area from Natural Open Space to Open Space Zone: Recreation Precinct to reflect its associated sports field and community use.
2. Maclean Park, Paraparaumu Beach (the public park area of Maclean Park). It is proposed to rezone this area from Natural Open Space Zone to Open Space Zone (Recreation Precinct) to better reflect the park's active and passive recreation<sup>2</sup> use. The dunes area will remain a Natural Open Space Zone, which is consistent with how the District Plan manages natural open space zones along coastal margins.

#### Description of the zones relevant to Plan Change 1L

##### General Residential Zone

The General Residential Zone comprises the majority of Residential Zones. Apart from areas where higher densities are anticipated, the Residential Zone is characterised by low density detached residential development. Within the General Residential Zone there are distinctive subdivision design and built form elements unique to specific neighbourhoods in the District. Distinct precincts in the Residential Zone are defined on the District Plan Maps. Community activities typically provided for within Open Space Zones are not specifically provided for in the General Residential Zone.

As residential subdivision and development increases in the Kāpiti District, additional areas may be identified for Open Space Zones within a General Residential Zone<sup>3</sup>, and land can be vested in the Council for this purpose when a subdivision is created.

##### Natural Open Space

Natural Open Space Zones comprise sites which are generally in a highly natural state, and often cover large areas of land – for example, Kāpiti Island or the Tararua Forest Park. Landscape and conservation values are of particular importance, but these zones also include opportunity for active and passive recreation. Natural Open Space Zones typically contain and provide for very low building coverage of buildings relative to land area.

<sup>2</sup> Page 14 of the Maclean Park Te Uruhi Reserve Management Plan 2017.

<sup>3</sup> As guided by the Council's Open Space Strategy 2022.



### Open Space Zone - Recreation Precinct

An Open Space Zone is an area managed through the Recreation, Local Parks, and Private Recreation and Leisure Precincts. These precincts contain areas of open space which share some characteristics with Natural Open Space Zones but require different management approaches.

The Recreation Precinct comprises the District's sportsgrounds and destination parks and allows for active and passive recreation. They are often larger reserves characterised by location-specific recreational assets and high levels of amenity, often with distinct landscape features and plantings. Sportsgrounds are purpose-built for active recreation and can also serve as venues for temporary activities such as fairs and festivals.

While Open Space Zones are generally characterised by openness and a relatively low presence of buildings, buildings can also enhance recreational amenity. Provision is made in the Recreation Precinct for buildings at a scale and intensity that can both enhance recreational amenity and retain general open space character.

### Local Parks Precinct

The Local Parks Precinct contains local parks, cemeteries and some corridors for the cycleway, walkway and bridleway network. These areas are typically smaller than in the Recreation Precinct and are provided primarily to serve local, day-to-day open space, cultural and recreational needs. In general, they are easily accessible to surrounding neighbourhoods, comprise well maintained urban reserves with flat or gently sloping topography, and may include a playground, seating, paths and amenity planting. In addition, the precinct includes the District's public cemeteries and local pedestrian and cycle facilities, which provide connections through urban areas and to points of interest.

These areas generally contain fewer and smaller buildings than found in the Recreation Precinct.

For more information about different zone classifications see Part 3 – Area-specific matters of the District Plan.

## 2 The Issues

The current District Plan zonings for the 16 areas in this report are no longer fit for purpose and no longer reflect the intended use for this land. Ensuring Open Space and Natural Open Space Zones are correctly defined is important as these areas provide natural open spaces and recreational spaces for the community. Public open spaces within urban areas enable people to access areas that provide for their social, economic, and cultural well-being. This fits into the broader strategic scope of a Plan change; to ensure that the district's physical resources are managed to meet the reasonably foreseeable needs of future generations under the RMA (Part 2, s5).

## 3 Strategic Directions

The objectives from the Strategic Directions chapter of the District Plan relevant to this topic are tabled and described below.

<b>DO-01</b>	<b>Tangata Whenua</b>
	To work in partnership with the tangata whenua of the District to maintain kaitiakitanga of the District's resources and ensure that decisions affecting the natural environment in the District are made in accordance with the principles of Te Tiriti o Waitangi.

Objective DO-01 describes the need to partner with the District's tangata whenua to ensure that decisions affecting the natural environment are made in accordance with the principles of Te Tiriti o Waitangi.

<b>DO-03</b>	<b>Development Management</b>
	<p>To maintain a consolidated urban form within existing urban areas and a limited number of identified growth areas which can be efficiently serviced and integrated with existing townships, delivering:</p> <ol style="list-style-type: none"> <li>1. urban areas which maximise the efficient end use of energy and integration with infrastructure;</li> <li>2. a variety of living and working areas in a manner which reinforces the function and vitality of centres;</li> <li>3. resilient communities where development does not result in an increase in risk to life or severity of damage to property from natural hazard events;</li> <li>4. higher residential densities in locations that are close to centres and public open spaces, with good access to public transport;</li> <li>5. management of development in areas of special character or amenity so as to maintain, and where practicable, enhance those special values;</li> <li>6. sustainable natural processes including freshwater systems, areas characterised by the productive potential of the land, ecological integrity, identified landscapes and features, and other places of significant natural amenity;</li> <li>7. an adequate supply of housing and areas for business/employment to meet the needs of the District's anticipated population which is provided at a rate and in a manner that can be sustained within the finite carrying capacity of the District; and</li> <li>8. management of the location and effects of potentially incompatible land uses including any interface between such uses.</li> </ol>

Objective DO-03 is relevant as Council aims to maintain a consolidated urban form with existing urban areas with proximity to public open spaces and management of areas with special amenity.

<b>DO-04</b>	<b>Coastal Environment</b>
	<p>To have a coastal environment where:</p> <ol style="list-style-type: none"> <li>1. areas of outstanding natural character and high natural character, outstanding natural features and landscapes, areas of significant indigenous vegetation and significant habitats of indigenous fauna are identified and protected;</li> <li>2. areas of outstanding natural character and high natural character are restored where degraded;</li> <li>3. the effects of inappropriate subdivision, use and development are avoided, remedied, or mitigated;</li> </ol>

	<ol style="list-style-type: none"> <li>4. public access to and along the coast to facilitate active and passive recreational use is maintained and enhanced while managing inappropriate vehicle access; and</li> <li>5. Inappropriate development does not result in further loss of coastal dunes in the area mapped as the coastal environment.</li> </ol>
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Objective DO-04 is relevant because some of the sites to be rezoned fall within the coastal environment, in particular the relatively large area of Maclean Park to be rezoned as Open Space Zone (Recreation Precinct).

<b>DO-08</b>	<b>Strong Communities</b>
	<p>To support a cohesive and inclusive community where people:</p> <ol style="list-style-type: none"> <li>1. have easy access and connectivity to quality and attractive public places and local social and community services and facilities;</li> <li>2. have increased access to locally produced food, energy and other products and resources;</li> <li>3. have improved health outcomes through opportunities for active living or access to health services; and</li> <li>4. have a strong sense of safety and security in public and private spaces.</li> </ol>

Objective DO-08 is relevant as the rezoning proposed in Plan Change 1L supports access to public places and active living.

<b>DO-017</b>	<b>Open Spaces/Active Communities</b>
	<p>To have a rich and diverse network of open space areas that:</p> <ol style="list-style-type: none"> <li>1. is developed, used and maintained in a manner that does not give rise to significant adverse effects on the natural and physical environment;</li> <li>2. protects the District's cultural, ecological and amenity values, while allowing for the enhancement of the quality of open space areas;</li> <li>3. supports the identity, health, cohesion and resilience of the District's communities; and</li> <li>4. ensures that the present and future recreational and open space needs of the District are met.</li> </ol>

Objective DO-017 is relevant to Plan Change 1L as the objective aims to have a diverse network of open spaces in the region developed and maintained in a way that protects the district's amenity values and ensures that the recreational and open space needs of the District are met.

## 4 Response to the Issue: Proposed Plan Change 1L

Plan Change 1L proposes to rezone areas currently zoned as residential so that publicly owned land is zoned appropriately for its open space or natural open space use, and to rezone two reserves from Natural Open Space to Open Space Zone. The sites subject to the proposed changes are described in Annex 1 with maps showing the lands to be rezoned. These changes involve changes to the District Plan maps only, not to the wording of the objectives, policies, or rules.

This response to the issue will clearly define Open Space and Natural Open Space Zones in residential areas and will more appropriately zone Jim Cooke Memorial Park (toilet and carpark) and Maclean Park (public park area) from Natural Open Space Zone to Open Space Zone (Recreation Precinct) to reflect their actual use.

## 5 Section 32 Requirements

Section 32 of the RMA requires, broadly, that before advancing plan provisions a Council must evaluate whether the proposed provisions are the most appropriate way to achieve the purpose of the RMA.

Section 32 (1)(a) of the RMA requires that an evaluation must examine the extent to which any proposed objectives are the most appropriate way to achieve the purpose of the RMA. No new objectives, and no changes to existing District Plan objectives, are proposed by the Plan Change. The relevant District Plan objectives for character and amenity values, and access and transport remain appropriate.

Section 32 (1)(b) of the RMA requires an evaluation of whether the provisions proposed by the Plan Change are the most appropriate way to achieve the District Plan objectives. Section 32 (3) clarifies that, for a plan change, this evaluation must consider both the objective of the Plan Change (the purpose of the plan change) and the District Plan objectives, to the extent that those objectives remain relevant. The evaluation is required to:

- identify and consider other reasonably practicable options for achieving the objectives (s. 32 (1) (b) (i)); and
- assess the efficiency and effectiveness of the proposed provisions in achieving the objectives (s32 (1) (b) (ii)) and this is most usefully done by comparison with the reasonably practicable alternative options.

The assessment of efficiency and effectiveness required by s32 (1) (b) (ii) is required to identify and assess the benefits and costs of the environmental, economic, social, and cultural effects anticipated from implementing the proposed provisions. This must include consideration of opportunities for economic growth and employment that are anticipated to be provided or reduced. Benefits and costs are to be quantified, if practicable. The s32 (1) (b) (ii) assessment is also required to assess the risk of acting or not acting, if there is insufficient information about the subject matter of the provisions. The evaluation is required to contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects anticipated from implementing the proposal.

## 6 Purpose of the Plan Change

Plan Change 1L is an 'amending proposal' for the purpose of s32 of the RMA. This evaluation is required to consider the objective or purpose of the Plan Change, in addition to the District Plan's objectives.

The purpose of Plan Change 1L is to appropriately zone areas to reflect their community use as public open spaces that are vested in Council as reserves. Rezoning the areas from General Residential Zone to Open Space Zone or Natural Open Space Zone will clearly define what is residential and what is public land. It will also provide certainty regarding the uses and activities that are provided for in public reserves and parks. Rezoning Jim Cooke Memorial Park (toilet and carpark) and Maclean Park (public park area) from Natural Open Space Zone to Open Space Zone (Recreation Precinct) will better reflect their community use.



## 7 Relevant considerations under Part 2 of the RMA

In carrying out a s32 analysis, an evaluation is required as to how the proposal achieves the purpose and principles in Part 2 of the RMA. Section 5 sets out the purpose of the RMA, which is to promote the sustainable management of natural and physical resources.

Sustainable management *'means managing the use, development, and protection of natural and physical resources to enable people and communities to provide for their social, economic and cultural wellbeing and for their health and safety, while -*

- a) sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- b) safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*
- c) avoiding, remedying, or mitigating any adverse effects of activities on the environment'.*

In achieving this purpose, authorities need also to recognise and provide for the matters of national importance identified in s6, have particular regard to other matters referred to in s7, and take into account the principles of the Treaty of Waitangi referred to in s8.

### Section 6 – Matters of national importance

There are no section 6 matters relevant to Plan Change 1L.

### Section 7 – Other matters

Section 7(b), "the efficient use and development of natural and physical resource" and 7(c) the maintenance and enhancement of amenity values" are relevant to this topic. The Council wants to ensure that Open Space Zones are defined and managed effectively and appropriately under the District Plan. Open spaces are a physical resource used by the community that enhance amenity values.

### Section 8 – Treaty of Waitangi

Council consulted with the three iwi authorities in the Kāpiti Coast District, Te Āti Awa ki Whakarongotai, Ngā Hapū o Ōtaki, and Ngāti Toa Rangātira, as statutory parties under the RMA. In response to questions staff clarified the intent of the plan change. No feedback was received.

## 8 Relevant Higher-Order Statutory Instruments

Under section 75(3) of the RMA, a district plan must give effect to:

- (a) any national policy statement; and
- (b) any New Zealand Coastal Policy statement (the NZCPS);
- (ba) any national planning standard; and
- (c) any regional policy statement.

The relevance of the higher-level statutory planning documents to the amendments proposed by the Plan Change are discussed below.

### 8.1 National Policy Statements

In addition to the NZCPS there are four National Policy Statements (NPSs) currently in force:

- NPS on Urban Development 2020 (NPS-UD)
- NPS for Electricity Transmission 2008 (NPS-ET)

- NPS for Renewable Electricity Generation 2011
- NPS for Freshwater Management 2020

Of these, the NPS-UD and NPS-ET are relevant to Plan Change 1L.

As the public reserves are currently zoned for residential purposes, the NPS-UD is relevant as the Residential and General Residential Zones meet the NPS-UD definition of 'urban environment' and Kāpiti District is identified in the Appendix to the NPS-UD as being part of the Tier 1 urban environment of Wellington. The NPS-UD objective and policy relevant to Plan Change 1L are tabled below.

NPS	Relevant Objectives / Policies
<i>NPS on Urban Development</i>	<p><b>Objective 1:</b> New Zealand has well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future.</p> <p><b>Policy 1:</b> Planning decisions contribute to well-functioning urban environments, which are urban environments that, as a minimum:</p> <ul style="list-style-type: none"> <li>a) ...</li> <li>b) ...</li> <li>c) Have good accessibility for all people between housing, jobs, community services, natural spaces, and open spaces, including by way of public or active transport...</li> <li>d) ...</li> <li>e) ...</li> <li>f) ...</li> </ul>

The NPS-ET is relevant to this topic as the national grid passes over two of the sites proposed to be rezoned to open space. The objective of the NPS-ET and relevant policies are set out below.

NPS	Relevant Objectives / Policies
<i>NPS on Electricity Transmission</i>	<p><b>Objective:</b> To recognise the national significance of the electricity transmission network by facilitating the operation, maintenance and upgrade of the existing transmission network and the establishment of new transmission resources to meet the needs of present and future generations, while:</p> <ul style="list-style-type: none"> <li>• managing the adverse environmental effects of the network; and</li> <li>• managing the adverse effects of other activities on the network.</li> </ul> <p><b>Section 8 - Managing the adverse effects of third parties on the transmission network</b></p>

	<p><b>POLICY 10</b></p> <p>In achieving the purpose of the Act, decision-makers must to the extent reasonably possible manage activities to avoid reverse sensitivity effects on the electricity transmission network and to ensure that operation, maintenance, upgrading, and development of the electricity transmission network is not compromised.</p> <p><b>POLICY 11</b></p> <p>Local authorities must consult with the operator of the national grid, to identify an appropriate buffer corridor within which it can be expected that sensitive activities will generally not be provided for in plans and/or given resource consent. To assist local authorities to identify these corridors, they may request the operator of the national grid to provide local authorities with its medium to long-term plans for the alteration or upgrading of each affected section of the national grid (so as to facilitate the long-term strategic planning of the grid).</p> <p><b>Section 9. Maps</b></p> <p><b>POLICY 12</b></p> <p>Territorial authorities must identify the electricity transmission network on their relevant planning maps whether or not the network is designated.</p>
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Plan Change 1L will not require changes to the wording of objectives, policies, or rules of the District Plan, but it is noted that the Bunnythorpe – Haywards A 220 KV overhead single circuit transmission line crosses over the Albizia Grove site, with a transmission tower just south of the new reserve area. This transmission line also crosses over the Ngarara Road site, though there are no towers or poles on this site.

The Infrastructure chapter of the District Plan already gives effect to the NPS-ET via provisions. The rezoning under Plan Change 1L will not affect the ability of national grid infrastructure to be maintained or operated, nor will it affect any provisions relevant to the management of effects associated with the national grid.

## 8.2 New Zealand Coastal Policy Statement (NZCPS) 2010

The purpose of the NZCPS is to state objectives and policies to achieve the purpose of the RMA in relation to the protection and enhancement of the coastal environment of New Zealand. The NZCPS 2010 took effect on 3 December 2010.

The following NZCPS provisions are relevant to Plan Change 1L, particularly the proposed changes to zoning of part of Maclean Park (public park area) from Natural Open Space to Open Space (Recreation Precinct).

New Zealand Coastal Policy Statement 2010	Relevant Objectives / Policies
Objective 4	<p>To maintain and enhance the public open space qualities and recreation opportunities of the coastal environment by:</p> <ul style="list-style-type: none"> <li>recognising that the coastal marine area is an extensive area of public space for the public to use and enjoy;</li> <li>maintaining and enhancing public walking access to and along the coastal marine area without charge, and</li> </ul>

	<p>where there are exceptional reasons that mean this is not practicable providing alternative linking access close to the coastal marine area; and</p> <ul style="list-style-type: none"> <li>recognising the potential for coastal processes, including those likely to be affected by climate change, to restrict access to the coastal environment and the need to ensure that public access is maintained even when the coastal marine area advances inland.</li> </ul>
Policy 18: Public open space	<p>Recognise the need for public open space within and adjacent to the coastal marine area, for public use and appreciation including active and passive recreation, and provide for such public open space, including by:</p> <ol style="list-style-type: none"> <li>ensuring that the location and treatment of public open space is compatible with the natural character, natural features and landscapes, and amenity values of the coastal environment;</li> <li>taking account of future need for public open space within and adjacent to the coastal marine area, including in and close to cities, towns and other settlements;</li> <li>maintaining and enhancing walking access linkages between public open space areas in the coastal environment;</li> <li>considering the likely impact of coastal processes and climate change so as not to compromise the ability of future generations to have access to public open space; and</li> <li>recognising the important role that esplanade reserves and strips can have in contributing to meeting public open space needs.</li> </ol>

### 8.3 National Planning Standards

National Planning Standards are intended to reduce plan complexity and provide a home for national direction. The purpose of the National Planning Standards is to improve the efficiency and effectiveness of the planning system by providing nationally consistent structure, format, definitions, noise and vibration metrics, electronic functionality and accessibility for regional policy statements, regional plans, district plans and combined plans under the RMA. The intention is that this will make Council plans and policy statements more efficient and easier to prepare and use<sup>4</sup>. The Council issued a public notice in 2021 notifying that the District Plan had been amended to give effect to the National Planning Standards 2019<sup>5</sup>.

The proposed amendments to the District Plan are consistent with the requirements of the National Planning Standards.

<sup>4</sup> <https://www.environmentguide.org.nz/rma/planning-documents-and-processes/national-planning-standards/>

<sup>5</sup> <https://www.kapiticoast.govt.nz/whats-on/have-your-say/public-notice/operative-kapiti-coast-district-plan-2021-recognition-of-national-planning-standards-2019/>



## 8.4 National Environmental Standards

The nine National Environmental Standards (NESs) in force are:

- NES for Air Quality 2011
- NES for Sources of Human Drinking Water 2007
- NES for Telecommunication Facilities 2016
- NES for Electricity Transmission Activities 2009 (NES-ETA)
- NES for Assessing and Managing Contaminants in Soil to Protect Human Health 2011
- NES for Plantation Forestry 2017
- NES for Freshwater 2020
- NES for Marine Aquaculture 2020
- NES for Storing Tyres Outdoors 2021.

The NES-ETA is relevant to Plan Change 1L as Transpower infrastructure crosses two of the sites proposed for rezoning. Under Part 2 – District-Wide Matters, the District Plan describes how the Council complies with the NES-ETA. This provides for adequate maintenance and upgrading of transmission lines to achieve the intent of the NPS-ET. The rezoning is not expected to create any incompatibility with operation and maintenance of the national grid.

## 8.5 Wellington Regional Policy Statement 2013

The Operative Wellington Regional Policy Statement 2013 (RPS) provides an overview of regional resource management issues and the ways in which integrated management of natural and physical resources will be achieved.

District plans are required to give effect to the policies 1-34 of the RPS, and to have particular regard to policies 35-60.

Rezoning the public reserves to Open Space and Natural Open Space Zones will recognise the role of the open space network by ensuring appropriate District Plan provisions apply for the use and development of these areas. The following provisions of the RPS are relevant to this topic:

Regional Policy Statement for the Wellington Region	
<i>Objective 8</i>	Public access to and along the coastal marine area, lakes and rivers is enhanced.
Policy 67 (R)	<p><b>Maintaining and enhancing a compact, well designed and sustainable regional form – non-regulatory</b></p> <p>To maintain and enhance a compact, well designed and sustainable regional form by:</p> <ul style="list-style-type: none"> <li>a) implementing the New Zealand Urban Design Protocol;</li> <li>b) promoting best practice on the location and design of rural residential development;</li> <li>c) <b>recognising and enhancing the role of the region's open space network;</b></li> </ul>

	<p>d) encouraging a range of housing types and developments to meet the community's social and economic needs, including affordable housing and improve the health, safety and well-being of the community;</p> <p>e) implementing the actions in the Wellington Regional Strategy for the Regional Focus Areas; and</p> <p>f) safeguarding the productive capability of the rural area.</p>
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M = policies which must be **implemented** in accordance with methods stated in the RPS

R = policies to which **particular regard** must be had when varying a district plan

The District Plan must have particular regard to policy 67 of the RPS.

### Regional Plans

There are currently five operative regional plans for the Wellington region (which will be replaced by the proposed Natural Resources Plan for the Wellington Region), listed below:

- Regional Freshwater Plan for the Wellington Region, 1999
- Regional Coastal Plan for the Wellington Region, 2000
- Regional Air Quality Management Plan for the Wellington Region, 2000
- Regional Soil Plan for the Wellington Region, 2000
- Regional Plan for discharges to the land, 1999

These plans assist the Regional Council to carry out its functions in order to achieve the purpose of this RMA. These plans set out how the Regional Council manages the natural and physical resources that fall under the jurisdiction of the Regional Council under section 30 of the RMA.

The Plan Change manages activities that fall under the Council's jurisdiction under section 31 (1)(b)(iii) of the RMA and does not venture into the jurisdiction of the Regional Council. On this basis none of these regional plans are relevant to the plan change.

### Proposed Natural Resources Plan – Appeals Version (PNRP)

Section 74(2)(a)(ii) requires the Council to have regard to a proposed regional plan when changing the District Plan.

The PNRP is still in the process of settling appeals to the Environment Court, however, once those are resolved it will replace the existing five operative regional plans identified above.

In a similar light to the assessment above regarding the relevance of the five operative regional plans, the PNRP is not directly relevant to this plan change.

## 9 Other Relevant Plans and Strategies

### 9.1 Long Term Plan

The Council's Long-term Plan 2021–41<sup>6</sup> aims to secure the district's future over the next 20 years. This includes the investment needed to support a thriving community and ensure that the district has the infrastructure, services and facilities needed to meet current and future challenges.

<sup>6</sup> <https://www.kapiti.coast.govt.nz/your-council/forms-documents/annual-and-long-term-plans/long-term-plan/>

The Long Term Plan addresses four aspects of wellbeing: social, cultural, economic, and environmental wellbeing. The overall goal is for a vibrant and thriving Kāpiti with healthy, safe, and resilient communities. Underlying these four aspects is the principle that Mana Whenua and Council have a mutually mana-enhancing partnership.

The stated outcome for community wellbeing is that 'communities are resilient, safe, healthy and connected. Everyone has a sense of belonging and can access the resources and services they need'. This is explained as meaning that:

*'Our communities (groups and individuals) have access to services and facilities necessary to meet their basic needs to cope with the demands of, and unforeseen disruptions to, their daily lives. They have access to adequate permanent shelter; necessary health services; food; water; education; transport options and networks (roading, rail, cycle, sea and air); telecommunications; and social networks, that they may prosper and thrive to fulfil their potential.'*

Plan Change 1L contributes to achieving the outcome for community wellbeing. Rezoning sites from General Residential Zone to Open Space Zone or Natural Open Space Zone, and rezoning Jim Cooke Memorial Park (toilet and carpark) and Maclean Park (public park area) from Natural Open Space Zone to Open Space Zone (Recreation Precinct) will ensure that these are clearly defined in the District Plan, and will provide for community wellbeing, exercise, connection, leisure activities, and open space for Kāpiti District's community.

Planning for growth is relevant to Plan Change 1L as we move to ensure that zoning of public spaces reflects actual use now and for the future.

The following Council plans/strategies area also relevant to Plan Change 1L. These are available on the Council website.<sup>7</sup>

Plan / Strategy	Organisation	Relevant Provisions
<i>Open space strategy 2022<sup>8</sup></i>	<i>Kāpiti Coast District Council</i>	<p>For the purposes of this strategy, open space is defined as including areas of land or water that the public can access either physically or visually. It supports freedom of movement, and opportunities to connect with one another and the environment. Open space includes green spaces such as parks, reserves, transport corridors, urban spaces, streetscapes, greenbelt areas and streams.</p> <p>The future growth and management of the open space network will be guided by ten priorities. These priorities are non-hierarchical and will be used in future to inform implementation plans developed in conjunction with Iwi. The 10 priorities are:</p> <ol style="list-style-type: none"> <li>1. Continuing protection, restoration, connection and enhancement of the natural environment, including the restoration of the ecology and biodiversity of the District and the</li> </ol>

<sup>7</sup> <https://www.kapiticoast.govt.nz/your-council/forms-documents/policy-and-strategy/council-strategies/>

<sup>8</sup> <https://www.kapiticoast.govt.nz/media/tuw2rme/open-space-strategy.pdf>

		<p>remediation of contamination in open spaces.</p> <ol style="list-style-type: none"> <li>2. Enhancing connections across our open space network, including improving cycleway, walkway and bridleway (CWB) routes and ecological corridors.</li> <li>3. Planning and managing our open space network following a partnership approach, to ensure iwi values are expressed throughout Kāpiti's open space network.</li> <li>4. Designing and developing a network that enhances use and visitor experience, and maximises efficiencies. This includes designing a network for all ethnicities, ages and abilities that has multiple functions (where possible) and ensuring open spaces are affordable and compatible with their surrounding environments.</li> <li>5. Mitigating the effects of climate change through the management and development of the open space network.</li> <li>6. Ensuring Kāpiti residents have adequate and equitable access to open space now and in the future. This includes working closely with developers, the community and other agencies as our district grows.</li> <li>7. Involving the community through best practice community engagement, and enriching the network through a sustainable volunteer programme.</li> <li>8. Actively promoting our open space network to encourage enduring connections to the whenua and supporting community identity. This will include environmental education, encouraging responsible use, events and attracting visitors to Kāpiti.</li> <li>9. Providing diverse open space types to support a good quality of life, the wellbeing of Kāpiti's communities and the health of the natural environment.</li> <li>10. Collating, creating and sharing of knowledge to inform future decision-making.</li> </ol>
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Te Tupu Pai - Growing well <sup>9</sup>	<i>Kāpiti Coast District Council</i>	<p>This document sets out a vision and roadmap for how Council and Mana Whenua will work with the community to achieve sustainable development for the Kāpiti District in the 30 years (from 2021) to 2051.</p> <p>Priorities and aspirations relevant to this topic are to:</p> <p><b>Keep, protect, enhance</b></p> <p>- maintain, protect and enhance:</p> <ul style="list-style-type: none"> <li>• our whakapapa and ancestral connections</li> <li>• our district's natural assets</li> <li>• the connection between our natural environment and the values underpinning our Kāpiti lifestyle</li> <li>• our sense of place and identity.</li> </ul> <p><b>Improve walkability, neighbourhoods and wellbeing</b></p> <p>- design urban spaces in a way that:</p> <ul style="list-style-type: none"> <li>• provides equity of access within communities</li> <li>• supports the community to be active and healthy</li> <li>• enables positive interaction and connection</li> <li>• creates age-friendly communities</li> <li>• helps build resilient and sustainable communities.</li> </ul>
<i>Maclean Park Development Plan 2017<sup>10</sup></i>	<i>Kāpiti Coast District Council in partnership with Te Āti Awa as mana whenua.</i>	<p>The Council's vision for Maclean Park is a destination for all; a place to meet, play, relax and connect with Kāpiti Island, heritage and the environment.</p> <p>Between June 2022 and the end of 2023, Council will invest \$2.5 million on the next stage of the plan to further upgrade the park and facilities.</p>

## 10 Planning Documents Recognised by Iwi Authorities

When preparing a change to the district plan, section 74(2A) of the RMA requires the Council to take into account any relevant planning document recognised by an iwi authority

<sup>9</sup> <https://www.kapiticoast.govt.nz/media/42mmy4nr/growth-strategy-2022.pdf>

<sup>10</sup> <https://www.kapiticoast.govt.nz/media/tmajlpil/maclean-park-management-plan-2017-40.pdf>

and lodged with the Council. There are three iwi recognised as holding mana whenua within the Kāpiti Coast District comprising:

- Te Ātiawa ki Whakarongotai;
- Ngāti Toa Rangātira; and
- Ngā Hapū o Ōtaki.

There are four documents recognised by iwi authorities and lodged with the Council in the Kāpiti Coast District, comprising:

- a) Proposed Ngāti Raukawa Ōtaki River and Catchment Iwi Management Plan 2000 (operative 10 April 2001);
- b) Nga Korero Kaupapa mo Te Taiao: Policy Statement Manual for Kapakapanui: Te Runanga O Āti Awa ki Whakarongotai Inc;
- c) Te Haerenga Whakamua – A Review of the District Plan Provisions for Māori: A Vision to the Future for the Kāpiti Coast District Council District Plan Review 2009-12; and
- d) Whakarongotai o te moana Whakarongotai o te wā – Kaitiakitanga Plan for Te Ātiawa ki Whakarongotai. 2019.

The changes sought to the zoning of open spaces under Plan Change 1L fall within the rohe of Te Āti Awa ki Whakarongotai and Ngāti Raukawa (Ngā Hapū o Ōtaki). Therefore all the above documents are relevant to the plan change.

#### **Nga Korero Kaupapa o Te Taiao**

The document outlines the vision, intent and objectives for compliance with tikanga standards for the protection and management of the environment as determined by Te Runanga O Āti Awa ki Whakarongotai Inc with respect to the following topics:

- Disposal and treatment of effluent;
- Stormwater and runoff;
- Heritage protection and management; and
- Representation.

#### **Te Haerenga Whakamua**

Input from tāngata whenua was an important part of developing the Proposed District Plan (PDP), with 23 meetings held from December 2010 through October 2012 between Council staff and a Tāngata Whenua working party nominated by Te Whakaminenga o Kāpiti.

The Tāngata Whenua Working Party was established in 2010 as a mechanism for the District's three iwi (Te Āti Awa ki Whakarongotai, Ngāti Raukawa (Ngā Hapū o Ōtaki) and Ngāti Toa Rangātira) to participate in the review of the District Plan. The mandate for the working party was to review all aspects of the District Plan on behalf of Te Whakaminenga o Kāpiti and recommend the direction for iwi policy and the Māori world view within the PDP process. This process resulted in the document Te Haerenga Whakamua being approved by Te Whakaminenga o Kāpiti in March 2012 and endorsed by Council on 27 September 2012. Plan Change 1L is consistent with the principles of this document.

### Whakarongotai o te moana Whakarongotai o te wā

The purpose of this plan document is to identify the key values, objectives and policies of Te Ātiawa ki Whakarongotai that guide their kaitiakitanga as mana whenua. The document is lodged with the Council to be considered when district plans are prepared or changed<sup>11</sup>.

Under section 3.3, Wairua: nga Tikanga, the plan states that “access to places that are good for the wairua are protected and provided for. That includes both those that provide solace and serenity, and those that support mahinga kia, or other types of recreation. Plan Change 1L is consistent with the principles of this document.

### Proposed Ngāti Raukawa Ōtaki River and Catchment Iwi Management Plan 2000

This document sets out a vision for Ngāti Raukawa's (Ngā Hapū o Ōtaki) exercise of kaitiakitanga in respect of the Ōtaki River and its catchments. It provides for the ongoing development of a framework from which Ngā Hapū o Ōtaki can engage in the management of the Ōtaki River and its resources to ensure fulfilment of its Kaitiakitanga responsibilities. It contains recommendations for action by various agencies to ensure the successful implementation of the Plan. Seagrass Reserve, Gardner Place Reserve and Millhaven Place are within the Ōtaki area. The following provisions are therefore relevant to the plan change:

#### 2.1 Ko te tino tumanako/Primary Vision Statement

2.11 *The mauri of the Ōtaki River and its people are restored and revitalised.*

#### Secondary Vision Statements

2.2.1 *Te Taiao me nga Taonga (Environment)*

*The mauri of the Ōtaki River and Catchment is protected, sustained, nurtured and enhanced so that Ngāti Raukawa in turn may be protected, sustained, nurtured and enhanced by it.*

## 11 Engagement and Feedback

Council directly informed and consulted with statutory parties as required under clause 3 and 4A of Schedule 1 of the RMA, between 20 April to 11 May 2022. All consultation included provision of details about the reason and implications of the plan change, and details of the areas proposed to be rezoned.

The statutory parties consulted during the preparation of Plan Change 1L were:

- the Minister for the Environment,
- other councils within the greater Wellington region,
- iwi authorities in the Kāpiti Coast District.

No concerns or objections were raised by the Minister for the Environment, or other councils.

Iwi authorities were provided information about the plan change via email and during various face to face engagements across 2021 and 2022, as well as specifically during the period 20 April – 11 May 2022. This engagement provided an opportunity to clarify the intent of the plan change. No feedback was received from iwi on the Plan Change.

In addition, Council exercised their discretion under clause 3(2) of Schedule 1 to directly consult with all adjoining property owners whose future ability to erect higher fences as a

<sup>11</sup> Page 7: <http://teatiawakikapiti.co.nz/wp-content/uploads/2019/07/TAKW-Kaitiakitanga-Plan-V6-online-2.pdf>

permitted activity may be affected if the Plan Change progresses and becomes operative.<sup>12</sup> Care was taken to provide letters to potentially affected adjoining property owners to explain the purpose and highlight potential implications regarding fencing of General Residential Zone properties adjoining new Open Space or Natural Open Space Zones.

Council received feedback from four adjoining property owners. None raised any objection or opposition to the intent of the Plan Change to rezone. However, given that the rezoning would mean a change to the rules for fencing for adjoining General Residential Zoned properties, some questions were raised by adjoining property owners about their ability to retain existing fence heights or build higher fences in future.

Answers were provided via email to adjoining property owners who raised questions about fences. Regarding concerns about retaining existing fence heights or building new fence heights:

- The implication of the rezoning for fencing is that the permitted activity height for fences becomes 1.8m, rather than 2m (see rule GRZ-R3, Standard 1)
- This change would not compel property owners to lower existing lawfully established fences above 1.8m in height
- Property owners have rights under section 10 of the RMA to replace existing lawfully established fences above 1.8m in height.

A landowner provided feedback supporting the change and suggested that Council could require certain aesthetics for fences adjoining open space areas. The scope of Plan Change 1L is only to rezone land, not to review the objectives, policies and rules for controlling activities on or adjoining open space land.

Feedback was also invited from resource management and planning consultancies in the Kāpiti District including Land Matters, Landlink, Leith Consulting, and Cuttriss. No feedback was received from these consultancies.

Information was also provided on the Council website over the 20 April – 11 May 2022 period to enable any interested members of the general public to have their say. Information on the Council website included details of the changes proposed to the District Plan maps and a description of reasons for the changes. The only feedback received as a result of the website consultation on this Plan Change was from Transpower.

Transpower's feedback supported the principle of the rezoning but noted that there could be implications of changing the zone if the provisions that apply to the National Grid for the Albizia Grove and Ngarara Road sites were affected.

The change in zoning from General Residential Zone to Open Space Zone would not alter how the District Plan manages and provides for the national grid. The Council acknowledges that under the RMA, national policy statements provide direction for matters of national significance relevant to sustainable management. As described above, the District Plan provisions already give effect to the requirements of the NES-ETA, and it does not present a more restrictive rule framework than the NES-ETA.

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<sup>12</sup> A number of properties adjoining areas proposed for rezoning in Plan Change 1L already have specific fence height restrictions listed on their titles as a covenant from when their properties were created via subdivision. In these cases, the fence height restrictions on the property's title will override the District Plan's provisions. These property owners are therefore not considered potentially affected by this plan change and so were not directly contacted as part of consultation between 20 April – 11 May 2022.



## 12 Scale and Significance

Having regard to the relevant District Plan objectives and the relevant provisions of the higher order documents, strategies, and other related documents discussed above, this section evaluates the scale and significance of the effects of the Plan Change.

The proposed rezoning:

- Is necessary to ensure public open spaces comprising reserves and parks are zoned appropriately to ensure District Plan zone provisions support community uses and activities.
- Is relevant to the areas identified in the attached maps already vested in the Council to be used as public open space.
- Would in some cases (as explained above) require resource consent for a new fence adjoining the rezoned site if this was above 1.8 metres high.
- Will not affect existing fences that were compliant when built.
- Are relatively minor.
- Will clarify and correct zones on the District Plan maps.
- Does not affect the implementation of the NPS-ET and will not affect access to the electricity transmission network corridor.
- Are not understood to impact negatively on the interests of iwi.
- Is not related to any other significant matter in any higher-level statutory planning document.
- Carries a low level of risk or uncertainty. Ensuring public reserves and open spaces are appropriately zoned under the District Plan is good planning practice.

Feedback from consultation did not identify any concerns with the Plan Change to rezone areas in the District Plan from General Residential Zone to Open Space Zone, or from Natural Open Space Zone to Open Space Zone. Four property owners responded to the draft consultation and some questions were raised about permitted activities related to fence heights, but no objections or opposition to the Plan Change itself were raised.

Overall, the scale and significance of the proposed amendments is low.

## 13 Reasonably Practicable Alternatives

Two reasonably practicable options have been identified. They include:

- Option 1: Status quo (retain current zoning in the District Plan maps of the areas specified in this report, without change).
- Option 2: Plan Change 1L – rezone the areas on the District Plan maps as described in this report.

## 14 Evaluation of Plan Change

This section of the report evaluates the proposed rezoning of the sites proposed under Plan Change 1L, and the status quo option described above.

	<b>Option 1:</b> Status quo - retain current zoning in the District Plan maps of the sites specified in this report, without change.	<b>Option 2 (Plan Change 1L) –</b> rezone the sites on the District Plan maps as described in this report.
<b>Benefits and Costs: Environmental</b>	Neutral: there are no environmental costs or benefits.	Neutral: there are no environmental costs or benefits.
<b>Benefits and Costs: Economic</b>	Costs: neutral  Benefit: there are no benefits to the status quo.	Costs: there would be a compliance cost (resource consent fees) for adjoining General Residential Zone property owners wishing to build a new fence above the height of 1.8 metres, who can currently build a fence up to 2m as a permitted activity. However, those with existing 2m fences can rebuild to the same specifications under s10 of the RMA, and these property owners will have the option of opting for new fence up to 1.8m in height as a permitted activity (see the relevant rule, GRZ-R3). <sup>13</sup>  Council (as property owner of the areas proposed to be rezoned from General Residential Zone to Open Space or Natural Open Space zones) would also face compliance costs (resource consent fees) if it wished to build new fences within those areas that exceeded the permitted activity fence heights of:  b) 1.2 metres if less than 50% visually permeable; and  c) 1.8 metres if more than 50% visually permeable. <sup>14</sup>  Benefit: areas will be clearly defined as Open Space Zones. Part of Maclean Park will be rezoned from Natural Open Space Zone to Open Space Zone. This

<sup>13</sup> Rule GRZ-R3, standard 1(c).

<sup>14</sup> Rules NOSZ-R1, standard 1; and OSZ-R1, standard 1.

		<p>will better reflect the active and passive recreation use by the community. It also allows for certain building structures to support these destination parks, and for organised activities, such as fairs, to be held in these areas.</p> <p>Recreation, community, and cultural activities, including ancillary retailing and community / mara kai gardens will be specifically provided for as permitted activities, avoiding the potential need for resource consent for these activities under the existing residential zoning.</p>
<b>Benefits and Costs: Social</b>	<p>Cost: Recreation, community, and cultural activities, including ancillary retailing and community / mara kai gardens are not specifically provided for as permitted activities under the existing residential zoning.</p> <p>Benefit: neutral</p>	<p>Benefit: delineates between General Residential and Open Space Zones.</p> <p>Recreation, community and cultural activities, including ancillary retailing and community / mara kai gardens will be specifically provided for as permitted activities, avoiding the potential need for resource consent for these activities under the existing residential zoning.</p>
<b>Benefits and Costs: Cultural</b>	There are no cultural benefits or costs.	There are no cultural benefits or costs.
<b>Economic Growth and Employment Impacts</b>	<p>Cost: neutral</p> <p>Benefit: neutral</p>	<p>Cost: neutral</p> <p>Benefit: neutral</p>
<b>Risk of Acting/Not Acting</b>	<p>Incorrect zoning of open spaces in the District Plan, resulting in some community activities not being specifically provided for under the currently residential zoning. This could result in the need for resource consent for activities that are encouraged and provided for in open space zones but are not permitted activities under the existing zoning.</p>	<p>Option 2 will eliminate the risks identified for Option 1.</p> <p>There are no risks identified. Open space zoning for public reserves is a common resource management method to provide for open space uses by the community.</p>
<b>Scale and Significance</b>	Site-specific scale across the District, and low significance.	Site-specific scale across the District, and low significance.

<b>Efficiency</b>	The existing residential zoning of the public open spaces does not achieve the relevant objectives of the District Plan or the plan change, as the residential zone objectives do not support the open space network or provide for community use of reserves.	This is a highly efficient option as it will ensure the public open spaces that have been vested in Council as reserves are appropriately supported by the relevant objectives of the District Plan and will achieve the objective of the plan change.
<b>Effectiveness</b>	The current zones are not appropriate for community uses of publicly owned reserves, as many community uses are not provided for under the existing residential zoning. This option is not effective at achieving the relevant objectives of the District Plan, as the Open Space Objectives do not apply to residential zones. This option is not effective at achieving the objective of the plan change.	Option 2 will ensure the zonings are updated to reflect current use and will enable outcomes under relevant higher order documents and Council plans and strategies. This is a highly effective option to achieve the relevant objectives of the District Plan as it will ensure the open space objectives apply to the reserves, as the plan intends. This option will effectively achieve the objective of the plan change.
<b>Overall evaluation</b>	<b>Option 2 (Plan Change 1L) will ensure the purpose and community use of reserves vested in Council are supported by appropriate open space District Plan provisions. Rezoning the specific Council-owned lands described in this report to Open Space and Natural Open Space Zones is the most efficient and effective method to achieve the objectives of the District Plan and the plan change. This will clarify zones, relate to appropriate rules under the District Plan for these areas, and District Plan maps will be updated accordingly. Plan Change 1L is therefore the most appropriate method to achieve Part II of the RMA.</b>	

For adjoining properties where new fences and walls are planned to be erected, District Plan rule GRZ-R3<sup>15</sup> Standard 1 is relevant. Rules relevant to the Council (as property owner of the sites to be rezoned) for erecting fences and walls in Open Space or Natural Open Space Zones are also in the Zones section of the District Plan (refer to OSZ-R1 and NOSZ-R1).

#### 14.1 Overall conclusion

This evaluation has been undertaken in accordance with section 32 of the RMA in order to identify the need, benefits and costs and the appropriateness of the proposed plan change having regard to its effectiveness and efficiency relative to other means in achieving the purpose of the RMA.

The evaluation demonstrates that this proposed plan change is the best option as it:

- i. Best gives effect to the higher order statutory planning documents
- ii. Is the most efficient and effective way to achieve the purpose of the RMA, the District Plan objectives, and the objectives of the plan change
- iii. Addresses the identified issue.

<sup>15</sup> <https://eplan.kapiticoast.govt.nz/eplan/#Rules/0/203/1/0/0>



### Annex 1: Further details of sites to be rezoned under Plan Change 1L

Place name	Legal description	Reserve status	Current District Plan zoning	Proposed new zoning	Rationale for proposed new zone (and precinct where relevant)
1. <b>Albizia Grove Accessway</b>	Lot 100 DP 515414	Local Purpose Reserve (Stormwater)	General Residential Zone	Open Space Zone (Local Parks Precinct)	<ul style="list-style-type: none"> <li>Artificial stormwater lake, so Open Space Zone is more appropriate than Natural Open Space Zone</li> <li>Likely to serve some local open space needs which supports use of Local Parks Precinct</li> <li>It is not a sportsground or destination park which suggests it is less suited to Recreation Precinct.</li> </ul>
2. <b>Arawa Street Reserve</b>	Part Lot 36 DP 9507, Part Lot 37 DP 9507 (SO21915), Part Lot 38 DP 9507	Fee Simple	General Residential Zone	Open Space (Local Parks Precinct)	<ul style="list-style-type: none"> <li>Insufficient current or potential natural open space values, so more suited to Open Space Zone</li> <li>Provides some local amenity benefits (may provide opportunity for some possible future road safety improvements) which supports use of Local Parks Precinct rather than Recreation Precinct.</li> </ul>
3. <b>Gardner Place Reserves</b>	Lot 101 DP 454507 Lot 103 DP 454507 (accessway)	Reserve (Recreation)	General Residential Zone	Open Space Zone (Local Parks Precinct)	<ul style="list-style-type: none"> <li>Insufficient current or potential natural open space values, so more suited to Open Space Zone</li> <li>Provides some connectivity within an urban area so aligns well with Local Parks Precinct.</li> </ul>

4. <b>Jim Cooke Memorial Park (toilet block/car park)</b>	Section 1 SO 544946	Reserve (Recreation)	Natural Open Space Zone	Open Space Zone (Recreation Precinct)	<ul style="list-style-type: none"> <li>Rezoning applies to land on which a toilet block and carpark is located, and which lacks any natural open space values, so more suited to Open Space Zone</li> <li>Part of a large destination park and sportsground so suited to Recreation Precinct rather than Local Parks Precinct.</li> </ul>
5. <b>Kereru Street Reserve</b>	Lot 1 DP 56468	Fee simple	General Residential Zone	Natural Open Space Zone	<ul style="list-style-type: none"> <li>Site is already listed in District Plan as part of Ecological site K062 (Hemi Matenga Reserve) and has natural state values, so it is suited to Natural Open Space Zone.</li> </ul>
6. <b>Kotuku Reserve</b>	Lot 1 DP 401418, Lot 13 DP 431964	Reserve (Recreation)	General Residential Zone	Open Space Zone (Local Parks Precinct)	<ul style="list-style-type: none"> <li>While land does support ecological values (including an ecological site), it is not natural state, and so better suits Open Space Zone</li> <li>Land provides connectivity, meets local needs, and is not itself a destination (or a sportsground), so Local Parks Precinct is more appropriate than Recreation Precinct.</li> </ul>
7. <b>Maclean Park (public park area)</b>	Part Section 2 SO 322370	Reserve (Recreation)	Natural Open Space Zone	Open Space Zone (Recreation Precinct)	<ul style="list-style-type: none"> <li>Land has a high coverage of buildings, carparks, play and amenity areas and footpaths, so Open Space is more appropriate than Natural Open Space Zone</li> </ul>

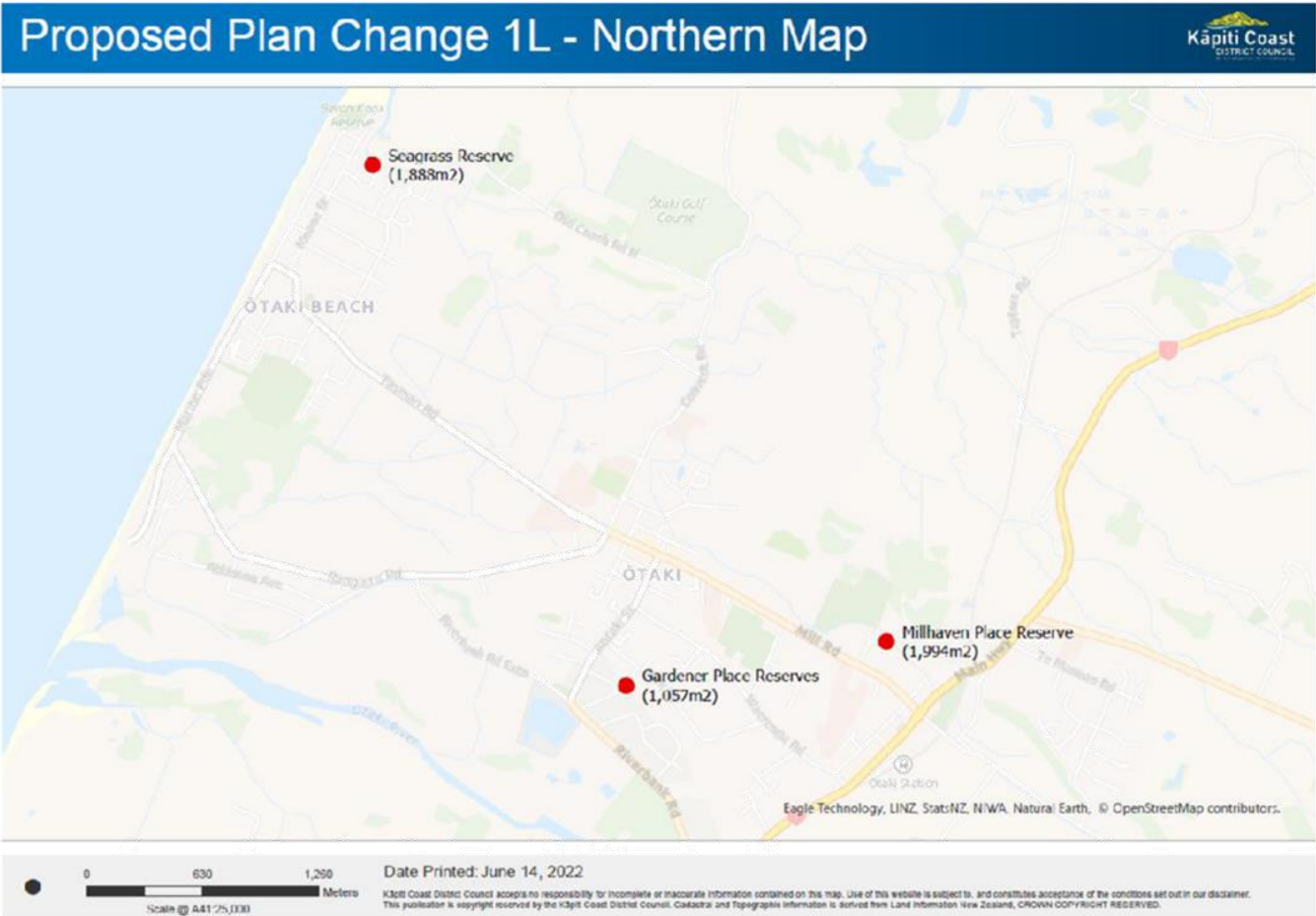
					<ul style="list-style-type: none"> <li>• Maclean Park is a destination park which fits the Recreation Precinct rather than the Local Parks Precinct.</li> </ul>
8. <b>Matuhi Street Playground</b>	Lot 102 DP 413488	Local Purpose Reserve (Recreation)	General Residential Zone	Open Space Zone (Local Parks Precinct)	<ul style="list-style-type: none"> <li>• Land supports open space with a pathway and playground, so Open Space Zone is more appropriate than Natural Open Space Zone</li> <li>• Unlikely to be a destination park so fits the Local Parks Precinct definition rather than Recreation Precinct.</li> </ul>
9. <b>Matuhi Street Reserve</b>	Lot 103 DP 413488	Local Purpose Reserve (Stormwater)	General Residential Zone	Open Space Zone (Local Parks Precinct)	<ul style="list-style-type: none"> <li>• While land has some plantings and a pond, it does not have natural state values so Open Space Zone is more appropriate than Natural Open Space Zone</li> <li>• Of local amenity value rather than a destination park so fits the Local Parks Precinct definition rather than Recreation Precinct.</li> </ul>
10. <b>Millhaven Place Reserve</b>	Lot 23 DP 525606	Local Purpose Reserve	General Residential Zone	Natural Open Space Zone	While the land may not support high natural state values, it is adjacent to a stream and provides an esplanade reserve function, accordingly it is considered appropriately zoned Natural Open Space Zone.
11. <b>Mirek St Reserve</b>	Lot 503 DP 513188	Reserve (Recreation)	General Residential Zone	Open Space Zone (Local Parks Precinct)	<ul style="list-style-type: none"> <li>• Land has no natural state values and so Open Space rather than Natural Open Space Zone is appropriate.</li> <li>• Of local value rather than a destination park so fits the Local</li> </ul>

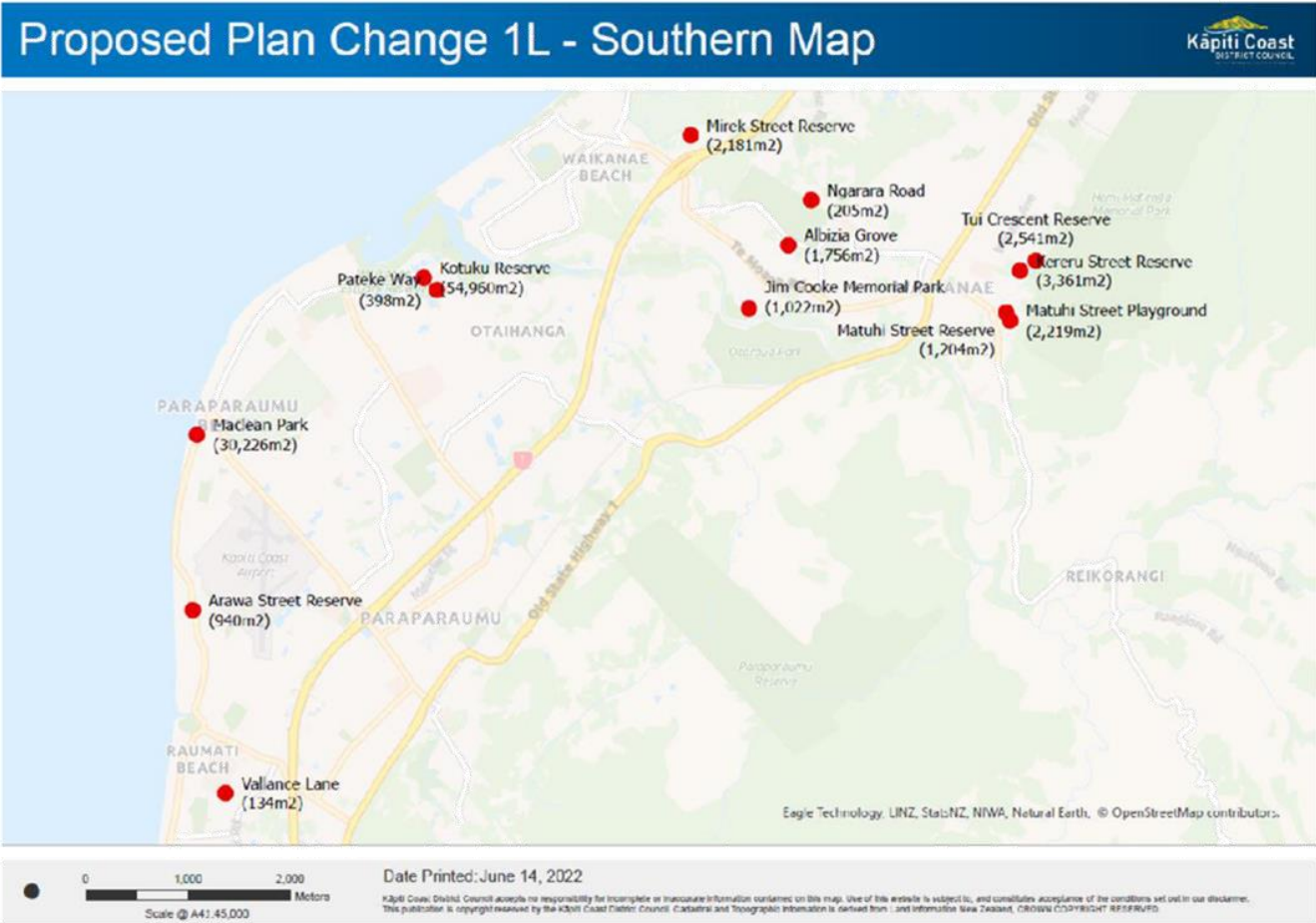
					Parks Precinct definition rather than Recreation Precinct.
12. 104 Ngarara Road (formerly 104-110), Waikanae	Next to Lot 17 DP 547543	Reserve (Local Purpose)	General Residential Zone	Open Space Zone (Recreation Precinct)	<ul style="list-style-type: none"> <li>Land has no natural state values so is more appropriate as an Open Space rather than Natural Open Space Zone</li> <li>Provides connectivity from Kaiwaru Place to Waikanae Park, which is a destination park and sportsground, therefore Recreation Precinct is more appropriate than Local Parks Precinct.</li> </ul>
13. Pateke Way connection with Kotuku Drive	Lot 7 DP 376894 Lot 8 DP 401418	Reserve (Access)	General Residential Zone	Open Space Zone (Local Parks Precinct)	<ul style="list-style-type: none"> <li>Land has no natural state values so Open Space is more appropriate than Natural Open Space Zone</li> <li>Provides urban connectivity between Pateke Way and Kotuku Drive, not to a sportsground or destination park, so Local Parks Precinct is more appropriate than Recreation Precinct.</li> </ul>
14. Seagrass Place Reserve	Lot 103 DP 516382	Local Purpose Reserve (Esplanade)	General Residential Zone	Natural Open Space Zone	<ul style="list-style-type: none"> <li>Lot 101: Land has not natural state values so Open Space is more appropriate than natural Open Space Zone. Land is not a sportsground or destination park so fits Local Parks rather than Recreation Precinct.</li> <li>Lot 103: While the land may not support high natural state values, it is adjacent to a stream and provides an esplanade reserve function,</li> </ul>



					accordingly it is considered appropriately zoned Natural Open Space Zone.
15. Tui Crescent Reservoir	Lot 34 DP 18903	Utility Reserve	General Residential Zone	Open Space Zone (Local Parks Precinct)	<ul style="list-style-type: none"> <li>While the land is adjacent to Hemi Matenga, it itself has no natural state values, so Open Space is more appropriate than Natural Open Space Zone</li> <li>Provides an accessway to Hemi Matenga so Local Parks Precinct is more appropriate than Recreation Precinct.</li> </ul>
16. Vallance Lane	Lot 128 DP 355999	Recreation reserve	General Residential Zone	Open Space Zone (Recreation Precinct)	<ul style="list-style-type: none"> <li>Land has no natural state values, so Open Space is more appropriate than Natural Open Space Zone</li> <li>Provides an accessway from Vallance Lane to Kāpiti College, so Local Parks is more appropriate than Recreation Precinct.</li> </ul>

**Annex 2: Maps showing changes proposed by Plan Change 1L**

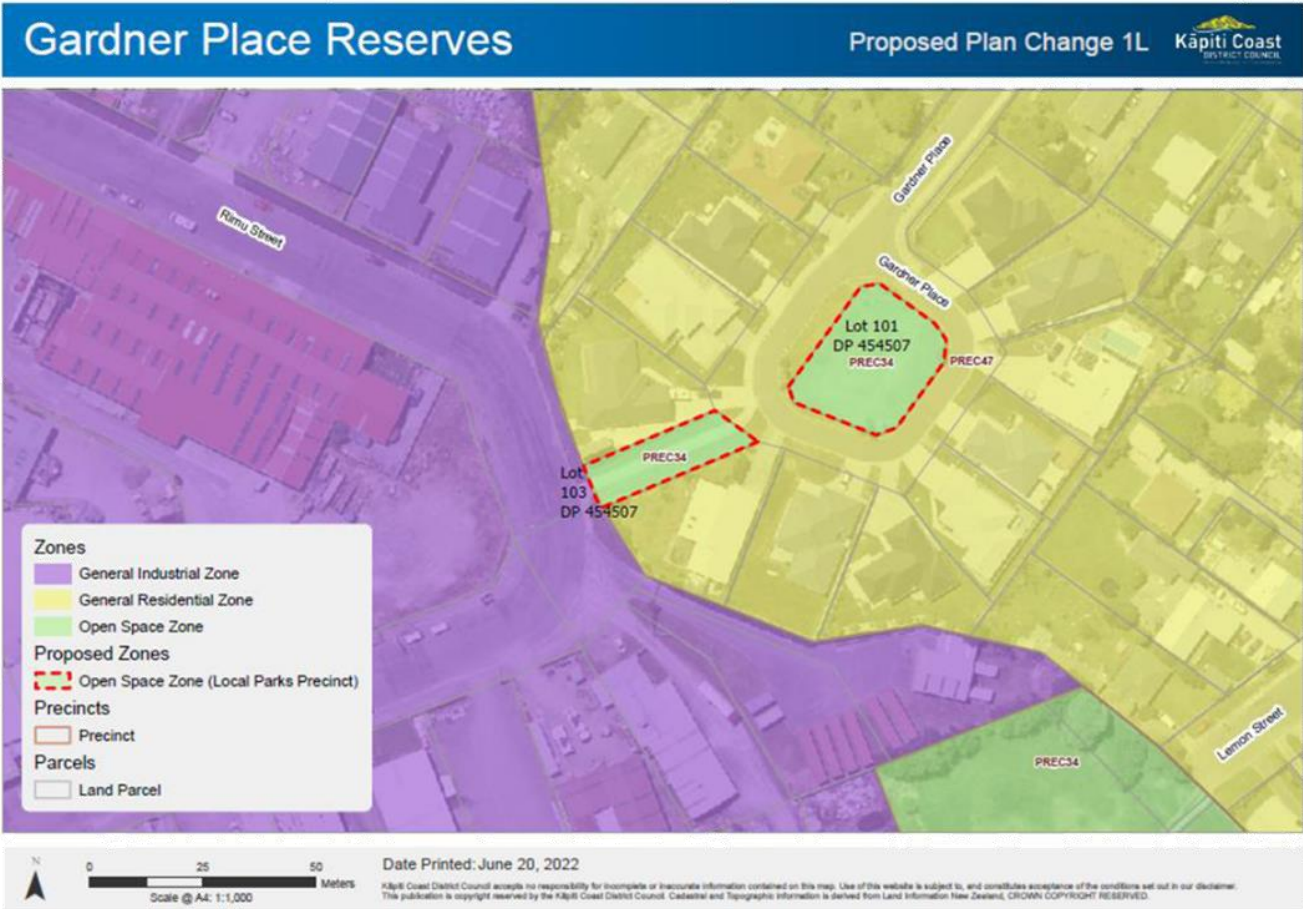




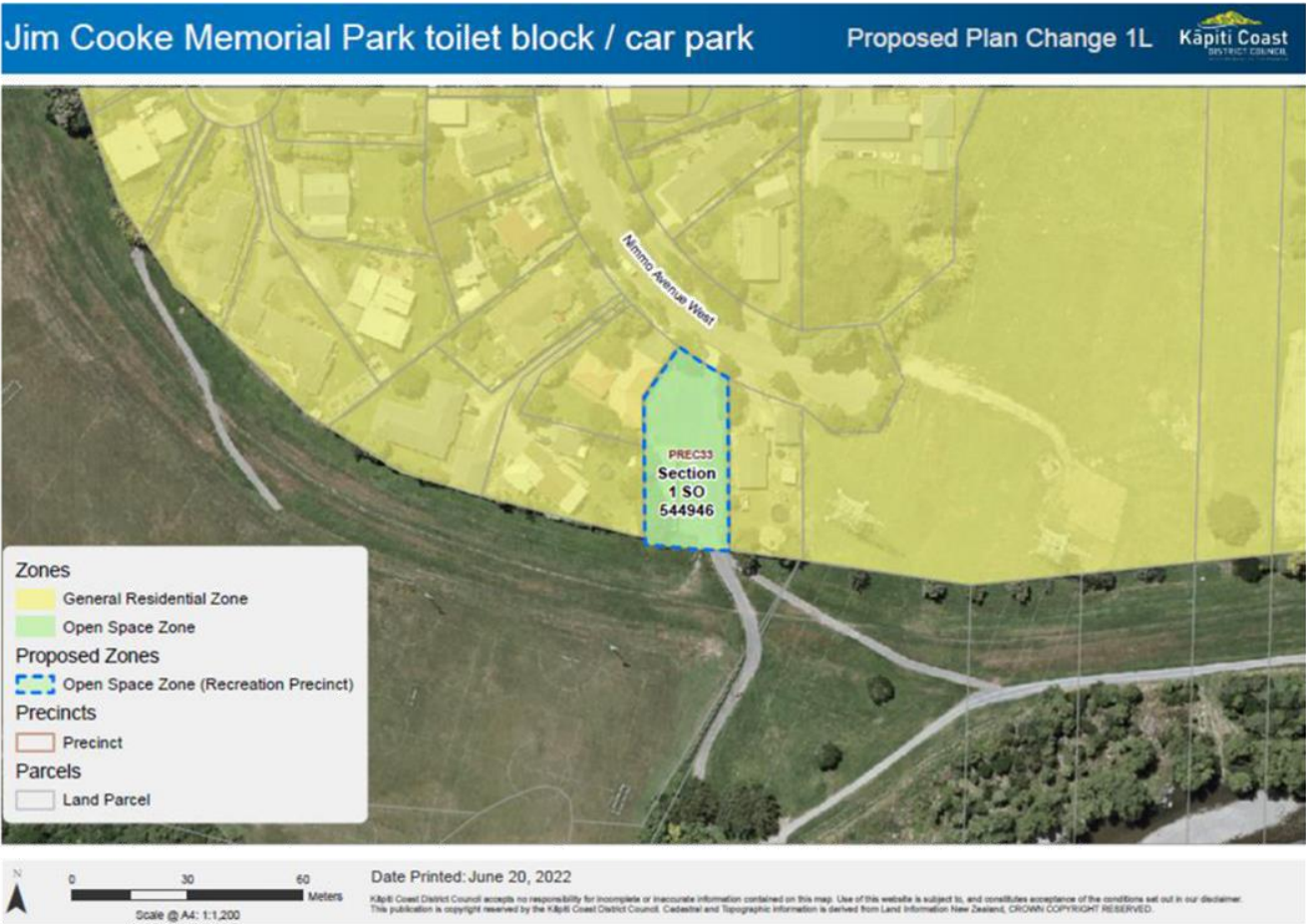






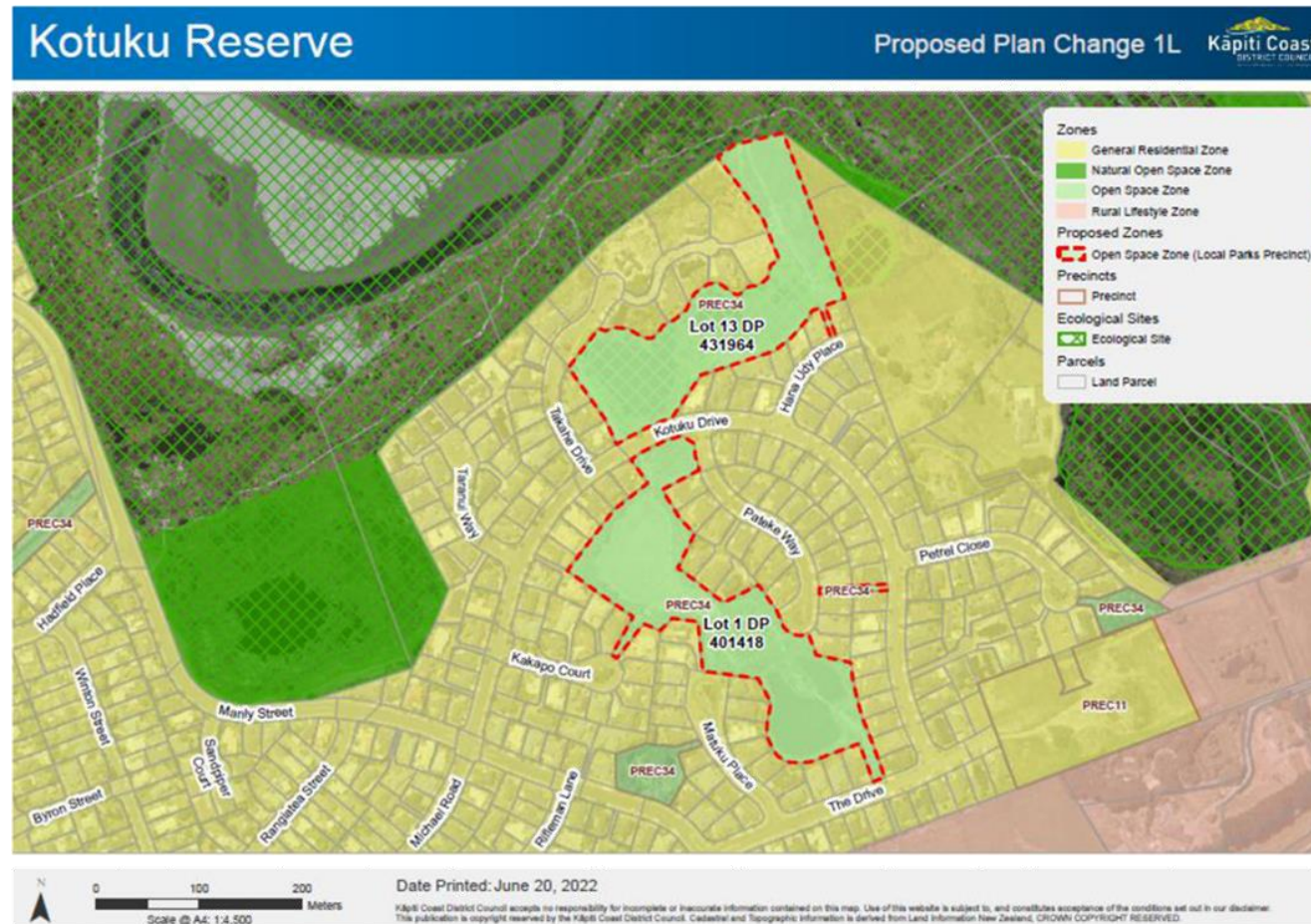


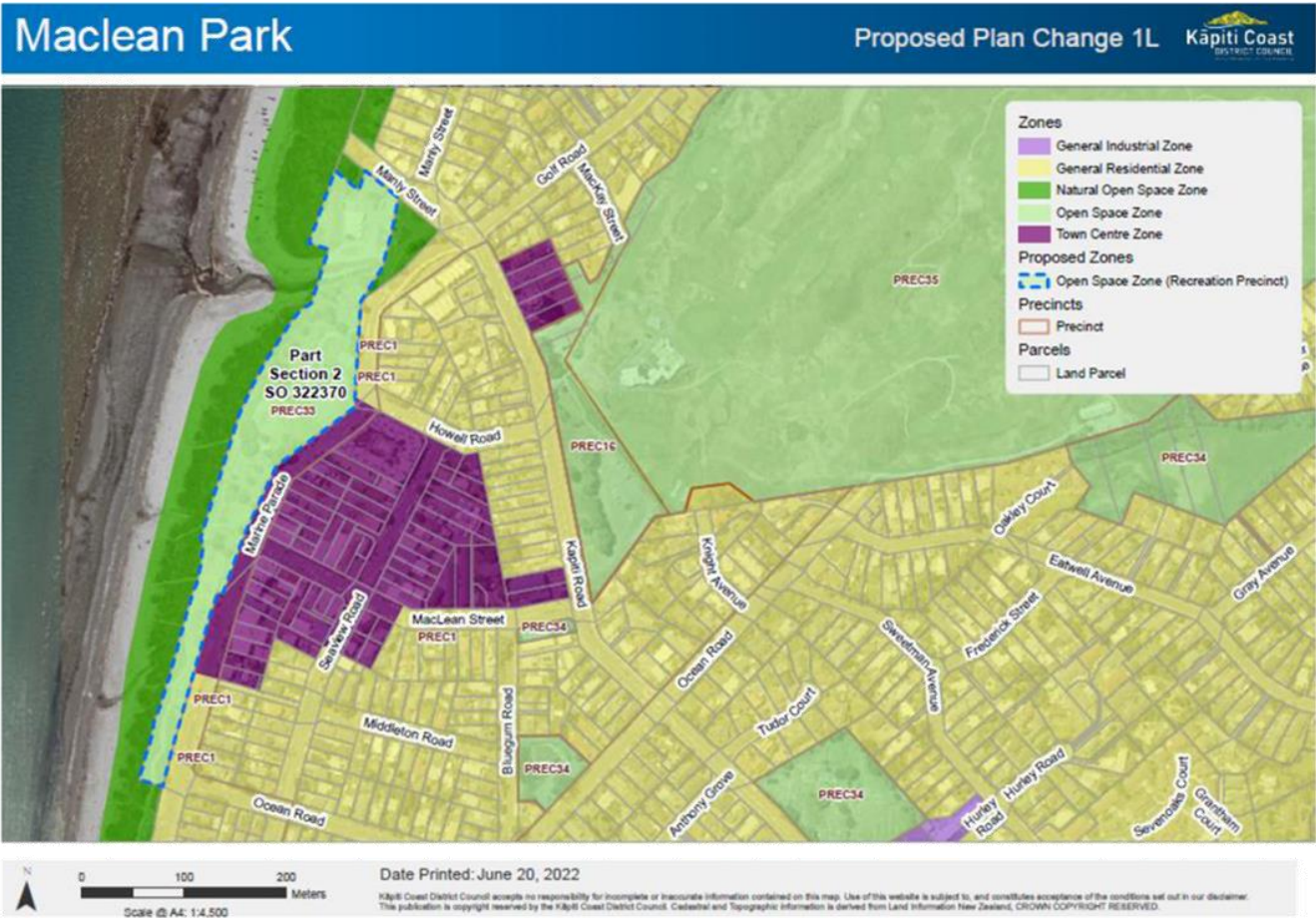




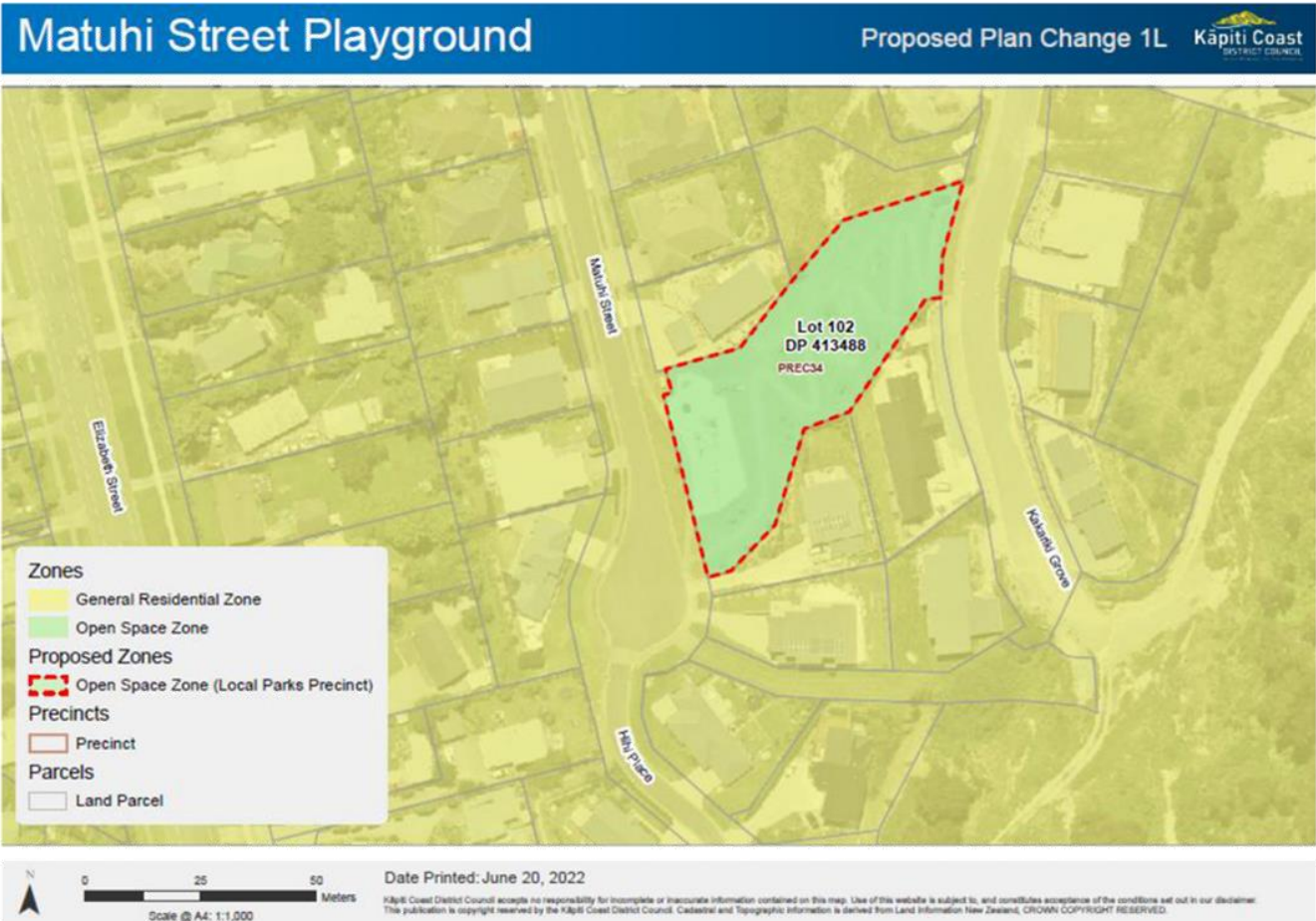










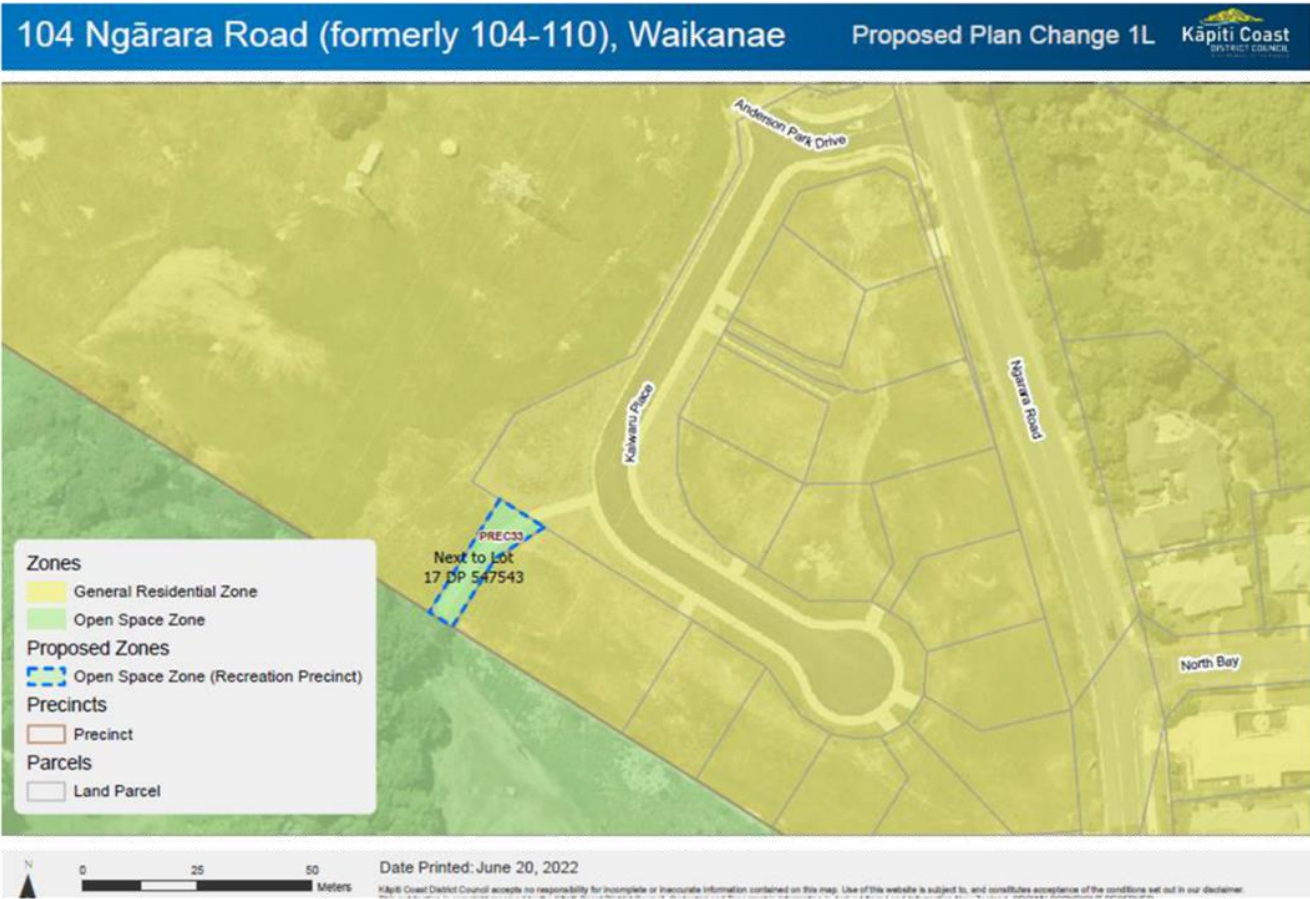


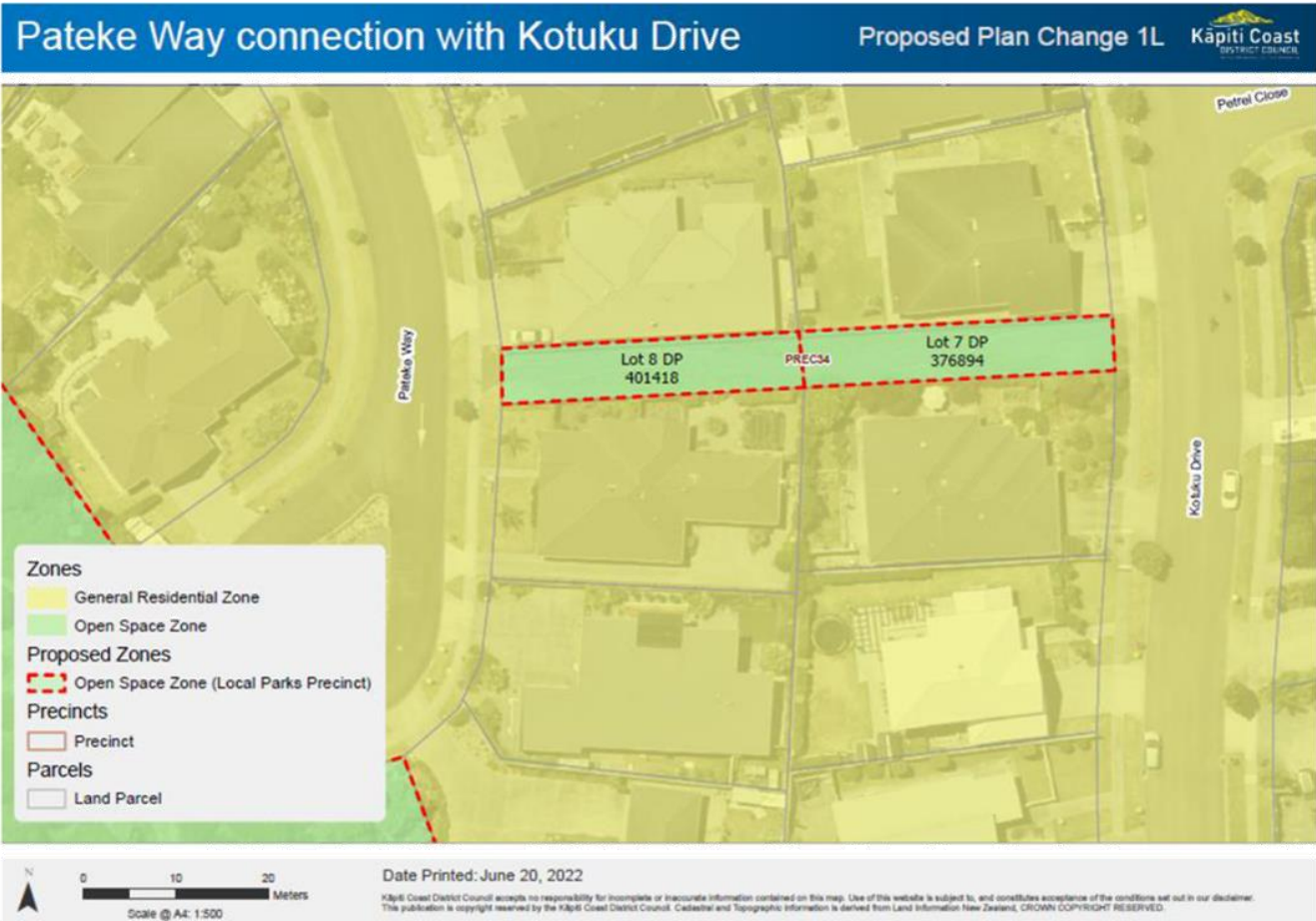






















## 10.4 AMENDMENTS TO THE COUNCIL DELEGATIONS TO STAFF

Kaituhi | Author: **Sarah Wattie, Governance & Legal Services Manager**

Kaiwhakamana | Authoriser: **Janice McDougall, Group Manager People and Partnerships**

### TE PŪTAKE | PUPOSE

- 1 This report seeks Council's consideration and approval of amendments to Council delegations to the Chief Executive and staff, including changes to the Resource Management Act 1991 delegations.

### HE WHAKARĀPOPOTO | EXECUTIVE SUMMARY

- 2 Not required.

### TE TUKU HAE PAPA | DELEGATION

- 3 Council has the authority to consider this matter. Clause 32, Schedule 7 of the Local Government Act 2002 empowers the Council to delegate its responsibilities, duties and powers in accordance with the restrictions set out in this provision.

### TAUNAKITANGA | RECOMMENDATIONS

- A. That the Council adopts the revised Resource Management Act 1991 Delegations to Staff as shown in Appendix 1 to the report 'Amendments to the Council Delegations to Chief Executive and Staff'.
- B. That the Council:
  - a. [Recommended option] Resolves to impose conditions on delegations to staff under clause 25 of Schedule 1 of the RMA 1991, which include:
    - i. restricting the delegation of this power to the Chief Executive and the Deputy Chief Executive (hereby revoking current delegations to any other staff who are currently able to exercise this power), and imposing a condition to restrict the ability of either position to further subdelegate to staff; and
    - ii. requiring staff to advise Council (through the Elected Members Bulletin or other communication such as email) as soon as any requests are received under clause 25 of Schedule 1 of the RMA 1991, and of all decisions made by staff under this provision; or
  - b. [Alternative option] Resolves to revoke the delegations to staff in relation to private requests for changes to the District Plans of local authorities under clause 25 of Schedule 1 of the RMA 1991, so that only Council or the Strategy and Operations Committee has the ability to approve private requests for plan changes, on the advice of staff (noting that this may require urgent or extraordinary meetings to be scheduled for this purpose due to the strict timeframes under the Act); or
  - c. [Alternative option] Notes the current delegations to staff in relation to private requests for changes to the District Plans of local authorities under clause 25 of Schedule 1 of the RMA 1991 and resolves to make no changes at this time.

### TŪĀPAPA | BACKGROUND

- 4 The purpose of local government under clause 10(1) of the Local Government Act 2002 is to enable democratic local decision-making and action by, and on behalf of, communities; and to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future; legislative compliance with central Government's legislative and regulatory programme supports Council to do this in a fair and efficient manner.

- 5 Council has a range of legislative functions, duties and powers. It is not always efficient or practical for elected members to carry out all of these functions, duties and powers, which is reflected in various statutes that provide Council with the legal authority to delegate to Council staff. Delegated authority allows for administrative efficiency and ensures timeliness in the conduct of Council's daily business.
- 6 In particular, Council has the authority to delegate to officers under clause 32 of Schedule 7 of the Local Government Act 2002. Clause 32 of the Local Government Act 2002 also sets out certain powers that cannot be delegated as follows:
- "32. Delegations– (1) Unless expressly provided otherwise in this Act, or in any other Act, for the purposes of efficiency and effectiveness in the conduct of a local authority's business, a local authority may delegate to a committee or other subordinate decision-making body, community board, or member or officer of the local authority any of its responsibilities, duties, or powers except–*
- (a) the power to make a rate; or*
  - (b) the power to make a bylaw; or*
  - (c) the power to borrow money, or purchase or dispose of assets, other than in accordance with the long-term plan; or*
  - (d) the power to adopt a long-term plan, annual plan, or annual report; or*
  - (e) the power to appoint a chief executive; or*
  - (f) the power to adopt policies required to be adopted and consulted on under this Act in association with the long-term plan or developed for the purpose of the local governance statement.*
  - (h) the power to adopt a remuneration and employment policy."*
- 7 Most legislation provides the Chief Executive with the discretion to sub-delegate to Council staff. However, some Acts prescribe the way delegations must be made. For example, the Resource Management Act 1991 (RMA 1991) does not allow the Chief Executive the power to sub-delegate and in this case, delegations must be approved by Council.
- 8 The Council's delegations to Chief Executive and staff are monitored on a regular basis and reported back to Council for amendment as required, in response to changes in either staff or legislation.

## HE KŌRERORERO | DISCUSSION

### DELEGATION TO CONSIDER PRIVATE REQUESTS FOR PLAN CHANGE

- 9 Council has requested advice on the power to consider private requests for changes to the District Plans of local authorities under clause 25 of Schedule 1 of the RMA 1991.
- 10 Council has currently delegated this power to staff in the Strategy, Growth and Recovery and Regulatory groups.
- 11 The relevant section of the RMA 1991 is set out in Appendix 2, requiring decisions to be made within 30 working days and setting out key considerations to be taken into account in considering a request. Decisions made under this clause may be challenged under clause 27 of Schedule 1 by an appeal to the Environment Court. Subject to appeal rights on questions of law, decisions of the Court are final on matters of fact. Decisions need to be robust and based on sound resource management principles, and take care not to expose Council to undue legal risk.
- 12 It is not predictable when private plan changes request may be received by Council. Staff presently manage this process and ensure timeframes are met through workload prioritisation. In the case of Councillors retaining this delegation, it may be difficult or impossible for Councillors to make a decision within 30 working days within the ordinary schedule of Council and Strategy and Operations meeting. Therefore, it may be necessary for Councillors to schedule an urgent or extraordinary meeting for the purpose of making a decision.



- 13 Some territorial authorities retain this power to be exercised as a governing body; however, others delegate this to staff due to the quasi-judicial nature of the decisions and strict timeframes under the RMA 1991.
- 14 If Council would like more oversight regarding staff decision-making on requests for private plan changes, without needing to exercise the power themselves, they may impose conditions on, or revoke, delegations to staff under section 34A of the RMA 1991.
- 14.1 One condition may be requiring staff to advise Council (via the elected members bulletin or other communication such as email) as soon as any requests are received for under clause 25 of Schedule 1 of the RMA 1991 and of decisions made by staff under this provision following the exercise of the power.
- 14.2 Another option would be for Council to restrict the delegation of this power to the Chief Executive and the Deputy Chief Executive only, imposing a condition to restrict the ability of either position to further subdelegate to staff as proposed in the table directly below.

Legislation and Authority	Powers Delegated
<b>Resource Management Act 1991 and any regulations made under that Act</b> To the Chief Executive and the Deputy Chief Executive with no power of sub-delegation	Delegation, under section 34A of the Resource Management Act 1991, of authority to exercise and administer all responsibilities, duties and powers of the Council under the Act and any regulations made under the Act, <b>including</b> delegation to the Chief Executive to write off sundry debts to the value of \$1,000, <b>except</b> : <ul style="list-style-type: none"> <li>• the power of delegation; or</li> <li>• the power of approval of a policy statement or plan under clause 17 of Schedule 1;</li> <li>• the power of approval of a private request for change to the District Plan under clause 25 of Schedule 1.</li> </ul>

### Summary of options

- 15 In summary, Council has different in respect of the delegation to consider private requests for plan changes under clause 25, Schedule 1 of the RMA 1991. The recommended option for Council to ensure appropriate oversight of the exercise of this power, while meeting the tight timeframes and legal requirements in respect of quasi-judicial decisions, is that Council delate this power to the Chief Executive and Deputy Chief Executive and impose conditions restricting the ability of either staff member to sub-delegate the power, as well as conditions to ensure that elected members are informed of applications received and decisions made under clause 25, Schedule 1 of the RMA 1991.

Option 1	Benefits/Risks
<b>Recommended</b> - Restrict the exercise of this power to the Chief Executive and Deputy Chief Executive, revoking the delegation in respect of all other staff currently holding this power, and restricting the ability for either position to further subdelegate to staff.	<ul style="list-style-type: none"> <li>• Provides clear accountability for decision-making with only Chief Executive or Deputy Chief Executive able to exercise this power (on recommendation from staff in the relevant teams)</li> <li>• Ability to meet strict timeframes (decision-making within 30 working days)</li> </ul>
<b>Recommended</b> - Impose conditions on the exercise of this delegation by [staff] or [the Chief Executive and Deputy Chief Executive] by requiring staff to advise Council (via the Elected Members Bulletin or other communication such as	<ul style="list-style-type: none"> <li>• Ability to meet strict timeframes (decision-making within 30 working days)</li> <li>• Councillors are kept informed of requests and decisions made</li> </ul>

email) as soon as any requests are received for under clause 25 of Schedule 1 of the RMA 1991 and of decisions made by staff under this provision	under this provision in a timely way through existing communication channels, ensuring oversight and the ability for Councillors to provide input to staff holding the delegation where they may consider this is required.
No change – staff in Strategy, Growth and Recovery and Regulatory teams retain this delegation	<ul style="list-style-type: none"> <li>• Quasi-judicial decision meaning staff with relevant expertise are able to make the decision</li> <li>• Ability to meet strict timeframes (decision-making within 30 working days)</li> </ul>
Revoke the ability for staff to exercise this power, so that only Council or the Strategy and Operations Committee hold this delegation (to be exercised upon advice and recommendations from staff)	<ul style="list-style-type: none"> <li>• May be difficult or impossible to meet the 30-working day timeframe within ordinary schedule of Council or Strategy and Operations meetings (urgent meetings may need to be arranged for this purpose placing pressure on Council and staff)</li> <li>• Quasi-judicial decision that may be challenged by appeal to the Environmental Court – skills and experience important in the exercise of this power</li> </ul>

### COMMON SEAL EXECUTION REQUIREMENTS

- 16 A minor amendment is required to the execution requirements for the Common Seal as a result of a typographical error. Reference to 'Section 32' of the Local Government Act 2002 should refer to 'Clause 32 of Schedule 7' of the Act as shown below.

#### Appendix 1 Execution requirements

1. For documentation that must be executed by Council (as per Clause 32 of Schedule 7-of the Local Government Act 2002), the signatures of the Chief Executive, Mayor and one Councillor are required, and the common seal affixed.

### AMENDED RESOURCE MANAGEMENT ACT 1991 DELEGATIONS

- 17 A number of amendments are required to Council's delegations to staff under the Resource Management Act 1991, which are set out in the table below. These changes relate to the Water and Wastewater Assets, Stormwater and Coastal Assets, Parks, Open Space and Environment and Project Management Office (PMO) teams. The amended RMA delegations and glossary are in Appendix 1.

Recommended amendments to Council delegations to staff under the Resource Management Act 1991	
Positions	Amendments to RMA 1991 delegations
Programme Delivery Manager – Community Services	A new position for the Project Management Office. Position to include sections <b>35, 35A, 332</b> and <b>333</b> .
Senior Asset Planning Engineer	A replacement title for <b>Senior Asset Planning Engineer – Wastewater</b> role.. Position to include sections <b>35, 35A, 332</b> and <b>333</b> .
Senior Stormwater and Coastal Engineer	A new position for the Water and Wastewater team. Position to include sections <b>35, 35A, 332</b> and <b>333</b> .
Stormwater and Coastal Engineer	Reinstating position for the Water and Wastewater team. Position to include sections <b>35, 35A, 332</b> and <b>333</b> .
Team Leader Environment and Ecological Services	A new position for the <b>Parks, Open Space and Environment</b> team. Position to include sections <b>35, 35A, 330</b> and <b>333</b> .
Team Leader Open Space Management	Position no longer required.
Team Leader Parks and Outdoor Recreation	A new position for the <b>Parks, Open Space and Environment</b> team. Position to include sections <b>35, 35A, 330</b> and <b>333</b> .
Water and Wastewater Services Manager	A replacement title for the <b>Water and Wastewater Assets Manager</b> position. Position to include sections <b>35, 35A, 332</b> and <b>333</b> .

#### He take | Issues

18 No issues are considered in this report.

#### Ngā kōwhiringa | Options

19 No options are provided in this report.

#### Tangata whenua

20 There are no tāngata whenua considerations arising from these delegations.

#### Panonitanga āhuarangi | Climate change

21 There are no climate change considerations triggered by this report.

#### Ahumoni me ngā rawa | Financial and resourcing

22 There is no direct financial impact from these changes to delegations.

#### Ture me ngā Tūraru | Legal and risk

23 This paper has been reviewed by the Council's Governance and Legal Services Manager and external advice has been sought from Simpson Grierson on the use of the common seal and execution requirements.

**Ngā pānga ki ngā kaupapa here | Policy impact**

- 24 Appropriate delegations facilitate efficiency and effectiveness in the conduct of Council business, and assist staff to deliver on Council outcomes.

**TE WHAKAWHITI KŌRERO ME TE TŪHONO | COMMUNICATIONS & ENGAGEMENT****Te mahere tūhono | Engagement planning**

- 25 This decision has a low level of significance under the Council's Significance and Engagement policy.
- 26 No consultation, engagement or publicity is required relating to the process of making these amendments.

**Whakatairanga | Publicity**

No publicity is required for these minor amendments.

**NGĀ ĀPITI HANGA | ATTACHMENTS**

1. Appendix 1 Amendments to the Council Delegations to Chief Executive and Staff [↓](#)
2. Appendix 2 - RMA 1991 Schedule 1 clause 25 [↓](#)



To Council 30 June 2022

yellow = delegations added/amended

red = delegations removed

blue = staff with CI 25 Sch 1

**For the avoidance of doubt:**

- a reference in this document to an enactment, regulation or bylaw includes any amendment to the relevant provisions of that enactment, regulation or bylaw and any enactment, regulation or bylaw that, with or without modification, replaces or corresponds to that enactment, regulation or bylaw; and
- a reference in this document to a Council officer position includes any Council officer position that replaces or corresponds to that Council officer position and involves substantially the same duties.

To Council 30 June 2022

yellow = delegations added/amended

red = delegations removed

blue = staff with CI 25 Sch 1

## Council Resource Management Act 1991 Delegations to Staff

Delegations to positions under section 34A of the Resource Management Act 1991	322-324	325A	327	328	330	332	333	336	338	343B	343C	Sch 1 cl1A	Sch 1 cl3	Sch 1 cl3A	Sch 1 cl3B	Sch 1 cl4	Sch 1 cl4A	Sch 1 cl5	Sch 1 cl5A	Sch 1 cl6	Sch 1 cl7	Sch 1 cl8	Sch 1 cl8A	Sch 1 cl8B	Sch 1 cl8C	Sch 1 cl10A	Sch 1 cl11	Sch 1 cl16	Sch 1 cl18B	Sch 1 cl20	Sch 1 cl20A	Sch 1 cl23	Sch 1 cl24	Sch 1 cl25	Sch 1 cl29(2)	Sch 1 cl34	Sch 1 cl35	Note 1	Note 2		
Programme Delivery Manager – Community Facilities						•	•																																		
District Planning Manager	•	•		•		•	•	•	•	•	•	•	•	•	•	•	•	•	•		•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Group Manager Regulatory Services	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Group Manager Strategy, Growth and Recovery	•	•		•	•	•	•	•	•			•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Planning Technical Support Officer	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Policy Planner (Senior, Intermediate, Graduate)	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Principal Advisor, Regulatory Services	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Principal Policy Planner	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Principal Resource Consents Planner	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Researcher	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Resource Consents and Compliance Manager	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Senior Asset Planning Engineer						•	•																																		
Senior Asset Planning Engineer – Wastewater						•	•																																		
Senior Development Engineer	•				•	•	•		•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Senior Stormwater and Coastal Engineer					•	•	•																																		
Team Leader Environment and Ecological Services					•		•																																		
Team Leader Parks and Outdoor Recreation					•		•																																		
Team Leader Open Space Management					•		•																																		
Team Leader Resource Consents	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•

yellow = delegations added/amended

red = delegations removed

blue = staff with CI 25 Sch 1

**Note 1** To the following positions, power to authorise, on Council's behalf, agreement to any consent orders arising from proceedings in the Environment Court (after consultation with the Chairperson or in their absence the Deputy Chairperson from the Council Committee with responsibility for managing planning or regulatory matters – at the time of making these delegations this is the Strategy and Operations Committee).

**Note 2** To the following positions, power to write off sundry debts under the RMA 1991 to the value of \$1,000.

To Council 30 June 2022

Version as at  
12 April 2022

**Resource Management Act 1991**

Schedule 1

if it considers that it has insufficient information to enable it to consider or approve the request.

Schedule 1 clause 23: replaced, on 7 July 1993, by section 220 of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 23(4): inserted, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Schedule 1 clause 23(5): inserted, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

Schedule 1 clause 23(6): inserted, on 10 August 2005, by section 129(1) of the Resource Management Amendment Act 2005 (2005 No 87).

**24 Modification of request**

As a result of further or additional information, commissioned reports, or other relevant matters, the local authority may, with the agreement of the person who made the request, modify the request.

Schedule 1 clause 24: replaced, on 7 July 1993, by section 220 of the Resource Management Amendment Act 1993 (1993 No 65).

**25 Local authority to consider request**

- (1) A local authority shall, within 30 working days of—
  - (a) receiving a request under clause 21; or
  - (b) receiving all required information or any report which was commissioned under clause 23; or
  - (c) modifying the request under clause 24—
 whichever is the latest, decide under which of subclauses (2), (3), and (4), or a combination of subclauses (2) and (4), the request shall be dealt with.
- (1A) The local authority must have particular regard to the evaluation report prepared for the proposed plan or change in accordance with clause 22(1)—
  - (a) when making a decision under subclause (1); and
  - (b) when dealing with the request under subclause (2), (3), or (4).
- (2) The local authority may either—
  - (a) adopt the request, or part of the request, as if it were a proposed policy statement or plan made by the local authority itself and, if it does so,—
    - (i) the request must be notified in accordance with clause 5 or 5A within 4 months of the local authority adopting the request; and
    - (ii) the provisions of Part 1 or 4 must apply; and
    - (iii) the request has legal effect once publicly notified; or
  - (b) accept the request, in whole or in part, and proceed to notify the request, or part of the request, under clause 26.
- (2AA) However, if a direction is applied for under section 80C, the period between the date of that application and the date when the application is declined under

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Schedule 1

Resource Management Act 1991

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clause 77(1) must not be included in the calculation of the 4-month period specified by subclause (2)(a)(i).

- (2A) Subclause (2)(a)(iii) is subject to section 86B.
- (3) The local authority may decide to deal with the request as if it were an application for a resource consent and the provisions of Part 6 shall apply accordingly.
- (4) The local authority may reject the request in whole or in part, but only on the grounds that—
  - (a) the request or part of the request is frivolous or vexatious; or
  - (b) within the last 2 years, the substance of the request or part of the request—
    - (i) has been considered and given effect to, or rejected by, the local authority or the Environment Court; or
    - (ii) has been given effect to by regulations made under section 360A; or
  - (c) the request or part of the request is not in accordance with sound resource management practice; or
  - (d) the request or part of the request would make the policy statement or plan inconsistent with Part 5; or
  - (e) in the case of a proposed change to a policy statement or plan, the policy statement or plan has been operative for less than 2 years.
- (4A) A specified territorial authority must not accept or adopt a request if it does not incorporate the MDRS as required by section 77G(1).
- (5) The local authority shall notify the person who made the request, within 10 working days, of its decision under this clause, and the reasons for that decision, including the decision on notification.

Schedule 1 clause 25: replaced, on 7 July 1993, by section 220 of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 25(1A): inserted, on 3 December 2013, for all purposes, by section 86 of the Resource Management Amendment Act 2013 (2013 No 63).

Schedule 1 clause 25(2): replaced, on 17 December 1997, by section 72 of the Resource Management Amendment Act 1997 (1997 No 104).

Schedule 1 clause 25(2)(a)(i): amended, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Schedule 1 clause 25(2)(a)(ii): amended, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Schedule 1 clause 25(2)(a)(iii): amended, on 1 October 2009, by section 149(16) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Schedule 1 clause 25(2AA): inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Schedule 1 clause 25(2A): inserted, on 1 October 2009, by section 149(17) of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

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**Resource Management Act 1991**

Schedule 1

Schedule 1 clause 25(4)(b): replaced, on 1 October 2011, by section 60 of the Resource Management Amendment Act (No 2) 2011 (2011 No 70).

Schedule 1 clause 25(4A): inserted, on 21 December 2021, by section 15 of the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021 (2021 No 59).

Schedule 1 clause 25(5): amended, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

**26 Notification timeframes**

- (1) Where a local authority accepts the request or part of the request under clause 25(2)(b)—
  - (a) the local authority shall prepare the change to the policy statement or plan in consultation with the person who made the request under clause 21; and
  - (b) the local authority shall notify the change or the proposed policy statement or plan—
    - (i) within 4 months of agreeing to accept the request; or
    - (ii) within the period that the Environment Court directs under clause 27.
- (2) However, if a direction is applied for under section 80C, the period between the date of that application and the date when the application is declined under clause 77(1) must not be included in the calculation of the 4-month period specified in subclause (1)(b)(i).

Schedule 1 clause 26: replaced, on 7 July 1993, by section 220 of the Resource Management Amendment Act 1993 (1993 No 65).

Schedule 1 clause 26(1)(b): amended, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

Schedule 1 clause 26(1)(b)(i): amended, on 17 December 1997, by section 73 of the Resource Management Amendment Act 1997 (1997 No 104).

Schedule 1 clause 26(1)(b)(ii): amended, on 2 September 1996, pursuant to section 6(2)(a) of the Resource Management Amendment Act 1996 (1996 No 160).

Schedule 1 clause 26(2): inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

**26A Mana Whakahono a Rohe**

In exercising or performing any powers, functions, or duties under this Part, a local authority must comply with any Mana Whakahono a Rohe that specifically provides a role for iwi authorities in relation to any plan or change requested under this Part.

Schedule 1 clause 26A: inserted, on 19 April 2017, by section 119 of the Resource Legislation Amendment Act 2017 (2017 No 15).

**27 Appeals**

- (1) A person who requests a plan change under clause 21 may appeal to the Environment Court against a decision referred to in subclause (1A) within 15 working days of receiving the decision.

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**10.5 2022-2024 SOCIAL INVESTMENT FUND - EXPRESSIONS OF INTEREST**

Kaituhi | Author: **Claire Rewi, Programme Advisor (Social)**

Kaiwhakamana | Authoriser: **Janice McDougall, Group Manager People and Partnerships**

**TE PŪTAKE | PURPOSE**

- 1 This report seeks a decision on which expressions of interest for the 2022-2024 Social Investment Fund should be carried through to the next stage of the process – the development of formal proposals.

**HE WHAKARĀPOOTO | EXECUTIVE SUMMARY**

- 2 An executive summary is not required.

**TE TUKU HAEPAPA | DELEGATION**

- 3 Council has delegated authority to consider this under section A.2 of the 2019-2022 Triennium governance Structure and Delegations.

**TAUNAKITANGA | RECOMMENDATIONS**

It is recommended that Council:

- A. Notes the 25 expressions of interest received for the 2022-2024 Social Investment Fund as outlined in Attachment 1.
- B. Notes the independent panel's recommendations regarding which expressions of interest should be invited to progress to the next stage by submitting formal proposals, as outlined in Attachment 4 of this report.
- C. Agrees the following organisations should be invited to submit formal proposals:
  - C.1 Greater Wellington Neighbourhood Support – re-establishing Neighbourhood Support
  - C.2 Volunteer Kāpiti/Kāpiti Impact Trust – Capable Kāpiti Community Sector Part Two
  - C.3 Ātiawa ki Whakarongotai Charitable Trust – Manaaki Kapiti Kai Hub
  - C.4 BirthRight Levin Inc – Kete Rau
  - C.5 Energise Ōtaki Charitable Trust – Bright Futures 2022-2025
  - C.6 He Tāngata Village Trust – He Tāngata Village
  - C.7 Kāpiti Youth Support – Project Youth
  - C.8 Paekākāriki Pride Inc - Paekākāriki Pride Festival
  - C.9 Te Puna Oranga o Ōtaki - Hei kai aku ringa
- D. Agrees the following expressions of interest should not proceed to the next stage and thanks these organisations for their interest:
  - D.1 Ātiawa ki Whakarongotai Charitable Trust – Tāngata Whaikaha
  - D.2 The Shed Project Kāpiti – Collaborative Community Enterprise
  - D.3 Age Concern Kāpiti Coast Inc – LinkAGES
  - D.4 Dementia Wellington Charitable Trust – Covid Recovery and Reengagement
  - D.5 Kāpiti Art Studio (umbrellaed by Kāpiti Impact Trust) – Kāpiti Art Studio
  - D.6 Kāpiti Health Advisory Group - Kāpiti Health Advisory Group
  - D.7 Kāpiti Vaulting Club Inc – Life skills through equines

- D.8 Kidz Need Dadz Kāpiti – Community Action Plan 2022-2025
- D.9 LinKapiti – Project 1 Kapiti Companion Post
- D.10 Loss and Grief Centre Kapiti – He waka eke noa
- D.11 Māoriland Charitable Trust – Māoriland Hauora Project
- D.12 Ngā Hapū o Ōtaki (umbrellaed by Raukawa Marae) – no project name provided
- D.13 Ōtaki Kāpiti Primary Schools Cluster – Hauora Project
- D.14 The Starjam Charitable Trust – Starjam Kāpiti
- D.15 Volunteer Kāpiti – The Future of Volunteering
- D.16 Work Ready Kāpiti – Supporting Employers to Become Youth Ready

## TŪĀPAPA | BACKGROUND

- 4 The Social Investment Fund is an outcome focused contestable funding model which ensures funding is aligned with Council's community outcomes. In December 2017, Council approved the priorities and principles of the Social Investment Fund. These priorities and principles are at Attachment 2.
- 5 Funding is allocated to organisations that support the following social investment priorities:
  - Connected Communities
  - Safe Communities
  - Capable Sector
- 6 The purpose of the Social Investment Fund is for the Council to hold contracts for service with comprehensive outcomes with organisations for the delivery of social services.
- 7 The first round of Social Investment Funding was from 1 July 2018 to 30 June 2021.
- 8 A total of \$395,000 per annum is available through the Social Investment Fund. This is made up of:
  - An allocation of \$345,000 assigned to activities across the district;
  - A new allocation of \$50,000 per annum for Ōtaki place-based initiatives to address inequity, agreed through Council's Long-term Plan 2021-41.
- 9 As noted in earlier reports to the Council, only the districtwide fund is open at this stage. Expressions of interest for the Ōtaki-specific fund will be sought later this calendar year.

## HE KŌRERORERO | DISCUSSION

- 10 Expressions of interest for this round of Social Investment Funding were open from 20 April 2022 to 20 May 2022.
- 11 A total of 25 expressions of interest (EOIs) were received across the three priorities, as per Attachment 1. The following table outlines the spread of the EOIs across the priorities:

Social Investment Priority	Number of applications received
Safer Communities	1
Capable Sector	3
Connected Communities	21

- 12 An independent panel selected by a working group councillors and staff considered the expressions of interest on 3 June 2022.



- 13 The panel was made up of five community members with experience and knowledge of the social and community sector. The members of the panel were Asher Wilson-Goldman, Tabitha McKenzie, Sarah Helm, Sue Emirali and David Jerney.
- 14 The panel considered and assessed the expressions of interest individually and collectively with a focus on:
  - alignment with the intent of the Social Investment Funding,
  - alignment with the six guiding principles,
  - the strength and quality of the expression of interest,
  - the articulation and feasibility of proposed outcomes,
  - alignment with the needs of the district, and
  - the projected positive impact in the community.
- 15 Attachment 3 shows the Criterion Rating utilised by the panel to assist with assessment and recommendation of the expressions of interest.
- 16 The panel noted the strength of the EOIs, recognising that there were a significant number of very worthy organisations proposing valuable programmes. Unfortunately not all could be funded.
- 17 The panel considered the distribution of programmes geographically and across different sectors of the community.
- 18 Three expressions of interest were considered ineligible by the panel as the organisations are not a Registered Charity or being umbrellaed by a Registered Charity. These organisations were Kāpiti Health Advisory Group, LinKāpiti and Ōtaki Kāpiti Primary Schools Cluster.

### He take | Issues

- 19 As was the case in the last Social Investment round, the fund is heavily oversubscribed at this early stage in the process.
- 20 The funding sought across the 25 EOIs received exceeds the available budget of \$1.035M over three years by \$2.457M.
- 21 The funding sought across the EOIs the panel recommends proceed to the formal proposal stage exceeds the available budget by \$315,000 over three years. However, officers anticipate being able to resolve this through the next stage of the process.
- 22 When the fund was established it was envisaged around half of the fund would be directed at the Connected Communities priority, with the Capable Sector and Safer Communities priorities each receiving about a quarter of the funding.
- 23 Based on the spread of applications across the priorities and their alignment with the purpose and criteria, the panel signalled its desire to see some flexibility around the percentage of the fund allocated to each priority if necessary to ensure good outcomes across all three priorities. This will be dealt with in the panel's recommendations at the formal proposal stage.

### Ngā kōwhiringa | Options

- 24 The panel recommends nine expressions of interest are invited to the next stage of the procurement process, development of a proposal for funding.
- 25 Those organisations are as follows:
  - Safe Communities Priority
    - Greater Wellington Neighbourhood Support – re-establishing Neighbourhood Support

## A Capable Sector Priority

- Volunteer Kāpiti/Kāpiti Impact Trust – Capable Kāpiti Community Sector Part Two

## Connected Communities Priority

- Ātiawa ki Whakarongotai Charitable Trust – Manaaki Kapiti Kai Hub
- BirthRight Levin Inc – Kete Rau
- Energise Ōtaki Charitable Trust – Bright Futures 2022-2025
- He Tāngata Village Trust – He Tāngata Village
- Kāpiti Youth Support – Project Youth
- Paekākāriki Pride Inc - Paekākāriki Pride Festival
- Te Puna Oranga o Ōtaki - Hei kai aku ringa

- 26 Attachment 4 shows a table with recommended organisations, brief description of proposed project and amount of funding requested.
- 27 Council officers will work with the recommended organisations to develop proposals for funding and further work will be required on funding levels.
- 28 In the event that not all recommended expressions of interest complete or are successful at the proposal stage and not all funding is allocated, officers will seek the advice of the panel and direction from Councillors as to next steps. It is likely an additional proposal development stage would be required for any remaining funds.

**Tangata whenua**

- 29 In the development stage of the Social Investment Funding advice was sought from Te Whakaminenga o Kāpiti. Iwi prosperity and iwi aspirations are at the fore for improving social outcomes that contribute to community wellbeing.
- 30 The funding model embeds an equity framework that reinforces the tiriti principle of tino rangatiratanga (iwi-led initiatives to achieve iwi aspirations) to facilitate Māori whakairo (Māori thinking and understanding) to enhance outcomes.
- 31 Iwi prosperity and the Treaty of Waitangi are two of the six guiding principles of the Social Investment Funding Model.
- 32 Further development opportunities will be made available for organisations on the Treaty of Waitangi and what Iwi prosperity means for Iwi.

**Panonitanga āhuarangi | Climate change**

- 33 Sustainability is one of the six guiding principles of the Social Investment Funding Model.
- 34 The principle of sustainability encourages organisations to work towards becoming sustainable in all respects including environmentally.

**Ahumoni me ngā rawa | Financial and resourcing**

- 35 A total of \$395,000 annually is available through the Social Investment Fund. This is made up of:
- An annual amount of \$345,000 assigned to the Community Support Activity;
  - A new allocation of \$50,000 per annum for Ōtaki place-based initiatives, acquired through Council's Long-term Plan 2021-41.
- 36 As is noted above, requests for funding significantly exceed the available budget but officers expect to resolve this at the proposal stage.

- 37 COVID-19 continues to create resourcing challenges for organisations in the social and community sector and also the Council. Council may need to bring in additional resource to assist with the proposal development stage.

#### **Ture me ngā Tūraru | Legal and risk**

- 38 Some decision makers will be closely connected to organisations who have made applications. If elected members have a conflict they should abstain from voting or participating at Council meetings or briefings relating to the fund.

#### **Ngā pānga ki ngā kaupapa here | Policy impact**

- 39 This matter has a low level of significance under Council's Significance and Engagement Policy.

### **TE WHAKAWHITI KŌRERO ME TE TŪHONO | COMMUNICATIONS & ENGAGEMENT**

#### **Te mahere tūhono | Engagement planning**

- 40 An engagement plan is not needed to implement this decision as it builds on engagement undertaken in 2017 in the development of the Social Investment Programme.

#### **Whakatairanga | Publicity**

A communications plan has been developed to inform the community and key stakeholders of Council's decision. This will include using media and digital channels.

### **NGĀ ĀPITI HANGA | ATTACHMENTS**

1. Expressions of Interest received (under separate cover) ➡
2. Social Investment Priorities, Principles and Outcomes ↓
3. Criterion Rating ↓
4. Recommended Organisations and Requested Funds ↓

### Social Investment Priorities, Principles and Outcomes

The social investment programme sees funding allocated to organisations that support the following social investment priorities:

- connected communities
- safe communities
- a capable sector.

#### Connected communities

We want our people to be connected, empowered and feel part of a community.

Under this priority, we support activities that build our communities' ability to maximise their strengths, address local needs and enhance wellbeing through:

- strong and resilient Māori communities
- leveraging community resources and assets to support important services that meet the needs of our communities
- meeting the unmet needs of our most vulnerable people (clusters, whānau and individuals) so everyone can benefit from participating and feeling
- increasing community health and wellbeing with people feeling valued, connected worthwhile and cared for
- resilient communities that can adapt and respond to change by working together and focussing on solutions.

#### Safe communities

Our vision is that our communities are safe places, and community and neighbourhood safety is strategic and joined up.

This priority supports strategic collaborations and partnerships that grow community belonging and safety through:

- people feeling safe in their community
- community-led collaborations to increase connections and public safety
- strong social capital that builds a feeling of safety and connectedness in communities
- communities and public space are safe, welcoming and promote social interaction.

#### Capable sector

This priority focusses on supporting our community and social sector to be capable, effective and resilient, with priority outcomes that:

- Kāpiti has resilient and financially sustainable organisations delivering community and social services
- the not-for-profit sector is adaptive and responsive to the changing needs of our district
- more people, with a wide range of skills, are involved in volunteering
- local not-for-profits share knowledge with others and come together to collaborate
- more social enterprises are developed to increase local social impact.

Our guiding principles are:

- Sustainability – organisations and initiatives encourage innovation and work towards becoming sustainable in all respects, including environmentally.
- Equity – organisations and initiatives create pathways for all members of our diverse communities, with a particular focus on those who need a hand up.
- Te Tiriti – organisations and initiatives put Te Tiriti into action.
- Iwi prosperity – initiatives and organisations put tino rangatiratanga into action through iwi-led initiatives and projects that achieve mana whenua aspirations.
- Valuing community and volunteer contributions – initiatives and organisations put volunteering at the heart of activities, recognising this valuable community resource.
- Partnership and collaboration – initiatives and organisations look to partner for strong local communities through social innovation for collective impact.



**Criterion Rating:** This table is a tool to assist with the assessment of the expressions of interest.

Criterion Rating	Criteria rating description	Expression of Interest overall rating description
<b>Rated as 6</b> <b>EXCELLENT</b>	significantly exceeds the criteria	Exceptional expression of interest which offers potential added value, significant strategic contribution, strong alignment with the principles in current practice and an organisation which is strong, well-managed and collaborative with supporting evidence.
<b>Rated as 5</b> <b>GREAT</b>	exceeds the criteria in some aspects	Above average expression of interest which offers potential added value, a clear strategic contribution, evidence of the principles in action and a strong organisation which is open to collaborate with others.
<b>Rated as 4</b> <b>GOOD</b>	meets the criteria in full	A good all-round expression of interest which offers potential added value, a strategic contribution, a willingness to take on board the principles and a good organisation which is open to collaborate with others.
<b>Rated as 3</b> <b>POSSIBLE</b>	meets the criteria, but at a minimal level with some reservations	An adequate expression of interest from a good organisation which has some reservations of the potential added value, strategic contribution and /or alignment with principles.
<b>Rated as 2</b> <b>RESERVATIONS</b>	significant issues that need to be addressed	Serious reservations of the expression of interest in terms of the organisation's status, relevant ability, understanding, experience, skills, resource required to meet the criteria.
<b>Rating as 1</b> <b>UNACCEPTABLE</b>	significant issues not capable of being resolved	Serious reservations of the expression of interest which are not capable of being resolved particularly strategic contribution and/or alignment with principles.
<b>Rated as 0</b> <b>Does not met the criteria</b>		The expression of interest does not meet the criteria.

### Recommended Organisations and Requested Funds

#### Community Safety

Name of Organisation	Name of Project	Proposed Project	Funding Requested over three years
Greater Wellington Neighbourhood Support	Neighbourhood Support Kāpiti	Re-establishing Neighbourhood Support in the district and supporting groups that already exist to reconnect with their community.	\$195,000

#### Capable Sector

Name of Organisation	Name of Project	Proposed Project	Funding Requested over three years
Volunteer Kāpiti/Kāpiti Impact Trust	Capable Kāpiti Community Sector Part Two	Kāpiti Impact Trust and Volunteer Kāpiti have successfully collaborated on Part One of this project. Part Two is the vital continuation of this journey. Building capability requires investment, time and consistent leadership over the long haul.	\$240,000

#### Connected Communities

Name of Organisation	Name of Project	Proposed Project	Funding Requested over three years
Ātiawa ki Whakarongotai Charitable Trust	Kai Hub	This hub would provide an experience beyond kai and rongoa provision, similar to bespoke kai hubs already in Wellington and the Far North. The Kai Hub would also be a point of contact for a range of other services like not-for-profit power supply, and providing a wayfinding service to enable whanau wellbeing through whakaaro and ngakau māori.	\$180,000

Name of Organisation	Name of Project	Proposed Project	Funding Requested over three years
BirthRight Levin Inc	Kete Rau	The aim is to support the development of a new Birthright model of operating across the Ōtaki community for sustainable support of 'whānau led by one person'. This entails working with local parents to design a project that will have a lasting effect in their community.	\$90,000
Energise Ōtaki Charitable Trust	Bright Futures 2022-2025	Having expanded capability since 2018, Energise Ōtaki are moving into the next phase focused on three of their six strategic action areas: <ul style="list-style-type: none"> <li>• Owning Our Carbon Footprint</li> <li>• Warm Up Ōtaki and Beyond</li> <li>• Growing our Carbon Capture Forest</li> </ul>	\$150,000
He Tāngata Village Trust	He Tāngata Village Trust	To build housing for young whānau to build relationships and connections in their community. The whānau who will live in He Tāngata Village will be whānau who need extra support, who are vulnerable and open to teaching as they are supported and guided.	\$135,000
Kāpiti Youth Support	Project Youth	Project Youth is a mentoring programme for LGBTQIA+ rangatahi between the ages of 10 – 24. It was launched at KYS in 2015 and was developed out of an emerging need for rangatahi to gain access to support because they were experiencing homophobia at home, school and in the wider community. This application would support the continuation of this initiative as funding for this project is no longer available.	\$180,000

Name of Organisation	Name of Project	Proposed Project	Funding Requested over three years
Paekākāriki Pride Inc	Paekākāriki Pride Festival	The Paekakariki Pride Festival is run annually over Labour Weekend. The purpose is to bring the communities together in the spirit of love, understanding and to bridge some of the gaps between the Rainbow communities, their families and the wider community.	\$21,000
Te Puna Oranga o Ōtaki	Hei kai aku ringa	Raise the health and wellbeing of the community through food, people and laughter. Rangatahi have been making container gardens for kaumatua and have built a relationship with some of them, and now have a space to work alongside kaumatua to prepare food, share food and transfer knowledge together in a welcome space that has a fire ( in winter) a courtyard ( in summer).	\$165,000

## 10.6 RATES REMISSION FOR LAND PROTECTED FOR NATURAL OR CULTURAL CONSERVATION PURPOSES (UPDATE)

Kaituhi | Author: **Andrew Mckay, Programme Manager - Biodiversity and Landscapes**

Kaiwhakamana | Authoriser: **Mike Mendonca, Acting Group Manager Place and Space**

### TE PŪTAKE | PURPOSE

- 1 This report tables a single rates remission application for Land Protected for Natural or Cultural Conservation Purposes for the 2021/22 year and seeks approval for recommended allocations. This application was incorrectly removed from the report presented to Council 26 May 2022.

### HE WHAKARĀPOPOTO | EXECUTIVE SUMMARY

- 2 This report tables a single rates remission application for Land Protected for Natural or Cultural Conservation Purposes for the 2021/22 year and seeks approval for recommended allocations. This application was incorrectly removed from the report presented to Council 26 May 2022.

### TE TUKU HAEPAPA | DELEGATION

- 3 The Council has the delegation to make this decision.

### TAUNAKITANGA | RECOMMENDATIONS

- A. That the Council approves the amount of rates remission to the property set out in the He Take | Issues section of this report in accordance with Council's Policy for Rates Remission for Land Protected for Natural or Cultural Conservation Purposes.

### TŪĀPAPA | BACKGROUND

- 4 The Long Term Plan 2021-41 references a policy for Rates Remission for Land Protected for Natural or Cultural Conservation Purposes. The detail of this policy is included in the Long Term Plan as Part 7 of the Rates Remission Policy, and attached as Appendix 1 to this report.
- 5 Part 7 of the Rates Remission Policy supports the provisions of the Kāpiti Coast District Plan regarding incentives for heritage feature management and protection. It recognises that most heritage features are already protected by rules in the District Plan and encourages landowners to maintain, enhance and protect heritage features by offering a financial incentive.
- 6 The granting of a rates remission as an incentive for encouraging the protection and management of heritage features is consistent with Council's responsibilities under the Resource Management Act 1991 and the Historic Places Act 1993.
- 7 The 2021/22 budget for Rates Remission for Land Protected for Natural or Cultural Conservation Purposes is \$38,070.
- 8 A total of 105 ratepayers benefited from the policy in 2020/21. Having applied successfully for rates remission, ratepayers may continue receiving it provided they meet the rates remission policy criteria.

### HE KŌRERORERO | DISCUSSION

- 9 The following paragraphs discuss the principles of rates remission, present the proposed amounts of remission in a table format (Table 1), and make a recommendation on an additional property to receive rates remission in 2021/22.



- 10 The rates remission programme's guiding principle is recognition of the conservation efforts of ratepayers and the positive contribution their actions make to protecting the district's cultural and biodiversity heritage.
- 11 The owners of these properties are often motivated solely by the desire to protect and manage their environment, and their actions are voluntary. Many are keen conservationists while others may fence off a bush remnant as the pasture gain is negligible or to better manage stock movement. Whatever their motivation, addressing significant pressures such as stock grazing or noxious pests has a positive impact on the Kāpiti Coast environment.
- 12 Landowners could use the rates remission for the upkeep of stock-proof fencing or pest animal and weed control. However, in most instances the amount of remission is far less than the true cost of these protective measures.
- 13 Rates remission is an added incentive for landowners to respect the conservation values of parts of their properties that have a legal protection mechanism in place. Further, rates remission is one of the non-regulatory incentives for protecting and maintaining sites of conservation value discussed as part of the Proposed District Plan consultation process. The provision of rates remission also provides a good basis for on-going partnerships between Council and landowners.
- 14 Rates remission amounts are calculated according to the size of the heritage feature as shown in Table 1. This method is coarsely related to the level of contribution towards the environment as larger areas of forest or wetland are generally more significant. This does not take into account, however, the presence of rare and endangered species or the amount of time and effort put into management.
- 15 The rates remission amounts in Table 1 have been increased from the 2020/21 financial year by using a consumer price index (CPI) figure of 3.6%.

16 **Table 1 – Rates Remission Amounts**

Size of protected area/feature (ha)	Rates Remission (\$)
Up to 1.0 ha	\$ 136
1.001 – 5.0 ha	\$ 271
5.001 – 10.0 ha	\$ 409
10.001 – 20.0 ha	\$ 543
20.001 – 30.0 ha	\$ 679
30.001 – 40.0 ha	\$ 815
40.001 – 50.0 ha	\$ 951
50.001 – 70.0 ha	\$ 1,088
70.001 – 100.0 ha	\$ 1,170
More than 100 ha	\$ 1,363

**He take | Issues**

- 17 One additional application for Rates Remission for Land Protected for Natural or Cultural Conservation Purposes was received for the 2021/22 financial year that was not included in the report presented to Council 26 May 2022. It is recommended for approval.
- 18 **153 Peka Peka Road, Peka Peka**
- 19 Valuation number: 1489012401
- 20 This property contains a large portion of Ecological Site K060. This is a moderately sized harakeke wetland with a small area of open water. The property owner has developed a wetland restoration plan in conjunction with Greater Wellington Regional Council.
- 21 Only around 3% of wetlands remain in the Wellington region and so protecting these areas is of critical importance.

- 22 The recommended rates remission amount for this property is \$271.00.

### Ngā kōwhiringa | Options

#### Tangata whenua

- 23 There are no tangata whenua considerations.

### Panonitanga āhuarangi | Climate change

- 24 By encouraging landowners to protect and enhance natural ecosystems, Rates Remission for Land Protected for Natural or Cultural Conservation Purposes contributes to the vision and principles of the Climate Emergency Action Framework by directly sequestering and storing carbon.

### Ahumoni me ngā rawa | Financial and resourcing

- 25 The total amount of rates remission allocated in 2021/22 would be \$34,134, within the 2021/22 budget of \$38,070.

### Ture me ngā Tūraru | Legal and risk

- 26 There are no legal considerations.

### Ngā pānga ki ngā kaupapa here | Policy impact

- 27 The granting of Rates Remission for Land Protected for Natural or Cultural Conservation Purposes is in accordance with Part 7 of the Rates Remission Policy (Attachment 1) contained in the Long Term Plan 2021-48.

## TE WHAKAWHITI KŌRERO ME TE TŪHONO | COMMUNICATIONS & ENGAGEMENT

- 28 This matter has a low level of significance under Council's Significance and Engagement Policy.

### Te mahere tūhono | Engagement planning

- 29 Engagement planning is not required for the contents of this report. Partnerships and Legal.

### Whakatairanga | Publicity

Advertising and publicity channels that will be not be used to communicate the decisions in this report

## NGĀ ĀPITI HANGA | ATTACHMENTS

1. Rates Remission Policy 2021 [↓](#)

# Rates remission policy

Rates remission policy
Development contributions policy
Significance and engagement policy



## Rates remission policy

In order to allow rates relief where it is considered fair and reasonable to do so, the Council is required to adopt a policy specifying the circumstances under which rates will be considered for remission. There are various types of remission, and the circumstances under which a remission will be considered for each type may be different. The objectives, conditions and criteria relating to each type of remission are set out on the following pages.

This policy is prepared under section 109 of the Local Government Act 2002 and is made up of the following nine parts:

### Māori freehold land

Part 1 Rates remission and rates postponement on Māori freehold land

### Rates postponement

Part 2 Rates postponement for farmland located in the urban rating areas of the Kāpiti Coast district

Part 3 Optional Rates postponement

### Rates relief

Part 4 Rates remission for Council community properties, sporting, recreation and other community organisations

Part 5 Rates remission for recreation, sporting and other community

organisations which lease or own private property for a period of one year or longer

Part 6 Rates remission of late payment penalty

Part 7 Rates remissions for land protected for natural or cultural conservation purposes

Part 8 Rates relief for residential rating units containing two separately habitable units

Part 9 Rates assistance

Part 10 Water Leak Rates remission

### Part 1 - Rates remission and rates postponement on Māori freehold land

#### Policy objective

The objectives of this policy are to:

- recognise that certain pieces of Māori freehold land may have particular

conditions, features, ownership structures, or other circumstances that make it appropriate to provide for relief from rates;

- recognise where there is no occupier or person gaining an economic or financial benefit from the land;
- recognise that the Council and the community benefit through the efficient collection of rates; and
- meet the requirements of section 102 of the Local Government Act 2002 to have a policy on the remission and postponement of rates on Māori freehold land.

#### Policy conditions and criteria

Application for a remission or postponement under this policy should be made prior to the commencement of the rating year. Applications made after the commencement of the rating year may be



accepted at the discretion of the Council. A separate application should be made for each rating year.

Owners or trustees making application should include the following information in their applications:

- details of the rating unit or units involved;
- documentation that shows that the land qualifies as land whose beneficial ownership has been determined by a freehold order issued by the Māori Land Court; and
- the objectives that will be achieved by the Council providing a remission.

The Council may investigate and grant remission or postponement of rates on any Māori freehold land in the district.

Relief and the extent thereof is at the sole discretion of the Council and may be cancelled and reduced at any time, in accordance with the policy.

The Council will give a remission or postponement of up to 100% of all rates for the year for which it is applied for based on the extent to which the remission or postponement of rates will:

- support the use of the land by the owners for traditional purposes;

- support the relationship of Māori and their culture and traditions with their ancestral lands;
- avoid further alienation of Māori freehold land;
- facilitate any wish of the owners to develop the land for economic use;
- recognise and take account of the presence of wāhi tapu that may affect the use of the land for other purposes;
- recognise and take account of the importance of the land in providing economic and infrastructure support for Marae and associated papakāinga housing (whether on the land or elsewhere);
- recognise and take account of the importance of the land for community goals relating to:
  - the preservation of the natural character of the coastal environment;
  - the protection of outstanding natural features;
  - the protection of significant indigenous vegetation and significant habitats of indigenous fauna;
- recognise the level of community services provided to the land and its occupiers;
- recognise matters related to the physical accessibility of the land; and

- provide for an efficient collection of rates and the removal of rating debt.

The policy shall apply to owners of Māori freehold land who meet the relevant criteria as jointly approved by the Chair of the Council committee with responsibility for managing Council finances, and the Group Manager, Corporate Services.

This policy relates to Kāpiti Coast District Council rates only.

## **Part 2 - Rates postponement for farmland located in the urban rating areas of the Kāpiti Coast district**

### **Policy objective**

The objective of this policy is to encourage owners of farmland located in the urban rating areas to refrain from subdividing their land for residential, commercial, and industrial purposes unless doing so demonstrably supports intended outcomes of the Kāpiti Coast District Plan.

### **Policy conditions and criteria**

The policy will apply to rating units that are:

- located in the urban rating area of a ward of the Kāpiti Coast district;
- individual or contiguous rating units, 10 hectares in area or more;
- farmland whose rateable value in some measure is attributable to the potential use to which the land may be put for

<p>residential, commercial, industrial, or other non-farming development; and</p> <ul style="list-style-type: none"> <li>actively and productively farmed by the ratepayer or the farming business.</li> </ul> <p>The application for rate postponement must be made to the Council prior to the commencement of the rating year. Applications received during a rating year will be eligible for the commencement of the following rating year. No applications will be backdated.</p> <p>A new application must be made for each financial year.</p> <p>Ratepayers making application should include the following documents in support of their application:</p> <ul style="list-style-type: none"> <li>details of ownership of the rating unit; and</li> <li>information on the farming activities.</li> </ul> <p>If an application is approved the Council will request its valuation service provider to determine a rates postponement value of the land. The rates postponement value specifically excludes any potential value that, at the date of valuation, the land may have for residential purposes, or for commercial, industrial, or other non-farming use.</p> <p>The rates postponed for any rating period will be the difference between the rates calculated according to the rateable land</p>	<p>value and the rates calculated according to the rates postponement land value.</p> <p>Any objection to the rate postponement land value, determined by the Council and its valuation service provider, will not be upheld.</p> <p>All rates whose payment has been postponed and which have not been written off become due and payable immediately on:</p> <ul style="list-style-type: none"> <li>the land (or any part of) ceasing to be farmland;</li> <li>the land being subdivided;</li> <li>the value of the land ceasing to have a portion of its value attributable to the potential use to which the land may be put for residential, commercial, industrial, or other non-farming development; or</li> <li>there being a change of ownership of the farmland.</li> </ul> <p>Postponed rates may be registered as a charge against the land so that any postponed rates will be paid on or before the sale or transfer of the property.</p> <p>Postponed farmland rates are written off after five years if a property is not subdivided or sold.</p> <p>The policy shall apply to ratepayers who meet the relevant criteria as jointly approved by the Chair of the Council</p>	<p>Committee with responsibility for managing Council finances and the Group Manager, Corporate Services.</p> <p><b>Part 3 – Optional Rates postponement</b></p> <p><b>Policy objective</b></p> <p>The objective of this policy is to assist residential ratepayers 65 years of age and over who want to defer the payment of rates by using the equity in their property. The policy also applies to those who may have financial difficulties or unusual circumstances, as long as they have the required equity in their property.</p> <p><b>Policy criteria</b></p> <p>Current and all future rates may be postponed indefinitely:</p> <ul style="list-style-type: none"> <li>if at least one of the applicants is 65 years of age or older; or</li> <li>in demonstrable cases of significant financial difficulty.</li> </ul> <p>Only rating units defined as residential, that are owned by the applicant and used by the applicant as their sole or principal residence will be eligible for consideration of rates postponement.</p> <p>For the year of application, the applicant must have applied for the government rates rebate before any rates will be postponed.</p> <p>The postponed rates (including any GWRC postponed rates) will not exceed 80% of the available equity in the property.</p>
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The available equity is the difference between the Council's valuation of the property and the value of any encumbrances against the property, including mortgages and loans.

The property must be insured for its full value.

All rates are eligible for postponement except for:

- targeted rates for water supplied by volume; and
- lump sum options which are rates paid in advance

All applications for postponement must be made on the prescribed form.

Those applying for postponement of rates because they are experiencing significant financial difficulty should provide clear details and proof of their circumstances.

#### Policy conditions and criteria

The Council recommends that all applicants seek advice from an appropriately qualified and independent financial advisor on the financial impacts and appropriateness of postponing their rates.

The Council will postpone payment of the residual rates (the amount of rates payable after any optional payment has been made) if the ratepayer meets the above criteria

An administration fee will be charged on the postponed rates which will not exceed the administrative and financial costs to Council of the postponement.

If the property in respect of which postponement is sought is subject to a mortgage, then the applicant will be required to obtain the mortgagee's consent before the Council will agree to postpone rates.

The postponed rates, or any part thereof, may be paid at any time.

The applicant may choose to postpone a lesser amount of rates than the amount they may be entitled to under the terms of this policy.

Any postponed rates (under this policy) will be postponed until:

- a) the ratepayer's death;
- b) the ratepayer no longer owns the rating unit;
- c) the ratepayer stops using the property as his or her residence; or
- d) until a date specified by the Council.

Postponed rates will be registered as a statutory charge against the property to protect the Council's right to recover postponed rates. At present, the law does not allow councils to register such a statutory land charge against Māori freehold land. Accordingly, Māori freehold

land is not eligible for rates postponement (unless and until the law is changed so that the Council can register a statutory land charge).

For the rates to be postponed the Council will require evidence each year, by way of statutory declaration, of the ratepayer's property insurance and the value of encumbrances against the property, including mortgages and loans.

#### Review or suspension of policy

The policy is in place indefinitely and can be reviewed subject to the requirements of the Local Government Act 2002 at any time. Any resulting modifications will not change the entitlement of people already in the scheme to continued postponement of all future rates.

The Council reserves the right not to postpone any further rates once the total of postponed rates and accrued charges exceeds 80% of the rateable value of the property as recorded in the Council's rating information database.

The policy acknowledges that future changes in policy could include withdrawal of the postponement option.

#### Procedures

Applications must be on the required application form which is available on the Council's website.

The policy will apply from the beginning of the rating year in which the application is made although the Council may consider backdating past the rating year in which the application is made depending on the circumstances.

The policy shall apply to ratepayers who meet the relevant criteria as approved by the Group Manager, Corporate Services (with sub-delegation to Chief Financial Officer).

#### **Part 4 - Rates remission for Council community properties, sporting, recreation and other community organisations**

##### **Policy objective**

The objectives of this policy are to:

- facilitate the on-going provision of non-commercial (non-business) community services and/or sporting and recreational opportunities that meets the needs of Kāpiti Coast district's residents;
- provide rating relief to Council community properties, sporting, recreation and other community organisations; and
- make membership of the sporting, recreation and other community organisations more accessible to the general public, particularly

disadvantaged groups. These include children, youth, young families, older persons and economically disadvantaged people.

##### **Policy conditions and criteria**

The policy may apply to land owned by the Council which is used exclusively or principally for community purposes, sporting, recreation, or to land which is owned and occupied by a charitable organisation and used exclusively or principally for sporting, recreation or other community purposes.

The policy does not apply to:

- organisations operated for private pecuniary profit, or those which charge commercial tuition fees; and
- groups or organisations whose primary purpose is to address the needs of adult members (over 18 years) for entertainment or social interaction, or who engage in recreational, sporting, or community services as a secondary purpose only.

Under this policy the following rate remission may apply to the Council and those sporting, recreation and other community organisations which qualify:

- A 50% remission may apply to the Council rates and charges (excluding water and wastewater).

No second remission of rates will be made on those properties which have already received a rate remission for a financial year or those properties which are fully or partially non-rateable under the provisions of schedule one, part two, of the Local Government (Rating) Act 2002.

The policy requires that applications for rate remission from all qualifying organisations must be made to the Council prior to the commencement (by 30 June) of the rating year for which the remission is being applied. No applications will be backdated.

Organisations making an application must provide the following documents in support of their application:

- statement of objectives;
- full financial accounts;
- information on activities and programmes

The policy may automatically apply to land owned by the Council which is used exclusively or principally for community purposes, sporting and recreation.

The policy may apply to recreation, sporting and other community organisations who meet the relevant criteria as jointly approved by the Chair of the Council committee with responsibility for managing Council finances and the Group Manager, Corporate Services.



### Part 5 - Rates remission for recreation, sporting and other community organisations which lease or own private property for a period of one year or longer

#### Policy objective

The objectives of this policy are to:

- facilitate the on-going provision of non-commercial (non-business) community services and/or recreational opportunities that meets the needs of Kāpiti Coast district's residents;
- provide rating relief to recreation, sporting and other community organisations; and
- make membership of the recreation, sporting and other community organisations more accessible to the general public, particularly disadvantaged groups. These include children, youth, young families, older persons, and economically disadvantaged people.

#### Policy conditions and criteria

The policy may apply to property leased or owned by a charitable organisation for a period of at least one year, is used exclusively or principally for recreation, sporting or community purposes, and the organisation is liable for the payment of the Council's rates under the property's lease agreement, or as the property owner.

The policy does not apply to:

- organisations operated for private pecuniary profit, or those which charge commercial tuition fees; and
- groups or organisations whose primary purpose is to address the needs of adult members (over 18 years) for entertainment or social interaction, or who engage in recreational, sporting, or community services as a secondary purpose only.

Under this policy the following rate remission may apply to those recreational, sporting and other community organisations which qualify:

- a 50% remission of the Council's rates and charges (excluding water and wastewater).

This 50% maximum rate remission may also apply to recreation, sporting and other community organisations that qualify and have a liquor licence. [Note: The reason for allowing recreation, sporting and other community organisations with liquor licences to also receive a 50% rate remission is because the change in social drinking patterns means that the liquor licenses no longer provide the same level of funding as was previously the case.]

No second remission of rates will be made on those properties which have already received a rate remission for a financial

year or those properties which are fully or partially non-rateable under the provisions of schedule one, part two, of the Local Government (Rating) Act 2002.

The policy requires that applications for rate remission must be made to the Council prior to the commencement (by 30 June) of the rating year for which the remission is being applied. No applications will be backdated.

Organisations making application must provide the following documents in support of their application:

- statement of objectives;
- full financial accounts;
- evidence of their lease or ownership of the property;
- evidence of the amount of rates paid to the property owner or to the Council for each financial year;
- information on activities and programmes;

The policy may apply to recreation, sporting and other community organisations who meet the relevant criteria as jointly approved by the chair of the Council committee with responsibility for managing Council finances and the Group Manager, Corporate Services.



### Part 6 - Rates remission of late payment penalty

#### Policy objective

The objective of this policy is to enable the Council to act fairly and reasonably when rates have not been received by the penalty date.

#### Policy conditions and criteria

The policy will apply to a ratepayer who has had a penalty levied where it is demonstrated that the penalty has been levied because of an error by the Council. Remittance will be upon either receipt of an application from the ratepayer or identification of the error by the Council.

The policy may also apply to a ratepayer where the Council considers that it is fair and equitable to do so. Matters that will be taken into consideration include the following:

- the ratepayer's payment history; being two clear years history without penalty OR two years history without a previous penalty remission;
- the impact on the ratepayer of extraordinary events;
- the payment of the full amount of rates due; or
- the ratepayer entering into an agreement with the Council for the payment of their rates.

Under this policy the Council reserves the right to impose conditions on the remission of penalties. The policy shall apply to ratepayers who meet the relevant criteria as approved by the Group Manager, Corporate Services (with sub-delegation to the Chief Financial Officer).

### Part 7 - Rates remission for land protected for natural or cultural conservation purposes

#### Policy objective

The objective of this policy is to preserve and promote natural resources and heritage land to encourage the maintenance, enhancement and protection of land for natural or cultural purposes.

#### Policy conditions and criteria

This policy supports the provisions of the Kāpiti coast district plan and the heritage strategy. It recognises that most heritage features are already protected by rules in the district plan and encourages landowners to maintain, enhance and protect heritage features by offering a financial incentive.

Ratepayers who own rating units which have some feature of cultural or natural heritage which is voluntarily protected may qualify for remission of rates under this policy, for example:

- properties that have a QEII covenant under section 22 of the Queen Elizabeth

the Second National Trust Act 1977 registered on their record(s) of title;

- properties that have a conservation covenant with the Department of Conservation registered on their record(s) of title;
- properties that have a site listed in the district plan heritage register (excluding any buildings);
- appropriately protected riparian strips; and
- heritage features that are protected by a section 221 consent notice (Resource Management Act 1991) registered on the record of title (excluding buildings).

This policy does not apply to land that is non-rateable under section 8 of the Local Government (Rating) Act 2002 and is liable only for rates for water supply or wastewater disposal.

Applications for rates remission in accordance with this policy must be in writing and supported by documentary evidence of the protected status of the rating unit, for example, a copy of the covenant agreement or other legal mechanism.

In considering any application for remission of rates under this policy, the Council committee responsible for the Council's environmental and natural heritage portfolio will consider the following criteria:

- the extent to which the preservation of natural or cultural heritage will be promoted by granting remission on rates on the rating unit;
- the degree to which features of natural or cultural heritage are present on the land;
- the degree to which features of natural or cultural heritage inhibit the economic utilisation of the land;
- whether, and to what extent, public access to/over the heritage feature is provided for;
- the extent to which the heritage feature is legally (e.g. covenanted) and physically (e.g. fenced) protected;
- in respect of geological sites and wāhi tapu:
  - the importance of the place to the tāngata whenua;
  - the community association with, or public esteem for, the place;
  - the potential of the place for public education;
  - the representative quality and/or a quality or type or rarity that is important to the District;
  - the potential of the place as a wildlife refuge or feeding area;
- the potential of the place for its diversity in flora and fauna.
- in respect of ecological sites (areas of significant indigenous vegetation and significant habitats of indigenous flora) whether the site has:
  - Representativeness - the site contains an ecosystem that is under-represented or unique in the ecological district;
  - Rarity - the site contains threatened ecosystems; threatened species; and species that are endemic to the ecological district;
  - Diversity - the site has a diversity of ecosystems species and vegetation;
  - Distinctiveness - the site contains large / dense population of viable species; is largely in its natural state or restorable; has an uninterrupted ecological sequence; and contains significant land forms;
  - Continuity and linkage within landscape - the site provides, or has potential to provide, corridor/buffer zone to an existing area;
  - Cultural values - the site has traditional importance for Māori; recreational values; significant landscape value; protection of soil values; water catchment protection; recreation or tourism importance; and aesthetic coherence;
- Ecological restoration - an ability to be restored; difficulty of restoration; and cost/time;
- Landscape integrity - significance to the original character of the landscape; isolated feature (for example, does it stand out or blend in); and whether it has a role in landscape protection; and
- Sustainability - size and shape of area; activities occurring on the boundaries which may affect its sustainability; adjoins another protected area; links; and easily managed.

Where remission of rates is granted under this policy the landowner, in conjunction with the Council, will be required to develop a heritage management plan.

The purpose of a heritage management plan is to set out a plan of action for managing a heritage feature within the Kāpiti coast district that is subject to rates remission.

The heritage management plan will:

- be reviewed on an annual basis by the Council in conjunction with the landowner;
- may contain conditions which shall be complied with on an on-going basis, including requirements to fence off the area, undertake weed control and restoration, undertake pest control and keep stock out of the area; and
- will ensure that the site will be managed in a manner that protects and enhances the heritage feature.

The amount of remission will be determined on a case-by-case basis by the Council Committee responsible for the Council's environmental and natural heritage portfolio, taking into account the merits of the protected feature and the extent to which it meets the criteria specified in this policy.

In granting rates remission under this policy, the Council committee responsible for the Council's environmental and natural heritage portfolio may specify certain conditions before remission will be granted.

Applicants will be required to agree in writing to these conditions and to pay any remitted rates if the conditions are violated.

<sup>1</sup> A designated minor flat has a floor area less than 60m<sup>2</sup> in a rural zone and a floor area less than 54m<sup>2</sup> in an urban zone.

## Part 8 – Policy for rates relief for residential rating units containing two separately habitable units

### Policy objective

The objectives of this policy are:

#### Objective 1

To enable the Council to provide relief for ratepayers who own a residential rating unit containing two habitable units, where the second unit is:

- either a consented family flat or is designated a minor flat<sup>1</sup>; and
- used only to accommodate non-paying guests and family

#### Objective 2

To enable the Council to provide relief for ratepayers who own a residential rating unit containing two habitable units, where the second unit is:

- designated a minor flat; and
- only rented out for less than one month each year.

### Policy conditions and criteria

#### Objective 1

1.1 The Council may remit a second targeted rate for community facilities

and Districtwide water supply fixed rates set on a separately habitable portion of the rating unit, provided that:

- a) the ratepayer provides a written application each year;
- b) their rating unit contains two habitable units, where the second unit is either a consented family flat or is designated a minor flat;
- c) the second unit is used only for family and friends of the occupants of the first unit on a non-paying basis; and
- d) the application is accompanied by a statutory declaration of intent made by the ratepayer that declares that all the above conditions will be complied with in the ensuing year.

1.2 If a rating unit contains more than two habitable units used by non-paying guests and family, only one is entitled to remission.

#### Objective 2

2.1 The Council may remit a second targeted rate for community facilities

and Districtwide water supply fixed rates set on a separately habitable portion of the rating unit, provided that:

- a) the ratepayer provides a written application each year;
- b) their rating unit contains two habitable units, where the second unit is designated a minor flat;
- c) their rating unit contains two habitable units; where the second unit is only rented out for less than one month each year; and
- d) the application is accompanied by a statutory declaration of intent made by the ratepayer that declares that all the above conditions will be complied with in the ensuing year.

2.2 If a rating unit contains more than two habitable units used by non-paying guests and family, only one is entitled to remission.

Application process for Objectives 1 and 2

The application for remission must be made to the Council prior to the commencement (by 30 June) of the rating year for which the remission is being applied. Applications will not be backdated.

Decisions for remission of rates for rating units consisting of two separately habitable

units will be delegated to the Group Manager, Corporate Services (with sub-delegation to the Chief Financial Officer).

## Part 9 - Rates assistance

### Policy objectives

The objective of this policy is to set out the circumstances in which the Council will offer financial assistance (a remission of rates) to those people experiencing difficult financial circumstances.

### Introduction

This policy is divided into three sections as follows:

1. People who are facing on-going financial difficulties:
  - a) Ratepayers who own their own home;
  - b) Ratepayers who own rental properties, who are applying jointly with and on behalf of a tenant facing difficult financial circumstances;
2. People who are facing temporary financial difficulties.

3. Water rate remission for vulnerable households relating to high water use.

## 1. On-going financial assistance

Policy conditions and criteria

### General criteria

Application for on-going financial assistance must be made between 1 January and 30 June in the rating year in which the assistance is being applied for. Applications will be processed from 1 February onwards.

Funding will be available until such time as the rates assistance fund is fully subscribed in each financial year.

Ratepayers who own their own home

[A] A ratepayer who is experiencing on-going financial difficulty may be eligible for financial assistance (a remission of rates) of up to \$300 if they meet the following criteria:

- o the applicant owns the property; and
- o the applicant resides at the property; and
- o total household income before tax for the specified financial year, is less than or equal to the gross NZ Superannuation income level for a couple where both qualify; and
- o the applicant has first applied for the central government rates rebate; and



- expenditure on Kāpiti Coast District Council rates (after netting off any central government rates rebate) is more than 5% of net disposable income.

*(B) Ratepayers who own rental properties, who are applying jointly with and on behalf of a tenant facing difficult financial circumstances*

A tenant who is experiencing on-going financial difficulty can make a joint application with their landlord for financial assistance (a remission of rates) of up to \$300. Only the landlord, as the owner of the property, can receive this financial assistance (a remission of the Council's rates) from the Council. If the landlord receives a remission, they must pass it on to the tenant.

The tenant and landlord may be eligible for financial assistance if the following criteria have been met:

- the landlord is renting to a tenant whose total household income before tax for the specified financial year, is less than or equal to the gross NZ Superannuation income level for a couple where both qualify and proof of income is supplied;
- the landlord and tenant provide a joint application form and an explanation of the financial difficulty experienced with appropriate support;

- expenditure on Kāpiti Coast District Council rates is more than 5% of the tenant's net disposable income;
- the tenant has a rental agreement for no less than six months and a copy of the rental agreement is provided;
- the landlord provides proof of the current record of the rental paid; and
- proof at the end of the year that the full amount of annual rate remission has been forwarded on to the tenant.

Should the landlord receive the remission and then not continue to pass on the remission to the tenant, the amount of the remission will be subsequently charged to the relevant rateable property.

## 2. Temporary financial assistance

The Council will make available financial assistance (a remission of rates) of up to \$300 per rateable property for those applicants who are experiencing financial difficulties due to, for example, repair of water leaks, a serious health issue (including on-going serious health issues) or for essential housing maintenance.

Applications may be made throughout the year and will be considered until the available Rates assistance fund is fully subscribed.

## Policy conditions and criteria

A ratepayer who has incurred significant one-off expenditure may be eligible for financial assistance (a remission of rates) of up to \$300 if they meet the following criteria:

- the applicant is the owner of the property;
- the applicant resides at the property;
- total household income before tax for the specified financial year, is less than or equal to the gross NZ Superannuation income level for a couple where both qualify; and proof of income is supplied;
- one-off expenditure has been incurred in relation to repairs for water leaks, a serious health issue or for essential housing maintenance within the same financial year and proof of expenditure and reasons for expenditure are provided;
- the applicant has also applied for the central government rates rebate and is receiving all relevant funding; and
- the effect of the one-off expenditure is to reduce net disposable income such that rates, net of any central government rates rebate, is more than 5% of net disposable income.



### 3. Water rate remission for vulnerable households relating to high water use

Applicants may apply for this remission in May with applications being assessed and applied to individual water rate accounts in June.

Criteria for approving water rate remission

Applications will be assessed against the following Criteria:

*(A) Ratepayer: owner of property – water variable charge paid by property owners*

A property owner with two or more dependents living at the property may apply for a water rate remission provided that:

- the applicant owns the property;
- the applicant resides at the property;
- the property owner is receiving a working for families tax credit;
- total water rate charges from 1 July to 30 April have exceeded \$311

*(B) Landlord and tenant: water variable charge – paid by landlord and on-charged to tenant*

A tenant with two or more dependents living at the property may apply for a water rate remission provided that:

- the tenant has a rental agreement for no less than six months and a copy of the rental agreement is provided;
- the tenant resides at the property and the property is also classified as residential;
- the tenant is receiving a working for families tax credit;
- total water rates charges from 1 July to 30 April have exceeded \$311;
- their landlord is informed and agrees to adjust any on-charged variable water charge to their tenant by the amount remitted by the Council.

Should the landlord receive the remission and then not continue to pass on the remission to the tenant, the amount of the remission will be subsequently charged to the relevant rateable property.

General conditions

- no rates remission will be provided for any variable charge for water use where that water use is for other than internal or essential household use.

Assessment

All rates remission applications will be treated on a case-by-case basis and will be approved/declined by the Group Manager, Corporate Services (with sub-delegation to the Chief Financial Officer). Other information or evidence may also be requested in certain circumstances (for example, information supporting what change of circumstance may have occurred to cause temporary financial difficulty).

### Part 10 – Water Leak Rates remission

Policy Objectives

To enable Council to provide relief for ratepayers who have incurred excess volumetric water rates charges due to a leak on their private water supply pipes.

Policy conditions and criteria

Council may remit water consumption rates (districtwide water supply volumetric rates) where all of the following apply:

- A remission application has been received

- 
- The leak was on a private water supply pipe. Private Water supply pipe is the section of pipe between the point of supply and the ratepayers' premises through which water is conveyed to the premises. The private water supply pipe will not include any check meter installed on the pipe.
  - It does not include:
    - Reasonably discernible water loss from leaking taps, shower heads, toilet cisterns or other water appliances.
    - Water loss from property sprinkler or other irrigation system, pools, ponds or similar systems,
    - leaking hot water systems or plumbing relating to a faulty hot water system.
  - The leak has been repaired upon discovery or within 21 days from the date of notification from Council
  - Proof of the leak being repaired has been provided
- The amount of the remission will be determined by the difference between the average of the four previous quarterly volumetric water rates charges prior to the leak as deemed reasonable by Council and

the consumption as recorded by the water meter over and above that average.

In the absence of four previous quarterly readings, normal water consumption estimates may be assessed using the mean water use for an equivalent sized household using the invoice usage comparison chart; plus any other identified water use.

Remissions for a Private Water Leak will be considered on a case by case basis, limited to the period where the leak was identified and fixed and the last invoice. Remission for any particular property will generally be granted only once every year, unless there are extenuating circumstances.

Any remission will only be applied to the Districtwide Water supply volumetric rates and the Districtwide water supply fixed rate will still apply.

All rates remission applications will be treated on a case-by-case basis and will be approved/declined by the Group Manager, Corporate Services (with sub-delegation to the Chief Financial Officer). Other information or evidence may also be requested in certain circumstances to enable an application to be considered.

**11 CONFIRMATION OF MINUTES****11.1 CONFIRMATION OF MINUTES**

**Author:** Fiona Story, Senior Advisor Democracy Services

**Authoriser:** Janice McDougall, Group Manager People and Partnerships

**Taunakitanga | Recommendations**

That the minutes of the Council meeting of 7 June 2022 be accepted as a true and correct record.

**APPENDICES**

1. Confirmation of minutes - 7 June 2022 [↓](#)

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ADDITIONAL COUNCIL MEETING MINUTES

7 JUNE 2022

**MINUTES OF KAPITI COAST DISTRICT COUNCIL  
ADDITIONAL COUNCIL MEETING  
HELD AT THE COUNCIL CHAMBER, GROUND FLOOR, 175 RIMU ROAD, PARAPARAUMU  
ON TUESDAY, 7 JUNE 2022 AT 1.38PM**

**PRESENT:** Mayor K Gurunathan, Deputy Mayor Janet Holborow, Cr Angela Buswell, Cr James Cootes, Cr Jackie Elliott (online via Zoom), Cr Gwynn Compton (online via Zoom), Cr Jocelyn Prvanov (online via Zoom), Cr Martin Halliday, Cr Sophie Handford (online via Zoom), Cr Robert McCann, Cr Bernie Randall (online via Zoom)

**IN ATTENDANCE:** Mr Sean Mallon, Mrs Janice McDougall, Mr Glen O'Conner, Mr Mike Mendonca (online via Zoom), Ms Angela Bell (online via Zoom), Ms Sarah Wattie, Mr Kahu Ropata (online via Zoom), Ms Morag Taimalietane (online via Zoom), Mr Mark Ward, Ms Kathy Spiers (online via Zoom), Mr Cam Butler, Mr James Westbury (online via Zoom), Ms Alison Law, Ms Eva George (online via Zoom), Ms Oriwia Raureti, Ms Kirsten Hapeta, Ms Denise Hapeta, Ms Steffi Haefeli, Ms Kate Coutts, Ms Anna Smith, Ms Fiona Story

**APOLOGIES:** Christine Papps, Chair of the Ōtaki Community Board.

**LEAVE OF  
ABSENCE:** Nil

**1 WELCOME**

**2 COUNCIL BLESSING**

The Mayor welcomed everyone to the meeting and Cr Holborow read the Council blessing.

**3 APOLOGIES**

The apology from Christine Papps, Ōtaki Community Board Chair was noted. Cam Butler attended as the representative of the Ōtaki Community Board.

**4 DECLARATIONS OF INTEREST RELATING TO ITEMS ON THE AGENDA**

Cr Buswell declared a conflict of interest in relation to Item 7.4 Omicron Business Assistance Package for Kapiti Coast Businesses, as she is a retailer in Kapiti.

Cr Cootes declared a conflict of interests in relation to Item 7.4 Omicron Business Assistance Package for Kapiti Coast Businesses, as he is a retailer in Kapiti.

**5 PUBLIC SPEAKING TIME FOR ITEMS RELATING TO THE AGENDA**

Mr Chris Mitchell spoke to agenda items 7.1: Council Response to Ātiawa Ki Whakarongotai Charitable Trust Review and 7.2 Mana Whenua Representation within Council's Governance Structure.

Mr Mitchell noted that Te Ātiawa wants a more effective partnership with Council. Mr Mitchell questioned whether the recommendations will make any difference to those concerns as the

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**ADDITIONAL COUNCIL MEETING MINUTES****7 JUNE 2022**

concerns are operational in nature. Mr Mitchell questioned whether the issues raised by Te Ātiawa had been addressed with the two other iwi in the district. Mr Mitchell also questioned whether consideration had been given to Māori in the district who are not affiliated with an iwi. Mr Mitchell encouraged wider consultation.

Janice McDougall, Group Manager, People and Partnerships responded to Mr Mitchell: the points raised will be addressed when the report is discussed. Janice McDougall confirmed that there had been consultation with all three iwi in the district in relation to the proposal change to the governance structure and that consultation was identified in the report.

**6 MEMBERS' BUSINESS**

- (a) Public Speaking Time Responses  
There were none.
- (b) Leave of Absence  
There were none
- (c) Matters of an Urgent Nature (advise to be provided to the Chair prior to the commencement of the meeting)  
There were none

**7 REPORTS****RESOLUTION CO2022/58**

Moved: Mayor K Gurunathan  
 Seconder: Deputy Mayor Janet Holborow  
 That the Council meeting adjourn until 2.40pm.

**CARRIED**


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The Council meeting adjourned at 1.45pm

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The Council meeting resumed at 2.55pm

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**7.1 COUNCIL RESPONSE TO ĀTIWA KI WHAKARONGOTAI CHARITABLE TRUST REVIEW**

Janice McDougall, Group Manager People and Partnerships introduced the report which comes as a response to Ātiawa Ki Whakarongotai Charitable trust's review of their partnership with Kāpiti Coast District Council. Janice McDougall noted that while there had been delays from the Council's end, it is appropriate that a response is given now, and it is acknowledged that there is still more work to be done.

Janice McDougall answered questions from elected members.

**RESOLUTION CO2022/59**

Moved: Mayor K Gurunathan  
 Seconder: Cr James Cootes  
 That the Council:

- A. Formally receives the Ātiawa ki Whakarongotai Charitable Trust's review of its partnership

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## ADDITIONAL COUNCIL MEETING MINUTES

7 JUNE 2022

with Kāpiti Coast District Council and in doing so notes its recommendations for strengthening the partnership, as set out in Appendix One.

- B. Notes the responses of council officers to the findings of the review, and the six themes that guide them, as outlined in this report.
- C. Notes the strong alignment between the Trust's recommendations and the Council's proposed actions, and council officers' commitment to continuing to work with Ātiawa ki Whakarongotai Charitable Trust on a mechanism to enable better partnership around operational planning and delivery.
- D. Endorses the proposed actions developed in response to the Ātiawa ki Whakarongotai Charitable Trust's partnership review findings, as set out in Appendix Two noting that the execution of action nine is the subject of a separate report and will be voted on further to this report
- E. Notes that provision was made within budgets agreed through the Long Term Plan 2021-41 to deliver on the actions arising from the review.
- F. Notes progress on implementing the proposed actions will be reported via the Tāngata Whenua section of the Council's quarterly performance report.
- G. Notes funding for iwi capacity will be reviewed annually to ensure it keeps pace with the growing partnership between Council and its three mana whenua partners

For: Crs K Gurunathan, Janet Holborow, Angela Buswell, James Cootes, Gwynn Compton, Martin Halliday, Sophie Handford and Robert McCann

Against: Crs Jackie Elliott and Jocelyn Prvanov

Abstained: Cr Bernie Randall

**CARRIED**

Cr Compton joined the meeting in person at 3.25pm

## 7.2 MANA WHENUA REPRESENTATION WITHIN COUNCIL'S GOVERNANCE STRUCTURE

Janice McDougall, Group Manager People and Partnerships introduced the report. Ms McDougall noted that Council has a long-standing partnership with the three iwi of the district: Ngā Hapū o Ōtaki, Te Rūnanga O Ngāti Toa Rangatira and Āti Awa Ki Whakarongotai Charitable Trust and it was important to look at how can that partnership be strengthened. Janice McDougall noted that the paper is on the table is a significant progression and it is within the delegations of the Council to make changes to its governance structure.

Janice McDougall and Sarah Wattie, Governance and Legal Services Manager, and Kahu Ropata Iwi Partnership's Manager answered member's questions.

**RESOLUTION CO2022/60**

Moved: Mayor K Gurunathan

Seconder: Cr James Cootes

That the Council:

- A. Adopts the recommended option to enhance mana whenua representation within Council's Governance Structure by:
  - A.1 appointing one representative from Ngāti Toa Rangātira, Ngā Hapū o Ōtaki and Ātiawa ki Whakarongotai Charitable Trust to:
    - A.1.1 the Strategy and Operations Committee, Appeals Hearing Committee and the Grants Allocation Subcommittee with full voting rights from 1 July 2022.

## ADDITIONAL COUNCIL MEETING MINUTES

7 JUNE 2022

A.1.2. attend all Council meetings and receive all papers, with the ability to contribute to the debate but not vote.

A.2 appointing one iwi representative to the Audit and Risk Subcommittee through a formal recruitment and selection process based on relevant qualifications and experience.

- B. Agrees to reimburse each Ngāti Toa Rangātira, Ngā Hapū o Ōtaki and Ātiawa ki Whakarongotai Charitable Trust for the contribution of their representatives as set out in recommendation A above, by paying each iwi an annual fee, equivalent to the remuneration of a full-time elected member (Portfolio B) which is currently \$45,156.
- C. Agrees to reimburse the iwi representative appointed to the Audit and Risk Subcommittee in accordance with Council's non-elected member remuneration and expense policy.
- D. Notes that while one person will be appointed to each committee and subcommittee from each of Ngāti Toa Rangātira, Ngā Hapū o Ōtaki and Ātiawa ki Whakarongotai Charitable Trust, the relevant person nominated by iwi may be different for each committee or subcommittee.
- E. Notes that a number of actions will be undertaken by staff to implement the above resolutions including a letter of appointment to be signed between the Council (via Common Seal) and each iwi representative.
- F. Notes that the representatives nominated by mana whenua for each committee and subcommittee will be brought to Council for formal appointment to the relevant committee(s) as required by the Local Government Act 2022.
- G. Agrees to amend Council's Governance Structure and Delegations 2019-2022 document as follows:
  - G.1 Amend the membership so that one representative from Ngāti Toa Rangātira, Ngā Hapū o Ōtaki and Ātiawa ki Whakarongotai Charitable Trust is appointed to:
    - G.1.1 the Strategy and Operations Committee, Appeals Hearing Committee and the Grants Allocation Subcommittee with full voting rights.
    - G.1.2 attend all Council meetings and receive all papers, with the ability to contribute to the debate but not vote.
  - G.2 Amend the membership of the Audit and Risk Subcommittee so that one iwi representative may be appointed through a formal recruitment and selection process.
  - G.3 Part A Section A.1 Partnership Model – paragraph 7 and 8 be replaced with:
 

"Appointed mana whenua representatives are members of the Strategy and Operations Committee, Appeals Hearing Committee and Grants Allocation Subcommittee. They are full members to these committees and subcommittees with the rights to participate, debate and vote.

Appointed mana whenua representatives have the right to attend all Council meetings and contribute to the debate but not vote. Iwi are to receive all papers relating to Council as well the committees and subcommittees for which they are appointed. Where an iwi has submitted to Council on an issue, or has spoken during public speaking time, the Council iwi representative shall not participate in discussion or debate on that matter.

The Kāpiti Coast District Council Code of Conduct for Elected Members will apply to all members during meetings."
  - G.4 The quorum for meetings be updated as set out in Attachment 1.

For: Crs K Gurunathan, Janet Holborow, Angela Buswell, James Cootes, Gwynn Compton, Sophie Handford and Robert McCann

## ADDITIONAL COUNCIL MEETING MINUTES

7 JUNE 2022

Against: Crs Jackie Elliott, Jocelyn Prvanov, Martin Halliday and Bernie Randall

**CARRIED**

Mayor K Gurunathan left the meeting at 4:29 pm.

Cr Bernie Randall left the meeting at 4:29 pm.

The Council Meeting was adjourned at 4:29pm and resumed at 4.39pm with Cr Holborow chairing the meeting.

### 7.3 ROAD STOPPING AND EASEMENT AGREEMENT – LEGAL ROAD ADJOINING COASTLANDS, OLD STATE HIGHWAY 1

Alison Law, Manager Project Management Office, introduced the report and asked that the report be taken as read. Alison Law and Sean Mallon, acting Chief Executive answered member's questions.

**RESOLUTION CO2022/61**

Moved: Cr Gwynn Compton

Seconder: Cr Martin Halliday

That Council:

- A. Approve the terms of the agreement between Council and Sheffield Properties Limited set out in **Attachment 1** of this 'Road Stopping and Easement Agreement – Legal Road Adjoining Coastlands, Old State Highway 1' report dated 7 June 2022.
- B. Note that the area of road proposed to be stopped is approximately 528 m<sup>2</sup> of land adjoining the Coastlands Shopping Precinct and is shown in red on the map included as **Attachment 2** ('Stopped Road Land').
- C. Agree to seek consent from the Minister for Land Information to stop the area of road described at B under section 116 of the Public Works Act 1981, when that road formally becomes a local road as part of the Old State Highway 1 Revocation.
- D. Should the Minister for Land Information not agree to stop the area of road under the Public Works Act 1981:
  - D.1 Note that Council and the applicant Sheffield Properties Limited, proceed with the road stopping under section 342 of the Local Government Act 1974.
  - D. 2 Agree to initiate the road stopping procedures under the Local Government Act 1974, should both Council and Sheffield Properties Limited agree to proceed under that Act.
- E. Note that upon completion of the road stopping:
  - E.1 The stopped road land will be amalgamated with Sheffield Property Limited's adjoining property title.
  - E.2 Sheffield Properties Limited will grant a relocatable easement to Council for the purpose of providing a public right of way to and from Coastlands Parade, for the benefit of Council, properties located on Coastlands Parade, and the public (see area shown green **Attachment 2**).
  - E.3 The Easement Area will be subject to change by mutual agreement to an equivalent location.
- F. Note that interim measures have been agreed to provide appropriate access in the period following the transition of Old State Highway 1 to local road, but prior to completion of the Road Stopping Process. These measures include:
  - F.1 the issuing of a licence between Council and Sheffield Properties Ltd to allow

**ADDITIONAL COUNCIL MEETING MINUTES****7 JUNE 2022**

Sheffield Properties Limited to have continued use of the area of Stopped Road.

F.2 Sheffield Properties Limited granting, and Council accepting, a 'non-exclusive licence' for the Council and the public to pass and repass over Sheffield Properties Limited's land on a mutually agreed route to gain access to and from Coastlands Parade, for the same duration as the licence noted at F.1.

G. Note that

G.1 the granting of the public right of way easement is conditional upon the successful completion of the road stopping and amalgamation of the Stopped Road land into Sheffield Properties Limited's adjoining property title.

G.2 if the road stopping is unsuccessful, the licence granted under F.1 and non-exclusive licence under F.2, will continue for the term set out in Schedule 1 of the agreement included as **Attachment 1**.

**CARRIED**

**7.4 OMICRON BUSINESS ASSISTANCE PACKAGE FOR KAPITI COAST BUSINESSES**

Mark Ward, Economic Development Manager, introduced the report. Mr Ward noted that there has been an ongoing downward trend in the most recent data available. The Council has been very supportive during Covid, including moving into the Omicron phase.

Mark Ward and Sean Mallon, acting Chief Executive, answered member's questions.

Elected members thanked the economic development team for the work they have been doing to support businesses during this difficult time.

**RESOLUTION CO2022/62**

Moved: Cr Martin Halliday

Seconder: Cr Robert McCann

That Council:

- A. approve additional funding of \$50,000 in the 2022/ 23 FY to undertake targeted marketing support to help promote local hospitality and retail businesses.
- B. approve the waiver of food licence fees for 12 months, retrospectively from 1 March, affecting 347 businesses (total expense \$45,474)

**CARRIED**

Cr Buswell and Cr Cootes stepped back from the table due to their conflict of interest which they identified at item 4 above and both abstained from voting.

Cr Gwynn Compton left the meeting at 4:59 pm.

Cr Gwynn Compton returned to the meeting at 5:01 pm.

**8 PUBLIC SPEAKING TIME**

- Public Speaking Time responses – there were none.

**ADDITIONAL COUNCIL MEETING MINUTES**

**7 JUNE 2022**

**9 CONFIRMATION OF PUBLIC EXCLUDED MINUTES**

There were none.

The Council meeting closed at 5.11pm

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**CHAIRPERSON**



**12 PUBLIC SPEAKING TIME**

- Covering other items if required
- Public Speaking Time responses

**13 CONFIRMATION OF PUBLIC EXCLUDED MINUTES**

Nil

**14 PUBLIC EXCLUDED REPORTS**

Nil