



# **RĀRANGI TAKE AGENDA**

## **Kaunihera | Council Meeting**

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

**Te Rā | Date: Thursday, 28 November 2024**

**Te Wā | Time: 9.30am**

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

**Darren Edwards  
Chief Executive**

**Kāpiti Coast District Council**

**Notice is hereby given that a meeting of the Kāpiti Coast District Council will be held in the Council Chamber, Ground Floor, 175 Rimu Road, Paraparaumu, on Thursday 28 November 2024, 9.30am.**

**Kaunihera | Council Members**

Mayor Janet Holborow	Chair
Deputy Mayor Lawrence Kirby	Deputy
Cr Glen Cooper	Member
Cr Martin Halliday	Member
Cr Sophie Handford	Member
Cr Rob Kofoed	Member
Cr Liz Koh	Member
Cr Jocelyn Prvanov	Member
Cr Kathy Spiers	Member
Cr Shelly Warwick	Member
Cr Nigel Wilson	Member

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**1 NAU MAI | WELCOME****2 KARAKIA A TE KAUNIHERA | COUNCIL BLESSING**

I a mātou e whiriwhiri ana i ngā take kei mua i ō mātou aroaro *As we deliberate on the issues before us,*

E pono ana mātou ka kaha tonu ki te whakapau mahara huapai mō ngā hapori e mahi nei mātou. *We trust that we will reflect positively on the communities we serve.*

Me kaha hoki mātou katoa kia whaihua, kia tōtika tā mātou mahi, *Let us all seek to be effective and just,*

Ā, mā te māia, te tiro whakamua me te hihiri *So that with courage, vision and energy,*

Ka taea te arahi i roto i te kotahitanga me te aroha. *We provide positive leadership in a spirit of harmony and compassion.*

**3 WHAKAPĀHA | APOLOGIES****4 TE TAUĀKĪ O TE WHAITAKE KI NGĀ MEA O TE RĀRANGI TAKE | 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 TE WHAKATAKOTO PETIHANA | PRESENTATION OF PETITION

### 5.1 CHANGING THE STATUS OF THE LAND AT THE END OF MOY PLACE, ŌTAKI

Kaituhi | Author: **Kate Coutts, Advisor Governance**

Kaiwhakamana | Authoriser: **Darren Edwards, Chief Executive**

#### TE PŪTAKE | PURPOSE

- 1 A representative of Moy Place and Sue Avenue residents will present a petition on behalf of 44 (forty-four) signatories regarding changing the status of the land at the end of Moy Place cul-de-sac, Ōtaki (Record of Title: 400672 Lot 72 DP 400543).

#### TAUNAKITANGA | RECOMMENDATIONS

- A. That the Council receive the petition.

## 6 NGĀ WHAKAWĀ | HEARINGS

## 7 HE WĀ KŌRERO KI TE MAREA MŌ NGĀ MEA E HĀNGAI ANA KI TE RĀRANGI TAKE | PUBLIC SPEAKING TIME FOR ITEMS RELATING TO THE AGENDA

## 8 NGĀ TEPUTEIHANA | DEPUTATIONS

### 8.1 DEPUTATION FROM LOCAL GOVERNMENT NEW ZEALAND

Kaituhi | Author: **Evan Dubisky, Advisor Governance**

Kaiwhakamana | Authoriser: **Darren Edwards, Chief Executive**

#### TE PŪTAKE | PURPOSE

- 1 Amanda Wells, Director Member Engagement at Local Government New Zealand, and Toby Adams, National Council Member, are attending remotely to speak to the attached report.

#### NGĀ ĀPITIHINGA | ATTACHMENTS

1. LGNZ Four-Monthly Report for Member Councils July-October 2024 (under separate cover)



## 9 NGĀ TAKE A NGĀ MEMA | MEMBERS' BUSINESS

- (a) Leave of Absence
- (b) Matters of an Urgent Nature (advice to be provided to the Chair prior to the commencement of the meeting)

## 10 TE PŪRONGO A TE KOROMATUA | MAYOR'S REPORT

## 11 PŪRONGO | REPORTS

### 11.1 CLASSIFICATION OF THE LAND AT THE INTERSECTION OF POPLAR AVENUE AND RENOWN ROAD, RAUMATI SOUTH, UNDER THE RESERVES ACT 1977

Kaituhi | Author: **Yolanda Morgan, Team Leader Open Space Planning**

Kaiwhakamana | Authoriser: **Brendan Owens, Group Manager Customer and Community**

#### TE PŪTAKE | PURPOSE

- 1 This report seeks a resolution from Council to declare and classify the parcel of land located at the intersection of Poplar Avenue and Renown Road, Raumati South (Section 110 Wainui District WN27B/669), as Recreation Reserve in accordance with section 14 and section 16 (1) of the Reserves Act 1977.

#### HE WHAKARĀPOPOTO | EXECUTIVE SUMMARY

- 2 Council officers received a request in August to investigate the possibility of officially naming the park located the corner of Poplar Avenue and Renown Road after respected community member Leon Kiel.
- 3 On the 12<sup>th</sup> November the Raumati Community Board passed a resolution, under delegated authority, to name the park “Leon Kiel Reserve”, in the event that Council passes a resolution to declare the land a reserve under the Reserves Act 1977.
- 4 The land is currently fee simple land, that was vested in Council from the Crown in 1985.
- 5 The initial request to name the land, investigation into the status of the land, and the subsequent decision by the Community Board, has resulted in this recommendation to Council to declare the land a reserve.
- 6 This report recommends that the land is declared recreation reserve, to provide for the ongoing enjoyment and benefit of the land by the public. Should a decision be made by Council to declare the land a reserve, the land will be named “Leon Kiel Reserve”.
- 7 Should the Council decide not to declare the land a reserve in accordance with the Reserve Act, the land can be named “Leon Kiel Park, in accordance with the Local Government Act 2002. In this case, the land will not be afforded the full protection of reserve status under the Reserves Act 1977.

#### TE TUKU HAEPAPA | DELEGATION

- 8 In accordance with section 14 (1) of the Reserves Act 1977, and the authority delegated from the Minister to territorial authorities (2013), the Council has the power to declare any land vested in it to be a reserve within the meaning of the Act.
- 9 In accordance with the ‘Instrument of Delegations for Territorial Authorities’ (2013) the Council has the delegation to cause the resolution to be gazetted in accordance with section 14 (4), resulting in the land being deemed classified in accordance with section 16 (2).

**TAUNAKITANGA | RECOMMENDATIONS**

- A. That Council declare Section 110 Wainui District WN27B/669 as a reserve under the Reserves Act 1977, to be held for the purposes of recreation in accordance with section 17.
- B. That the Council resolution set out in A above, be published in the New Zealand Gazette, along with the notice to name the reserve Leon Kiel Reserve.

**TŪĀPAPA | BACKGROUND**

- 10 On the 22<sup>nd</sup> August 2024, Raumati Community Board Chair, Bede Laracy, enquired with staff as to the status of the parcel of land at the intersection of Poplar Avenue and Renown Road. The land has been informally known to locals as “Leon Kiel Park” and it was requested that staff investigate officially naming the land after respected community member Leon Kiel, who passed away in 2009.
- 11 Council officers conducted a review of the status of the land and determined that the land is currently held by the Kāpiti Coast District Council as fee simple land, following the vesting of the land from the Crown in 1985.
- 12 On the 12 November the Raumati Community Board passed a resolution, under delegated authority, to name the land Leon Kiel Reserve, if Council passes a resolution to declare the land as a reserve in accordance with the Reserves Act 1977.
- 13 The land is included as part of a “bulk classification process” currently being undertaken by staff to identify and classify Council land held for Open Space purposes under the Reserves Act 1977. However, the request has prompted the declaration and classification of this parcel of land to be brought forward.

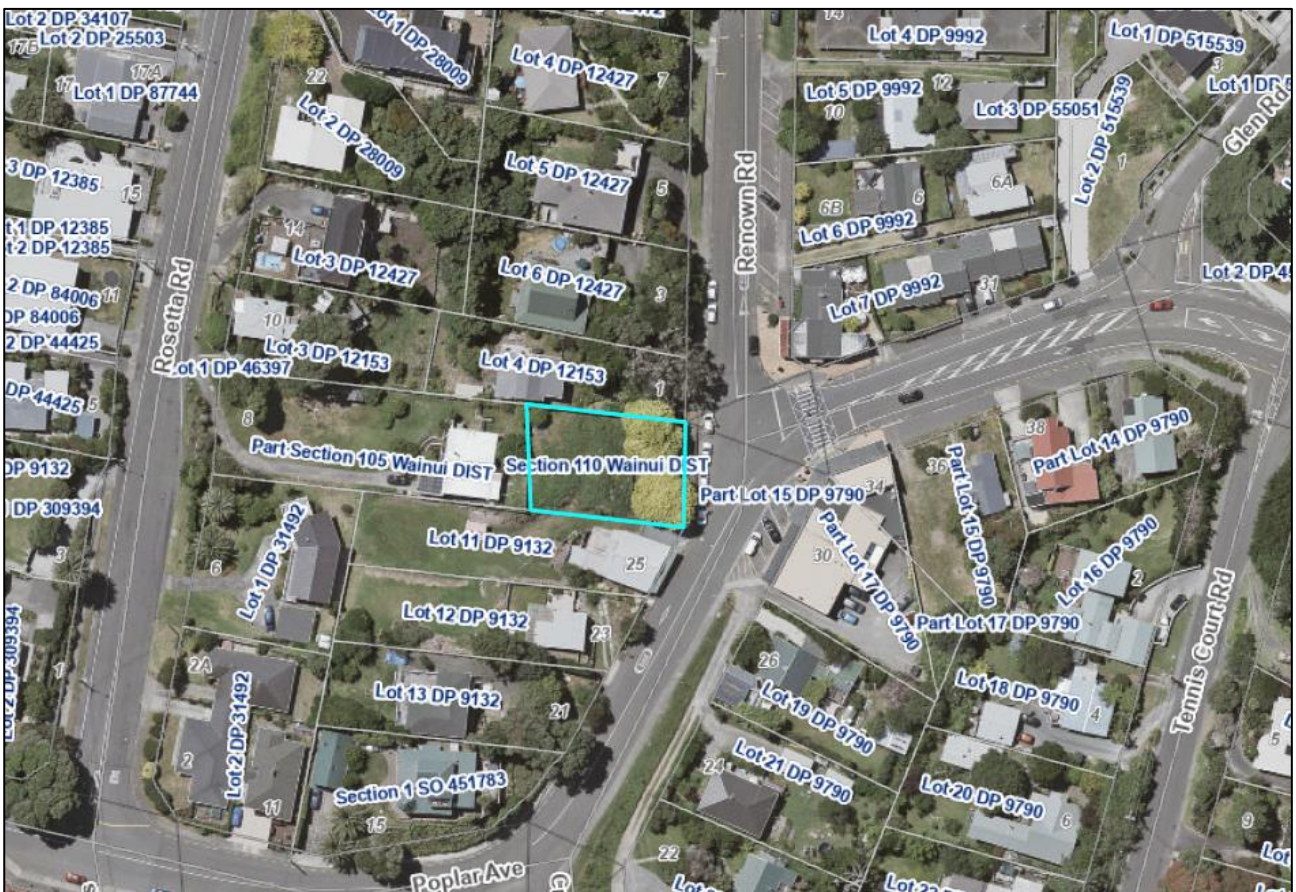


Figure One – The proposed reserve at the corner of Poplar Avenue and Renown Road



**HE KŌRERORERO | DISCUSSION**

- 14 Under the Reserves Act 1977, and the delegation from the Crown to territorial authorities, Council can pass a resolution to declare land as a reserve, and classify land for a specific purpose, in accordance with the Act. This power has not been sub-delegated.
- 15 Once a resolution is passed to declare land as a reserve, a notice must be published in the gazette declaring the land as a reserve and the reserve can simultaneously be named.
- 16 As the Raumati Community Board has passed a resolution to name the land “Leon Kiel Reserve” if Council decides to pass a resolution to declare the land a reserve for recreation purposes, the gazette notice can also record that decision.
- 17 In accordance with the Reserves Act 1977, the declaration of land as a reserve and the classification of that land, does not require public notification if the intended use of the land is in conformity with the Operative District Plan.
- 18 In this case, the subject land is zoned Open Space – Local Parks Precinct. As the District Plan makes provision for the use of the land for open space, the declaration of this land as a recreational reserve is in accordance with the Plan’s provisions and intent and therefore public notification is not required. This recognises that the use of a land as a recreational open space has already been through a public process at the time it was zoned.
- 19 The declaration of the land as a recreational reserve allows the land, which is currently managed, maintained and used as a community park, to be named “Leon Kiel Reserve”. It also will provide the additional protection of the land as a reserve under the Act.
- 20 Should the resolution be passed to declare the land a reserve, it will be included in the current review of Council’s Reserve Management Plans and a development plan could be developed in consultation with the local community.

**He take | Issues**

- 21 The matter is not considered significant under the criteria contained within the Council’s Significance and Engagement Policy 2024. The declaration of the subject land as a recreation reserve formalises and protects the current use of the land and is consistent with the District Plan zoning.

**Ngā kōwhiringa | Options**

- 22 There are three options presented below. Option C – *Declare the land as a Recreation Reserve*, is the recommended option.

**Table 1: Table Name**

<b>Kōwhiringa   Options</b>	<b>Hua   Benefits</b>	<b>Tūraru   Disadvantages</b>
Option A - Do nothing The land will remain fee simple land in Council ownership.	Council has the flexibility to manage and dispose of the land without being subject to the controls and procedures within the Reserves Act 1977(public notification).	The land could be subject to a Public Works Act acquisition.  The land could be disposed or developed for other purposes (subject to planning approvals).  However, as the land has an established use as a park, the Local Government Act requirement to consult will likely be triggered.
Option B – Name the land “Leon Kiel Park”	Council has the flexibility to manage and dispose of the land	The land could be subject to a Public Works Act acquisition.

Do not declare the land a reserve, but name the land "Leon Kiel Park"	without being subject to the controls and procedures within the Reserves Act 1977, which require public notification.	The land could be more easily disposed or developed for other purposes (subject to planning approvals).  Should Council choose to dispose of the land, must "consult" on the disposal of the park in accordance with the Local Government Act 2002.
Option C – Declare the land Recreation Reserve  Declare the land as recreational reserve in accordance with the Reserves Act and give notice of the proposed name of the reserve "Leon Kiel Reserve" in the gazette notice.	Declaring the land as a reserve provides for the on-going protection of the land for the benefit and enjoyment of the public.  Through the Raumati Community Board a decision has been made to name the park after the late Leon Kiel. This option is the most protective mechanism to ensure that the land continues to be used as public open space, and the name of the land will not be lost through future development of the land for other activities.  A legally enforceable Reserve Management Plan can only be prepared for land classified under the Act.	Revocation of reserve status will be necessary for any other use of the land. Revocation process is time consuming, involves full public notification and a hearing and could be subject to judicial review.

### Mana whenua

- 23 Āti Awa ki Whakarongotai Charitable Trust were consulted over the naming of the reserve, prior to the paper being taken to the Raumati Community Board. The feedback from the trust was positive, stating that it sounded like Leon Kiel carried out a lot of great work for the environment and it was great to see that being honoured.
- 24 Āti Awa ki Whakarongotai Charitable Trust suggested, that in time, a te reo name could also be added to the park. This suggestion was supported by the Raumati Community Board at their meeting and Council officers have reached out to the Trust to progress this, with an option of doing it now or via the existing partnership project on the classification of all of Council unclassified reserves. An updated response from iwi can be provided at the time of the Council meeting.

### Panonitanga Āhuarangi me te Taiao | Climate change and Environment

- 25 This decision will have a positive impact on Council's ability to respond to the impacts of climate change by protecting an area of open space within the centre of the Raumati South Community from built development.

### Ahumoni me ngā rawa | Financial and resourcing

- 26 Should the land be declared a reserve and be named after Leon Kiel, the resolution will be included in the gazette at a cost of less than \$500. A new sign will be crafted and installed on site. This would be at a cost of approximately \$1,200 and can be covered within existing budget.

**Tūraru ā-Ture me te Whakahaere | Legal and Organisational Risk**

- 27 Not declaring the land a reserve means that it does not benefit from the protection of the provisions of the Reserve Act 1977.
- 28 The resolution to declare the land a recreational reserve must following the process in the Reserves Act 1977. Council has previously sought legal advice on when public notification is required to declare and classify land under the Reserves Act and when a non-notified process can be followed. As set out above, as this land is provided for in the Operative District Plan as Open Space, public notification of this intention is not necessary.

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

- 29 Council does not have a specific policy on declaring and classifying land currently vest in it under the Reserves Act 1977. The Council's Open Space Strategy states that Council may choose not to formally classify new land acquisitions to allow for flexibility in future use and development.
- 30 While there is no formal policy on when Council will declare and classify existing open space land, staff are currently working with iwi partners to identify and appropriately classify existing land held by Council. This includes reviewing more than 400 parcels of open space land currently managed by Council. Only land declared and classified under the Act can be the subject of an enforceable Reserve Management Plan.

**TE WHAKAWHITI KŌRERO ME TE TŪHONO | COMMUNICATIONS & ENGAGEMENT****Te mahere tūhono | Engagement planning**

- 31 An engagement plan is not needed to implement this decision. Council will communicate this decision through its established communication channels, including the gazette notice.

**Whakatairanga | Publicity**

- 32 Should the resolution be passed, a notice will be published in the gazette. Following gazettal, officers will work with the community board, iwi and the Kiel family to organise a naming ceremony at the site.

**NGĀ ĀPITI HANGA | ATTACHMENTS**

1. Site Photos [↓](#)
2. Record of Title [↓](#)
3. Paper to Community Board - Reserve Naming [↓](#)
4. Proposed Leon Kiel Reserve [↓](#)





















## 11.2 DEDICATING LOCAL PURPOSE (ROAD) RESERVE AS ROAD

Kaituhi | Author: **Kieran Lamberton, Senior Advisor Property**

Kaiwhakamana | Authoriser: **Kris Pervan, Group Manager Strategy & Growth**

### TE PŪTAKE | PURPOSE

- 1 To obtain a Council decision on the dedication of a parcel of Local Purpose Reserve (Road), described as Lot 72 DP 400543, as legal road (pursuant to section 111 of the Reserves Act 1977).

### HE WHAKARĀPOPOTO | EXECUTIVE SUMMARY

- 2 An executive summary is not required for this paper.

### TE TUKU HAEPAPA | DELEGATION

- 3 The Council has the delegation under Section A2 of the Governance Structure and Delegations 2022-2025 Triennium.

### TAUNAKITANGA | RECOMMENDATIONS

That Council:

- A. **Notes** that the legislative requirements for this decision have been met through the engagement approach undertaken.
- B. **Notes** the assessment undertaken by Council officers regarding the criteria relevant to the decision on the application for dedication of Lot 72 DP 400543 as legal road (currently held as Local Purpose Reserve (Road)).
- C. **Approves** the dedication of Lot 72 DP 400543 as legal road (currently held as Local Purpose Reserve (Road)). See Appendix 1 for Location of road reserve
- D. **Authorises** the Chief Executive to take all necessary steps to give effect to this resolution.

### TŪĀPAPA | BACKGROUND

#### Totara Park (Sue Avenue and Moy Place)

- 4 On 23 April 2007 resource consent (RM060351) for the Totara Park development in Ōtaki (which includes Sue Avenue and Moy Place) was granted by Kāpiti Coast District Council. As part of the subdivision, Lot 72 DP 400543 was vested as Local Purpose Reserve (Road) and intended to provide access to the adjoining land Lot 1 DP 4176 (33 Main Highway Ōtaki).
- 5 The vesting of land as Local Purpose Reserve (Road) (under the Reserves Act) is a mechanism, which transfers land for future road to the Council and allows Council to control when a legal road is provided for a future adjoining development.

#### Moy Estate

- 6 On 9 August 2023 an application to subdivide 33 Main Highway, Ōtaki, being Part Lot 1 DP 4176, was lodged with the Environmental Protection Authority (EPA) under the COVID-19 (Fast-track Consenting) Act 2020. This application and associated material are available on the EPA website under Fast Track Consenting, Referred Projects, Moy Estate.
- 7 The application proposed to undertake works to extend Moy Place, to provide access to the internal roading network of the new subdivision. This would result in the only access to the development from the Main Highway being via Sue Ave and Moy Place. The extension would require the utilisation of Lot 72 DP 400543 to provide legal access to the development.

- 8 The Minister for the Environment granted the application for referral to an expert consenting panel (independent decision-making bodies set up for each fast-track project) and an Order of Council referral order was issued on 11 June 2023.

### EPA process and decision

- 9 On 15 July 2024, the Moy Estate expert consenting panel (the Panel) issued its decision to approve the fast track consent subject to conditions. One of the conditions of the consent required *Lot 72 DP 400543* to be dedicated as road, the condition read:
- “Before the consent holder can seek the first s224(c) RMA certification for the Project, the Council must have resolved that Record of Title: 400672 (Lot 72 DP 400543), which is currently held as a Local Purpose Reserve (Road), be dedicated as a road pursuant to the Reserves Act 1977”*
- 10 Although Council was not the decision maker on the application during the fast-track consent process, Council directly received correspondence from local residents in relation to the proposal. This correspondence raised a number of concerns, which Council heard. As background on this matter we briefed Councils on the following:
- 10.1 The residents engaged Harriet Fraser, of Harriet Fraser Traffic Engineering and Transport Planning and Monique Leith, of Leith Consulting, to complete a review of the transport and planning matters on their behalf. After a meeting with residents and their planning and transportation experts the residents requested that a Safe Systems Assessment (SSA) be commissioned by Council, to review the safety aspects of several different access options for the proposed development.
- 10.2 Subsequently, Council’s Access and Transport team engaged Urban Connections to undertake an independent SSA to assess the access options for the development. Prior to the SSA commencing the residents’ own transportation expert, Harriet Fraser, provided input into the scenarios, options and scope. Harriet’s Transportation Review was also forwarded to Urban Connections at the request of the residents. A copy of the Urban Connections’ SSA along with other technical information was provided to the local residents, the applicant and the Panel.
- 10.3 The design options considered in Council’s SSA included a variety of traffic scenarios. The two main access options assessed were:
- 10.3.1 Utilising the existing Sue Avenue/ Main Highway intersection
- 10.3.2 A new intersection further south to access the development directly from the Main Highway.
- 10.4 Other variables such as land use, speed and different growth scenarios were also considered when assessing the access options.
- 10.5 The Urban Connections’ SSA identified the proposal for access from Sue Ave/Moy Place had the greatest alignment with the safe system principles, when compared to other options. This was essentially the access option and arrangement proposed by the developer.
- 10.6 At any time before the expert consenting panel issued its final decision on the Moy Estate application, it was able to direct the EPA to commission a report on an issue relevant to the application or request further information under clause 25(1) of Schedule 6 of the COVID-19 Recovery (Fast-track Consenting) Act 2020.
- 11 The Panel appointed an independent technical transport adviser, Mr Leo Hills, Director at Commute Transportation Consultants Limited, to assist them in relation to: (a) determining requests for further information; (b) undertaking peer reviews of the technical assessments provided in support of the application; (c) evaluating any technical assessments provided in the response to comments; and (d) preparing technical reports to assist the Panel in their decision-making.

- 12 On the basis of the independent technical advisor, the EPA did not impose a condition limiting operational (day-to-day) access to the Moy Estate development from Main Highway. The Panel did, however, impose conditions requiring works to ensure the safety and efficiency of the Main Highway / Sue Avenue intersection and the route through Sue Avenue and Moy Place to the development. Appendix 2: Feedback from affected residents highlights the Panel's responses to specific transportation concerns raised during their process, and concerns raised during Council's processes to inform the current decision.

## HE KŌRERORERO | DISCUSSION

- 13 To comply with conditions of consent made by the EPA, the landowner of 33 Main Highway, Ōtaki, applied to the Council to consider changing Lot 72 DP 400543 (currently Local Purpose Reserve (Road) into legal road. The Panel's recommendation is attached in Appendix 3.
- 13.1 Should Council resolve to change the status of this Local Purpose Reserve (Road) to legal road, the condition of resource consent relating to the dedication of Local Purpose Reserve (Road) as road will be satisfied.
- 13.2 Should Council resolve **not** to change the status of this Local Purpose Reserve (Road) to legal road, the condition of resource consent relating to the dedication of Local Purpose Reserve (Road) as road will not be satisfied and the development will be unable to proceed under the existing resource consent.
- 14 The following sections of this paper provide relevant information for consideration of the decision about whether or not to dedicate the Local Purpose Reserve (Road) as legal road.

### Consent process

- 15 The COVID-19 Recovery (Fast-track Consenting) Act 2020 states that expert consenting panels must not give public or limited notification about a consent application or notice of requirement. However, panels must invite written comments from some people or groups listed in the Act.
- 16 As part of the consent process for the Moy Estate development, the EPA panel invited written comments on the application. A number of invited parties (including local residents) provided comments opposing the proposed extension of the Moy Place to form a road into the residential development. The following discusses this in further detail.

### He take | Issues

#### *Application of legislation for Local Purpose Reserve decisions*

- 17 To convert from a Local Purpose Reserve (Road) to legal road, Council must follow a statutory process under either the Reserves Act 1977 or Public Works Act. Council determined that the Reserves Act 1977 was most relevant on the basis of legal advice on this matter:
- 17.1 The Reserves Act 1977 provides that where any land is vested in the Crown or in any local authority for the purposes of a road reserve, and the land is then required for the purposes of a road, the land may be dedicated as a road by notice under the hand of the Minister or, as the case may be, by resolution of the local authority, and lodged with the Registrar-General of Land.
- 18 Key considerations related to relevant legislation, given Council's decision include:
- 18.1 The Reserves Act 1977 under section 111 provides a local authority with the authority to convert a Local Purpose Reserve (Road) to road. Council must make this decision at a meeting of the local authority. If Council decides to convert a Local Purpose Reserve (Road) to road, a notice will be published in the New Zealand Gazette and registered against the record of title. On publication and registration of that notice at LINZ, the land status will change from reserve to road.

- 18.2 The Reserves Act 1977 does not require Council to undertake any specific public consultation or engagement process under section 111, other than publication of the notice in the New Zealand Gazette.
- 18.3 However, as with all decision-making, the Council must comply with the Local Government Act 2002 (LGA) provisions sections 77, 78, 80, 81 and 82. Relevant requirements under the LGA include:
- Section 77 - a local authority must, in the course of the decision-making process seek to identify all reasonably practicable options for the achievement of the objective of a decision; and assess the options in terms of their advantages and disadvantages
  - Section 78 - a local authority must, in the course of its decision-making process in relation to a matter, give consideration to the views and preferences of persons likely to be affected by, or to have an interest in, the matter. Note: a local authority is not required by section 78 alone to undertake any consultation process or procedure, and this section is subject to section 79.
  - Section 79 – a local authority must assess how to comply with sections 77 and 78 in proportion to the significance of the matter as determined by Council’s Significance and Engagement Policy. In making this assessment, Council must also have regard to the matters set out in section 79(2) include the principles in section 14 of the LGA, Council resources, and the extent to which the nature of a decision or the circumstances in which a decision is taken, allow the local authority scope and opportunity to consider a range of options or the views and preferences of other persons.
  - Section 82 – where a local authority decides to undertake formal consultation in relation to a decision or other matter, a local authority must comply with the principles set out in this section, which sets out a process for formal consultation under the LGA. This does not preclude Council from undertaking other forms of engagement with the community that is not consultation.
  - The principles under section 14 are various but relevant principles to note include giving effect to its identified priorities and desired outcomes in an efficient and effective manner; making itself aware of, and should have regard to, the views of *all* of its communities; and taking account of the diversity of the community, and the community’s interests, within its district or region, the interests of future as well as current communities, and the likely impact of any decision on each aspect of well-being.
- 19 Council is required to determine the significance of the decision in accordance with section 79 of the Act, in relation to the Council’s Significance and Engagement (refer here to the policy here). Council officers have assessed this decision as low significance, against the criteria set out in the policy.
- 20 Council’s process has therefore ensured we have met legislative requirements set via relevant legislation noted above. Of note, Council:
- 20.1 Does not consider there is a requirement to formally consult in relation to Sections 82 and 82A of the Local Government Act.
- 20.2 Decided to engage with those potentially impacted by the decision to inform Council’s decision. Noting that on 4 September 2024 Council provided an opportunity for potentially affected residents to provide their perspective into the current decision-making process to change the Local Purpose Reserve (Road) to legal road.

*Decision Council is asked to consider today*

- 21 The decision required of Council today is whether or not to dedicate a parcel of Local Purpose Reserve (Road), described as Lot 72 DP 400543, as legal road.



- 22 Council officers sought legal advice on the key considerations that should be considered in making this decision, given that the application was progressed off the back of a decision on the resource consent progressed by the EPA. In making this decision, Councillors must consider the views and preferences of people likely to be affected by or to have interest in the matter as well as other principles in the Local Government Act.
- 23 The key areas relevant to this decision are noted below:

Assessment criteria	Relevant information	Officer assessment
Original development and intention for road	Resource consent (RM060351) was granted for the Totara Park development to create 34 residential allotments, with additionally: <ul style="list-style-type: none"> <li>• 1 Lot to Vest as Road (Sue Ave &amp; Moy Place)</li> <li>• 2 Lots to Vest as Road Reserve (for future roading connections to the adjoining land to the north and to the adjoining land to the south),</li> <li>• 1 Lot to Vest as Local Purpose Reserve (playground vested in Council as a recreation reserve).</li> </ul>	Intended for future roading connection.
Growth Strategy	The Growth Strategy applies Government direction and new laws – notably the requirements for greater intensification in the National Policy Statement on Urban Development. It takes account of planning for development of the region and our contribution to the Wellington Regional Growth Framework and its impact on our district.	Development supports growth strategy intentions.
Fast-track decision	On 15 July 2024, the EPA Moy Estate expert consenting panel issued its decision to approve the fast track consent subject to conditions.	EPA approved resource consent, with conditions, and determined that transport issues including safety were addressed.
Legislative requirements around consultation	Although Council is not required to consult under 82 and 82A, Elected Members received a copy of all feedback from potentially impacted residents on 22 October 2024 and heard from those who wished to speak directly to Council about their concerns. Key feedback themes are summarised in Appendix 2: Feedback from affected residents, along with Council officers’ advice regarding the issues raised. Much of the feedback from this process affirmed what Council had already shared with the EPA and Council through the Fast-Track Process. Of note: <ul style="list-style-type: none"> <li>• Views presented in written and verbal feedback to Council as part of this process, indicate that residents of Moy Place and Sue Avenue remain concerned about the impact that the application for road dedication, if approved, will have for them.</li> <li>• Some residents expressed that there have been changes since the initial dedication of the lot as Local Purpose Reserve (Road), that should be</li> </ul>	Community concerns raised around transport flow and safety which officers believe have or will be addressed through development design and conditions set by the EPA.

Assessment criteria	Relevant information	Officer assessment
	<p>considered in Council's decision making. This includes:</p> <ul style="list-style-type: none"> <li>○ An increase in the number of lots, compared to those proposed for a possible future subdivision at the time some residents purchased their homes.</li> <li>○ Changes to roading arrangements that are upcoming, being a possible opportunity to reassess speeds and other arrangements, that may change the consideration of the relative safety of direct access to the Main Highway.</li> <li>○ These concerns are addressed at item 3 and 9 in Appendix 2: Feedback from affected residents.</li> </ul>	

### Ngā kōwhiringa | Options

24 Two options are proposed for Council consideration: -

**Table 1:**

Kōwhiringa   Options	Hua   Benefits	Tūraru   Risks
<p>Option A (recommended)</p> <ul style="list-style-type: none"> <li>• Resolve to dedicate the Local Purpose Reserve (Road) as legal road</li> </ul>	<ul style="list-style-type: none"> <li>• Will provide access for future housing development in line with fast-track consent conditions.</li> <li>• Enable the subdivision to progress in a timely manner.</li> <li>• Utilise land for its planned purpose, to provide access to the adjoining property.</li> </ul>	<ul style="list-style-type: none"> <li>• Potential for judicial review of decision brought by those opposed to the action.</li> </ul>
<p>Option B</p> <ul style="list-style-type: none"> <li>• Resolve to not dedicate the Local Purpose Reserve (Road) as road</li> </ul>	<ul style="list-style-type: none"> <li>• Concerns raised by those members of the community opposed to the action will be alleviated.</li> </ul>	<ul style="list-style-type: none"> <li>• Potential for judicial review of decision brought by the developer of Moy Estate.</li> <li>• Developer could walk away from developing land/building new houses (as a new consent would likely need to be progressed via the EPA).</li> </ul>

### Council officers assessment against criteria

25 On balance, having considered all elements of criteria for this decision, including the issues raised by residents in Appendix 2: Feedback from affected residents, Council officers recommend proceeding with Option A, which is to dedicate the Local Purpose Reserve

(Road) as legal road. This aligns best with the expert advice received by Council's Access and Transport team that was considered as part of the EPA fast-track consenting process which is relevant to the decision at hand.

### Mana whenua

- 26 Further iwi consultation on the matter being considered by Council is not considered necessary. This is because the proposed dedication of the land as road is an administrative transaction required to formalise legal access over land which has already been reserved for a future road.
- 27 However, it should be noted that the cultural impact assessment provided by Ngā Hapu o Ōtaki into the EPA consent included the recommendation that, in response to concerns Ngā Hapu heard from Moy place residents, a condition of the resource consent includes:
- 'The development of a new vehicle accessway onto Main Road to avoid the use of Moy Place'.*
- 28 While this was not a condition imposed by the EPA, the consent is conditional on the transfer of the road reserve to legal road.

### Panonitanga Āhuarangi me te Taiao | Climate change and Environment

- 29 There are no climate change effects directly related to the change of legal status of the subject parcel.
- 30 Environmental effects have been assessed as part of the fast-track consenting process for the wider development.

### Ahumoni me ngā rawa | Financial and resourcing

- 31 There are no financial costs to Council in relation to the recommendation. All costs associated with the change of status from a Local Purpose Reserve (Road) to a legal road will be met by the applicant, including forming of the road.

### Tūraru ā-Ture me te Whakahaere | Legal and Organisational Risk

- 32 Council has sought legal advice in relation to this decision. All legal requirements under the Reserves Act and Local Government Act 2002 have been met in relation to proposed dedication of Local Purpose Reserve (Road) as road.
- 33 If Council approves the resolution to dedicate the Local Purpose Reserve (Road) as road, a notice will be published in the New Zealand Gazette and registered against the land title. On publication and registration of that notice at LINZ, the land status will change from reserve to road. Councils' solicitors will prepare the necessary documentation if this recommendation is approved.
- 34 All decisions made by Council have some risk of judicial review. Council must ensure in making its decisions that they are made according to the law, are fair and reasonable. This includes ensuring there is no bias or predetermination in making a decision, complying with legitimate expectations of the community (to the extent that historical decisions may be relevant), and that decisions are supported by the available information. In addition, Council must ensure that decisions only account for relevant considerations (and no irrelevant considerations), and that there are no errors in fact or law.

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

- 35 There is no specific impact on Council policy.

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

- 36 Council has outlined above at paragraphs 33 – 39 the engagement undertaken with affected residents, as well as the requirements under the LGA for this decision.

**Te mahere tūhono | Engagement planning**

- 37 An engagement plan has been prepared to implement a decision. Council will communicate the decision accordingly through established communication channels.

**Whakatairanga | Publicity**

- 38 After Councillors have made their decision regarding the road reserve in Moy Place, it will be released via media statement and on the Council website.

**NGĀ ĀPITI HANGA | ATTACHMENTS**

1. Location of road reserve [↓](#)
2. Feedback from affected residents [↓](#)
3. Decision document executive summary [↓](#)











### 11.3 ECONOMIC DEVELOPMENT OPERATING MODEL

Kaituhi | Author: **Mark Ward, Economic Development Manager**

Kaiwhakamana | Authoriser: **Kris Pervan, Group Manager Strategy & Growth**

#### TE PŪTAKE | PURPOSE

1. This paper seeks Council's in principal approval of the documents and steps required to implement the new Economic Development operating model.

#### HE WHAKARĀPOPOTO | EXECUTIVE SUMMARY

2. An Executive Summary is not required.

#### TE TUKU HAEPAPA | DELEGATION

3. Council has authority to make this decision.

#### TAUNAKITANGA | RECOMMENDATIONS

That Council:

- A. **Note** the proposed implementation approach and timeline for the new Operating Model for Economic Development including next steps set out in paragraph 17 of this paper.
- B. **Approve** in principle the Trust Deed (attached in Appendix 2).
- C. **Approve** in principle the Relationship Framework Agreement between the Trust and Council (attached in Appendix 3).
- D. **Approve** in principle the Constitution of the Limited Liability Company (LLC) between the Trust and LLC (attached in Appendix 4).
- E. **Approve** the Relationship Framework Agreement between the LLC and Council (attached in Appendix 5).
- F. **Approve** the process for appointing board members to the Trust and the composition of the Trust Board.
- G. **Approve** transitioning the Economic Development Kotahitanga Board to constitute interim Board of the LLC, as company directors for the purpose of continuity.
- H. **Delegate** authority for the Mayor and Chief Executive to make any legally non-significant amendments to the items approved in recommendations B-E of this paper, following feedback from the appointed Trustees.

#### TŪĀPAPA | BACKGROUND

4. On 29 August 2024, Council approved in principle the new operating model for the Economic Development Kotahitanga Board (EDKB) comprising two entities:
  - 4.1. An independent Charitable Trust, and
  - 4.2. A Limited Liability Company (operating as a General-Purpose Vehicle).
5. Key points from the paper considered by Council included that:
  - 5.1. The EDKB has already made significant progress in overseeing the delivery and implementation of the Economic Development Strategy and Implementation Plan 2020
  - 5.2. However, as discussed in previous workshops with Council, the current model has a number of limitations. These include the EDKB's inability to:

- Enter into contracts directly with government agencies, investors, and strategic partners.
  - Maximise opportunities to secure investment, funding, and grants from public, private and philanthropic organisations.
  - Undertake entrepreneurial projects while mitigating risk to Council.
  - Conduct commercial operations that generate returns for the community.
- 5.3. The main benefits of the new operating model address these issues and will enable the new entities to:
- Maximise opportunities to secure investment, funding, and grants from a variety of public, private, and philanthropic organisations.
  - Provide capacity for the new entities to enter into agreements with Council, government agencies, investors and businesses.
  - Maintain flexibility to grow as the need arises and the structure can expand to take on new initiatives.
  - Operate independently from Council but complementary through the Relationship Framework Agreements
  - Build and retain the trust and confidence of the business community by being seen to operate as an independent entity.
- 5.4. Alternative economic development operating models were evaluated as part of the refresh of the Economic Development Strategy (Strategy) to ensure any new operating model proposed would align with the strategic priorities set for the refreshed strategy.
6. To implement the new operating model will require:
- 6.1. The establishment of the Trust, which will:
- Focus on the charitable outcomes of economic development activities (ie allocate funding to the community). It will hold charitable status.
  - Not deliver economic development activity because it cannot be involved in commercial activities.
  - Have oversight of the establishment of the new Limited Liability Company (LLC), and in due course receive an annual dividend, from economic development activity performed by the LLC.
  - In the longer term, it will oversee the activities of the LLC, and approve any major transactions undertaken. It will allocate the dividend in alignment with the objectives specified by the Trust Deed to provide a return to the community and the Council.
- 6.2. The establishment of the Limited Liability Company (LLC), also referred to as the General-Purpose-Vehicle, which will be owned by the Trust. It will:
- Deliver economic development activities and attract investment in line with the refreshed Economic Development Strategy, that is approved by Council.
  - Be supported by Council staff, specifically the Economic Development Team, to deliver the economic development activities.
  - For accountability and reporting, the company's business plan will be discussed with Council and approved by the Trust in consultation with Council.

**HE KÖRERORERO | DISCUSSION**

7. The approach for implementing the new Operating Model is proposed to progress across three phases, as illustrated in Diagram 1 below: Implementation, Transition and Business as usual. A short summary follows.

**Implementation steps for the new Operating Model**

*Diagram 1: Establishment process and timeframe*



*Phase 1: Implementation (3 years)*

8. Implementation of the new model will occur over three years through to 2027 and be aligned to the delivery timeframe of the refreshed ED Strategy 2025-27. Of note:
  - 8.1. 'Go live' will commence with settlement of the Trust and confirmation of the Trust Board appointments. The appointed Trustees will work alongside Council to finalise the settings before settlement in June 2025.
  - 8.2. During this period, the Trust will receive funding through the business rate, collected by Council, for the LLCs operations; and Council will provide some initial in-kind support to the Trust.
  - 8.3. Once Trustees are appointed, the Trust Board will oversee the setup of the LLC. For the first two years, an interim arrangement will be in place where the existing EDKB Board are transitioned through as directors. This is to ensure continuity of service and support to business and industry.
  - 8.4. After two years, the Trust will conduct a review of the LLC to assess the Board's composition and determine any necessary changes. The Trust will appoint the permanent Chair of the Board of Directors.
  - 8.5. The direction and delivery expectations of the LLC will be set by the refreshed ED Strategy and included in the Relationship Framework Agreement between Council and the LLC in the form of clear delivery expectations.
  - 8.6. Where funding is allocated to the LLC, specific reporting expectations will be detailed in the Relationship Framework Agreement between Council and the LLC.

*Phase 2: Transition (2 years)*

9. A transition period will follow for a further two-years to enable the Trust and LLC to set in place settings that drive greater financial independence, ultimately moving towards the 'business as usual' operations of the new model. Of note:
  - 9.1. The Trust will be expected to become financially independent over time.
  - 9.2. In the transition phase, financial dependence on Council funding reduces further with the following table projecting a gradual reduction in Council's share of the operating costs of the Trust and LLC as noted in Diagram 2 below. Over time, this will result in a reduction in the net targeted business rate.

*Diagram 2: Transition towards financial independence*

Annual share of budget costs	2025/26	2026/27	2027/28	2028/29	2029/30
Council	90%	75%	60%	45%	30%

External	10%	25%	40%	55%	70%
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- 9.3. The direction and delivery expectations of LLC will continue to be set by the refreshed ED Strategy and included in the Relationship Framework Agreement between Council and the LLC in the form of clear delivery expectations.
- 9.4. The operating model between Council including support of services, and ongoing engagements will be reviewed in this period.
- 9.5. Where funding is allocated to the LLC, specific reporting expectations will be detailed in updates to Relationship Framework Agreement between Council and the LLC.

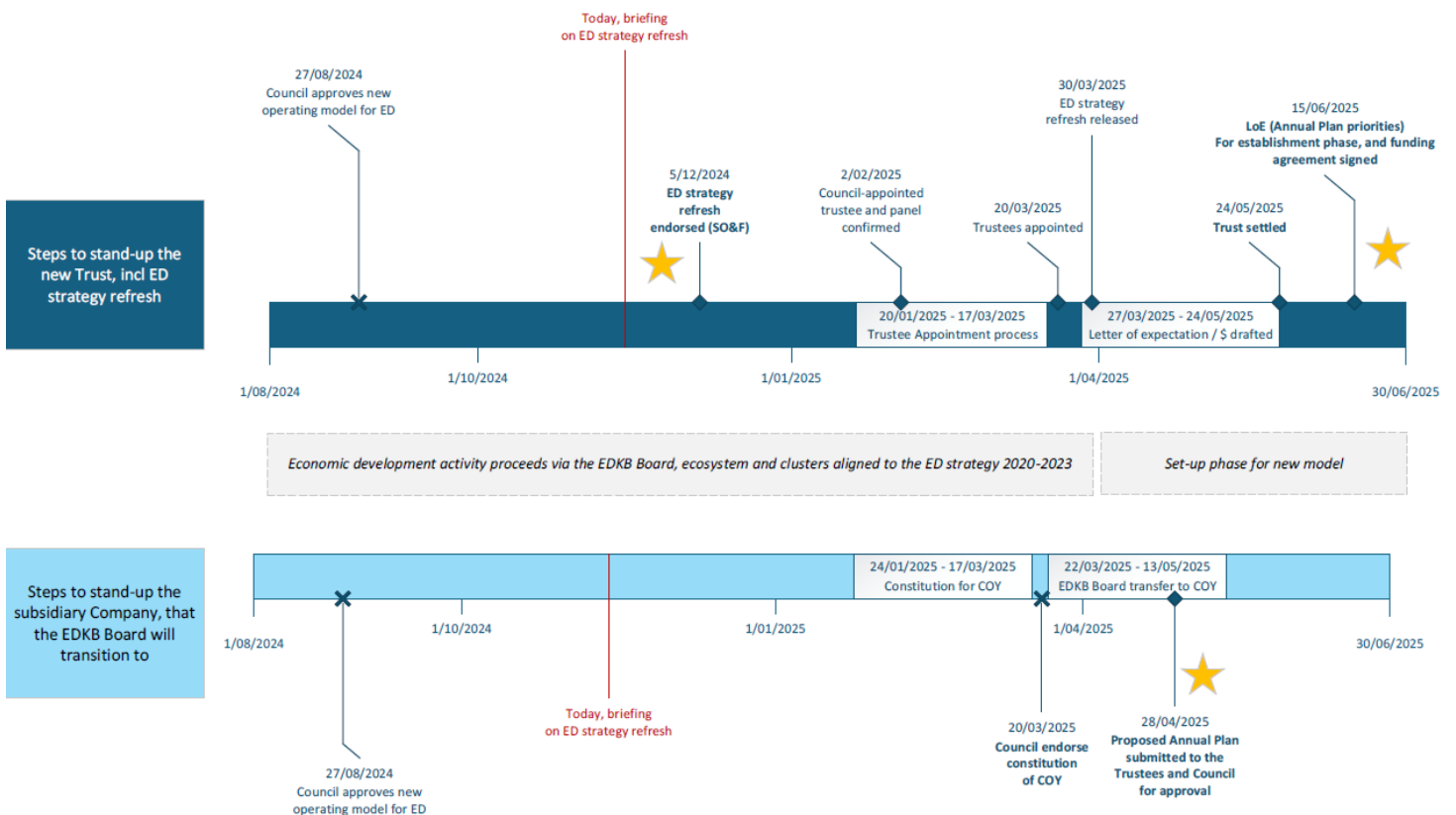
*Phase 3: Business as usual*

10. Business-as-usual settings will drive cyclical processes and engagement between Council, the Trust and LLC, and business community from this point in time. At this time, an annual dividend will be provided to the Trust for allocation to the community including a reduction to the costs for business and industry (which will reduce the nett business rate).

**Implementation steps for the new operating Model**

- 11. Following Council decisions on 29 August 2024, briefings were held with elected members to work through the detail of the supporting documentation to implement the operating model in October 2024. The summary presentation is attached in Appendix 1 for completeness.
- 12. The primary steps for implementing the new operating model, as illustrated in Diagram 1 below, include establishing the new Trust and the Limited Liability Company alongside the refresh of the Economic Development Strategy; and introduction of the first annual letter of expectation, which will be agreed between Council and the new entities to confirm performance expectations. The timeframe to 'go live' is as follows:

**Diagram 3: Timeline for new Operating Model, and Strategy refresh**



13. As noted earlier in this paper, the next set of decisions to implement the new operating model arrangements include:

**Step 1: Establishing the Charitable Trust**

13.1. Establishing the Charitable Trust involves Council endorsing the draft Trust Deed, process for appointment of Trustees, and endorsing the draft Relationship Framework Agreement. The details to do so are noted below.

A) *Endorsing the draft Trust Deed*

13.2. The draft Trust Deed is attached in Appendix 2 for Councils consideration and endorsement. Of note, it:

13.2.1. Proposes an initial name for the Trust as the “Kapiti NZ Trust”.

13.2.2. Outlines the purposes of the trust and how it will operate, which includes:

- Relieving poverty and benefit the people of the Kāpiti Coast District.
- Promoting education, vocational training, and employment.
- Supporting community well-being and economic development.

13.2.3. Outlines the composition of Trust Board, and five to six Trustees that will be appointed, appointment process, and grounds for removing a Trustee such as resignation or failure to fulfil their duties.

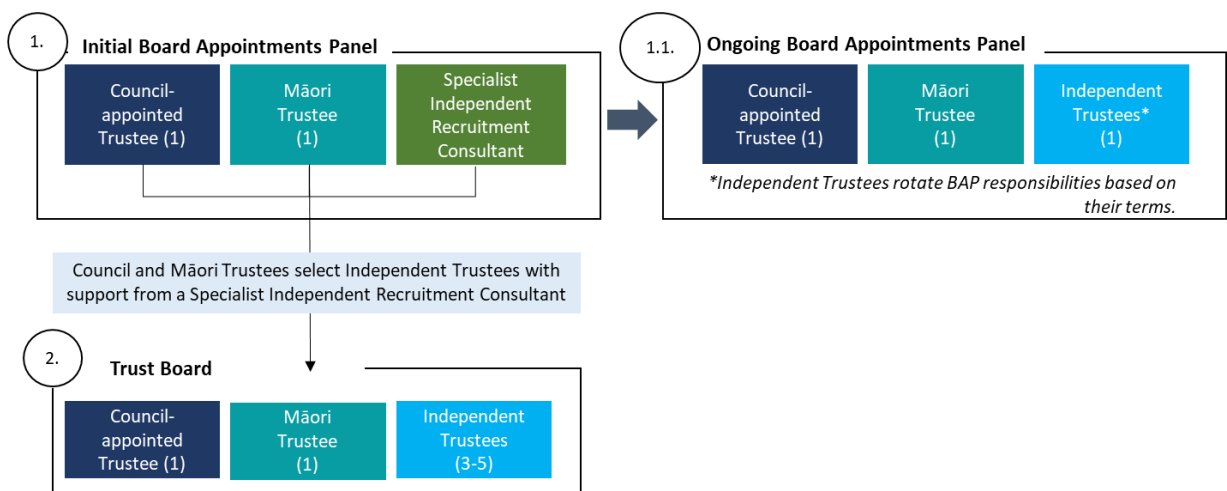
13.2.4. Summarises the responsibilities of Trustees under the Trust Deed, Trusts Act 2019, Charities Act 2005, and the Charitable Trusts Act 1957. Trustee responsibilities include that the Trust fulfils its charitable purposes.

13.2.5. Notes that the initial Trustees will be named in the Trust Deed and be required to sign the Trust Deed upon settlement of the Trust.

B) *Appointment of Trustees*

13.3. Councillors are not asked to make decisions about Trustee appointments for the Trust today, but are asked to endorse the proposed appointment process which is outlined in Schedule 2 of the Trust Deed, and illustrated in the Diagram below. All Trustees will be skills-based appointments, including the Council and Mana Whenua appointments.

**Diagram 4: Proposed appointments process for Trustees**



13.4. A three-step process will progress as follows:

13.4.1. *Initial Board Appointments*: Council and Te Whakaminenga o Kāpiti respectively select their trustees in order to form an ‘initial board appointment panel’ with the support of Specialist Recruitment Consultant.

- The Council-Appointed Trustee will be selected by Council on the basis of skills and experience, as specified in the Trust Deed. This appointment will follow the Council’s Recruitment and Selection Policy, as required by the Local Government Act. The appointee could be an elected member, staff, or other suitably qualified individual provided that Council believes the person will contribute to the Trust’s objectives.
  - The Maori Trustee will be appointed by Te Whakaminenga o Kāpiti based on the skills and experience specified in the Trust Deed.
  - The Trust Deed sets out that each appointing party (i.e. Council, Board Appointment Panel and Te Whakaminenga o Kāpiti) has the right to remove their appointed Trustees at any time.
- 13.4.2. *Establishment of the Trust Board:* The Council-appointed Trustee and Māori Trustee will work with a recruitment specialist, to appoint the initial Independent Trustees.
- 13.4.3. *Ongoing Board Appointments Panel:* The Trust will establish a panel to enable a periodic refresh of the Board and to appoint any independent Trustees vacancies. It will comprise the Council-appointed Trustee, Maori Trustee, and one of the Independent Trustees.
- 13.5. The skills and experience necessary to ensure an effective Trust Board are outlined in Section 1.1 of the Trust Deed. This includes understanding of the Trust’s charitable purposes; financial management experience and commercial and business acumen; governance or legal experience in either not-for-profit or business organisations; knowledge and understanding of Te Tiriti o Waitangi, Te ao Māori and tikanga Māori and Māori business enterprise; and financial literacy relevant to the financial and economic issues related to the Trust.

C) *Endorsing the draft relationship framework agreement*

- 13.6. The draft Relationship Framework Agreement between the Trust and Council is attached in [Appendix 3](#) for consideration and endorsement. The Trust’s relationship with Council will be set via this agreement which will be supported by an annual Letter of Expectation to the Trust from Council to clarify agreed performance expectations.
- 13.7. The key components of the Relationship Framework Agreement between Council and the Trust are noted in Table 1 below. The annual Letter of Expectation will be agreed with the Trustees, on settlement of the Trust in June 2025. This is not attached, as further work will progress to develop the focus for expectations in the new year.

**Table 1: Summary of Relationship Framework Agreement: Trust and the Council**

Aspect	Description
Background	<ul style="list-style-type: none"> <li>• Outlines the reason for establishing the Trust and intention for its work.</li> </ul>
Relationship principles <i>(refer to Clause 2 of the document)</i>	<ul style="list-style-type: none"> <li>• Interaction and collaboration.</li> <li>• Expectation / code of conduct terms.</li> <li>• Clarifying the need for independence.</li> <li>• Requirements to meet Te Tiriti obligations.</li> </ul>
Role and Independence <i>(refer to Clause 3 of the document)</i>	<ul style="list-style-type: none"> <li>• The relationship between the Trust and new LLC.</li> <li>• Requirement for the Trust to carry out activities in accordance with the Trust Deed, including that the new LLC is not formed as a council-controlled organisation; and that the Trust must use dividends for charitable purposes.</li> </ul>
Support Services by KCDC	<ul style="list-style-type: none"> <li>• Annual Operating Grant for trustees and meeting fees.</li> <li>• IT and administration support to the Trust.</li> </ul>

Aspect	Description
<i>(refer to Clause 5 of the document)</i>	<ul style="list-style-type: none"> <li>Funding for establishment of the LLC, and ongoing costs in relation to the trust's responsibility of the company (would include allocation of the annual dividend).</li> </ul>
Limits on use of contributions <i>(refer to Clause 6 of the document)</i>	<ul style="list-style-type: none"> <li>Any contribution must be used exclusively by the Trust for charitable purposes.</li> </ul>
Reporting and monitoring <i>(refer to Clause 7 of the document)</i>	<ul style="list-style-type: none"> <li>Necessary to provide information to the Council to determine intended outcomes of the Trust are being achieved.</li> <li>The Council may reasonably request the Trust to provide info; and formalised reporting requirements are set out.</li> <li><i>Note - reporting requirements to be discussed with Elected Members, and included.</i></li> </ul>
Term & Review <i>(refer to Clause 8 of the document)</i>	<ul style="list-style-type: none"> <li>As this is a long-term relationship the Agreement will be reviewed after 3 years and periodically from then on to ensure that the Agreement remains fit for purpose.</li> </ul>
Termination <i>(refer to Clause 9 of the document)</i>	<ul style="list-style-type: none"> <li>Notes this would be agreed by both parties.</li> </ul>
General <i>(refer to Clause 10 of the document)</i>	<ul style="list-style-type: none"> <li>Acknowledge that each party is free to discuss their activities publicly, and that the Council must act as an independent Local Authority, not as a party to this Agreement.</li> </ul>

## **Step 2: Establishing the Limited Liability Company (LLC)**

13.8. Establishing the LLC involves Council endorsing the draft Constitution, appointment of interim Directors, and endorsing the draft Relationship Framework Agreement with the LLC. The details to do so are noted below.

### *A) Endorsing the draft constitution*

13.9. The draft Constitution of the LLC is attached in Appendix 4 of this paper for consideration and endorsement. Of note, it:

13.9.1. Proposes an initial name for the Limited Liability Company as the "Kāpiti Enterprise Kotahitanga Limited".

13.9.2. Describes the purposes, ownership structure, and powers of the LLC as follows:

- Develop the Kāpiti Coast economy in a way that is environmentally sustainable and future focused.
- Residents and communities of the Kāpiti Coast benefit from local education and career opportunities.
- Ensure that the Kāpiti Coast is recognised as a great and easy place to invest and do business.

13.9.3. Outlines the composition of LLC, with six to seven Directors to be appointed, appointment process, and grounds for removing a Director such as resignation or failure to fulfil their duties.

13.9.4. Outlines that the Directors of the LLC will be responsible to the Trust for developing a business plan aligned to the refreshed Economic Development Strategy.

13.9.5. Sets out the ability for the LLC to partner on ventures with private, public, iwi and Council for investment purposes.



- 13.9.6. Sets out the ability for the LLC to establish Special Purpose Vehicles (SPV’s) to operationalise key commercial projects; and outlines that the ownership structure for SPVs. Noting that SPVs provide separation of funding, investment, ownership, and risk management for all stakeholders.
- 13.9.7. Outlines that as commercial returns from operations are realised over time, a dividend will be distributed to the Charitable Trust, so that it can allocate funding to the community. Notes that where Council may choose to invest directly in an SPV to enhance economic development opportunities, it will receive a direct return on that investment.

**B) Appointment of interim Directors**

- 13.10. Councillors are asked to endorse interim arrangements for the Chair and Directors through transition of the existing Economic Development Kotahitanga Board for an initial two-year term.
- 13.11. Following this period, permanent appointments will be made by the Trust based on skills and experience. The Trust will develop a skills matrix to appropriately assess and appoint individuals; and the Trust will have the ability to remove directors.

**C) Endorsing the draft constitution**

- 13.12. The draft Relationship Framework Agreement for the LLC and Council is attached in Appendix 5 for consideration and endorsement. The key components of the Agreement are summarised in the Table below.

**Table 2: Summary of the Relationship Framework Agreement: Trust and the LLC**

<b>Aspect</b>	<b>Description</b>
Background	<ul style="list-style-type: none"> <li>• Outlines the reason for the Trust establishing the LLC and noting the scope of the LLC’s constitution. Clarifying the need for independence.</li> </ul>
Relationship principles <i>(refer to Clause 2 of the document)</i>	<ul style="list-style-type: none"> <li>A) Outline mutual obligations for:                             <ul style="list-style-type: none"> <li>• Interaction and collaboration.</li> <li>• Objectives for growth and economic indicators in the Strategy.</li> <li>• Expectation / code of conduct terms.</li> <li>• Requirements to meet Te Tiriti obligations.</li> </ul> </li> <li>B) Outline conditions for the LLC’s operations including that it must:                             <ul style="list-style-type: none"> <li>• Seek to qualify for government funding and other investor support.</li> <li>• Operate towards financial sustainability over the longer term.</li> <li>• Work in partnership with iwi and other key partners.</li> <li>• Provide return to the Trust for its charitable purpose.</li> </ul> </li> </ul>
Role and Independence <i>(refer to Clause 3 of the document)</i>	<ul style="list-style-type: none"> <li>• Activities to be carried out in line with constitution and good governance.</li> <li>• Not to become a council-controlled organisation.</li> </ul>
Services from the LLC to KCDC <i>(refer to Clause 4 of the document)</i>	<ul style="list-style-type: none"> <li>• Provide updates on its progress/set-up and maturity improvements in achieving its purpose.</li> <li>• Submit business cases for KCDC consideration, as a potential investor in subsidy (special-purpose vehicle) opportunities; or to further economic development in the Kāpiti Coast District.</li> </ul>
Support Services by KCDC <i>(refer to Clause 5 of the document)</i>	<ul style="list-style-type: none"> <li>• An annual operating grant for directors’ fees and meeting costs.</li> <li>• IT and Administrative support.</li> <li>• Economic development business support from the Strategy and Growth: Economic Development Business Unit.</li> <li>• Review arrangements in 3-years with an aim to reduce business rate funded support service requirements.</li> </ul>
Additional support form KCDC	<ul style="list-style-type: none"> <li>• Mechanism for LLC to seek further financial or non-financial support from the Council to promote or progress economic development opportunities</li> </ul>



Aspect	Description
<i>(refer to Clause 6 of the document)</i>	including to partner-in and/or establish subsidiaries (referred to as special-purpose vehicles).
Limits on use of contributions <i>(refer to Clause 7 of the document)</i>	<ul style="list-style-type: none"> <li>Contribution must be used by LLC for purposes agreed by the parties.</li> <li>Any land the Council sells, transfers, or otherwise provides to the LLC must be used for the purpose for which it was provided.</li> <li>Council can opt to place an encumbrance, covenant or other appropriate notation on the title of identified land in these transactions.</li> <li>The LLC must seek written consent from the Council to sell, transfer or otherwise alienate land (received via the above transactions).</li> </ul>
Reporting and monitoring <i>(refer to Clause 8 of the document)</i>	<ul style="list-style-type: none"> <li>Necessary to provide information to the Council to determine intended purpose of the LLC is being achieved.</li> <li>The Council may reasonably request the LLC to provide info; and formalised reporting requirements are set out.</li> </ul>
Disputes resolution <i>(refer to Clause 9 of the document)</i>	<ul style="list-style-type: none"> <li>Resolve within 15 days, on basis of good faith.</li> <li>If not resolvable, facilitate through independent mediation within 3 months.</li> </ul>
Term & Review <i>(refer to Clause 10 of the document)</i>	<ul style="list-style-type: none"> <li>As this is a long-term relationship the Agreement will be reviewed after 3 years and periodically from then on to ensure that the Agreement remains fit for purpose.</li> </ul>
Termination <i>(refer to Clause 11 of the document)</i>	<ul style="list-style-type: none"> <li>Notes this would be agreed by both parties.</li> </ul>
General <i>(refer to Clause 12 of the document)</i>	<ul style="list-style-type: none"> <li>Acknowledges that each party is free to discuss their activities publicly, and that the Council must act as an independent Local Authority, not as a party to this Agreement.</li> </ul>

13.13. A Memorandum of Understanding will be set between the LLC and Council operations to clarify service level agreements between entities. This is not attached for consideration as the expectations for this document will be developed in the new year.

**He take | Issues**

- The refresh of the Economic Development Strategy is proposed to be endorsed in December 2024, and released in March 2025. Delivery of the current Economic Development work programme will continue in parallel with the establishment of the Trust and LLC based on the existing priorities set by the Economic Development Strategy 2020-23. Future years actions will be prioritised on the basis of those set in the refreshed Economic Development Strategy 2024-27 when it is released in March 2025.
- Lessons learnt from review of potential operating models identified that independence of the Trust will be critical for maximising uptake of potential funding opportunities, particularly those involving commercial partners / investors.

**Ngā kōwhiringa | Options**

16. Two options are proposed for consideration:

**Table 3: Options**

Kōwhiringa   Options	Hua   Benefits	Tūraru   Risks
Option A (recommended)	Maximise opportunities to secure investment, funding	A greater level of independence and reduced Council funding contribution

Kōwhiringa   Options	Hua   Benefits	Tūraru   Risks
Endorse the documents to establish the Economic Development Charitable Trust and Limited Liability Company: <ul style="list-style-type: none"> <li>Trust Deed</li> <li>LLC constitution</li> <li>Respective relationship framework agreements.</li> </ul>	and grants from a variety of sources.  Maintains flexibility to grow and expand to take on new initiatives.  Independent of Council but complementary, removing liability and risk from Council.	will lessen the influence of Council over time.
Option B  Request changes are made to the proposed operating model and supporting establishment documents	Elected member ensure that any outstanding concerns / issues are addressed.	Delay in implementing the model creates concern with partners / stakeholders about next steps and timeframes.

**Next Steps**

17. Next steps in order to implement the new operating model include:

Milestones	Key Actions	Responsible Party	Time period
<b>Trust documents endorsed</b>	Approve, subject to feedback from the Trustees, the Trust Deed; Relationship Framework Agreements; and Constitution.	Council/EDKB	November 2024
<b>Trustees appointed</b>	Undertake Trustee appointment process commencing with Council-appointed Trustee and Maori Trustee.  Establishment Board Appointments Panel formed to appoint independent trustees.	Council / Te Whakaminenga o Kāpiti  Board Appointments Panel	December – March 2025
<b>Performance expectations set</b>	Annual plan submitted	EDKB / Trustees	April 2025
	Draft proposed Letter of Expectation	Council / Trustees / EDKB	April - May 2025
	Complete remaining setup, including registration of LLC and transition of existing EDKB members to become LLC Directors.	Trust Board	April – May 2025
<b>Stand-up the new entities</b>	Settle the Trust.	Council / Trustees	May 2025
	Complete charitable registration.	Trust Board	

**Mana whenua**

- Current representation from each of Council’s three iwi partners - Ngāti Raukawa ki te Tonga, Te Ātiawa ki Whakarongotai, and Ngāti Toa Rangatira, is provided within the EDKB. This representation is proposed to transition through to the LLC, as an interim measure.
- One of the key objectives of the new operating model is to be able to partner to deliver through investment partnerships. The importance of partners with iwi and ensuring Māori representation at a governance level within the Trust is recognised by the Te Whakaminenga o Kāpiti-appointed Trustee.
- The EDKB and Council are currently working on a number of projects that have significant involvement from our iwi partners. These include working with Ngā Hapū o Ōtaki and landholders towards a regenerative Ag/Horticulture project to optimise land-use in line with

hapū aspirations. Māori economic development is a key priority for the Māori Business Network for Kāpiti-Horowhenua.

### Panonitanga Āhuarangi me te Taiao | Climate change and Environment

21. Balancing pursuit of economic development and protection of our environment will be focus for the entities in the new operating model. Existing work is already in-track through the current Economic Development strategy and actions underway with key partners will continue. For example Regenerative Ag/Horticulture pilot project led by Ngā Hapū o Ōtaki, and the sustainable businesses called Pakihi Toitū o Kāpiti (led by the Councils Economic Development Team) with 75 local businesses as members and an online network.

### Ahumoni me ngā rawa | Financial and resourcing

22. Delivery of actions set by the Economic Development Strategy 2020-23 is funded via the Long-term Plan Economic Development Budget. However, additional external investment will need to be secured in the short, medium and long term through the new operating model.
23. The independent structure of the new model reduces the financial risk to Council and increases the opportunity for external funders to support Economic Development activities.

### Tūraru ā-Ture me te Whakahaere | Legal and Organisational Risk

24. Council's lawyers, Buddle Findlay have assisted with the development of the four draft documents presented to the Council for endorsement today. Legal advice has also been sought on the appointment of Trustees and Directors to the LLC.

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

25. Impacts on the local economy continue due to the challenges in the New Zealand and global economies affecting Kāpiti's GDP and employment. It is not clear if the full impacts have yet been felt and we continue to support businesses through this time in coordination with the Economic Development Kotahitanga Board. The new model provides for greater responsiveness.
26. This report has been informed by feedback from business and the community re the Economic Development Direction of Travel 2024 consultation document, and drafting of the Economic Development Strategy 2025-2027.

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

### Te mahere tūhono | Engagement planning

#### Whakatairanga | Publicity

27. Following a decision by Council on this paper, a joint media release with the Economic Development Kotahitanga Board will be released to update and inform the community of the decision. This will include updates to the Council website and via Council's communication channels.
28. An update will also be shared through the Economic Development Team database and at the Kapiti Business Event on 5 December 2024.
29. A separate communications plan will be prepared to support the Trustee appointment process, including advise on the trust, skills and experience required and how people can apply to be trustee. Councillors will be briefed on the approach in the new year, and proposed communications on this matter.

## NGĀ ĀPITI HANGA | ATTACHMENTS

1. Briefing on the new Economic Development operating model, 17 October 2024 (under separate cover) ⇨

2. Proposed Trust Deed for the new Economic Development Trust (under separate cover) [⇒](#)
3. Proposed Relationship Framework Agreement for the Trust and Council (under separate cover) [⇒](#)
4. Proposed Constitution for the new Economic Development Limited Liability Company (under separate cover) [⇒](#)
5. Proposed Relationship Framework Agreement for the Limited Liability Company and Council (under separate cover) [⇒](#)

## 11.4 LOCAL WATER DONE WELL - FUTURE DIRECTION FOR KAPITI COAST DISTRICT COUNCIL

Kaituhi | Author: **Tamara Silk, Executive Assistant**

Kaiwhakamana | Authoriser: **Sean Mallon, Group Manager Infrastructure and Asset Management**

### TE PŪTAKE | PURPOSE

1 This paper seeks a decision by the Council to continue to the next stage of development of the Wellington Region Water Services Delivery Plan or exit the project.

Secondly, the paper presents a series of alternative water services delivery model options and proposes to reduce the list for further consideration based on initial assessments presented in the report.

### HE WHAKARĀPOPOTO | EXECUTIVE SUMMARY

2 The Local Water Done Well legislation enacted in September this year introduces a new regulatory regime that water service providers must meet. In addition to new economic, environmental and water quality regulations, planning, and reporting requirements, water services providers must produce a Water Services Delivery Plan and accompanying implementation plan by 3 September 2025, demonstrating financial sustainability by July 2028.

3 The legislation provides for alternative water services delivery models, including establishing a council-owned Water Services Organisation singly or jointly with other existing providers and consumer trusts. The council must choose whether to remain with its existing internal business unit model or commit to an alternative delivery model in its Water Services Delivery plan.

4 Council has been participating in a Wellington Regional Project with Horowhenua to identify a best for region water services delivery model.

5 This project recommended that a full asset-owning service model, Water Services Council Controlled Organisation, as the best model to address the region's infrastructure challenges, meet the legislative requirements, and provide for future growth. Council must now decide if it wishes to continue with work to develop a Water Services Delivery plan based on this model or exit the regional project.

6 Council has also collaborated with neighbouring councils to explore other alternative delivery models, including joint asset owning WSCCOs with Horowhenua District or Horowhenua, Manawatu Districts and Palmerston City, and additional explored advice and service only WSCCOs, a single full asset owning WSCCO or consumer trust options.

7 Officers recommend discontinuing an advice and service only WSCCO, a single Kāpiti District only WSCCO or consumer trust models from further consideration for the future delivery model for Kāpiti water services as set out in this report.

8 Officers recommend that Kāpiti exits the Wellington Region and Horowhenua Water Services Delivery Plan Project and explores the alternative Joint WSCCOs models with Horowhenua District or Horowhenua, Manawatu Districts and Palmerston City, for inclusion in a consultation process early next year before deciding on the future delivery model to be included in the Water Services Delivery Plan.

### TE TUKU HAEPAPA | DELEGATION

9 Under section A.1 of the 2022-2025 Triennium Governance Structure and Delegations, Council has authority to consider this matter.

## TAUNAKITANGA | RECOMMENDATIONS

That Council:

- A. **Receives** this report
- B. **Notes** the legislative changes enacted under the Government's, Local Water Done Well policy through the Local Government (Water Services Preliminary Arrangements) Act 2024, to address long standing water infrastructure challenges which includes:
  - B.1 new economic, environmental and water quality regulations
  - B.2 a new planning, reporting and accountability framework
  - B.3 financial sustainability requirements
  - B.4 new statutory objectives consistent for all water providers
  - B.5 restrictions against privatisation and.
  - B.6 the requirement for Councils to produce a Water Services Delivery Plan and accompanying implementation plan by 3 September 2025.
- C. **Notes** that the Government intends to introduce further water services legislation in December 2024 to be enacted in mid-2025 that will establish the economic and regulatory oversight regime and statutory objectives for water services.
- D. **Notes** that the Council can choose to consult on the future delivery model for water services under the streamlined arrangements in the Local Government (Water Services Preliminary Arrangements) Act 2024 that requires two options, being an internal business unit and at least one alternative.
- E. **Resolves** to exit the joint Wellington Region Water Services Delivery Plan project as recommended as option A
- F. **Resolves** to exclude the advice and service only WSCCO's, a single Kāpiti District only WSCCO and consumer trust models from the future delivery model considerations for Kāpiti water services as recommended as options C, D and E
- G. **Resolves** to continue developing the Kāpiti and Horowhenua District and Kāpiti, Horowhenua, Manawatu Districts and Palmerston City Joint WSCCO options for consideration for consultation alongside an internal business unit option as per option F.

## TŪĀPAPA | BACKGROUND

- 10 The Local Government (Water Services Preliminary Arrangements) Act 2004, "Bill 2", came into effect in early September 2024 with further detailed legislation, "Bill 3", expected before the house in December this year and enacted by mid-2025.
- 11 The legislation will set minimum requirements for service delivery models that include;
  - 11.1 new economic, environmental and water quality regulations
  - 11.2 a new planning, reporting and accountability framework
  - 11.3 financial sustainability requirements
  - 11.4 new statutory objectives consistent for all water providers
  - 11.5 restrictions against privatisation.
- 12 The Act also requires all councils to prepare a Water Services Delivery Plan (WSDP) and submit the plan to the Department of Internal Affairs (DIA) for approval no later than 3 September 2025. Councils must also give effect to approved WSDPs.
- 13 Under the Act a key decision required of councils when preparing a WSDP is whether to continue delivering services through existing arrangements (colloquially known as the 'status quo') or enter a joint arrangement with other councils. The council can also decide to change the operating model and create a stand-alone or joint Water Services Council Controlled



Organisation (WSSCO), a Council Owned Organisation (COO) or another suitable model, for example, shared services or a Consumer Trust.

- 14 The Act also provides for a streamlined consultation process for Water Services Delivery Models as an alternative to the Local Government Act. This gives councils the option to consult on a minimum of two delivery models rather than all practicable options required by the Local Government Act. The process must identify the existing arrangement and at least one other such as a WSSCO or other joint arrangement.
- 15 In all cases the revenues, assets, expenses and debt of water services must be separated or ringfenced from all other Council services. This means that targeted rates for water, wastewater, and stormwater services will be funded 100% by those connected to or able to connect to these services
- 16 The Government intends to introduce further water services legislation in December 2024 to be enacted in mid-2025 to establish the enduring settings for the new water system including the economic and regulatory oversight functions.
- 17 In August 2024, the Department of Internal Affairs released an overview of the various delivery models including Internal Business Unit, single or multi-council owned water organisations and mixed council and consumer trust models. **A copy of the DIA presentation is attached.**

### **The Regional Approach to Water Services Delivery**

- 18 In May 2024, the Council signed a Memorandum to Understanding (MoU) with the eight territorial authorities in the greater Wellington region, Greater Wellington Regional Council, and Horowhenua District Council to work in a collaborative, non-binding project to recommend a “best for region” water services delivery model for the Wellington Region councils and Horowhenua District Council.
- 19 Phase one of the project was completed in October 2024, and the water services delivery model options broadly set out by the Department of Internal Affairs were examined. The project recommended a joint council-owned company that is a full-breadth water utility vested with ownership of all regional water assets, revenues and liabilities as the best model for the future delivery of water services. **A copy of the report and associated appendices is attached**
- 20 The second phase of the project involves developing a joint water services delivery and implementation plan based on the recommended option to meet legislative requirements. The preliminary set-up work for the second phase commenced in November, and the Council can now continue or exit the project.
- 21 Council is now required to decide whether it wishes to continue participating in developing the Wellington Regional Water Services Delivery Plan or opt out of the project and consider other options.

### **Water Services Delivery options**

- 22 In addition to the Wellington Regional project, the Council has progressed the investigation of various alternative water service delivery options and joint arrangements. Council was briefed on the various options under consideration on 14 November 2024, and **a copy of the presentation is attached.**
- 23 Independent consultancy firm Morrison Low Ltd have assisted council with the investigation and modelling of alternative service delivery models and **a copy of the Morrison Low presentation report is attached.**

## **HE KŌRERORERO | DISCUSSION**

### **Water Services Delivery models**

- 24 Potential options for the future water services delivery model include:
- 25 A new Kāpiti Coast District Council In-house Business Unit (IBU)

- 25.1.1 This model would utilise the Council's existing in-house water services delivery arrangements with additional resourcing and potential organisational and financial structural changes to meet the new legislative requirements for activity ringfencing and planning, reporting and accountability, financial sustainability, and statutory objectives.
- 25.1.2 There is potential to achieve benefits of scale through shared services arrangements with other Council water services providers.
- 26 Council-owned WSCCO – limited to an advisory and delivery services-only organisation
- 26.1 This model is similar to the existing arrangements for Wellington Water Limited, with the organisation providing the Council with investment and planning advice, capital project delivery, and the operation and maintenance of water networks.
- 26.2 Council would retain direct ownership of the assets and liabilities, control the setting of rates and charges revenue, and manage funding and financing under the Council's existing facilities.
- 26.3 Under this model there would be an estimated \$2.5m of annual stranded overhead costs that would remain with Council, there would be no contribution from water services activities provided back to Council.
- 26.4 This model type has been discounted from further consideration as it requires the additional setup and operational costs associated with establishing and running a WSCCO without the benefit of accessing the increased Local Government Funding Agency lending facilities available for full asset-owning WSCCOs.
- 27 Council-owned WSCCO – Full service and asset-owning organisation
- 27.1 This arrangement would require the establishment of a Council-owned water organisation and the transfer of assets and liabilities to a new entity.
- 27.2 This would also require setting up separate governance arrangements with a board and executive leadership team. Council would have input on the appointment of the Board and provide the organisation with a statement of expectations for its performance.
- 27.3 The WSCCO would prepare a Water Services Strategy in response to the Statement of Expectations for the stakeholder council(s) to comment on but not ultimately determine, with the WSCCO setting the fees and charges revenue.
- 27.4 This model could be set up as a Kāpiti Coast stand-alone WSCCO or a joint WSCCO with other councils, as was considered in the Wellington Regional project.
- 27.5 The other alternative WSCCO models being investigated include;
- 27.5.1 Kāpiti Coast District Only
- 27.5.2 Kāpiti Coast and Horowhenua districts
- 27.5.3 Kāpiti Coast, Horowhenua and Manawatu districts and Palmerston North City
- 27.6 These models would also mean that there are around \$2.5m of annual stranded overhead costs that would remain with Council with no contribution from water services to offset them.
- 28 Consumer Trust Model
- 28.1 This model is a partial council consumer trust owned model or a wholly consumer trust-owned water organisation that would require the transfer of assets and liabilities to a new entity. This could be set up solely for the Kāpiti Coast or in joint arrangements with other areas.
- 28.2 This model has been discounted from further consideration as it requires the additional setup and operational costs associated with establishing and running a consumer trust and borrowing would be independent of local authorities access to the LGFA funding



and subject to the water organisation achieving sufficient credit quality and track record.

### Financial Sustainability

- 29 A key requirement of any water services delivery plan is to demonstrate that the entity delivering water services will be financially sustainable by July 2028. This requires confirmation of:
- 29.1 Investment sufficiency (water systems)– the projected level of investment is sufficient to meet levels of service, and regulatory requirements and provide for growth;
  - 29.2 Revenue sufficiency – there is sufficient revenue to cover the costs (including servicing debt) of water services delivery and
  - 29.3 Financing sufficiency - funding and financing arrangements are sufficient to meet investment requirements.
- 30 High-level financial modelling of the various shortlisted options was undertaken and a summary of the results is given below.

### Investment sufficiency

- 31 Council's existing 2024-34 Long-Term Plan (LTP) and Infrastructure Strategy sets out the investment planned over the next thirty years to meet the current legislative requirements and growth. This forms the basis of the investment needed for the future of Kāpiti water services. Additional enhancements of the current LTP are likely to be required following the introduction of the new legislation both in terms of operational and capital expenditure.
- 32 A new IBU or Kāpiti only WSCCO would likely use the council's current LTP as the basis for future capital investment (10 years) and enhance it as required to meet the new environmental, economic, and quality legislation requirements. This would retain the focus on local services and local investment.
- 33 With a joint WSCCO, the investment in Kāpiti water services would be evaluated in the broader context of the organisation's area and overall priorities. So, in developing a Water Services Strategy, Kāpiti's needs would be reprioritised against all other demands on capital and operations investment across the organisation's area.
- 34 In the Wellington Region, an estimated 21% of the assets are in poor or very poor condition and need urgent investment. The only way to address the deteriorating condition of the network assets is to aggressively replace worn-out assets with new ones until the risk of further major failures becomes manageable.
- 35 Investment sufficiency is likely to be closely monitored by the newly established economic regulator, the Commerce Commission, through required mandatory information disclosures and the Commission has the power to set infrastructure and service quality and performance standards.

### Revenue Sufficiency

- 36 For Councils that retain an in-house business unit delivery model, total council borrowings, including water services, can be up to 280% of the council's combined revenue. In some cases, borrowings can be up to 350%, where the council is a confirmed high-growth council, such as Kāpiti. For WSCCOs, this is increased to a 500% debt-to-revenue ratio along with other prudent lending requirements set out by the LGFA.
- 37 The current council debt and revenue projected in the 2024-34 Long Term Plan remain below 200%. This maintains the LGFA-required ratios by leveraging the revenue received across Council and the lower borrowing against the balance of Council activities.
- 38 In a single Kāpiti WSCCO model, the 500% debt-to-revenue requirements would have to be met, and modelling shows that revenues would have to be increased prior to the July 2028 deadline to achieve this requirement.

- 39 In multi-council WSCCO, the same 500% debt-to-revenue requirements would have to be met; however, they could leverage the wider organisation's revenue stream.
- 40 Analysis of the options shows that increases in revenue and cost to consumers are required for all WSCCO models initially, particularly the Wellington Regional Delivery Model.
- 41 With the WSCCO's there is a greater population base to generate the revenues required to service the debt levels, than for smaller WSCCO groupings.

**Financing sufficiency**

- 42 The availability of funding and financing arrangements from the LGFA is linked to debt-to-revenue ratio discussed in revenue sufficiency above.
- 43 With an IBU, Council can leverage revenue received across Council to achieve the require 280% or 350% limits and has a plan to maintain a 200% ratio through the Long-Term Plan.
- 44 A new WSCCO could access up to 500% of the revenue against the three waters, which is initially exceeded for a Kāpiti alone WSCCO without revenue increases. Other multi-council WSCCOs are also required to increase average revenues to operate within the lending requirements, which has a similar impact on the average consumer cost.

**Financial Modelling Average cost to the consumer**

- 45 The table below sets out the results of the financial modelling of the various delivery models. And while these are not consumer prices per se, they give an indication of the comparative costs to be borne across the various delivery model areas by consumers.

Table 1 – Comparative cost to the consumer for the various water services delivery models.

Price (Ave cost to customer)	New Council IBU	Stand-alone Kāpiti WSCCO	Joint WSCCO with HDC	Joint WSCCO with HDC/MDC/PNCC	Wellington Regional WSCCO
2034	\$1,890	\$2,250	\$2,350	\$2,520	\$4,930
2054	\$1,720	\$1,620	\$1,650	\$1,670	\$3,020

- 46 The cost to consumers for WSCCOs in the early years reflects the need to increase revenue to achieve the LGFA prudent funding ratios and cover the additional transition and overhead costs of the new organisations.
- 47 The various WSCCO options were comparable in cost to consumers, except for the Wellington Regional Delivery Model, which was double the cost of the other WSCCOs in many cases.
- 48 The financial projections are based on current information and broad assumptions about the future operating models resourcing and budget requirements and further work is required to refine these during the implementation planning phase.

**He take | Issues**

**Council Standing Orders**

- 49 Council Standing Orders contain provisions regarding decision-making in relation to divestment of water asset ownership or the transfer of water assets and/or services management and delivery to another organisation or entity.

50 These provisions would need to be considered before the council committed to setting up a WSCCO but are not a consideration at this time for the decision to continue or exit the Wellington Regional Water Services Delivery Plan project.

**Future customer charges across any Joint WSCCO**

- 51 Kāpiti Coast District Council implemented universal water metering and volumetric charging in 2014 and customers are charged for water supply based on a fix charge and volumetric consumption. This regime has reduced leakage and peak and average water demands across the districts schemes and improved the effectiveness of water management practices.
- 52 Potential joint WSCCO partner councils are at varying stages of considering or implementing water metering and/or volumetric charging. The allocation of water services costs for any new Joint WSCCO and subsequent cost recover pricing are yet to be determined and could disadvantage Kāpiti consumers if a higher average charges were applied to metered connections.

**Ngā kōwhiringa | Options**

53 The options continuing with the Wellington Regional Water Services Delivery Plan or to opt out of the project are set out below.

Table 1: Wellington Regional Water Services Delivery Plan decision options

<b>Kōwhiringa   Options</b>	<b>Hua   Benefits</b>	<b>Tūraru   Risks</b>
Option A (recommended) Exit the Wellington Regional Water Services Delivery Plan project	Doesn't commit Council to further substantial investment in an option that, while best for the Wellington region, is not considered best for Kāpiti Water Services future cost to the consumer	This potentially eliminates the opportunity to participate in a regional model for a period of time until the entity is fully established and open to new participants.
Option B Continue with the development of the Wellington Regional Water Services Delivery Plan project	Provides more detail about the delivery and implementation plan and retains Council's option to join the Regional delivery model from inception.	This incurs significant abortive costs for little or no additional material information to support a preferred delivery model decision.
Option C (Recommended) Discontinue consideration of an advice and service WSCCO option for consultation	It simplifies the consultation options by removing a WSCCO model that incurs the additional costs of a WSCCO without the benefit of access to the LGFA 500% funding criteria.	This option may be considered a partial step toward a future full asset-owning WSCCO.
Option D (Recommended) Discontinue consideration of a single Kāpiti District only WSCCO option for consultation	It simplifies the consultation options by removing an option that incurs the additional costs of a WSCCO while not providing any benefit of a larger-scale entity.	This option allows access to the LGFA 500% funding for Kāpiti-only water services as an alternative to managing financing within Council IBU limits.
Option E (Recommended) Discontinue consideration of consumer trust options for consultation	It simplifies the consultation options by removing consumer trust options that incur additional setup and operating costs without the ability to access LGFA funding.	Some people may consider this option as viable for further consideration as it has a similar structure to the existing Electra model

		without understanding its limitations.
Option F (Recommended) Continue consideration of Kāpiti and Horowhenua District and Kāpiti, Horowhenua, Manawatu Districts and Palmerston City Joint WSCCO options alongside an internal business unit option.	Provides WSCCO options for Council to consider for consultation with the benefits of scale and ability to spread WSCOO setup and operating costs over a broader consumer base.	In the absence of consulting on the Kāpiti only, WSCCO, there may be a perception that there is a bias towards larger entities without fully understanding why the Kāpiti only WSCCO was removed.

**Mana whenua**

- 54 The matters in this report relate to the future options for the delivery of water services for Kāpiti Coast District with the initial decision relating to the continuation or exit from the development of a Wellington Regional Water Services Delivery Plan under a full asset owning WSCCO as recommended by the project group.
- 55 As part of the Wellington Regional Water Services Delivery Plan project, an Advisory Oversight Group (AOG) was established with elected member and Iwi/Māori partner representatives to advise and provide oversight of the project to determine the best delivery model for potential joint regional water services delivery.
- 56 The options other than the Wellington Regional model have not been discussed with Iwi/Māori partners, and engagement is planned for late January / February 2025 to support the consideration of what options Council wishes to consult on before making a decision on the chosen model to include in a water services delivery plan.

**Panonitanga Āhuarangi me te Taiao | Climate change and Environment**

- 57 All future water services delivery organisations will be required to account for the mitigation of or adaptation to the effects of climate change as part of the long-term planning and development of any water services strategy.
- 58 Therefore, the decision to continue or exit the Wellington Regional Water Services Delivery Plan project doesn't impact climate change planning positively or negatively.

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

- 59 Council has funded a proportion of the Wellington Regional Water Services Delivery Plan project to date and if the council continues with the development of the second and third phases additional budget would be required to continue to fund the project. The current estimated project costs for the second phase range from \$2,751,000 to \$3,851,000, which would need to be shared by all participating Councils. If all Councils continued to participate, Kāpiti may reasonably be expected to contribute funds in the order of \$200,000 to \$350,000, depending on the agreed cost split. This excludes council staff time.

**Tūraru ā-Ture me te Whakahaere | Legal and Organisational Risk**

- 60 There is a risk that the Council may choose to pursue a joint arrangement with other councils, and that, through their own decision-making processes, those other councils may opt to pursue alternative options independently of Kāpiti, resulting in the Council no longer having a joint arrangement to pursue.

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

- 61 Council's 2024 Significance and Engagement Policy identifies the transfer or divestment of the ownership or control of a strategic assets such as the water, wastewater or stormwater systems as a whole to or from Council as a Significant decision.

- 62 The decision to continue developing a Wellington Regional Water Services Delivery Plan or exit the project and what other options to include for further consideration for consultation do not require the transfer or divestment of the ownership or control of any strategic assets. So there are no policy impacts in relation to the decision sought in this paper

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

### Te mahere tūhono | Engagement planning

- 63 There are no policy impacts relating to the decision to continue or exit the Wellington Regional Water Services Delivery Plan project, Council will communicate this decision through its established communication channels.
- 64 Council is, however, required to consult on its proposed water services delivery model prior to submitting its Water Services Delivery Plan prior to 3 September 2025.
- 65 Council can choose whether to do this through the existing provisions of the Local Government Act (LGA) or adopt the alternative process provided for by the Local Government (Water Services Preliminary Arrangements) Act 2024.
- 66 The LGA requires all practicable options to be considered, while the Local Government (Water Services Preliminary Arrangements) Act 2024 requires consultation on at least two options for the future delivery model for water services: the existing approach as an in-house Business Unit and a Water Services Council Controlled Organisation (WSCCO). Council may identify additional options for consideration but is not required to do so.
- 67 Council is only required to consult once in relation to the chosen water services delivery model but may decide to undertake further consultation before making a decision or if it consults on another part of its Plan. In any consultation, the advantages and disadvantages of all identified options must be assessed.
- 68 Officers propose that Council considers limiting the number of WSCCO options to consult on as alternatives to the In-house Business Unit outlined in this report. However, further work needs to be done on the advantages and disadvantages, as well as the financial and economic implications, of the various options.
- 69 Officers propose to provide further briefings early in the new year to support Council in assessing the options and deciding which options to consult on and which option Council prefers.

### Whakatairanga | Publicity

- 70 At this early stage, the engagement plan is focused on informing the community and staff of the progress and signalling the timing of when people can expect to be invited to provide feedback through the consultation process.

## NGĀ ĀPITI HANGA | ATTACHMENTS

1. Attachment 1 - DIA Water Service Delivery Models Guidance for Local Authorities Presentation (under separate cover) ⇨
2. Attachment 2 - Wellington Regional Water Service Delivery Plan Approach (under separate cover) ⇨
3. Attachment 3 - Wellington Regional Water Service Delivery Plan Approach Appendices (under separate cover) ⇨
4. Attachment 4 - Elected Members LWDW Workshop 14th November 2024 (under separate cover) ⇨
5. Attachment 5 - Morrison Low LWDW Options Report (under separate cover) ⇨



## 11.5 ADOPTION OF PROPOSED DANGEROUS, AFFECTED, AND INSANITARY BUILDINGS POLICY 2024

Kaituhi | Author: **Chris Worth, Principal Policy Advisor**

Kaiwhakamana | Authoriser: **Kris Pervan, Group Manager Strategy & Growth**

### TE PŪTAKE | PURPOSE

- 1 This report summarises analysis of feedback and proposed changes to the final draft Council Dangerous, Affected and Insanitary Buildings Policy 2024 (Attachment 1) for Council to adopt.

### HE WHAKARĀPOPOTO | EXECUTIVE SUMMARY

- 2 An executive summary is not required.

### TE TUKU HAEPAPA | DELEGATION

- 3 Under the Local Government Act 2002 (LGA) and consistent with Council's Governance Structure and Delegations Te Hanganga me ngā Kanohi Kāwanatanga for the 2022-2025 Triennium, Council has authority to adopt the Policy.

### TAUNAKITANGA | RECOMMENDATIONS

That Council:

- A. **Notes** the submissions received and further changes proposed to the final draft Dangerous, Affected, and Insanitary Buildings Policy 2024.
- B. **Repeals** the [Dangerous and Insanitary Buildings Policy 2018](#)
- C. **Adopts** the Dangerous, Affected, and Insanitary Buildings Policy 2024 (Attachment 1).
- D. **Delegates** authority to the Mayor and Chief Executive to approve any minor and technical editing changes in finalising the Policy.

### TŪĀPAPA | BACKGROUND

- 4 As previously reported to you:
  - 4.1 The Kāpiti Coast District Council has an existing Dangerous and Insanitary Buildings Policy (2018). The policy must be reviewed every five years and was due for review in 2023.
  - 4.2 An internal review of the current 2018 Policy was undertaken in 2023. This was followed by a review of Council's Dangerous, Affected, and Insanitary Buildings activity by the Ministry of Business, Innovation and Employment (MBIE). Recommendations from MBIE's review have been included in the proposed new Policy: Dangerous, Affected, and Insanitary Buildings Policy 2024, requiring the proposed policy to be taken to consultation.
  - 4.3 The proposed Policy was released for consultation through a Special Consultation Procedure (SCP) between 18 September and 18 October 2024. Note, the existing Policy remains in force until superseded.
- 5 The proposed new Policy:
  - 5.1 Responds to MBIE's review comments by:
    - 5.1.1 Linking decision making to Council's wider social, economic, and heritage/cultural policy context.

- 5.1.2 Providing more explicit linkages between processes and the requirements of the Act,
- 5.1.3 Incorporating “affected” buildings into the Policy.
- 5.2 Reflects section 131 of the Building Act 2004 requiring territorial authorities develop and maintain a policy for administering dangerous, affected and insanitary buildings.
- 5.3 Provides clarity and guidance to council officers, stakeholders and the public as to how Council will implement the Building Act’s requirements for managing dangerous, affected, and insanitary buildings
- 5.4 Reflects the purpose of the Building Act 2004 (s.3), that people using buildings can do so safely and without endangering their health; buildings will contribute appropriately to the health, physical independence, and well-being of the people: and, people can escape from the building if it is on fire.
- 6 The new Policy does not cover Earthquake-prone buildings or dams. These are covered by other provisions in the Building Act 2024.

## HE KŌRERORERO | DISCUSSION.

### He take | Issues

#### Key changes in new Policy to meet regulatory requirements

- 7 The review identified that the Policy approach in the 2018 Policy generally remained fit-for-purpose. The new Policy, however, better reflects regulatory requirements through inclusion of the matters noted in paragraph 5 above.
- 8 The policy approach carried forward:
  - 8.1 Applies a pragmatic risk assessment approach based on the likelihood of harm occurring and the degree of that harm if it did occur. In practice this includes investigating buildings only when information of concern is received.
  - 8.2 Uses a balanced assessment that includes considering the building’s age, structural integrity, moisture ingress/tightness, specified systems, building functions, and building life. These are balanced against the wider social, economic, heritage, and cultural impacts of determining the building as dangerous, affected, or insanitary.
  - 8.3 Ensures targeted investigation optimises Council resource whilst balancing risk to the community when compared to more risk averse approaches (for example, if systematic districtwide surveys/audits were set in place, a higher level of resource would be needed).
- 9 This approach results in Council issuing a section 124 Notice<sup>1</sup> if a building is determined to be dangerous or insanitary. The notice would require work to be done on the building to make it safe.

#### Analysis of consultation

- 10 Consultation on the proposed new policy occurred between 18 September and 18 October 2024. A total of 12 submissions were received, 11 via the *Have your say* website, and one by email. Full submissions may be viewed [here](#). Points of note are:
  - 10.1 Of the 12 submissions received 11 were from individuals, and one from an organisation (Te Whata Ora, Health New Zealand).

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<sup>1</sup> Council last issued a s.124 notice in 2010, and in the period 1 September 2020 to 1 September 2023 has received only two complaints and/or notifications for potentially dangerous, affected or insanitary buildings (one for dangerous and one for insanitary).

- 10.2 Five submitters agreed with Council's policy approach, and seven did not.
- 10.3 One submitter owned or occupied a building with a specified system (eg an automatic sprinkler system).
- 10.4 Three submitters came from each of the Raumati, Paraparaumu and Waikanae, one from Ōtaki, and two responded as coming from elsewhere than Kāpiti.
- 11 Themes from the submission points are detailed in the Table 1 below. Changes to the policy arising from submission are highlighted in the Policy at Attachment 1 and noted in Table 1.

**TABLE 1: Submission points**

<b>General Submission feedback</b>	<b>Agreed with Council's Policy approach (Yes/No)</b>	<b>Council response to Submission feedback</b>	<b>Change to Policy, following feedback</b>
Council should focus on core business and lower rates.	No	Council's development and ongoing management of a Dangerous, Affected, and Insanitary Buildings Policy is a requirement under the Building Act 2004.	Yes, note requirement in s.1, Policy Approach
Maintaining and upholding standards is important to avoid significant impacts on people, and it is important buildings are safe especially in relation to fire and egress	Yes	The Building Act 2024 sets out Council's obligations for managing a dangerous, affected, or insanitary building. This policy sets out Council's response to the expectations of our local communities.	No change
The policy duplicates existing legislation. There is already sufficient legislation, and it is unnecessary to reflect the situation in Christchurch in the context of Kāpiti.	No	The Building Act 2004 requires Councils to have a policy on dangerous, affected, and insanitary buildings.  The Building Act 2024 was changed following the Canterbury Earthquakes to address affected buildings, and placed new requirements on Council to include them in this Policy.	Yes, note requirement in s.1, Policy Approach
Support need for Policy, but it should be a nationally consistent set of rules and KCDC can take on board input from larger territorial authorities to have a fit-for-purpose policy	Yes	This policy was developed based on guidance provided by MBIE and outlined in the Building Act 2004.	No change
Ensuring building safety is important but not at the expense of ratepayers.  Cultural and heritage buildings should be no exception.	Yes	This is a core statutory responsibility of Council and is funded through rates, and requirements for heritage buildings are noted in the Policy.	No change



General Submission feedback	Agreed with Council's Policy approach (Yes/No)	Council response to Submission feedback	Change to Policy, following feedback
Need to ensure buildings built or developed are completed and/or kept in a safe condition.	No	A building in a poor condition doesn't automatically make it either dangerous or insanitary. However, if reported it will be investigated under this Policy. The aesthetics of a building are not the subject to this Policy.	No change
Health New Zealand (HNZ) supports Council's policy approach, including collaboration with Health NZ around the management of insanitary buildings, and in dealing with nuisance conditions associated with housing.  HNZ also recommended that the policy references the Housing Improvement Regulations 1947.	Yes	Recommendation noted. With respect to insanitary buildings the Health Act 1956 is cited (s.4.4.3 of the policy) in respect to nuisance conditions.  The focus/purpose of the Housing Improvement Regulations 1947 is broader and different than the scope of this Policy.	No change
The Policy duplicates the current building warrant of fitness process for commercial building or buildings with specified systems.	No	The Building Warrant of Fitness check confirms any life safety systems in a building (eg sprinklers) continue to function. This doesn't mean the same building can't become dangerous, insanitary or affected even if the systems are still operating.	No change
<b>Technical submission points</b>			
<p>1. The policy doesn't address notices that restrict entry. These have procedures and timeframes different to notices to carry out work.</p> <p>2. In spite of the section title, most of section 3.2 doesn't apply to affected buildings.</p> <p>3. Clause 3.2.1 says that work done under a s.124 notice requires a building consent. But s.41 still applies. This also affects clause 3.2.4.</p>	No	<p>Amended to make it clear what is required.</p> <p>This section applies to both dangerous and affected buildings</p> <p>Section 3.2.1 of the Policy applies where there is no requirement for emergency work. S.41 of the Act applies when emergency work is required.</p>	<p>Yes - s.3.2.1 amended for clarity.</p> <p>No change.</p> <p>Yes - s.3.3.1 amended for clarity.</p>

General Submission feedback	Agreed with Council's Policy approach (Yes/No)	Council response to Submission feedback	Change to Policy, following feedback
Concerns related to unregulated plumbing connections for buildings connected to Council's water supply. Risking potential contamination	No	These matters are regulated under Council Water Supply Bylaw 2013.	No change

### Ngā kōwhiringa | Options

- 12 Proposed changes to the final draft Policy arising from submissions are identified in Table 1 above and in the final draft Policy at Attachment 1. No further options are set out.

### Mana whenua

- 13 Mana whenua may have a specific interest in relation to buildings of high heritage/cultural value which are built to traditional techniques and may therefore be of higher risk to safety.
- 14 Our iwi partners were informed that the current Policy (2018) was being reviewed through discussions with the Iwi Partnerships Team. No specific feedback was received during consultation on the new Policy.

### Panonitanga Āhuarangi me te Taiao | Climate change and Environment

- 15 While the main impact of this policy is to limit and mitigate the potential impact and harm of dangerous and insanitary buildings on people, the policy also enables any potential impacts from dangerous and insanitary buildings on the environment to be mitigated.

### Ahumoni me ngā rawa | Financial and resourcing

- 16 There are no additional financial and resourcing costs associated with this new Policy. Administering the regulatory requirements of the Policy is a core function of Council's Building team and is funded from existing operational budgets.
- 17 Should a natural hazard event occur where a significant number of buildings are affected the team will require additional resourcing or reprioritisation of resources in order to meet its functions and responsibilities under the Act and this Policy. In an extreme event, resources from outside the district may be called on, as when Council's Building team provided additional resources to other Councils after the 2023 weather events in Northland

### Tūraru ā-Ture me te Whakahaere | Legal and Organisational Risk

- 18 Managing the dangerous, affected, and insanitary building requirements under the Act and this Policy present some legal and organisational risks for Council to manage. There are two main risks associated with the new Policy:
- 18.1 There is an inherent underlying risk that a dangerous, affected, or insanitary building exists, is not reported, and fails in some way causing harm to people or damage to other buildings. This potential risk is mitigated by:
- Monitoring of data which indicates that the overall frequency of dangerous, affected, and insanitary buildings in the district is very low, with only two complaints being reported in last 10 years (with neither upheld).
  - Council being proactive in conditions where building failures are possible and/or likely (eg after natural hazard event).

18.2 Council could also be subject to legal and financial risk should Council's determination that a building is dangerous, affected, or insanitary be contested through a determination from the Chief Executive of MBIE (s.177(30(f))). This risk is managed and mitigated through Council:

- Following the Act's requirements and having clear criteria for assessing potential risk posed by buildings.
- Being thorough in its processes and seeking independent expert advice where required. For example, Council officers would seek advice from legal counsel where a building is high-profile, or a situation has greater risk to public safety (see ss. 3.1.3 and 4.1.1 of proposed Policy).

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

19 This review and new Policy ensure that Council is compliant with the Building Act 2004. With a new Policy in place, it provides a higher degree of assurance that Kāpiti district's building stock is fit-for-purpose, an objective of Council's Housing Strategy.

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

### Te mahere tūhono | Engagement planning

20 Officers identified a range of stakeholders that may have had an interest greater than the general public in this Policy. They were directly emailed that the policy was being reviewed, where to access a copy of the Statement of Proposal, proposed new Policy and Submission form, and invited to make a submission.

21 A Special Consultative Procedure was undertaken for one month from 18 September to 18 October 2024. A copy of all submissions is available on Council's 'Have your say' webpage for submitters and the public to [view](#).

### Whakatairanga | Publicity

22 Council's adoption of the new Policy will be notified publicly through Council's website and publicity channels. We will also notify key stakeholders.

## NGĀ ĀPITI HANGA | ATTACHMENTS

1. Dangerous, Affected, and Insanitary Buildings Policy 2024 [↓](#)





















**12 TE WHAKAŪ I NGĀ ĀMIKI | CONFIRMATION OF MINUTES****12.1 CONFIRMATION OF MINUTES**

**Author:** Evan Dubisky, Advisor Democracy Services

**Authoriser:** Darren Edwards, Chief Executive

**Taunakitanga | Recommendations**

That the minutes of the Council meeting of 31 October 2024 be accepted as a true and correct record.

**NGĀ ĀPITI HANGA | ATTACHMENTS**

1. Unconfirmed Minutes of 31 October 2024 Council Meeting [↓](#)



























**13 KARAKIA WHAKAMUTUNGA | CLOSING KARAKIA**

Kia tau ngā manaakitanga ki runga i a  
tātou katoa,

*May blessings be upon us all,*

Kia hua ai te mākihikihi, e kī ana

*And our business be successful.*

Kia toi te kupu

*So that our words endure,*

Kia toi te reo

*And our language endures,*

Kia toi te wairua

*May the spirit be strong,*

Kia tau te mauri

*May mauri be settled and in balance,*

Ki roto i a mātou mahi katoa i tēnei rā

*Among the activities we will do today*

Haumi e! Hui e! Taiki e!

*Join, gather, and unite! Forward together!*