



RĀRANGI TAKE AGENDA

Hui Kaunihera | Council Meeting

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

Te Rā | Date: Thursday, 30 January 2025

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 30 January 2025, 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

Nil

6 NGĀ WHAKAWĀ | HEARINGS

Nil

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 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)

9 TE PŪRONGO A TE KOROMATUA | MAYOR'S REPORT

Nil

10 PŪRONGO | REPORTS

10.1 REVIEW OF COASTAL PROVISIONS IN THE DISTRICT PLAN

Kaituhi | Author: **Jason Holland, District Planning Manager**

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

TE PŪTAKE | PURPOSE

- 1 This paper seeks Council approval to commence a review of the coastal provisions in the Operative Kapiti Coast District Plan 2021 (the District Plan).

HE WHAKARĀPOPOTO | EXECUTIVE SUMMARY

- 2 An executive summary is not required.

TE TUKU HAEPAPA | DELEGATION

- 3 Council is able to consider this decision.

TAUNAKITANGA | RECOMMENDATIONS

That Council:

- A. Approve commencement of a review of the coastal provisions in the Operative Kapiti Coast District Plan
- B. Note that staff will provide further advice to Council in April 2025 on the likely scope and timing of the review and subsequent coastal plan change.

TŪĀPAPA | BACKGROUND

Recent Council decision to prioritise the District Plan Coastal Change:

- 4 This paper responds to resolution SOF2024/52 (still to be confirmed) by the Strategy, Operations and Finance Committee on 5 December 2024 relating to a coastal plan change as set out below:

“That the Strategy, Operations and Finance Committee:

- G. Request that Council staff prioritise progressing RMA Schedule 1 Coastal Plan Change.
- H. Note that Council staff will come back in January to seek approval for commencing the review of Coastal Plan Change”.

- 5 This paper specifically seeks that Council approves commencement of its review of the coastal provisions in the District Plan.

Previous history for the coastal provisions of the Operative Kapiti Coast District Plan:

- 6 Council made its first District Plan operative in 1999, and publicly notified the proposed District Plan (PDP) in 2012¹. A component of the PDP included coastal provisions.

- 7 Following notification, due to concerns raised by the community, in 2014:

- 7.1 An independent review of the coastal erosion hazard assessment was undertaken and the Council withdrew the PDP coastal hazard provisions. By withdrawing this element of the plan, Council effectively reverted back to the 1999 coastal provisions (which continue to apply today).

¹ Noting that the High Court decision records the s79 review was commenced in 2008.

- 7.2 Due to ongoing concerns about the coastal provisions, two community groups Coastal Ratepayers United (CRU), and the North Otaki Beach Residents Group (NOBRG) took forward litigation to the Environment Court.
- 7.3 Council resolved to establish a Coastal Advisory Group to work through the issues related to coastal provisions.
- 8 In 2016/17, Council settled the appeal NOBRG and the CRU litigation proceeded to the Environment and High Courts. Subsequently, as part of the mediation on PDP, a settlement agreement was reached with both NOBRG and CRU. The settlement agreements required three primary elements to be progressed, related to fulfilling the Councils' obligations under the RMA. That included undertaking early community engagement around addressing coastal hazards, evaluating a range of management options, and steps for progressing future changes to coastal provisions.
- 9 In response to this requirement, a co-design Working Group was established to set the scope for work that would progress and to address requirements set through the agreement. The Takutai Kapiti project, led by the Coastal Advisory Panel, progressed some elements of this work from 2019 to 2024. With that initial work now completed, next steps will progress through the upcoming District Plan coastal provision changes which will aim to address these elements. This is noted in the discussion that follows.

HE KŌRERORERO | DISCUSSION

Legislative requirements:

- 10 While councils are entitled to review their district plans for any reason at any time, the Resource Management Act 1991 (RMA) also prescribes two mandatory district plan review timeframes:
- 10.1 **At intervals of five years:** council must compile and make available to the public a review of the results of its monitoring of the efficiency and effectiveness of policies, rules and other methods in its district plan (section 35(2A) of the RMA).
- 10.2 **Ten years since a plan provision was last subject to a review or change:** councils must review those provisions to inform a decision about whether or not the provisions require alteration. Following that review, the council must then publicly notify the provisions for submissions (section 79(1) of the RMA).
- 11 In relation to these requirements:
- 11.1 Scoping work is currently underway on a section 35(2A) review of the Coastal Environment chapter of the District Plan, including but not limited to its coastal hazard provisions.
- 11.2 The only provisions of the District Plan requiring review under section 79(1) of the RMA are a suite of residual coastal hazard-related provisions from the District Plan 1999. These provisions are set out at the conclusion of the Coastal Environment chapter of the District Plan,² prefaced with the following note:
- “As a result of the withdrawal of coastal hazard provisions from the Proposed District Plan in 2014 and 2017, there are specific coastal hazard-related provisions in the District Plan 1999 that remain operative and in force until they are replaced through a Schedule 1 of the Resource Management Act 1991 process”.
- 12 Given the previous s79 review of the 1999 provisions occurred in 2008, the Council should undertake another s79 review shortly. That will be a relatively quick process as it was accepted (including by the Courts) that the Council had previously concluded those provided were no longer fit for purpose, and the presumption is that will still be the case. If the Council

² This chapter is available at: https://www.kapiticoast.govt.nz/media/kclove32/01-coastalenvironment_201_25-sep-2024.pdf

reaches the same conclusion, it will proceed to a Schedule 1 RMA plan change process to introduce new coastal hazard provisions into the District Plan.

- 13 In addition to satisfying statutory requirements, the review also provides an opportunity for Council to work through any other issues associated with its coastal provisions. For instance, Council has committed to removing the Coastal Qualifying Matter Precinct through a future coastal plan change.³
- 14 Staff propose to provide further advice in April 2025 on the scope and timing of the coastal provisions review.

Engagement with key stakeholders:

- 15 The scope and approach for the coastal provision plan changes will include further engagement with key parties that have interest in this matter. Regarding:
- 15.1 CRU and NOBRG: we plan to work alongside these parties as early as possible in our process to ensure that we reasonably meet the requirements noted in the settlement agreement.
- 15.2 Iwi: we will also engage our mana whenua partners as early as possible in our process, as noted in paragraph 18 and 19 of this paper.

He take | Issues

- 16 There are no issues associated with a decision to approve commencement of a review of the coastal provisions in the District Plan. On the contrary, approving commencement of a review of the coastal provisions in the District Plan:
- 16.1 Is consistent with previous Strategy, Operations and Finance Committee resolutions;
- 16.2 Will support the progression of work to enable Council to meet its section 35(2A) review of the efficiency and effectiveness of coastal provisions in the District Plan; and
- 16.3 Will enable Council to meet its initial section 79(1) requirements to commence a review of the specific coastal hazard-related provisions from the District Plan 1999 which will then lead to an RMA schedule 1 plan change process if the 1999 provisions are found again to be not fit for purpose.

Ngā kōwhiringa | Options

- 17 No reasonably practicable options to commencing a review of the coastal provisions in the District Plan have been identified.

Mana whenua

- 18 The RMA and New Zealand Coastal Policy Statement 2010 (NZCPS) provide direction to councils regarding involvement of iwi. Notably, Policy 2(b) of the NZCPS states that:
- In taking account of the principles of the Treaty of Waitangi (Te Tiriti o Waitangi), and kaitiakitanga, in relation to the coastal environment:
- (b) involve iwi authorities or hapū on behalf of tangata whenua in the preparation of regional policy statements, and plans, by undertaking effective consultation with tangata whenua; with such consultation to be early, meaningful, and as far as practicable in accordance with tikanga Māori
- 19 Subject to Council approval to commence the review, staff will approach Te Rūnanga o Toa Rangātira, Ngā Hapū o Ōtaki and Āti Awa ki Whakarongotai Charitable Trust representatives to inform further advice to Council around scope and timing and to facilitate their ongoing involvement in the review of the coastal provisions.

³ Refer introductory text in the General Residential Zone, Town Centre Zone and Local Centre Zone chapters.

Panonitanga Āhuarangi me te Taiao | Climate change and Environment

- 20 Climate change considerations will be particularly relevant to the section 79(1) review of the coastal hazard provisions.
- 21 The District Plan's 1999 coastal hazard provisions were prepared under a version of the Resource Management Act 1991 which has since been subject to multiple amendments.⁴ Further, the 1999 provisions predate many higher order planning documents which coastal hazard provisions must now adhere to, many of which make explicit reference to climate change, including but not limited to:
- 21.1 The New Zealand Coastal Policy Statement 2010,⁵ any relevant national policy statement, National Planning Standards, and the Regional Policy Statement 2013 which Council must **give effect to**;
- 21.2 Relevant provisions of Proposed Change 1 to the Regional Policy Statement, any national adaptation plan, and Council management plans and strategies prepared under other Acts which Council must **have regard to**; and
- 21.3 Iwi management plans which Council must **take into account**.
- 22 Further, central government is proposing significant changes to the RMA and various national instruments. The review will need to account for those changes, once known.
- 23 In addition, the 1999 provisions were prepared using the information available at the time. The information available to Council during this review will include reports that Council has recently commissioned and peer reviewed (including by consultants Jacobs), as well as reports (such as the De Lange report) commissioned by other parties.

Ahumoni me ngā rawa | Financial and resourcing

- 24 Costs associated with the review of the coastal provisions are accounted for within the wider District-Wide Planning budget in the Long-Term Plan 2024-2034.

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

- 25 If and where necessary, legal advice will be sought during the review of the coastal provisions.

Ngā pānga ki ngā kaupapa here | Policy impact

- 26 A decision to commence review of the coastal provisions does not impact on Council policy.

TE WHAKAWHITI KŌRERO ME TE TŪHONO | COMMUNICATIONS & ENGAGEMENT

Te mahere tūhono | Engagement planning

- 27 An engagement plan will be prepared that:
- 27.1 Seeks to involve iwi, stakeholders and communities in the review of the coastal provisions; and
- 27.2 Ensures Council's engagement on the review of the coastal provisions meets all commitments entered into by Council with past litigants on coastal matters.

Whakatairanga | Publicity

- 28 No publicity is proposed in association with this decision.

⁴ For instance, an amendment to section 6 of the RMA in 2004 requires council to have "particular regard to the effects of climate change" when exercising its functions and powers under that Act.

⁵ For instance, Policy 24 of the NZCPS requires that (in summary) hazard risks, over at least 100 years, are to be assessed having regard to the effects of climate change on a range of matters including cumulative effects of sea level rise, storm surge and wave height under storm conditions.

NGĀ ĀPITI HANGA | ATTACHMENTS

Nil

10.2 DEDICATING LOCAL PURPOSE (ROAD) RESERVE AS ROAD

Kaituhi | Author: **Nicole Davey, Principal Advisor Strategy and Growth**

Kaiwhakamana | Authoriser: **Jason Holland, Acting Group Manager Strategy and Growth**

TE PŪTAKE | PURPOSE

- 1 Following the Mayor's request to the Chief Executive on 10 December 2024 that a further report be brought to Council to provide Council an opportunity to further consider whether to designate the Moy Place Local Purpose (Road) Reserve parcel (described as Lot 72 DP 400543) as legal road, this report provides information to inform this decision including clarification on questions raised by Councillors regarding this matter.

HE WHAKARĀPOPOTO | EXECUTIVE SUMMARY

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

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 Council considered on 28 November 2024 whether to dedicate Lot 72 DP 4000543 as legal road. The motion to move the officer recommendation to approve the dedication of Lot 72 DP 400543 (held as local purpose reserve (road)) as legal road under section 111 of the Reserves Act 1977, was lost (with 5 votes in favour and 6 against).
- B. **Notes** that, notwithstanding the failed motion on 28 November 2024, it remains open to Council to further consider whether to approve the dedication of Lot 72 DP 400543, held as local purpose reserve (road), as legal road pursuant to section 111 of the Reserves Act 1977.
- C. **Notes** the legal action lodged with the High Court on 12 December 2024 by the developer, Wakefield Group Holdings Limited, in relation to Council's consideration of Item 11.2 of the Council agenda on 28 November 2024 on whether to dedicate Lot 72 DP 400543 as legal road.
- D. **Notes** the previous information provided by Council officers to support Council's consideration of whether to approve the dedication of Lot 72 DP 400543, held as local purpose reserve (road), as legal road pursuant to section 111 of the Reserves Act 1977, is attached to this report and continues to be relevant.
- E. **Considers** the information in this report dated 30 January 2025 regarding the status of Lot 72 DP 400543, including clarified information on the number of lots considered by traffic modelling advice, and the possibility of a dual access alternative option raised by the developer in recent communication with Council.
- F. **Discusses** the failed motion of Council pursuant to Item 11.2 of the Council meeting on 28 November 2024 where the motion to move the officer recommendation to approve the dedication of Lot 72 DP 400543 (held as local purpose reserve (road)) as legal road under section 111 of the Reserves Act 1977, was lost (with 5 votes in favour and 6 against).
- G. **Notes** the legislative requirements for a decision either to decline to approve (recommendation H) or approve (recommendation I) have been met under the Reserves Act

1977 and through the engagement approach undertaken pursuant to the Local Government Act 2002 requirements.

EITHER

- H. **Declines to approve** the dedication of Lot 72 DP 400543 as legal road (currently held as Local Purpose Reserve (Road)) at this time. The location of the road reserve is shown in an attachment to the previous Council report which is provided as Attachment 1.

OR

- I. **Approves** the dedication of Lot 72 DP 400543 as legal road (currently held as Local Purpose Reserve (Road)). The location of the road reserve is shown in an attachment to the previous Council report which is provided as Attachment 1.
- J. **Authorises** the Chief Executive to take all necessary steps to give effect to this resolution.

TŪĀPAPA | BACKGROUND

Previous Council Decision

- 4 On 28 November 2024, a report was presented to Council asking Council to consider whether to transfer a parcel of land at the end of Moy Place from Local Purpose Reserve (Road) (under the Reserves Act) to legal road. This report is provided as Attachment 1. The 28 November 2024 report included officer recommendations for Council as follows:
- A. *Notes the legislative requirements for this decision had 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)).*
 - D. *Authorises the Chief Executive to take all necessary steps to give effect to this resolution.*
- 5 At that meeting, the motion to move the officer recommendations at paragraph 4 above including to approve the dedication of Lot 72 DP 400543 (held as local purpose reserve (road)) as legal road under section 111 of the Reserves Act 1977, was lost (with 5 votes in favour and 6 against). No other resolution was made by Council in relation to Item 11.2 of the agenda on 28 November 2024.
- 6 The effect of the failed motion was that:
- 6.1 Lot 72 DP 400543 was not dedicated as legal road;
 - 6.2 the development's resource consent condition relating to the dedication of Lot 72 DP 400543 as road was not satisfied; and
 - 6.3 the development is currently unable to proceed to completion under the existing resource consent.
- 7 Following the Council meeting on 28 November 2024, with advance notice of a potential judicial review by the developer, and in light of Councillor requests to clarify some key points (including the number of lots considered in traffic modelling advice), the Mayor requested a further report be brought to Council to provide Councillors with the opportunity to further consider whether to convert Lot 72 DP 400543 to legal road under section 111 of the Reserves Act 1977. This report also includes information on an alternative hybrid access model which the developer advised Council it would explore following the 28 November meeting.

Receipt of Judicial Review

- 8 On 12 December 2024, Council was notified that the developer, Wakefield Group Holdings Limited, has applied for the High Court to judicially review Council's consideration of Item 11.2 of the Council agenda on 28 November 2024 on whether to dedicate Lot 72 DP 400543 as legal road.
- 9 Further advice on legal risk is provide in the legal and organisational risk section below.

HE KŌRERORERO | DISCUSSION

- 10 In relation to Council's consideration of whether to approve the dedication of Lot 72 DP 4000543 (held as Local Purpose Reserve (Road)) as legal road, the information provided by officers in the report of 28 November 2024 (Attachment 1) continues to be relevant. Additional information and clarification is set out below to assist Council with the further consideration of this matter.

Consideration of number of lots in traffic advice

- 11 The Transportation Assessment 2006 submitted as part of the previous resource consent for the Flemming subdivision assessed 200 residential lots using Sue Ave and Moy Place for access. This assessment did not consider any additional access onto Main Highway for future developments, access was always intended to be through the Moy Place and Sue Ave connection. In accounting for future growth the assessment does consider additional access south onto Riverbank Road and north onto Waerenga Road, which would ultimately provide some reduction in the numbers using Moy Place and Sue Ave.
- 12 The assessment concludes that the Sue Ave and Moy Place intersection can accommodate the proposed and predicated traffic flows if the adjoining sites were to be developed for 200 residential units. The roading network was designed specifically for additional traffic from adjoining sites. The Moy Estates development and the existing residential units will result in 171 units being accessed via Sue Ave and Moy Place, less than what was assessed and determined to be appropriate under the previous consent.
- 13 In addition to this further traffic modelling was commissioned by officers to assist in assessing the access arrangement as part of the fast-track consenting process. This modelling included all existing traffic, the proposed 137 lots as part of the Moy Estates application and future development of the sites to the north (145 Waerenga Road) and the west (15 Main Highway). It is likely that if these sites were developed, as per the 2006 report, alternate accesses from these developments would reduce the amount of traffic through Moy Place and Sue Ave. The modelling demonstrated that the existing roading network had sufficient capacity to cater for more than 300 units and any additional delay at the Sue Ave/ Main Highway intersection are acceptable.

Main Highway speed limit

- 14 The Interim NZTA Speed Management Plan proposed to reduce the speed limit between the Ōtaki River Bridge and Waerenga Road from 70km/h to 50km/h. NZTA have informed Council that because of the new *Land Transport Rule: Setting of Speed Limits 2024* released last year this is unable to be implemented. The speed limit will remain at 70km/h along this part of Main Highway and any changes to speed limits in the future would need to be in accordance with the Rule, therefore, there is no certainty that the speed limit will be reduced in the future.

'Hybrid' dual access option

- 15 In December 2024, the developer informed Council officers of their intent to look at an option for dual access through both the Moy Place local purpose reserve (as per the approved consent), and onto the Main Highway.
- 16 Officers met with the developers' representatives, Cuttriss Consultants, on 17 January 2025 to further discuss the hybrid access option. Although no plans were tabled, it is understood that the hybrid option would introduce another vehicle access from the development directly

onto Main Highway. This would require the development to be re-designed resulting in the reduction in the number of lots. The developer would have to apply to Council to either amend the consent or apply for a new consent.

- 17 Cuttriss made it clear that unless NZTA, as the Main Highway road controlling authority, and Council officers were likely to support the hybrid option, the developer would not proceed with further investigating access to the Main Highway.
- 18 NZTA stated their position on an access to the Main Highway and their comments to the expert consenting panel stated:
'As the traffic generated can be accommodated entirely within the local network, a new vehicle access from Main Highway is not supported'
- 19 NZTA confirmed that this is still their position on access from the Main Highway and it would not support this access option if proposed by the developer. This was confirmed in a conversation with Council officers on 22 January 2025.
- 20 Council's Access and Transport team have also stated that an additional access to the Main Highway is unlikely to be supported from a transport safety perspective. Through the fast-track consenting process, traffic experts acting on behalf of the applicant, Council and an independent expert assisting the panel assessed that the safest access option for the development is via the consented Sue Ave and Moy Place arrangement. This was also confirmed through the independent Safe Systems Assessment completed by Urban Connections.
- 21 There are also several other development sites within the immediate area that if developed could seek access directly from the Main Highway. Officers are mindful that each new intersection/access onto the Main Highway increases the risk of accidents and serious injuries to road users. While officers have not completed a formal assessment, which would occur further to an application to vary the existing consent, it is understood from the current traffic safety information that it is unlikely that officers would support an access onto Main Highway for this development. Further information on the safety risks is in the Urban Connections Safe System Assessment which states that the safest access option for the development is via Moy Place and Sue Ave and the existing Sue Ave/Main Highway intersection. The fast-track consent conditions also require the developer to implement safety improvements to this route which were recommended and supported by Council officers.
- 22 There are several other environmental effects such as noise, flood hazards, infrastructure servicing, streetscape and urban design that will also need to be assessed and considered as part of any amended proposal. Until an application is received along with expert reports addressing these potential effects, it is unclear what the impacts on the development and surrounding area would be. It is possible that the change in access arrangements and additional considerations and effects would not be supported. This is regardless of whether NZTA and Council officers support the access from a transport perspective.
- 23 If the hybrid option were progressed, it is understood that the developer would still require Lot 72 DP 400543 to be converted to legal road for access to the development. Therefore, while information on the hybrid option may be of interest to Councillors in considering this decision, this option is still in the early stages of investigation and would not change the underlying consent condition requirement for Lot 72 DP 4000543 to be converted to legal road.
- 24 Council officers have not sought a view from affected residents regarding a dual access option and whether this would resolve their concerns.

He take | Issues

- 25 The issues outlined in the previous report (Attachment 1) still stand. There are no further issues to note in this report.

Ngā kōwhiringa | Options

- 26 Under section 111 of the Reserves Act 1977, Council has the delegation to resolve whether to approve or decline the dedication of Lot 72 DP 400543 as legal road. Council must consider requirements under section 111 of the Reserves Act 1977 as well as the Local Government Act 2022 in making its decision.
- 27 The options, benefits and risks of each are outlined in the previous report (Attachment 1) still stand. Information on legal risk is set out under the heading 'Legal and Organisational Risk' below.

Mana whenua

- 28 The advice on mana whenua provided in the previous report (Attachment 1) still stands.

Panonitanga Āhuarangi me te Taiao | Climate change and Environment

- 29 The advice on climate and environment provided in the previous report (Attachment 1) still stands.

Ahumoni me ngā rawa | Financial and resourcing

- 30 Financial costs associated with a judicial review of this matter are estimated to be between \$100,000-\$200,000.

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

- 31 Council has sought legal advice in relation to Council's further consideration of this matter. 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.
- 32 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.
- 33 As set out earlier in this report, Wakefield Group Holdings Limited has applied to the High Court to judicially review Council's consideration of Item 11.2 of the Council agenda on 28 November 2024 of whether to dedicate Lot 72 DP 400543 as legal road.
- 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 made are supported by the available information and evidence. 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 The advice provided relating to the communications and engagement in the previous report (Attachment 1) still stands.
- 37 Consistent with our previous notification of affected residents following the 28 November 2024 report, Council will also advise affected residents of the outcome of the 30 January 2025 meeting.

Te mahere tūhono | Engagement planning

38 No further information is provided on engagement planning.

Whakatairanga | Publicity

39 We understand local media are aware of this report and this may result in publication of further news articles. No further information is provided on publicity.

NGĀ ĀPITI HANGA | ATTACHMENTS

1. 28 November 2024 Council Report [↓](#)

COUNCIL MEETING AGENDA

28 NOVEMBER 2024

11.2 DEDICATING LOCAL PURPOSE (ROAD) RESERVE AS ROADKaituhi | 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.

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- 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.

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- 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.

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- 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.

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- 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"> • 1 Lot to Vest as Road (Sue Ave & Moy Place) • 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), • 1 Lot to Vest as Local Purpose Reserve (playground vested in Council as a recreation reserve). 	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"> • 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. • Some residents expressed that there have been changes since the initial dedication of the lot as Local Purpose Reserve (Road), that should be 	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.

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Assessment criteria	Relevant information	Officer assessment
	<p>considered in Council’s decision making. This includes:</p> <ul style="list-style-type: none"> ○ An increase in the number of lots, compared to those proposed for a possible future subdivision at the time some residents purchased their homes. ○ 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. ○ These concerns are addressed at item 3 and 9 in Appendix 2: Feedback from affected residents. 	

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

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

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(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.

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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



Key themes – Residents Feedback	Reference to the Fast Track consent conditions/comments	Response from Council Officers
1 - Cul-de-sac appeal, including privacy	<p>The Panel received comments regarding the Proposal's potential amenity effects from increased traffic. In particular, these related to impacts from increased traffic volumes and disruption of residents and enjoyment of the area. The Panel accepted that any amenity effects associated with traffic movements from the subdivision, once operational, will be consistent with the planning expectations for the Site, including the increased intensification provided by Plan Change 2 (PC2).</p> <p>The Panel noted that in terms of dominance/privacy effects on properties external to the Site, the Proposal does not infringe set back and height-in-relation-to-boundary standards where the proposed dwellings will interact with external boundaries. Furthermore, the design has minimised such effects to an acceptable level through adherence to the relevant plan provisions and is anticipated within the General Residential Zone (GRZ). Accordingly, the Panel considers the privacy and shading effects of the Proposal will be appropriate.</p>	Council officers agree with comments from the Panel.
2- Increased Traffic impacts and road safety	The Panel's view, informed by specialist input from Mr Hills, (and from the responses to conditions from both the District Council and NZTA (as the current road controlling authority)) is that, provided certain road works are undertaken to the Main Highway / Sue Avenue intersection and the Moy Place carriageway, the day-to-day residential traffic activity is not inappropriate and can occur in a safe and efficient manner. Accordingly, the Panel have not imposed a condition limiting operational access to the Moy Estate development from Main Highway.	Council officers support the condition(s) imposed with regard to traffic/road safety – see Condition(s) of the consent 66. (a) – (g) imposed by the EPA below
3 - Increased number of lots	Some residents expressed that, while they were aware of the likelihood of future development on the adjacent site and the potential for Moy PI to link to this, more houses are proposed as part of this development than they had expected.	The Panel's consideration, including expert traffic advice provided through Council officers' submissions to them, related to the number of lots and houses in the current application. Council officers support the expert advice provided that the impacts were not inappropriate.
4 - Parking	The Panel received comments about the impacts of additional houses on the availability of parking at the local park. In his technical review, Mr Hills agreed with the TIA's assessment of parking effects. He recommended amendments to the conditions relating to No Stopping At All Times (NSAAT) lines. He also recommended specific requirements for provision of NSAAT lines (including parking restrictions and safe pedestrian crossings within the development, and at the intersection of Moy Place and Sue Avenue). The Panel accepted Mr Hills' conclusion regarding parking effects and made recommended amendments to the consent conditions.	Council officers support the condition(s) imposed with regard to parking – see Condition(s) of the consent 66. (d) ii. imposed by the EPA below
5 - Children's playground (Safety)	Through his review of the Application, further information request by the Panel from the Applicant and the comments received, Mr Hills made the following point(s)/recommendations: Having a playground near a road with the volume expected is not unusual and playgrounds are typically located on higher volume or collector roads, which are more accessible to the wider community. Mr Hills recommended some form of traffic calming measures be installed outside the playground to ensure speeds are appropriate.	Council officers support the condition(s) imposed to ensure safety near the Totara Park playground. Through the "Have your say" run by Council with regard to revamping the Totara Park Playground, some members of the community liked the idea of a fenced playground to support younger tamariki and those with extra needs however some did not like the idea of the playground being closed off with a fence. There is still the potential for a fence to be erected to alleviate safety concerns raised by the community through various channels.
6 - Roading design	Through his review of the Application, further information from the Applicant and the comments received, Mr Hills made the following points/recommendations: The existing road width is sufficient to cater for the additional traffic expected (including emergency vehicles) and is not unusual. However, there will likely need to be additional no stopping lines (especially on bends / intersections) on these existing roads. Mr Hills recommended these be included as a condition of consent.	Council officers accept the findings by Mr Hills in the traffic peer review with regard to the road width and notes the intended design of these roads in the consent application for Totara Park (Sue Avenue and Moy Place).
7 - Main Highway access	The Panel considered that day-to-day access to the Site via Moy Place is more appropriate than from Main Highway. We note that this is the position of NZTA, the current road controlling authority for Main Highway. We also accept the advice of our traffic advisor that direct access to a main road network should be limited, and that the combination of Sue Avenue and Moy Place can accommodate the additional traffic flows. The Panel acknowledged there will be increased traffic volumes and potential	The decision for Council presented in this paper is whether to convert from a Local Purpose Reserve (Road) to road, not to alter the subdivision application. Altering the subdivision proposal would have to follow a different process. Council officers support the expert advice that the current proposal represents the safest option considering key principles of safety and long-term planning for the area.

	safety effects for those within Sue Avenue and Moy Place. However, we consider that through engineering design and implementation of the conditions of consent, any operational traffic effects of the Proposal, including those arising from increased traffic volumes on Sue Avenue and Moy Place, will be appropriately managed. The Panel has imposed several conditions of consent to ensure the outcomes anticipated in the effects assessments are achieved.	
8 - Reserve Designation/understanding of Reserve Status	Under section 106 RMA, the Panel is required to ensure sufficient provision has been made for legal and physical access to each allotment to be created by the subdivision. Accordingly, the panel has included a condition that requires the Local Purpose Reserve (Road) Parcel to be dedicated as a road before the Applicant can seek the first section 224(c) certification for the Proposal. Some residents have noted that they view the reserve status as representing there being an intention for this land to be a 'nature reserve' or similar.	Under the Reserves Act 1977, Section 111 Local Purpose Reserve (Road) may be dedicated as a road: <i>"Where any land is vested in the Crown or in any local authority for the purposes of a Local Purpose Reserve (Road) and the land is 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."</i>
9 - Speed reduction	Raised in comments from invited parties to the Moy Estate expert consenting panel as well in feedback provided to Council. Some resident expressed a view that this would change and affect the consideration of safety in decision making.	Waka Kotahi advised in October this year that the permanent speed between Ōtaki River Bridge (ORB) to Waerenga Rd will remain at 70km/h as it is an urban connector. Land Transport Rule: Setting of Speed Limits 2024 is applicable. The Urban Connections SSA assessed both a 50km/h and 70km/h speed limit along Main Highway. The safest scenario identified in the SSA was option 1c which is essentially the current proposal with a 50km/h speed limit along Main Highway. The second safest option was 1a which is the proposed access arrangement with a 70km/h speed limit along the Main Highway. The SSA explains that these are the safest options, in part as they do not introduce additional conflict points (intersections and/ or accesses) onto the Main Highway. The number of conflict points are a key consideration in the Safe System Assessment.
10 - Green Belt and Environmental Concerns	Not part of the consent process, but raised in feedback to Council in relation to the current decision	Regarding the provision of green space, officers believe this is in reference to the Open Space Strategy. Access to Open Space on Page 41 of this Strategy notes the importance of access to open space near to people's homes, and that some areas currently used as open space by Kāpiti residents are on Local Purpose Reserve (Road): <i>'While these areas can support good open space outcomes on a temporary basis open space on designated Local Purpose Reserve (Road) will not be considered as part of the open space network for the purposes of overall open space provision due to the long-term risk or occupancy not being assured'.</i> This comment highlights that Local Purpose Reserve (Road) is not included in open space planning to ensure provision of adequate nearby open space in Council planning and decision making.
11 - Property value	The assessment of impact on existing property value (whether positive or otherwise) is beyond the scope of COVID-19 Recovery (Fast-track Consenting) Act 2020.	Officers acknowledge this concern for residents, however it is not within scope of this decision to consider full impacts of the subdivision on property values, as this is multifactorial.
12 - Council Process	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.	For this decision, Council has been conscious of providing opportunity for affected residents to provide their perspective into the current decision process to change the Local Purpose Reserve (Road) to legal road. We have sought written feedback and provided an opportunity for those that wish to speak to Council on their concerns on 22 October. To convert from a Local Purpose Reserve (Road) to road, Council has to follow a statutory process (either s 111 of the Reserves Act (simpler process) or s 114 of the Public Works Act (more complex process)) Both options require Council approval of the conversion to enact, and require Council to comply with the Local Government Act.

COUNCIL MEETING

28 NOVEMBER 2024

PART A: EXECUTIVE SUMMARY

- 1 This is an application for resource consents (*Application*) by Wakefield Group Holdings Limited (*the Applicant*) to construct 137 residential dwellings and subsequently subdivide the land at 33 Main Highway, Ōtaki (*Site*), (*the Proposal*).¹
- 2 The Applicant elected to seek a referral from the Minister for the Environment to an expert panel under the COVID-19 Recovery (Fast-track Consenting) Act 2020 (*the FTCA*). The Minister accepted that the criteria of the FTCA would be met by the Proposal, including that it would help to achieve its purpose, and was referred by Order in Council on 11 June 2023.² On 4 October 2023, an expert consenting panel was appointed to hear and determine the Application (*the Panel*).
- 3 The Applicant provided an Assessment of Environmental Effects (*AEE*) and supporting technical appendices in support of its Application. However, following review of the material, the Panel was concerned about the lack of clarity in the information provided, and the measures through which the Applicant proposed to manage effects. The lack of clarity particularly related to the Applicant's proposed staging of construction, management of potential flooding and management of traffic effects.
- 4 The Panel's concerns were reflected through the number and content of the requests for further information made throughout the consenting process. It took considerable time and effort for the Panel to understand the Applicant's Proposal, requiring requests to confirm information it considers should have been provided with the original Application documents. The Panel also had concerns regarding the Applicant's proposed conditions of consent, which were often unclear or uncertain.
- 5 The Panel has considered the Application (including the AEE and supporting technical appendices), all comments received (both on the Application and draft conditions), the further information provided and advice of our technical and specialist advisors. We are satisfied that all considerations under Schedule 6, clause 31 have been appropriately addressed. This view has been formed having regard to all of the actual and potential effects on the environment of allowing the activities, and the relevant planning documents.
- 6 Overall, we are satisfied that the dual purpose of the Act and the RMA will be achieved by the Proposal, subject to the conditions imposed.
- 7 We therefore grant consent for the Proposal, subject to the conditions included as **Attachment A** to this decision.
- 8 Pursuant to Schedule 6, clause 37(7) and (8) of the FTCA, the date on which the resource consents granted in this decision lapse unless first given effect to is 2 years from the date of commencement of the resource consents defined in Schedule 6 clause 37(9).

¹ Record of Title: WN32D/844, Legal Description: Part Lot 1 Deposited Plan 4176.

² COVID-19 Recovery (Fast-track Consenting) Referred Projects Order 2020, Schedule 82.

11 TE WHAKAŪ I NGĀ ĀMIKI | CONFIRMATION OF MINUTES**11.1 CONFIRMATION OF MINUTES**

Author: Evan Dubisky, Advisor Governance

Authoriser: Darren Edwards, Chief Executive

Taunakitanga | Recommendations

That the minutes of the Council meeting of 12 December 2024 be accepted as a true and correct record.

NGĀ ĀPITI HANGA | ATTACHMENTS

1. Council Meeting Minutes - 12 December 2024 [↓](#)

COUNCIL MEETING MINUTES

12 DECEMBER 2024

**MINUTES OF THE KĀPITI COAST DISTRICT COUNCIL
COUNCIL MEETING**

**HELD IN THE COUNCIL CHAMBER, GROUND FLOOR, 175 RIMU ROAD, PARAPARAUMU
ON THURSDAY, 12 DECEMBER 2024 AT 9.41AM**

PRESENT: Mayor Janet Holborow, Deputy Mayor Lawrence Kirby (via Zoom), Cr Martin Halliday, Cr Sophie Handford, Cr Rob Kofoed, Cr Liz Koh, Cr Jocelyn Prvanov, Cr Kathy Spiers, Cr Shelly Warwick, Cr Nigel Wilson

IN ATTENDANCE: Ms Kim Tahiwai, Mr Huriwai Paki (via Zoom), Mr Bede Laracy, Mr Glen Olsen, Mr Cam Butler (via Zoom), Mr Darren Edwards, Mr Mark de Haast, Mr Sean Mallon, Mr Brendan Owens, Ms Rach Wells, Ms Kris Pervan, Ms Steffi Haefeli, Ms Anna Smith, Mr Evan Dubisky, Ms Jessica Mackman

WHAKAPĀHA | APOLOGIES: Mr Cam Butler, Mr Michael Moore

LEAVE OF ABSENCE: Nil

1 NAU MAI | WELCOME

The Mayor welcomed everyone to the meeting

2 KARAKIA | COUNCIL BLESSING

The Mayor read the Council blessing.

3 WHAKAPĀHA | APOLOGIES

APOLOGY

The Mayor noted that apologies were received from Mr Cam Butler and acknowledged that Deputy Mayor Lawrence Kirby joined the meeting via Zoom. A further apology was received from Mr Michael Moore at a later point in the meeting.

RESOLUTION CO2024/157

Moved: Cr Shelly Warwick
Seconder: Cr Liz Koh

That the apology received from Mr Cam Butler and Mr Michael Moore be accepted.

CARRIED

**4 TE TAUĀKĪ O TE WHAITAKE KI NGĀ MEA O TE RĀRANGI TAKE |
DECLARATIONS OF INTEREST RELATING TO ITEMS ON THE AGENDA**

No declarations of interest were raised at this meeting.

5 TE WHAKATAKOTO PETIHANA | PRESENTATION OF PETITION

No petition was presented at this meeting.

6 NGĀ WHAKAWĀ | HEARINGS

There were no hearings at this meeting.

COUNCIL MEETING MINUTES

12 DECEMBER 2024

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

Mr Steve Hollet of Waimanu Lagoons Focus Group spoke to Item 10.2 Reports and Recommendations from Community Boards, regarding bollards at Waimanu Lagoons. He answered questions from elected members and tabled a submission.

TABLED DOCUMENTS

Appendices

- 1 Submission to Council - More Bollards at Waimanu Lagoons?

Sophie Handford joined the meeting at 9:47am.

8 NGĀ TAKE A NGĀ MEMA | MEMBERS' BUSINESS

- (a) No leave of absence was requested at this meeting.
- (b) No matters of an urgent nature were raised at this meeting.

9 TE PŪRONGO A TE KOROMATUA | MAYOR'S REPORT

The Mayor tabled a document of her activities and spoke to the process of sharing her activities with Councillors.

Appendices

- 1 Mayoral Activities 21 October 2024 to 19 December 2024

10 PŪRONGO | REPORTS

10.1 APPOINTMENT OF ELECTORAL OFFICER

Ms Jessica Mackman, Senior Advisor Governance, took the report as read, and answered questions from elected members. Ms Steffi Haefeli, Manager Governance, and Mr Darren Edwards, Chief Executive, also answered questions from elected members.

RESOLUTION CO2024/158

Moved: Cr Nigel Wilson
 Seconder: Cr Sophie Handford

That Council reappoint Dale Ofoske of Independent Election Services Ltd as the Electoral Officer for the Kāpiti Coast District Council in accordance with section 12 of the Local Electoral Act 2001.

CARRIED

Cr Rob Kofoed left the meeting at 10:04am and returned at 10:09am.

COUNCIL MEETING MINUTES

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10.2 REPORTS AND RECOMMENDATIONS FROM COMMUNITY BOARDS

Ms Anna Smith, Team Leader Governance, introduced the report. Mayor Holborow discussed an email from the Chair of the Waikanae Community Board relating to the recommendations raised. Mr Glen Olsen, Chair of Paraparaumu Community Board, spoke to the background of the resolution from their 5 November 2024 meeting. Elected members discussed the report and the Mayor proposed an alternate motion B.1.

Recommendations A through A.3 in the agenda were not moved.

RESOLUTION CO2024/159

Moved: Cr Rob Kofoed

Seconder: Cr Kathy Spiers

B. That Council:

- B.1 **Notes** that a review of the overall parking situation in the area around Ocean Road and Bluegum Road can be conducted at a future time.
- B.2 **Notes** that the request for bollards to protect grass edges at the Waimanu Lagoons Reserve is currently being investigated.
- B.3 **Requests** that staff investigate what action can be taken to protect the Waikanae Garden Precinct and Waikanae Beach Area ahead of further legislation being passed.

CARRIED

The meeting adjourned at 10:20am and resumed at 10:36am.

The Mayor received a certificate from a representative of Mary Potter Hospice as thanks for Council's support of the Strawberry Festival.

10.3 PERFORMANCE REPORT FOR THE PERIOD ENDING 31 OCTOBER 2024

Mr Mark de Haast, Group Manager Corporate Services, took the report as read, and answered questions from elected members along with Ian Georgeson, Acting Chief Financial Officer.

RESOLUTION CO2024/160

Moved: Cr Liz Koh

Seconder: Cr Martin Halliday

That Council:

- A. Receives this report; and
- B. Notes the Council's financial and non-financial performance for the four months ended 31 October 2024, as attached in Appendix 1 to this report.

CARRIED

COUNCIL MEETING MINUTES

12 DECEMBER 2024

11 TE WHAKAŪ I NGĀ ĀMIKI | CONFIRMATION OF MINUTES

11.1 CONFIRMATION OF MINUTES

Cr Nigel Wilson raised a change to the unconfirmed minutes regarding the nature of his absence for a portion of the meeting on page 5 of the unconfirmed minutes.

RESOLUTION CO2024/161

Moved: Cr Nigel Wilson
 Seconder: Cr Sophie Handford

That the minutes of the Council meeting of 28 November 2024 be accepted as a true and correct record with a minor amendment from the minutes included in the agenda.

CARRIED

Mr Cam Butler (via Zoom) left the meeting at 11:10am.

12 PURONGO KĀORE E WĀTEA KI TE MAREA | PUBLIC EXCLUDED REPORTS

RESOLUTION TO EXCLUDE THE PUBLIC

PUBLIC EXCLUDED RESOLUTION CO2024/162

Moved: Cr Liz Koh
 Seconder: Cr Kathy Spiers

That, pursuant to Section 48 of the Local Government Official Information and Meetings Act 1987, the public now be excluded from the meeting for the reasons given below, while the following matters are considered.

The general subject matter of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48 for the passing of this resolution
<p>12.1 - Property Acquisition</p>	<p>Section 7(2)(b)(ii) - the withholding of the information is necessary to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information</p> <p>Section 7(2)(h) - the withholding of the information is necessary to enable Council to carry out, without prejudice or disadvantage, commercial activities</p>	<p>Section 48(1)(a)(i) - the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7</p>

COUNCIL MEETING MINUTES

12 DECEMBER 2024

	Section 7(2)(i) - the withholding of the information is necessary to enable Council to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)	
12.2 - Financial Delegation for the PP20 SH1 Revocation	Section 7(2)(b)(ii) - the withholding of the information is necessary to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information Section 7(2)(h) - the withholding of the information is necessary to enable Council to carry out, without prejudice or disadvantage, commercial activities	Section 48(1)(a)(i) - the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7
12.3 - Update from the Chief Executive Performance and Employment Committee	Section 7(2)(a) - the withholding of the information is necessary to protect the privacy of natural persons, including that of deceased natural persons	Section 48(1)(a)(i) - the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7
CARRIED		

The Kaunihera | Council meeting went into public excluded session at 11:16am.

<p>RESOLUTION CO2024/166</p> <p>Moved: Cr Kathy Spiers Seconder: Cr Rob Kofoed</p> <p>That the Kaunihera Council moves out of a public excluded meeting.</p> <p>CARRIED</p>
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The Kaunihera | Council came out of public excluded session at 12:09pm.

Mayor Janet Holborow closed the meeting with karakia.

The Kaunihera | Council meeting closed at 12:09pm.

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HEAMANA | CHAIRPERSON

12 TE WHAKAŪNGA O NGĀ ĀMIKI KĀORE E WĀTEA KI TE MAREA | CONFIRMATION OF PUBLIC EXCLUDED MINUTES

13 PURONGO KĀORE E WĀTEA KI TE MAREA | PUBLIC EXCLUDED REPORTS

RESOLUTION TO EXCLUDE THE PUBLIC

PUBLIC EXCLUDED RESOLUTION

That, pursuant to Section 48 of the Local Government Official Information and Meetings Act 1987, the public now be excluded from the meeting for the reasons given below, while the following matters are considered.

The general subject matter of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under section 48 for the passing of this resolution
12.1 - Confirmation of Minutes	<p>Section 7(2)(a) - the withholding of the information is necessary to protect the privacy of natural persons, including that of deceased natural persons</p> <p>Section 7(2)(b)(ii) - the withholding of the information is necessary to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information</p> <p>Section 7(2)(h) - the withholding of the information is necessary to enable Council to carry out, without prejudice or disadvantage, commercial activities</p> <p>Section 7(2)(i) - the withholding of the information is necessary to enable Council to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations)</p>	Section 48(1)(a)(i) - the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7
13.1 - Gallup Engagement Survey - Insights and Update	Section 7(2)(a) - the withholding of the information is necessary to protect the privacy of natural persons,	Section 48(1)(a)(i) - the public conduct of the relevant part of the proceedings of the meeting

	including that of deceased natural persons	would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7
13.2 - Senior Leadership Team - Leadership Development Feedback and Insights	Section 7(2)(a) - the withholding of the information is necessary to protect the privacy of natural persons, including that of deceased natural persons	Section 48(1)(a)(i) - the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7
13.3 - Appointment of District Licensing Committee list member	Section 7(2)(a) - the withholding of the information is necessary to protect the privacy of natural persons, including that of deceased natural persons	Section 48(1)(a)(i) - the public conduct of the relevant part of the proceedings of the meeting would be likely to result in the disclosure of information for which good reason for withholding would exist under section 6 or section 7

14 KARAKIA WHAKAMUTUNGA | CLOSING KARAKIA

Kia tau ngā manaakitanga ki runga i a tātou katoa,	<i>May blessings be upon us all,</i>
Kia hua ai te mākihikihi, e kī ana	<i>And our business be successful.</i>
Kia toi te kupu	<i>So that our words endure,</i>
Kia toi te reo	<i>And our language endures,</i>
Kia toi te wairua	<i>May the spirit be strong,</i>
Kia tau te mauri	<i>May mauri be settled and in balance,</i>
Ki roto i a mātou mahi katoa i tēnei rā	<i>Among the activities we will do today</i>
Haumi e! Hui e! Taiki e!	<i>Join, gather, and unite! Forward together!</i>