



Environment, Energy, and Resilience Committee

Te Komiti Rautaki me ngā Kaupapa Here

Friday, 31 May 2024

Rāmere, 31 Haratua 2024

Totara Room, Whakatāne District Council

14 Commerce Street, Whakatāne

Commencing at: 9:00 am

Chief Executive: Steph O'Sullivan

Publication Date: 27 May 2024

Live Streaming the Meeting - *Ka whakapāho mataora te hui*

Live Streaming the Meeting - *Ka whakapāho mataora te hui*

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A Membership - *Mematanga*

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Mayor Dr V Luca - Chairperson

Councillor N S Tánczos - Deputy Chairperson

Deputy Mayor L N Immink

Councillor T Boynton

Councillor G L Dennis

Councillor A V Iles

Councillor W B James

Councillor J C Jukes

Councillor T O'Brien

Councillor J W Pullar

Councillor N Rangiaho

B Delegations to the Environment, Energy and Resilience Committee - *Tuku Mahi ki te Komiti***B Delegations to the Environment, Energy and Resilience Committee - *Tuku Mahi ki te Komiti***

1. To oversee development of strategies and plans that reflect and implement the Council's vision.
2. To oversee the development of strategies, plans and programmes that protect and restore the District's natural environment, resources, and ecology.
3. To monitor and advise on the strategy, policies and direction on the impact of climate change on the District.
4. To improve community resilience to environmental threats.

Specific functions and delegations:

Develop the Long-term Plan and Annual Plan and determine the form and extent of public consultation methods to be employed (Note1: the Council cannot delegate to a Committee the adoption of the Long-term Plan and Annual Plan, Note2: the Council retains for itself the strategic direction setting responsibility of the Long-term Plan process).

- a. Develop, and monitor implementation of, Council's Climate Change Strategy and programme.
- b. Monitor the development of associated Central Government Reform programmes.
- c. Develop and review associated bylaws (Note: only Council has the power to make a bylaw).
- d. Develop, review and approve associated strategies, policies and plans (Note: only Council has the power to adopt policies associated with the Long-term Plan).
- e. Develop a proposed plan or a change to a district plan under the Resource Management Act 1991.
- f. Climate change science, impact and strategy overview - mitigation, adaptation and resilience.
- g. Foster community environmental and climate change understanding.

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1 Meeting Notices - Ngā Pānui o te hui**1 Meeting Notices - Ngā Pānui o te hui****1. Live Streaming**

The Whakatāne District Council livestreams Council and Standing Committee meetings held in Tōtara Room, within the Council building. The webcast will live stream directly to Council's YouTube channel in realtime. The purpose of streaming meetings live is to encourage transparency of Council meetings. By remaining in the public gallery, it is understood your consent has been given if your presence is inadvertently broadcast. Please be aware the microphones in Totara Room are sensitive to noise, so please remain quiet throughout the meeting unless asked to speak.

2. Health and Safety

In case of an emergency, please follow the building wardens or make your way to the nearest exit. The meeting point is located at Peace Park on Boon Street. Bathroom facilities are located opposite the Chambers Foyer entrance (the entrance off Margaret Mahy Court).

3. Other**2 Apologies - Te hunga kāore i tae**

No apologies have been received at the time of compiling the agenda.

3 Acknowledgements / Tributes - Ngā Mihimihi

An opportunity for members to recognise achievements, to notify of events, or to pay tribute to an occasion of importance.

4 Conflicts of Interest - Ngākau kōnatunatu

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as an elected member and any private or other external interests they might have.

The Elected Member Register of Interest is available on the Whakatāne District Council website. If you wish to view the information, please click this [Register link](#).

5 Public Participation- *Wānanga Tūmatanui***5 Public Participation- *Wānanga Tūmatanui*****5.1 Public Forum - *Wānanga Tūmatanui***

The Committee has set aside 30 minutes for members of the public to speak in the public forum at the commencement of each meeting. Each speaker during the forum may speak for five minutes. Permission of the Chairperson is required for any person wishing to speak during the public forum.

With the permission of the Chairperson, Elected members may ask questions of speakers. Questions are to be confined to obtaining information or clarification on matters raised by a speaker.

- Mark Fort - Light Pollution

5.2 Deputations - *Nga Whakapuaki Whaitake*

A deputation enables a person, group or organisation to make a presentation to Committee on a matter or matters covered by their terms of reference. Deputations should be approved by the Chairperson, or an official with delegated authority, five working days before the meeting. Deputations may be heard at the commencement of the meeting or at the time that the relevant agenda item is being considered. No more than two speakers can speak on behalf of an organisation's deputation. Speakers can speak for up to 5 minutes, or with the permission of the Chairperson, a longer timeframe may be allocated.

With the permission of the Chairperson, Elected members may ask questions of speakers. Questions are to be confined to obtaining information or clarification on matters raised by the deputation.

6 Confirmation of Minutes - *Te whakaaetanga o ngā meneti o te hui*

The minutes from the Council meeting meeting held Thursday, 22 February 2024 can be viewed via the Council website.

Click on the link below in order to view the 'unconfirmed minutes'.

- [Unconfirmed Minutes - Environment, Energy and Resilience Committee | 6 March 2024](#)

7 Reports - *Ngā Pūrongo*

7 Reports - *Ngā Pūrongo*

7.1 Six Monthly Climate Change Report - July to December 2023



To: **Environment, Energy and Resilience Committee**

Date: **Friday, 31 May 2024**

Author: **R Daniher / Strategic Policy Analyst**

Authoriser: **S Perdia / General Manager Strategy and Transformation**

Reference: **A2672503**

1. Reason for the report - *Te Take mō tēnei rīpoata*

The purpose of this report is to provide the Environment, Energy and Resilience Committee with an update on progress made towards the targets and actions outlined in Council's Climate Change Strategy.

Included as Appendix 1, the 'Six-Monthly 23/24 Climate Change Report', covers the period 1 July – 31 December 2023, and summarises the progress made towards the actions specified in the Council's six climate change action plans.

This report will also provide an update on Council's participation in the Toitū Carbonreduce Programme; the latest carbon report can be found on the following weblink:

[Toitū carbonreduce programme report - Whakatane District Council](#) .

2. Recommendation - *Tohutohu akiaki*

THAT the Six-monthly Climate Change July to December 2023 report be **received**.

3. Background - *He tirohanga whakamuri*

Responding to climate change is a strategic priority for the Council. In 2017, the Council signed the New Zealand Local Government Leaders Climate Change Declaration, alongside 70 other councils. The Declaration sets out seven principles to guide future decisions. In 2019, the Council confirmed the principles to make sure they aligned with our communities' priorities and aspirations. The Council adopted these principles (Figure 1), which created the foundation for our Climate Change Strategy.

7.1 Six Monthly Climate Change Report - July to December 2023(Cont.)

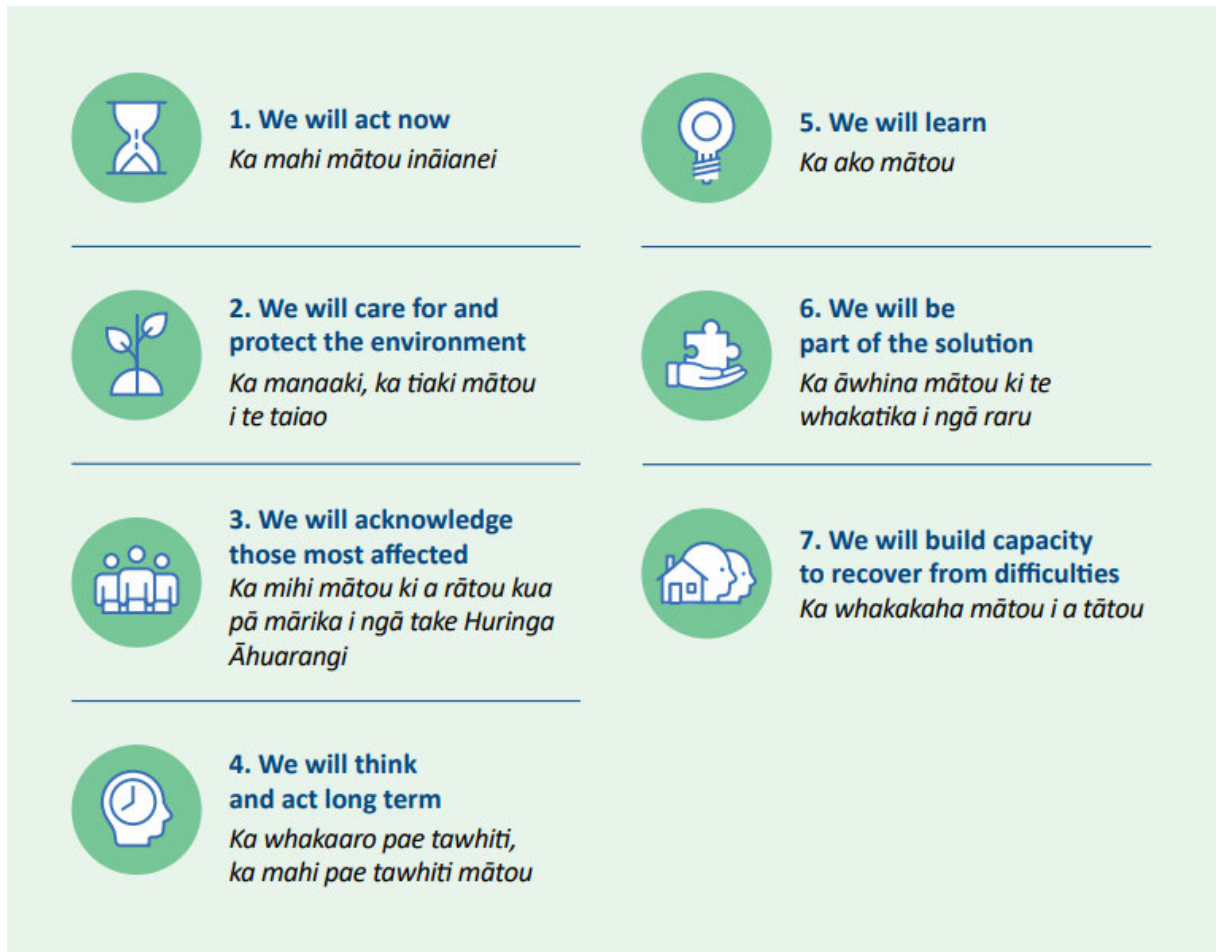


Figure 1: Climate change principles.

In 2020, Council adopted a Climate Change Strategy and six Action Plans (Figure 2). Together, these documents ensure a strategic approach to climate change is taken across the organisation and monitored into the future. Reporting on these action plans commenced in 2021.

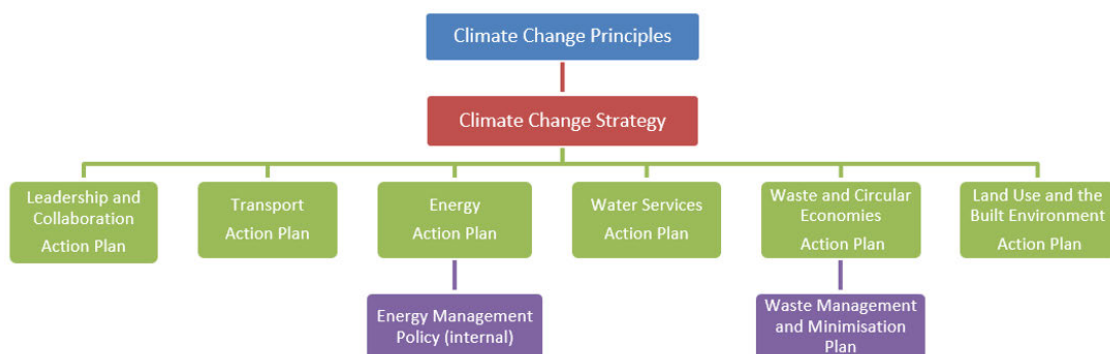


Figure 2: Whakatane District Council Climate Change Framework

7.1 Six Monthly Climate Change Report - July to December 2023(Cont.)**4. Six monthly climate change report**

This report continues Council's six-monthly reporting against the targets and actions outlined in Council's Climate Change Strategy and six Action Plans. The period for this report is July 2023 – December 2023.

Since adoption in 2020, we have been implementing the Council's climate change strategy and action plans, which were ambitious in their targets. As we progressed the work, we found that the action plans did not align with resourcing available and across the organisation we have faced constraints preventing us from reaching the longer-term actions which make the biggest impact. Due to financial and resourcing constraints, many of our teams have only been able to progress business as usual, ongoing actions. Progression towards our action plans is included in Appendix 1, which snapshots the work we have achieved over the six months between July and December 2023.

4.1. Leadership and Collaboration Action Plan

A draft version of Council's proposed climate change strategy (Whakatāne Climate Pathway) was developed for public consultation alongside the long-term plan in April 2024. Pre-consultation was carried out during August and September 2023 to inform the vision, goals, and targets within this document. The anticipated timeline for its adoption is the end of June 2024, following the incorporation of feedback received from the public consultation process running in parallel with the LTP 2024/34.

Staff are proactively working towards the implementation of the Whakatāne Climate Pathway (once approved). This involves assessment the role of Council's Climate Change Project Group, as well as consider various tools that aim to achieve priority action plans. Tools for consideration include an operational climate change policy, climate impact statements and embedding environmental considerations within procurement processes.

Staff have periodic meetings with other Councils in the Bay of Plenty to learn from each other and pool together resources. In December 2023 an opportunity was presented for local and regional councils to participate in a software tool pilot that can help record, understand, and model district-wide emissions. Whakatāne District Council is exploring participating in this future pilot.

4.2. Transport Action Plan

The incoming government has removed the Climate Emergency Relief Funding, which aimed to reduce motor vehicle travel. This has resulted in two local transport projects being cancelled; the SH30 Shaw Road Pathway and the Awatapu Stopbank path. Despite this, Council is still working to encourage active forms of transport, such as incorporating Active Whakatāne projects within the Transport Capital Works Programme over the next 3 years (within the next LTP); staff are also developing trail projects to encourage more commuting and recreational cycling within some rural areas.

Of the seven action plans within Transport, one action has not started: reduction of corporate transport related emissions. This is due to limited resources focusing on other priorities, and a knowledge gap on corporate-wide transport behaviours.

4.3. Energy Action Plan

Staff have been engaged with, and committed to, the Energy Action Plan. The Energy Management programme supported by Energy Management Solutions (EMSOL) continues to deliver carbon and cost savings through energy reduction.

7.1 Six Monthly Climate Change Report - July to December 2023(Cont.)

The team is consistently looking for ways to improve energy efficiency at our sites. The facilities team have taken action to reduce unnecessary energy use at Council facilities, such as implementing schedules on Civic centre AC units to operate between 6am to 6pm – requiring them to be manually turned on outside of these hours, increasing use of sensor lights, swapping out fluorescent lights with LEDs, and reducing gas boiler use.

There are eight actions within the Energy Action Plan, of these, two have not started: reducing organisational reliance on the national grid and enabling community resilience through localised power generation. Despite this, a solar feasibility study was conducted and is to be considered following the finalisation of the Whakatāne Climate Pathway. It is worth noting, however, that financial constraints may be a potential barrier to achieving these actions over the upcoming years.

4.4. Water Services Action Plan

The Three Waters team have been trialling smart meters (automatic water meter readers) in certain areas. Every three months, Three Waters staff are required to visit each urban property (6 monthly for rural properties) and manually check water meters to see a household's usage; smart meters are connected to 5G, allowing staff to check this information by driving by with a device that wirelessly connects to the smart meter (without going onto the property). Should these devices be connected to rubbish trucks that periodically pass properties, this should reduce transport emissions related to the Three Waters staff driving their diesel vehicles throughout the district to assess water meters in person. Staff are also considering how this information could be displayed to users to increase awareness of water usage, to educate and encourage behaviour that reduces unnecessary water usage.

These smart meters may also utilize more frequent data collection to identify and resolve water leakages sooner. Although staff do not know the emissions associated with water leakage; district wide leakage is approximately 19.57% of water supplied; (2,607m³ per day) – suggesting that the associated carbon footprint (from treatment and pumping throughout the district) could be significant.

As part of LTP consultation, members from the Three Waters team have been attending events throughout the district to discuss draft LTP proposals. Water user charges were a common topic of discussion that has resulted in increasing awareness of the resources required to provide drinking water and treat grey water, leading to increased awareness and acknowledgement of the associated environmental impact these essential services require.

Staff are also investigating aerator run time within the Ōhope wastewater pond, in order to see if it is possible to reduce the associated energy consumption. This has been recommended following an Energy Audit.

4.5. Waste and Circular Economies Action Plan

Between July-December 2023 staff were investigating the introduction of kerbside food waste collection; however, with central government changes, the proposed new waste legislation to replace the Waste Minimisation and Management Act and the Litter Act is currently on hold. Likewise, new kerbside diversion targets for Territorial Authorities have not yet been legislated and may be reviewed. This creates some uncertainty for staff working in waste management and minimisation.

7.1 Six Monthly Climate Change Report - July to December 2023(Cont.)

Compulsory kerbside food waste collections, although written in policy have not yet been legislated. In 2024 Council consulted on collections options as part of the LTP, this informed the decision for no kerbside food waste collection to be included in the LTP 24/34 - noting that this does not necessarily support keeping the 'status quo'; rather, it asks that resource be directed into encouraging behaviour change to reduce food waste and increase home composting.

4.6. Land Use and the Built Environment Action Plan

Most of the actions within the land-use and built environment action plan are on-going planning activities. The planning team is working to promote a built environment which is resilient to climate change impacts. The District Plan requires new builds in flood prone areas to exceed requirements of the building code for floor level height, which helps reduce flood risk. Work is also underway to utilise information from the National and Regional climate change risk assessments to inform the district wide risk assessment.

Following the harvest of a small 0.8Ha pine forest on Council-controlled land, staff are working towards regenerating the site with indigenous forest. This aligns with a recommendation from the Technical Advisory Group (as part of the Climate Change strategy review), noting that the previous use of commercial forestry provided minimal financial benefits. This parcel of land is classified as unproductive and has a statutory requirement to remain as a forest – thus making this land unsuitable for other land use activities. This project aims to work with local volunteers to reduce costs, and staff are applying for external funding to purchase trees. Once planted, associated sequestration can be included in Council's carbon reporting and will align with best practice – as confirmed by the Technical Advisory Group.

Staff within the open spaces team are also working on a project to plant 44 trees throughout Murupara, Tāneatua, Edgecumbe, Whakatāne, and Ōhope.

5. *Toitū Carbon Report 2022-23*

Whakatāne District Council has been part of the Toitū carbon reduce programme since the 2017-18 financial year. Participating in this program allows Council to estimate greenhouse gas emissions from activities where council has full authority over operational policies and procedures (termed 'operational control'). Participating in the carbon reduce programme allows Council to monitor and understand its emissions risk and the impact of various Council activities on climate change.

The 2022-23 financial year saw Council record its lowest carbon emissions since participating in the Toitū programme in 2017/18. We hope the next six-monthly report will include a similar result for the 23-24 financial year.

7.1 Six Monthly Climate Change Report - July to December 2023(Cont.)

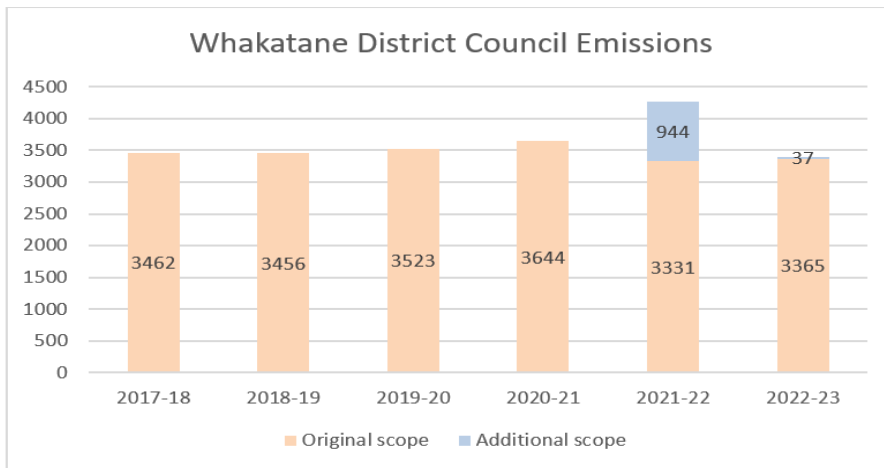


Figure 3: Councils emissions over time ^[1]

Note that 2021-22 was the first year where additional emitting activities were introduced to the carbon report – a forestry harvest and refrigeration leaks. In 2022-23 there was a refrigeration leak that resulted in 37 tCO₂e of emissions released. The blue sections of the bar graph represent these introduced emissions.

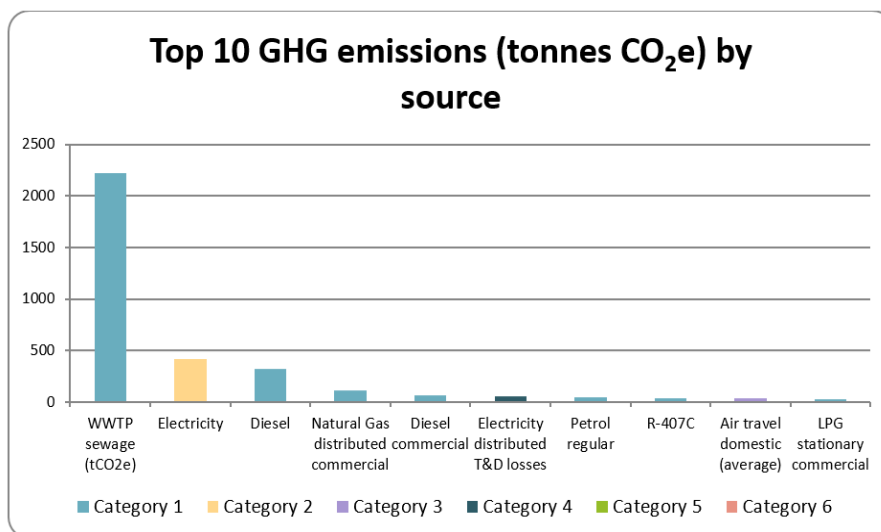


Figure 4: Council’s top 10 emissions by source. ^[2]

The top three sources of emissions make up over 97% of the Whakatāne District Council's total emissions profile. These are discussed below.

[1] This data was sourced from Toitū’s ‘emanage’ online portal.

[2] This graph is sourced from Council’s latest GHG emissions Inventory and Management Report (aka the 2022/23 carbon report) - [Greenhouse Gas Emissions Inventory Report and Management Plan \(whakatane.govt.nz\)](https://www.whakatane.govt.nz/greenhouse-gas-emissions-inventory-report-and-management-plan)

7.1 Six Monthly Climate Change Report - July to December 2023(Cont.)**5.1. Wastewater treatment plants**

As a provider of wastewater treatment services to approximately 23,600 residents within the district, it is known that this is a large source of greenhouse gas emissions for the Council. The majority of Council's wastewater consents expire in 2026, and projects are underway to understand upgrades that will be required as part of this process. The upgrades will allow Council to head toward 'least-carbon' treatment options and provide opportunities to explore the capture and conversion of biogas into usable energy, along with other improvements to reduce greenhouse gas emissions from this activity.

5.2. Electricity

As well as using electricity for administrative services, the Council maintains a large range of public facilities and services that use electricity. The Council had an Energy Audit undertaken in 2018 and has since then been running an ongoing energy management programme to identify and implement a range of energy saving and emission reduction initiatives. This programme is run in collaboration with the Energy Efficiency and Conservation Authority (EECA) and Council's energy management contractor Emsol.

5.3. Diesel

Diesel was our third biggest emissions source. The council operates several diesel utes. The Council is responsible for maintaining service and workers have to attend rural areas. We also operate a number of diesel generators for wastewater and emergency operations. There are ongoing discussions about the possible transition to electric utes when they become a viable alternative for fleet management.

5.4. Takeaways

Although staff are aware of Council's large emitters, reducing the associated emissions in a period of financial strain is proving difficult.

With regards to wastewater treatment plants, there is no silver bullet solution. Staff note that one company (Capture6) is working on various carbon dioxide removal facility pilots. Each trial has water recovery from the process and removes CO₂ from the atmosphere – with several products produced (H₂O being the primary product). This is an area that staff are monitoring.

Most of Council's electricity usage is required to operate essential three waters services, and the aquatic centre. Budget-limitations create difficulties in making material differences with these services; however, work is still being done – as discussed above (section 4.3) and in Appendix 1.

Diesel usage is required for Council's four-wheel-drive vehicles that often provide essential services – such as three waters services. Due to limitations in non-diesel 4WD vehicles, reducing associated emissions in this area appears difficult. As discussed above in section 4.4, should Council continue the roll-out of smart water meters, this would reduce Council's diesel usage – as staff would not need to drive diesel vehicles to check water meters throughout the district. Staff do note, however, that there is generally little information regarding staff behaviour with these vehicles – acknowledging that more information (via GPS monitoring, or improved staff logging details) may be of value.

7.1 Six Monthly Climate Change Report - July to December 2023(Cont.)

5.5. Looking forward – not backwards

Council will be required to expand the scope of emitters in the organisation’s carbon reporting from 2024-25 onwards to include scope 3 emissions (aka value-chain emissions). Scope 3 emissions are the result of assets not owned by Council, but that Council indirectly affects in its value chain – including emissions from upstream and downstream activities ^[3]. This is shown in figure 5 below.

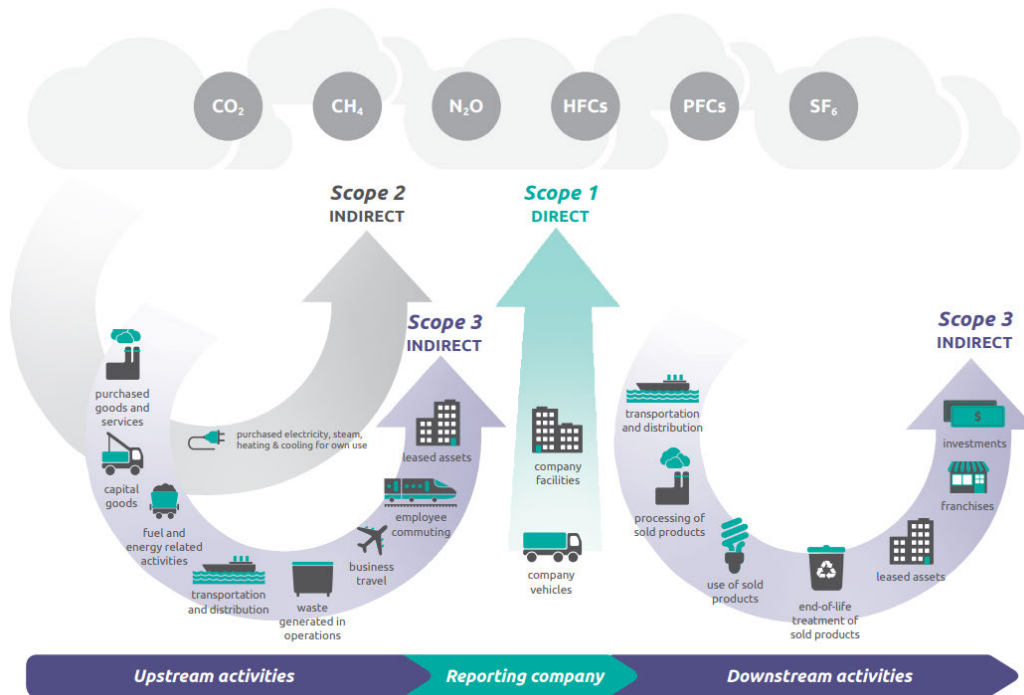


Figure 5: Overview of GHG Protocol scopes and emissions across the value chain ^[4]

Keeping in mind this expanding scope of emitters in the future, it may prove beneficial to consider how Council can minimise (or avoid) emissions that are soon to be included.

Large scale future capital projects will likely have significant emissions. As such, the principle of “de-growth” - the reduction of consumption by prioritising essential needs over ‘nice-to-haves’ - is of increasing relevance when considering capital projects. Furthermore, ensuring that sustainable products, suppliers, or contractors are used to carry out these essential projects will also reduce associated emissions.

In addition to sustainable contractors, facilitating more sustainable behaviour among staff will be beneficial. Although impacts may be small on individual scales, ripple-on effects can have large scale impacts. Behaviour change is an area that many climate scientists recommend as a priority (despite this receiving little media attention) – whereby the collective consumer behaviour will impact large emitting corporations and organisational practices.

[3] Upstream emissions come from the production of products or services Council uses, whilst downstream emissions come from their use and disposal.

[4] This image is sourced from the Technical Guidance for Calculating Scope 3 Emissions report: https://ghgprotocol.org/sites/default/files/standards/Scope3_Calculation_Guidance_0.pdf.

7.1 Six Monthly Climate Change Report - July to December 2023(Cont.)

One method to reduce Council's value-chain emissions is by having a procurement process that requires consideration of environmental impacts. Tauranga City Council and Bay of Plenty Regional Council have recently updated their processes to require a 'broader outcomes' assessment before decision making, as well as encouraging large-scale contractors to do their own carbon accounting – to allow for them to better understand their scope 3 emissions.

6. Significance and Engagement Assessment - *Aromatawai Pāhekoheko***6.1. Assessment of Significance**

While the Council's overall Climate Change work programme is of high significance, the recommendation of this report (to receive the End of Year Climate Change Report) is assessed to be of low significance in accordance with Council's Significance and Engagement Policy.

6.2. Engagement and community views

The results for progress on Council's Climate Change work programme (as attached to this Report) are publicly available through this agenda and will be made available under the climate change reporting section of Council's public website after this Committee meeting.

7. Considerations - *Whai Whakaaro***7.1. Financial/budget considerations**

The recommendations of this report do not have any financial implications.

7.2. Strategic alignment

The Climate Change Strategy and Action Plans have implications for a range of Council policies and planning processes. This includes the Long-Term Plans 2021-31 and 2024-34, Procurement Policy, Operative District Plan and others. The intention is for climate change considerations to be embedded across all Council processes.

7.3. Climate change assessment

The decisions and matters of this report (to receive the End of Year Climate Change Reporting 2020/21) are assessed to have low climate change implications and considerations, in accordance with the Council's Climate Change Principles. However, this report provides updates to the Committee on actions that specifically deliver on Council's Climate Change Action Plans and can so be determined to have high significance.

7.4. Risks

Not taking climate change action quickly enough may pose the biggest risk, with far-reaching environmental, social, cultural, economic, legislative, and other consequences to our District. The development, adoption and continued monitoring of the Council's Climate Change Strategy and Action Plans ensures a systemic response to climate change across the organisation. These documents are intended to be 'live' and continually reviewed to ensure they are fit for purpose and respond to new data, legislation and government direction as these arise.

7.1.1 Appendix 1 - Six-monthly Climate Change Report 2023/24

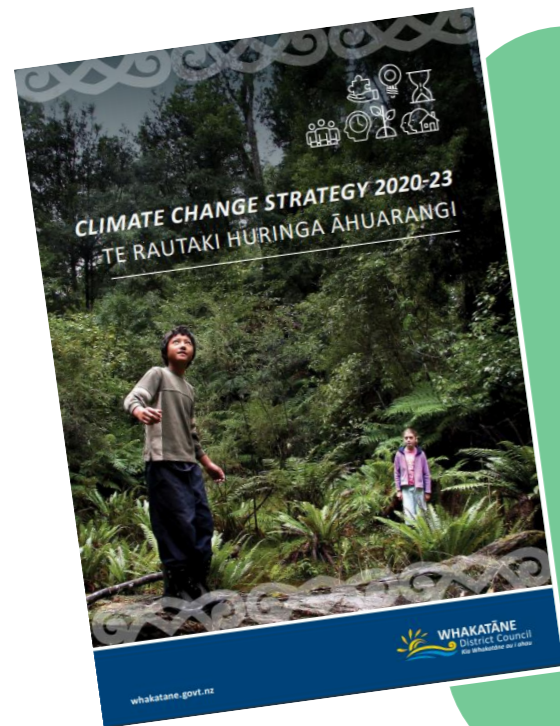
Attached to this report:

- Appendix 1: Six-monthly Climate Change Report 2023/24

7.1.1 Appendix 1 - Six-monthly Climate Change Report 2023/24

Six Monthly Climate Change Reporting

1 July – 31 December 2023



Six Monthly Climate Change Report 2023

About this report:

Whakatāne District Council adopted its Climate Change Strategy and six Action Plans in September 2020. These documents are available on Council’s climate change page on: <https://www.whakatane.govt.nz/climate-change>

This Six-Monthly Climate Change Report covers the period 1 July – 31 December 2023, and summarises the progress made towards actions specified in the Council’s six Climate Change Action Plans.

This report is the sixth report on the targets, goals and actions collectively agreed upon. Previous reports are available on Council’s climate change page under climate change reporting: <https://www.whakatane.govt.nz/about-council/council-projects/climate-change/climate-change-reporting>



[whakatane.govt.nz/climate-change](https://www.whakatane.govt.nz/climate-change)

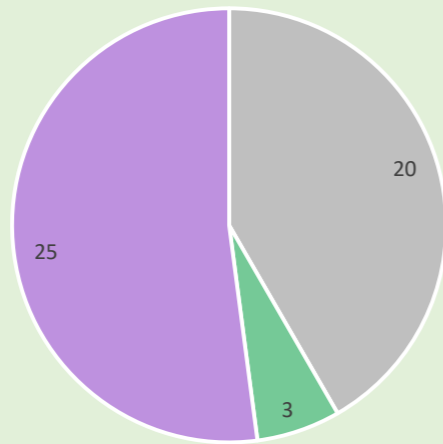


Six Monthly Climate Change Reporting

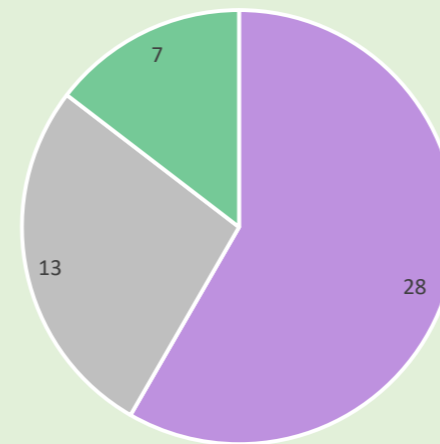
1 July – 31 December 2023

Action Plan Progression

January – July 2023



July – December 2023



There are 52 actions across six action plans. We are reporting on 48 actions as 4 have been completed prior to this reporting period.

Key	
● action progressing	● action complete
● action not started	● action ongoing



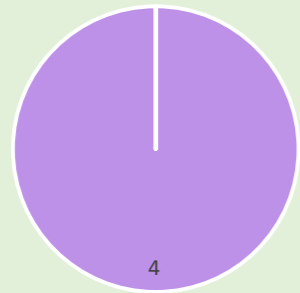
whakatane.govt.nz/climate-change



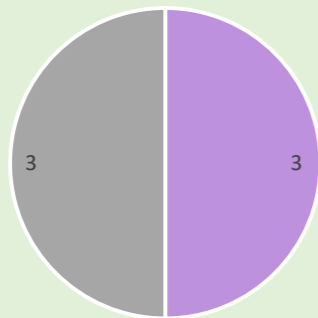
7.1.1 Appendix 1 - Six-monthly Climate Change Report 2023/24(Cont.)

Six Monthly Climate Change Reporting 1 July – 31 December 2023

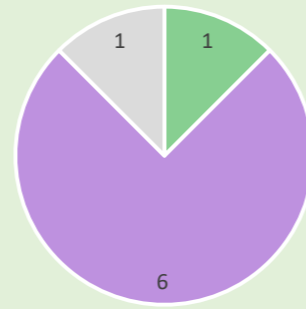
Leadership & collaboration



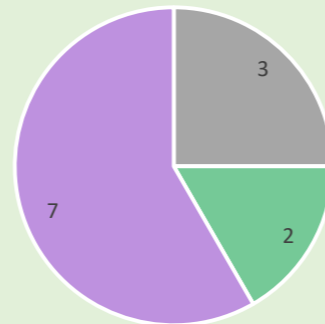
Waste & Circular Economies



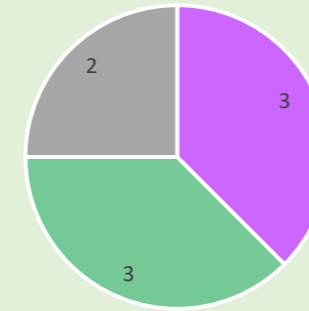
Transport



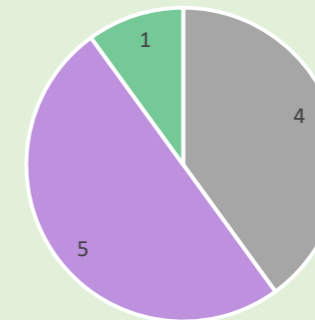
Land Use & Built Environment



Energy



Water Services



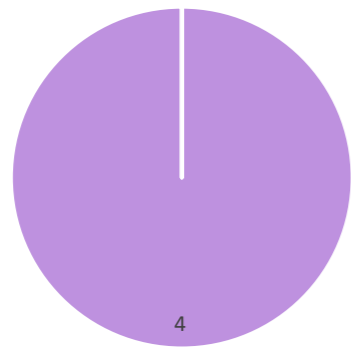
Key	
● action progressing	● action complete
● action not started	● action ongoing



whakatane.govt.nz/climate-change

Leadership and Collaboration Action Plan 1 July – 31 December 2023

The Climate Change Principles state we will act now and we will be part of the solution. Showing leadership and working with others are two crucial roles to ensure we can effectively respond to this challenge. Climate change will impact us all in different ways, so we must work together and consider a range of viewpoints. Access the full Leadership and Collaboration Action Plan [here](#).



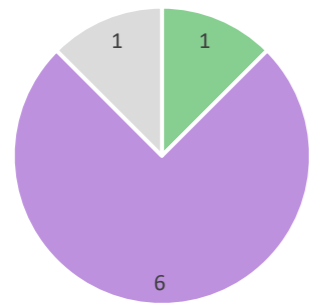
Key	
● action progressing	● action complete
● action not started	● action on-going

GOALS	PROGRESS ON EACH ACTION	SNAPSHOTS
<p>Goal 2: Build the Council’s organisational knowledge about climate change, mitigation and adaptation</p>	<ul style="list-style-type: none"> ● Develop knowledge and understanding of risk to the Whakatāne District and communities. ● Monitor information related to climate change and incorporate a range of sources in decision-making, including science, local knowledge, and mātauranga Māori. 	<p>a. An opportunity to participate in a future emissions software pilot anticipated (in collaboration with a range of other Councils, including BOPRC and Tauranga City Council) was presented in December 2023. Should the pilot go ahead in mid 2024, staff will be able access to a district-wide emissions tool to track the carbon footprint and engage in emissions modelling for 2024/25 (Goal 3).</p> <p>b. The team have been attending periodic meetings led by the Regional Council and supported by the other TA’s to share current work, key learnings, collaborate and share resources (Goal 2 and 3).</p> <p>c. Council conducted pre-engagement to seek community views on Climate Action to inform the Climate Change Strategy Review (25 August – 25 September 2023) (Goal 3 and 4).</p> <p>d. A draft Climate Change Strategy is being prepared to be included alongside the LTP 2024/34 consultation document. This has been informed by pre-consultation, as well as feedback from the Technical Advisory Group and Steering Committee. (Goal 3 and 4)</p>
<p>Goal 3: Collaborate with stakeholders, partners, and the community, for a unified approach to the climate crisis</p>	<ul style="list-style-type: none"> ● Work with, and advocate to regional and central government on climate change related processes. 	
<p>Goal 4: Build community awareness about matters relating to climate change, including the Council’s response</p>	<ul style="list-style-type: none"> ● Celebrate success and achievements related to climate change. 	



Transport Action Plan 1 July – 31 December 2023

Transport (of people and products) is directly responsible for a large portion of emissions (20% for New Zealand, 16% for the district and 14% for the Council). Significantly reducing transport emissions will help achieve our mitigation targets. Transport infrastructure is at risk from a changing climate and increasing resilience of our roads and key routes will make communities less vulnerable. Access the full Transport Action Plan [here](#).



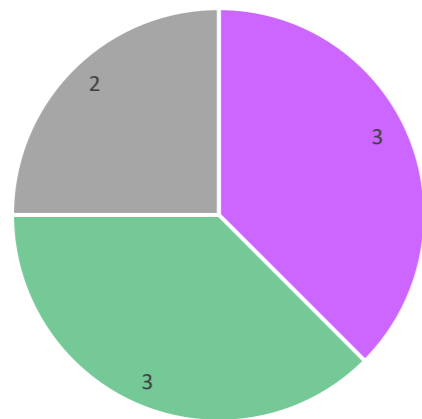
Key	
● action progressing	● action complete
● action not started	● action is on-going

GOALS	PROGRESS ON EACH ACTION	SNAPSHOT
Goal 1: Promote travel efficiency	<ul style="list-style-type: none"> ● Advocate for reduced and more efficient community travel 	<ul style="list-style-type: none"> a. Launch of Whakatane E-Bike Library (Goal 1 and 2) b. EBOP Road Safety Programme Skills training in schools for bike riders. (Goal 2)
Goal 2: Enable and encourage active transport	<ul style="list-style-type: none"> ● Provide facilities and infrastructure to encourage Council staff and the community to utilise active forms of travel. 	<ul style="list-style-type: none"> c. Cycle safety awareness promoted through EBOP Road Safety advertising programme. (Goal 2) d. Currently developing trail projects to encourage more commuting and recreational cycling activities in a select number of Rural areas (Goal 2 and 3)
Goal 3: Increase low carbon transport options	<ul style="list-style-type: none"> ● Reduce corporate transport-related emissions. ● Advocate for increased low-carbon transport options and infrastructure. 	<ul style="list-style-type: none"> e. Funding included in draft LTP for transport resilience study (Goal 4) f. Spatial Plan will identify impact of landuse patterns on transport related emissions and identify future resilience issues on the network. (Goal 4, 5).
Goal 4: Manage climate change risks to existing transport infrastructure	<ul style="list-style-type: none"> ● Identify transport infrastructure that is at risk or vulnerable to climate change. ● Manage climate change risks when planning for ongoing operations and renewal of transport infrastructure. 	<ul style="list-style-type: none"> g. Transport Capital Works Programme within the 2024 LTP is being developed with a resilience focus and incorporates Active Whakatane Projects for delivery over the next 3-years (Goal 5)
Goal 5: Build future transport infrastructure for a changing climate	<ul style="list-style-type: none"> ● Apply climate change assumptions to new transport projects. ● Collaborate with other transport providers, within the Bay of Plenty region, to build climate change resilience. 	



Energy Action Plan 1 July – 31 December 2023

Nationally, New Zealand generates a large amount of renewable energy, but energy still accounts for 41% of our emissions. Energy represents the second largest emissions sector for the district (17%), primarily from natural gas use. Energy also makes up 38% of the Council’s overall emissions, primarily electricity. Localised energy generation may also help improve community resilience. Access the full Energy Action Plan [here](#).

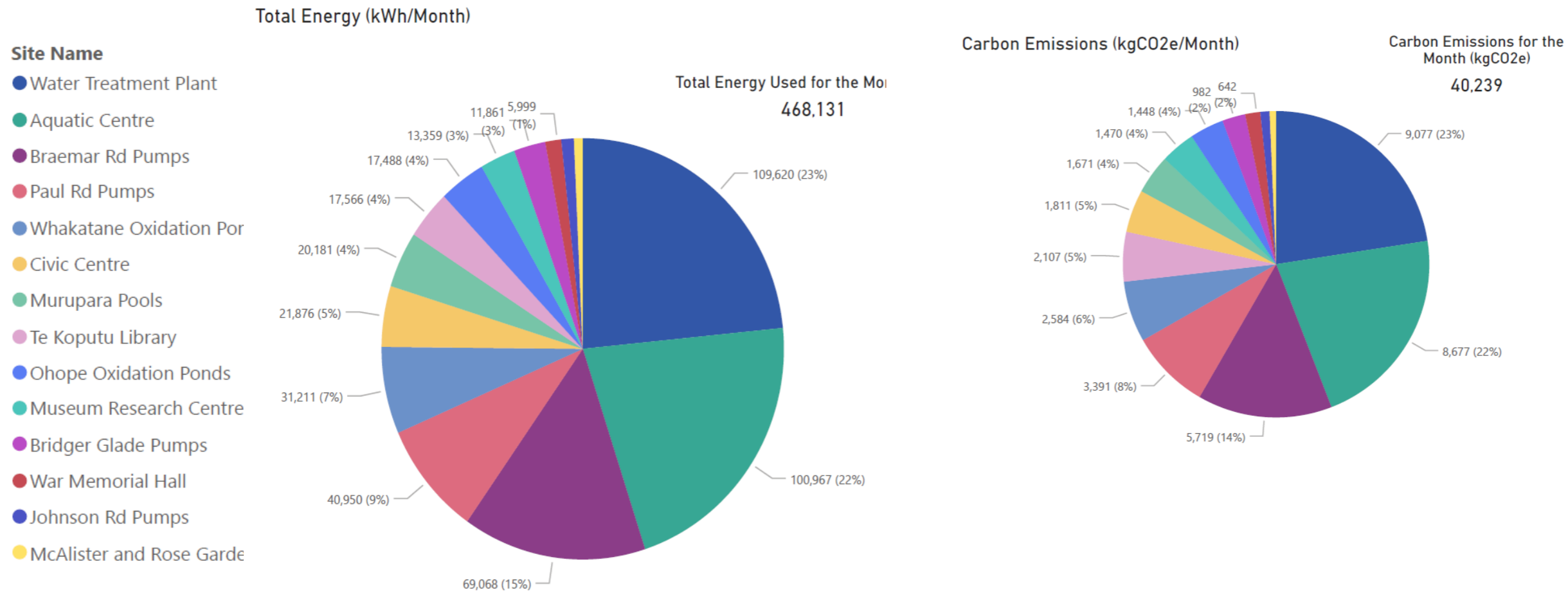


Key	
● action progressing	● action complete
● action not started	● action is on-going

GOALS	PROGRESS ON ACTIONS	SNAPSHOT
Goal 1: Enhance energy efficiency	<ul style="list-style-type: none"> ● Reduce energy use within existing facilities through energy efficiency initiatives. ● Energy consumption considered for all major new projects. ● Consider energy related greenhouse gas emissions associated with services as a factor in awarding contracts 	<ul style="list-style-type: none"> a. Council’s energy management programme continues. The achieved emission, energy and cost reductions are explored further in the following slides (Goal 1). b. Staff are working to install schedules on AC units to start at 6am and turn off at 6pm. (Goal 1). c. Increasing the use of light sensors so lights are on when people leave Goal 1 and 2) d. All Council buildings starting to swap out fluorescent lights with LEDs (Goal 1 and 2).
Goal 2: Encourage low carbon energy options	<ul style="list-style-type: none"> ● Plan to transition from use of natural gas at Council facilities ● Advocate for low emissions energy generation. 	<ul style="list-style-type: none"> e. A grant application has been made to replace War Memorial Hall stadium lights with LED rather than sodium lights. (Goal 1 and 2).
Goal 3: Encourage the development of resilient low carbon energy options	<ul style="list-style-type: none"> ● Reduce organisational reliance on the national grid ● Enable community resilience through localised power generation ● Encourage local collaboration to ensure energy resilient communities 	<ul style="list-style-type: none"> f. Using solar generation in CCTV cameras and remote sites like campgrounds (Goal 2). g. Community halls are being set up as civil defence locations – generator connections are planning to be installed (Goal 3).

Energy Management Programme 1 July – 31 December 2023

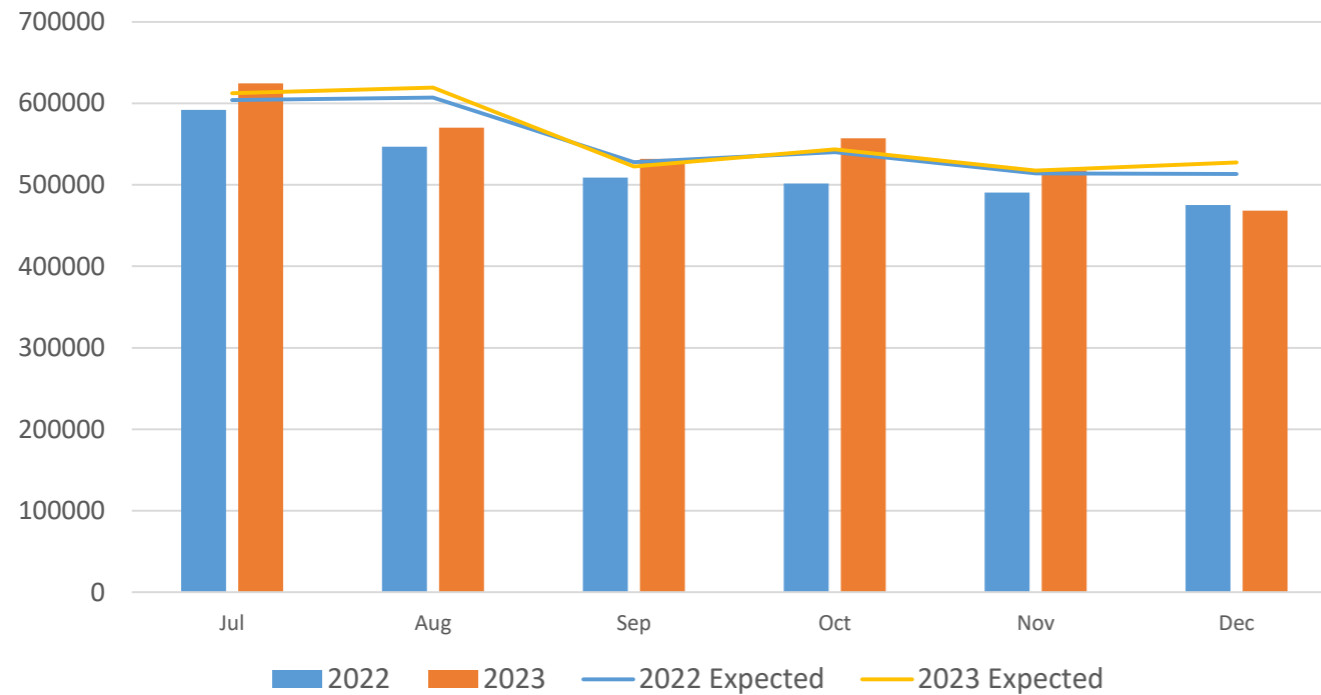
The **Energy Management Programme** tracks energy usage at our **13 biggest energy usage sites**. The graphs below provide a snapshot of energy usage and carbon emissions patterns. The example below is for the month of December 2023. Most of our energy usage occurs at the Aquatic Centre and the Water Treatment Plant. These are similarly the highest Greenhouse gas emitting sites from energy usage



Energy Management Programme

1 July – 31 December 2023

Total Energy (kWh)



Overall energy usage and emissions were higher when compared with the previous year. Increased reliance on energy from gas was a contributing factor, with the Aquatic Centre using gas boilers as a temporary solution while heat pump and plant equipment were repaired and redeveloped.

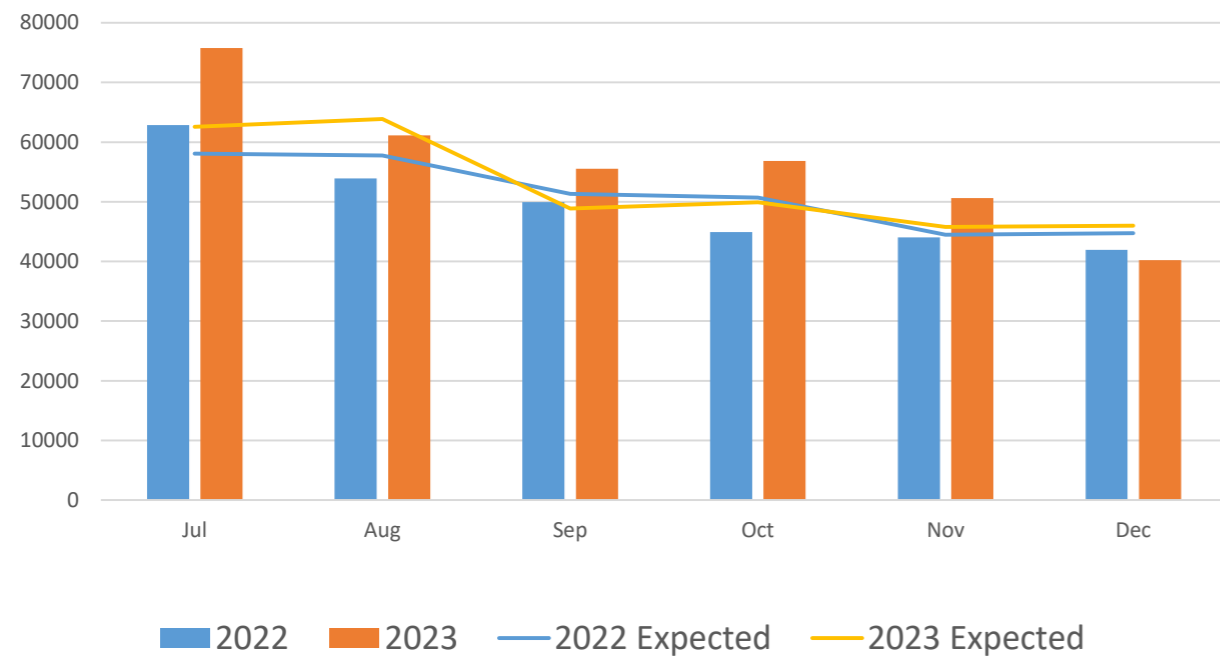
Sites and facilities continue to focus on improving energy efficiency, and Energy usage was 2.1% less than what was expected across the 6month period. Bridger Glade Pumps, Civic Centre, Johnson Road Pumps, Te Koputu Library and Water Treatment Plant were consistently tracking below their expected baselines.

Total Energy	Jul	Aug	Sep	Oct	Nov	Dec	Total
2022 Actual	591,849	546,661	508,902	501,602	490,497	475,214	3,114,725
2023 Actual	624,318	570,096	531,950	557,101	517,543	468,131	3,269,139
2022 Expected	604,132	607,130	527,619	540,213	514,188	513,133	3,306,415
2023 Expected	612,365	619,173	522,301	543,576	517,493	527,379	3,342,287



Energy Management Programme 1 July – 31 December 2023

Carbon Emissions CO2e(kg)



Emissions were 7.3% above what was expected for the July – Dec 2023 period. Increased use of gas was the main contributing factor that led to higher-than-expected emissions from July to November. As Council was able to transition away from gas to electricity in December, emissions began to fall. The highest emitters were the Aquatic Centre and the Water Treatment Plant.

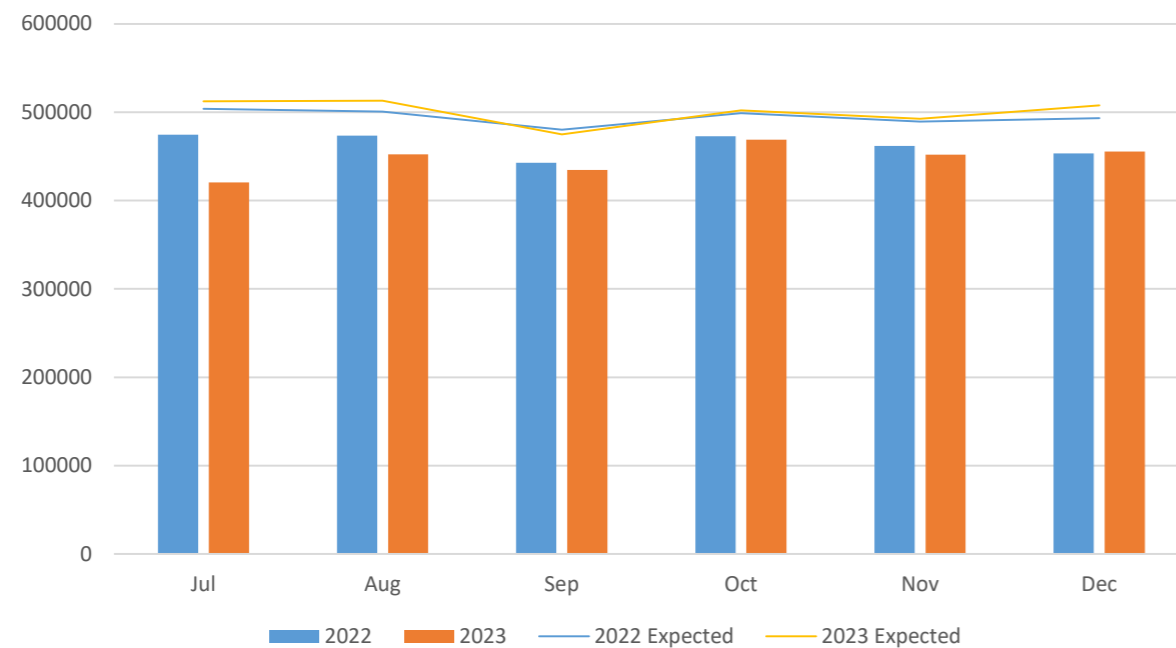
CO2ekg	Jul	Aug	Sep	Oct	Nov	Dec	Total
2022 Actual	62,867	53,913	49,953	44,940	44,017	41,932	297,622
2023 Actual	75,792	61,156	55,545	56,856	50,628	40,239	340,216
2022 Expected	58,067	57,736	51,338	50,685	44,455	44,728	307,009
2023 Expected	62,556	63,849	48,847	49,915	45,797	46,013	316,977



Energy Management Programme

1 July – 31 December 2023

Electricity Use (kWh)



Electricity consumption during the period was 10.6% less than expected and was 3.4% less when compared with the previous year. Some of this can be attributed to the increased consumption of gas at the Aquatic Centre.

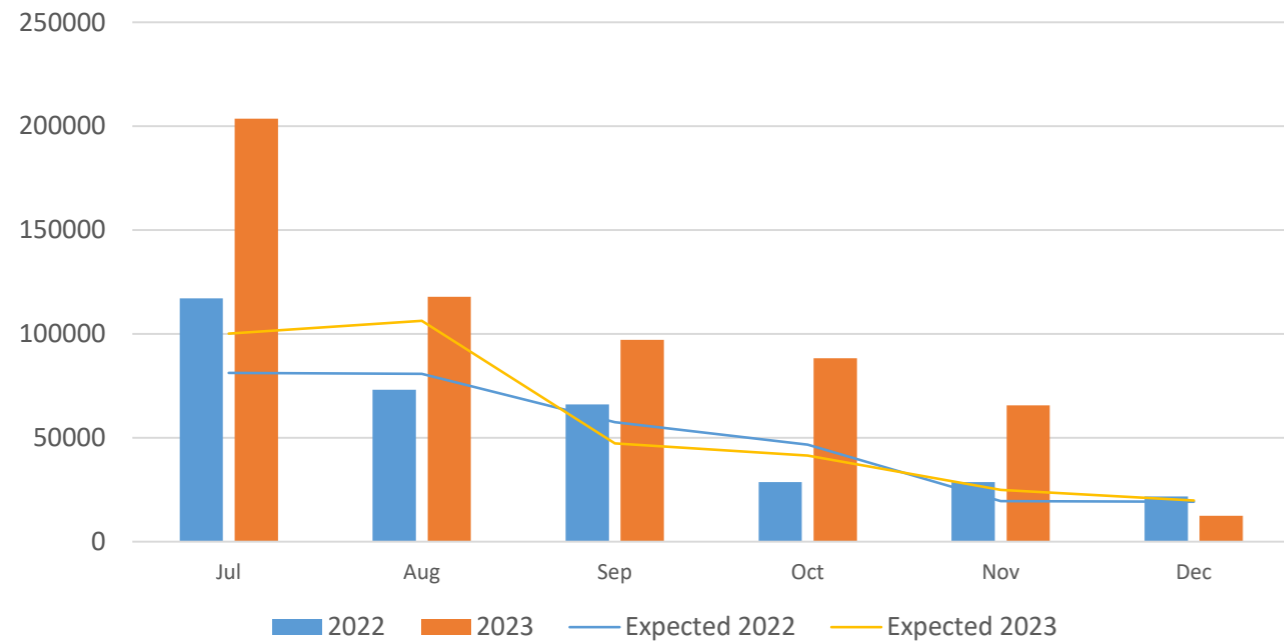
Bridger Glade Pumps, Johnson Road Pumps, Te Koputu Library and the Water Treatment Plant consistently used less electricity compared to their baselines.

Electricity (kWh)	Jul	Aug	Sep	Oct	Nov	Dec	Total
2022 Actual	474,705	473,563	442,850	472,809	461,735	453,376	2,779,038
2023 Actual	420,667	452,187	434,769	468,722	451,833	455,639	2,683,817
2022 Expected	503,966	500,808	480,290	498,746	489,269	493,307	2,966,386
2023 Expected	512,199	512,851	474,972	502,109	492,574	507,553	3,002,258



Energy Management Programme 1 July – 31 December 2023

Gas Use (kWh)



Gas (kWh)	Jul	Aug	Sep	Oct	Nov	Dec	Total
Actual 2022	117144	73098	66052	28793	28762	21838	335687
Actual 2023	203,651	117909	97181	88379	65710	12492	585,322
Expected 2022	81231	80888	57527	46680	19606	19301	305233
Expected 2023	100166	106322	47329	41467	24919	19826	340029

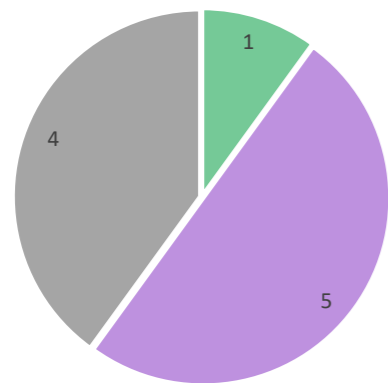
Gas consumption for the period was 72% higher than what was anticipated and was 74% higher when compared with the previous year. The main contributing factor to this significant increase was the Aquatic Centre using gas boilers as a temporary solution while heat pump and plant equipment (which are more energy efficient) were repaired and redeveloped.

Only 3 other sites use gas. The Te Koputu Library and War Memorial Hall used less gas than expected from October – December.



Water Services Action Plan 1 July – 31 December 2023

Water supply and wastewater (also known as sewage) have both mitigation and adaptation implications. Wastewater contributes significantly to emissions. A changing climate will have many implications for water, including droughts, flooding and sea-level rise. Access the full Water Services Action Plan [here](#).

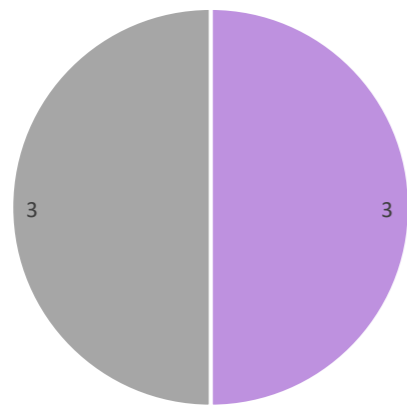


Key	
● action progressing	● action complete
● action not started	● action is on-going

GOALS	PROGRESS ON ACTIONS	SNAPSHOT
Goal 1: Manage water responsibly and sustainably	<ul style="list-style-type: none"> ● Increase Council and community understanding of water use. ● Increase understanding of water supply assets. ● Develop demand management strategy. 	<ul style="list-style-type: none"> a. Data pipeline for smart meters (automatic water meter readers) is being investigated to assess how smart meters should be introduced to the public (Goal 1).
Goal 2: Reduce and manage greenhouse gas emissions from water supply and wastewater services	<ul style="list-style-type: none"> ● Consider and optimise greenhouse gas reduction measures in any new projects. ● Embrace new technologies. ● Investigate high energy use infrastructure for potential emissions savings. 	<ul style="list-style-type: none"> b. Investigating data sources for flow of wastewater into treatments plants used for the calculation of GHG (Goal 2) c. New Pumps installed at Bridger Glade water pump station investigated if they are achieving optimal efficiency (Goal 2)
Goal 3: Manage climate change risks to existing water supply and wastewater services	<ul style="list-style-type: none"> ● Identify at risk and vulnerable water supply and wastewater infrastructure susceptible to various climate change models. ● Develop adaptive design and planning pathways for ongoing operation and renewal of water supply and wastewater infrastructure. 	<ul style="list-style-type: none"> d. Pumps at Johnson Road water source in the Rangitaiki plains investigated for spike in energy usage despite drop in production (Goal 2) e. Otumahi Reservoir design is scoped for drought resilience to continue supply outside of normal operating circumstances (Goal 3)
Goal 4: Incorporate climate change considerations into future water supply and wastewater services	<ul style="list-style-type: none"> ● Apply climate change assumptions to new projects. ● Collaborate with other water service providers, in particular within the Bay of Plenty Region, to build on climate change resilience. 	<ul style="list-style-type: none"> f. Staff attending the territorial local authorities freshwater collaborative meeting (Goal 4)

Waste and Circular Economies Action Plan 1 July – 31 December 2023

New Zealanders still have a ‘throw away’ mind-set. More than 4% of New Zealand’s emissions are from waste, mostly due to domestic waste sent to landfill. To change the environmental effects of our waste, we need to change our behaviour. Responsibility for waste management lies with the whole community. Access the full Waste and Circular Economies Action Plan [here](#)



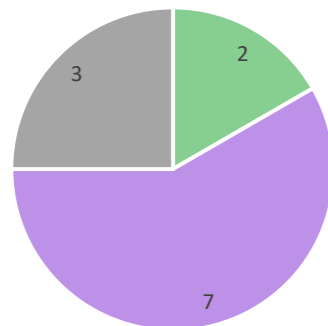
GOALS	PROGRESS ON ACTIONS	SNAPSHOT
Goal 1: Reduce the amount of waste generated by the Council	<ul style="list-style-type: none"> ● Raise internal organisation awareness. ● Work with suppliers to reduce waste coming into the organisation. 	<ul style="list-style-type: none"> a. Staff are putting regular waste tips on Whoogle (staff website). Such as encouraging staff to use their own cups when visiting local cafes and promoting staff awareness of the Eco store return scheme (Goal 1). b. Staff battery recycling program continuing (Goal 1). c. Council is implementing the 2021-2027 WMMP and will review in 2027 – the current review is complete (Goal 2). d. The proposed new waste legislation to replace the Waste Minimisation and Management Act and the Litter Act is currently on hold. Compulsory kerbside food waste collections, although written in policy have not yet been legislated, however council is currently consulting on collections options as part of the LTP (Goal 2). e. Staff have recently included Greenhouse gas emissions considerations in our recent “Food waste collections and processing” assessment (Goal 4).
Goal 2: Move community waste patterns up the waste hierarchy	<ul style="list-style-type: none"> ● Review and implement Council’s Waste Management and Minimisation Plan (WMMP). ● Implement central government policy changes that support circular economies within the District. 	
Goal 4: Manage climate change risks to existing and future waste services	<ul style="list-style-type: none"> ● Identify at risk and vulnerable waste infrastructure susceptible to various climate change projections (including closed landfills). ● Apply climate change assumptions to new waste-related projects. 	



Key	
● action progressing	● action complete
● action not started	● action is on-going

Land Use and Built Environment Action Plan 1 July – 31 December 2023

The District is already vulnerable to natural hazards including landslide, flooding, coastal erosion and coastal inundation. The consequences and impact of these hazards are likely to get worse as the climate changes, adding to the existing pressures on the natural environment like habitat loss, pollution and intense resource use. Access the full Land Use and the Built Environment Action Plan [here](#).



Key	
● action progressing	● action complete
● action not started	● action is on-going

GOALS	PROGRESS ON ACTIONS	SNAPSHOT
Goal 1: Identify, understand and reduce climate change risk to existing building and infrastructure, including storm water services, the airport and wharves, community buildings such as halls, public toilets, the Civic Centre, museum & library	<ul style="list-style-type: none"> ● Identify communities at risk from climate related natural hazards. ● Develop strategy to manage associated risks to those communities. ● Identify and manage at risk infrastructure. 	a. The Bay of Plenty Regional Council (BOPRC) completed a Regional Climate Change Risk Assessment in 2023. This was a collaborative undertaking with representatives from each territorial authority within the region. It provided a regional overview of current and future risks upon communities within the Bay of Plenty region. Staff are now preparing for a District Risk assessment.
Goal 2: Enhance resilience through land use decisions	<ul style="list-style-type: none"> ● Identify how areas within the District will be affected by climate change. ● Future development avoids areas most at risk. 	b. Quantitative landslide risk assessments have been reviewed, incorporating climate adjusted rainfall intensities (Goal 1, 2 and 3).
Goal 3: Recognise cultural heritage and values in land use decisions	<ul style="list-style-type: none"> ● Take account of cultural values when considering the impact of climate change. ● Ensure that land use decisions create no further disconnect for local Iwi to their traditional sites and practices and consider ki uta ki tai in all land use decisions and pathways planning. 	
Goal 4: Promote a built environment which is resilient to climate change impacts	<ul style="list-style-type: none"> ● Comply with and promote exceedance of minimum building regulations. 	c. Minimum Building Platform Level Change in development (Goal 2 and 4).
Goal 5: Care for biodiversity and ecosystems, and protect them from the impacts of climate change	<ul style="list-style-type: none"> ● Promote public awareness of the District’s natural environment, and support local community groups who care for it. ● Reduce the impact of human activity on local biodiversity. 	
Goal 6: Promote low emissions and sustainable land use, building practises and day-to-day operations	<ul style="list-style-type: none"> ● Encourage the use of sustainable products and practises. ● Take travel, motor vehicle emissions and access to public transport into account when making land use decisions, working with Bay of Plenty Regional Council. 	



7.2 Approval of LTP 24/34 for release to Audit NZ

7.2 Approval of LTP 24/34 for release to Audit NZ

These Long Term Plan (LTP) 2024-34 documents will be provided in a Supplementary Agenda prior to the meeting.

The structure of the information will follow the format as below:

Report - Proposed Long Term Plan 2024-34 for release to Audit NZ

Appendix 1 - Council's direction as part of the LTP deliberations

Appendix 2 - LTP Volume 1 - Draft Long Term Plan 2024-34

Appendix 3 - LTP Volume 2 - Strategies and Policies

Appendix 4 - LTP Volume 3 - Our Finances in Detail

Appendix 5 - LTP Key Performance Indicators

7.3 District Plan: National Planning Standards mandatory implementation and RMA Schedule 1 Clause 20A Correction of Minor Errors**7.3 District Plan: National Planning Standards mandatory implementation and RMA Schedule 1 Clause 20A Correction of Minor Errors**

To: **Environment, Energy and Resilience Committee**

Date: **Friday, 31 May 2024**

Author: **D Ganley / Senior Policy Planner**

Authoriser: **N Woodley / Acting GM Development and Environment Services**

Reference: **A2659656**

1. Reason for the report - *Te Take mō tēnei rīpoata*

The purpose of this report is to present the changes to the Whakatane District Plan (District Plan) which give effect to the National Planning Standards (Planning Standards). The Planning Standards set out the requirements for a nationally consistent structure, format, definitions, mapping, electronic functionality (ePlan) and accessibility for Resource Management Act 1991 (RMA) planning documents. The changes are mandatory directions under s58I of the RMA.

2. Recommendations - *Tohutohu akiaki*

THAT the Environment, Energy and Resilience Committee receive the National Planning Standards Mandatory Implementation and RMA Schedule 1 Clause 20A Correction of Minor Errors report for their information.

3. Background - *He tirohanga whakamuri*

The Minister for the Environment and the Minister of Conservation released the first set of Planning Standards on 5 April 2019, which came into force on 3 May 2019.

The Whakatāne District Council (Council) is implementing the Planning Standards in staged compliance. This involves:

- amending the plan structure and format to be fully compliant with the relevant Planning Standards by May 2024;
- create an electronically accessible District Plan, commonly known as an 'ePlan'; and
- amending the District Plan definitions to those of the Planning Standards by May 2026.

7.3 District Plan: National Planning Standards mandatory implementation and RMA Schedule 1 Clause 20A Correction of Minor Errors(Cont.)

National Planning Standards – consequential amendments

As a result of implementing the Planning Standards, Council must also make consequential amendments to the District Plan without using the RMA Schedule 1 process. Consequential amendments (under RMA section 58I(3)(d)) are additional amendments that are required to remove duplication, or conflict in policy statements / plans.

RMA Schedule 1 Clause 20A – correction of minor errors

While reformatting the District Plan to comply with the Planning Standards, a number of minor errors were identified that went beyond the scope of consequential amendments for the Planning Standards. These minor errors were corrected in accordance with Clause 20A of Schedule 1 of the RMA (i.e. without going through a full plan change process), under authority delegated to the General Manager Development and Environment Services.

4. Issue/subject - *Kaupapa*

4.1. SUMMARY OF CHANGES – NATIONAL PLANNING STANDARDS

4.1.1. *Overarching structure and format changes*

The mandatory eplan structure and format has resulted in the following changes to the District Plan structure:

1. A new structure for the entire District Plan (see **Appendix A** – layout summary).
2. The Planning Standards naming convention prescribes what chapters can be called and their location in the ePlan structure. All zones have been renamed to comply with the Planning Standards (see **Appendix B** – zone name changes). Some changes to note are:
 - a. Rural Ōhiwa and Rural Coastal Zones are included as special purpose zones, not in the rural zone chapter as in the District; and
 - b. Coastal Environment (eplan) is a mandatory requirement of the National Planning Standards and is included out of necessity. However, this chapter defers to all other relevant eplan chapters, specifically the:
 - Natural features and landscapes (including Outstanding Natural Features and Landscapes; and Significant Amenity Landscapes); and Ecosystems and Indigenous Biodiversity (Natural Environment zones);
 - Coastal Protection Zone, Rural Coastal Zone, Rural Ōhiwa Zone (Special Purpose zones); and
 - Natural Hazards chapter.
3. All relevant District Plan zone and / or activity rules are included within the relevant ePlan zone. Internal and cross chapter referencing exists where necessary.
4. District Plan Chapter 3 is obsolete. It is amalgamated within multiple chapters of the ePlan (see **Appendix C** – chapter 3 relocation). The main changes to note are:

7.3 District Plan: National Planning Standards mandatory implementation and RMA Schedule 1 Clause 20A Correction of Minor Errors(Cont.)

- a. Activity Status Information is included Part 1 – General Approach of the ePlan;
 - b. Activity Status Table is included in Part 2 – District wide matters and Part 3 – Area specific matters of the ePlan chapters. The following information is included as relevant:
 - zone descriptions;
 - information requirements and criteria for resource consents;
 - the activity status for all zones (in the new template);
 - assessment criteria for restricted discretionary, discretionary and / or non-complying activities.
5. District Plan Chapter 11 – General, is separated across six Part 2 - ‘General District Wide Matters’ of the ePlan (see **Appendix A** – layout summary).
 6. District Plan Chapter 22 – Appendices obsolete. Appendices are included within relevant ePlan chapters.
 7. Updated District Plan maps to comply with the mandatory Mapping standard to ensure all spatial layers comply with the zone name/colour/description.

4.1.2. Additional Changes

In addition to the overarching structure and format changes identified above (3.1 of this report), the following changes have also been included in the preparation of the ePlan:

1. Specific:
 - a. the typical chapter structure consists of:
 - i. Overview
 - ii. cross references to other relevant District Plan provisions
 - iii. objectives
 - iv. policies
 - v. rules
 - vi. standards (select chapters only)
 - vii. assessment criteria
 - viii. methods
 - b. within the rules section, a rule template has been introduced which includes activities from the District Plan chapter 3 Activity status table and other zone or activity specific rules.
2. General:
 - a. Grammatical errors;
 - b. Referencing errors changed to conform with the Standards numbering convention;
 - c. Tables, diagrams, and figures are number sequentially throughout the entire ePlan;
 - d. Appendices are included within the relevant chapter and cross referenced where necessary;
 - e. Macrons are included for Māori grammar;

7.3 District Plan: National Planning Standards mandatory implementation and RMA Schedule 1 Clause 20A Correction of Minor Errors(Cont.)

- f. Authorities referred to in full;
- g. Whakatāne District Council is referred to as 'Council';
- h. Acts and documents names are updated where relevant; and
- i. Word definitions are hyperlinked within the ePlan.

4.1.3. ePlan notification

Notification of the ePlan was published in the Beacon and Rotorua Daily Post, social media posts went to all statutory consultees, in house advice and support given. The website has been updated to advise of the change to the District Plan, with help on how to navigate the new ePlan via frequently asked questions.

4.2. SUMMARY OF CHANGES – RMA SCHEDULE 1 CLAUSE 20A

In implementing the Planning Standards, a number of minor errors were identified that went beyond the scope of consequential amendments to the District Plan content. These changes do not alter the intent of any rule but are beyond the scope of the Planning Standards. These changes were made as corrections of minor errors in accordance with Schedule 1 clause 20A of the RMA, under authority delegated to the General Manager Development and Environment Services.

A summary of the key changes is included within **Appendix D**.

5. Options analysis - *Ngā Kōwhiringa*

No options have been identified relating to the matters of this report, the changes were mandatory directions under s58I of the RMA

6. Significance and Engagement Assessment - *Aromatawai Pāhekoheko***6.1. Assessment of Significance**

The decisions and matters in this report are assessed to be of low significance in accordance with Council's Significance and Engagement Policy. This is because the changes are mandatory directions under the RMA.

6.2. Engagement and community views

In accordance with section 6.1a of the Council's Significance and Engagement Policy, it states that the Council will not consult when 'the matter is not of a nature or significance that requires public engagement'. Public participation on this matter has not been undertaken because Council must implement the mandatory Planning Standards without using the Schedule 1 plan change process of the RMA.

7.3 District Plan: National Planning Standards mandatory implementation and RMA Schedule 1 Clause 20A Correction of Minor Errors(Cont.)**7. Considerations - *Whai Whakaaro*****7.1. Financial/budget considerations**

There are no financial implications associated with this report. The financial costs to implement the Planning Standards and ePlan were included within existing operational budgets, and consisted of:

- Software procurement and installation \$125,000
- GIS mapping (external consultant) \$20,000
- Extensive Council staff time over the last 24 months.

7.2. Strategic alignment

It is Council's policy to ensure that the District Plan gives effect to higher order planning documents, such as the Planning Standards. The implementation of the Planning Standards and ePlan gives effect to that policy.

7.3. Climate change assessment

The implementation of the Planning Standards and ePlan gives effect Councils Climate Change Principles as the ePlan has reduced to need to publish the District Plan in printed format.

Based on this climate change assessment, the decisions and matters of this report are assessed to have low climate change implications and considerations, in accordance with the Council's Climate Change Principles.

7.4. Risks

There are no major risks associated with the matters raised in this report. Council is directed to implement the mandatory Planning Standards without using the plan change consultation.

Attached to this report:

- **Appendix A:** National Planning Standards – District Plan Layout Summary
- **Appendix B:** National Planning Standards – Zone Name Changes
- **Appendix C:** National Planning Standards – District Plan Chapter 3 Relocation
- **Appendix D:** RMA Schedule 1, clause 20A – Minor Amendments

7.3.1 Appendix A - National Planning Standards - District Plan Layout Summary**7.3.1 Appendix A - National Planning Standards - District Plan Layout Summary****1. Appendix A – National Planning Standards: Layout Summary**

1. The Whakatane District Plan (District Plan) chapters are moved to the relevant National Planning Standards (ePlan) chapter. In many instances this has meant District Plan chapters relating to multiple activities or zones are relocated into more than one ePlan chapter. The main changes to note are:
 - a. District Plan Chapter 3 Activity Status Information, is included in most ePlan chapters as some or all of the following are relevant:
 - zone descriptions;
 - information requirements and criteria for resource consents;
 - the activity status table for all zones;
 - assessment criteria for restricted discretionary, discretionary and / or non-complying activities
 - b. District Plan Chapter 11 General is separated into six 'District Wide' ePlan chapters.
 - c. District Plan Chapter 22 Appendices are separated into relevant ePlan zones.
2. The ePlan naming convention limits what chapters can be called and located in the structure. The main changes to note are:
 - a. Rural Ōhiwa and Rural Coastal Zones are included as special purpose zones, not rural zones as in the District Plan.
 - b. Coastal Environment (eplan) is a mandatory requirement of the National Planning Standards. The Coastal Protection Zone is a separate District Plan zone and does not fit with the ePlan Part 2 District Wide Matters. Therefore, the Coastal Environment chapter in the ePlan is included out of necessity and defers to all other relevant eplan chapters.

Planning Standards – ePlan parts and chapter names	District Plan - previous chapter names
Part 1 – Introduction and General Provisions	
Introduction	Chp1 Introduction
How the Plan Works	Chp 1 Introduction Chp 3 Activity Status Information
Interpretation (definitions)	Chp 21 Definitions
National Direction Instruments	Chp1 Introduction
Tangata Whenua	Chp1 Introduction

7.3.1 Appendix A - National Planning Standards - District Plan Layout Summary(Cont.)

Planning Standards – ePlan parts and chapter names	District Plan - previous chapter names
PART 2 – District Wide Matters	
Strategic Direction	Chp 2 Strategic Chp 3 Activity status information (District wide and specific assessment criteria)
Energy, Infrastructure and Transport <ul style="list-style-type: none"> • Infrastructure – Network utilities • Infrastructure – Water utility services • Renewable Energy • Transport 	Chp 3 Activity Status and Information Chp 13 Transportation and Service Chp 20 Works and Utilities Chp 22 Appendices
Hazards and Risks <ul style="list-style-type: none"> • Contaminated Land • Hazardous Substances • Natural Hazards • Natural Hazards - Debris 	Chp 3 Activity Status and Information Chp 18 Natural Hazards
Historical and Cultural Values <ul style="list-style-type: none"> • Historic Heritage • Notable Trees • Sites and Areas of Significance to Māori 	Chp 3 Activity Status and Information Chp 16 Heritage Chp 22 Appendices
Natural Environmental Values <ul style="list-style-type: none"> • Ecosystems and Indigenous Biodiversity • Natural Features and Landscapes 	Chp 3 Activity Status and Information Chp 15 indigenous Biodiversity Chp 22 Appendices
Subdivision	Chp 3 Activity Status and Information Chp 12 Subdivision
General District Wide Matters <ul style="list-style-type: none"> • General District Wide Matters Objectives and Policies 	Chp 3 Activity Status and Information Chp 8 Coastal and Reserves Chp 11 General Chp 14 Financial Contributions

7.3.1 Appendix A - National Planning Standards - District Plan Layout Summary(Cont.)

Planning Standards – ePlan parts and chapter names	District Plan - previous chapter names
	Chp 22 Appendices
PART 3 – Area Specific Matters	
Residential Zones <ul style="list-style-type: none"> • General Residential Zone • Medium Density Residential Zone 	Chp 3 Activity Status and Information Chp 4 Residential
Rural Zones <ul style="list-style-type: none"> • General Rural Zone • Rural Production Zone 	Chp 3 Activity Status and Information Chp 7 Rural
Commercial and Mixed Use Zones <ul style="list-style-type: none"> • Commercial Zone • Large Format Retail Zone • Mixed Use Zone • Town Centre Zone • Town Centre – Whakatāne Town Centre Precinct Zone 	Chp 3 Activity Status and Information Chp 5 Business Chp 22 Appendices
General Industrial Zone <ul style="list-style-type: none"> • Light Industrial Zone • General Industrial Zone 	Chp 3 Activity Status and Information Chp 6 Industrial
Open Space and Recreational Zone <ul style="list-style-type: none"> • Open Space Zone 	Chp 3 Activity Status and Information Chp 8 Coastal and Reserves
Special Purpose Zone <ul style="list-style-type: none"> • Community and Cultural Zone • Coastal Protection Zone • Education Zone • Future Urban Zone • Rural Coastal Zone • Rural Ōhiwa Zone 	Chp 3 Activity Status and Information Chp 7 Rural Chp 8 Coastal and Reserves Chp 9 Education Chp 10 Community and Cultural Zone
Designations	Chp 22 Appendices
Development Areas <ul style="list-style-type: none"> • Ōpihi Structure Plan • Port Ōhope Structure Plan 	Chp 2 Strategic Chp 3 Activity Status and Information

7.3.1 Appendix A - National Planning Standards - District Plan Layout Summary(Cont.)

Planning Standards – ePlan parts and chapter names	District Plan - previous chapter names
<ul style="list-style-type: none"> • Shaw / Huna Road Structure Plan • Maraetōtara East Structure Plan 	

7.3.2 Appendix B - National Planning Standards - Zone Name Changes**7.3.2 Appendix B - National Planning Standards - Zone Name Changes**

1. Appendix B – National Planning Standards: Zone Name Changes

The following table identifies mandatory zone names compared to that in the District Plan.

ePlan Zone Chapter Names	District Plan Zone Chapter Names
Residential Zones <ul style="list-style-type: none"> • General Residential 	Chapter 4 Residential Zones <ul style="list-style-type: none"> • Residential
Commercial and Mixed Use Zones <ul style="list-style-type: none"> • Town Centre • Whakatāne Town Centre Precinct • Commercial • Large Format Retail 	Chapter 5 Business Zones <ul style="list-style-type: none"> • Business Centre • Commercial • Large Format Retail
Industrial Zones <ul style="list-style-type: none"> • Light Industrial 	Chapter 6 Industrial Zones <ul style="list-style-type: none"> • Light Industrial
Rural Zones <ul style="list-style-type: none"> • Rural Production • General Rural • <i>Future Urban Zone (moved)</i> • <i>Rural Coastal (moved)</i> 	Chapter 7 Rural Zones <ul style="list-style-type: none"> • Rural Plains • Rural Foothills • Deferred Residential • Rural Coastal
Open Space and Recreation Zones <ul style="list-style-type: none"> • Open Spaces 	Chapter 8 Coastal and Reserve <ul style="list-style-type: none"> • Active Reserve
Special Purpose Zones (<i>new section, existing ODP chapters</i>) <ul style="list-style-type: none"> • Coastal Protection • Future Urban Zone • Rural Coastal • Rural Ōhiwa 	

7.3.3 Appendix C - National Planning Standards - District Plan Chapter 3 Relocation

7.3.3 Appendix C - National Planning Standards - District Plan Chapter 3 Relocation

1. Appendix C – National Planning Standards: District Plan Chapter 3 relocation in ePlan

1. District Plan Chapter 3 (Activity Status Information) is a key chapter that includes information on:
 - zone descriptions;
 - policy area descriptions / summaries;
 - activity status hierarchy;
 - activity status table for all zones;
 - information for resource consent applications (general and specific);
2. District Plan Chapter 3 is included within multiple chapters of the ePlan to comply with the Standards structure requirements, as follows:

District Plan - Chapter 3 relocation	ePlan - Zone chapters and sections
<ul style="list-style-type: none"> • 3.1 Zone Descriptions 	<ul style="list-style-type: none"> • Part 3 – Area Specific Matters (each zone) - Overview
<ul style="list-style-type: none"> • 3.2 Policy Areas 	<ul style="list-style-type: none"> • Part 2 – Natural Hazards • Part 2 – Natural Hazards - Debris • Part 3 – Open Space Zone • Part 3 – Whakatane Town Centre Precinct
<ul style="list-style-type: none"> • 3.3 Activity Status (summary) 	<ul style="list-style-type: none"> • Part 1 – General Approach
<ul style="list-style-type: none"> • 3.4 Activity Status Table (rows 1 to 37.c and 45 to 63) • 3.4 Activity Status Table (rows 38 to 41) • 3.4 Activity Status Table (rows 42 to 44) 	<ul style="list-style-type: none"> • Part 3 – Area Specific Matters (each individual zone) • Part 2 – Activities on Surface of Water • Part 2 – Temporary Activities
<ul style="list-style-type: none"> • 3.5 Information for Resource Consent Applications 	<ul style="list-style-type: none"> • Part 1 – General Approach
<ul style="list-style-type: none"> • 3.6 Assessment Criteria – Restricted Discretionary Activities 	<ul style="list-style-type: none"> • Part 3 – Area Specific Matters
<ul style="list-style-type: none"> • 3.7 3.6 Assessment Criteria –Discretionary / Non-complying Activities 	<ul style="list-style-type: none"> • Part 2 District Wide Matters and Part 3 Area Specific Matters - each individual activity / zone chapter where relevant

7.3.4 Appendix D - RMA Schedule 1, clause 20A - Minor Amendments**7.3.4 Appendix D - RMA Schedule 1, clause 20A - Minor Amendments**

1. Appendix D – Resource Management Act Schedule 1 clause 20A: Summary of changes

1. The Whakatane District Plan has a range of minor errors within the text. Through the implementation of the National Planning Standards format and ePlan functionality, a number of minor formatting errors have been corrected.
2. The remaining Schedule 1 clause 20A RMA errors are summarised in the following list:

District Plan error type	District Plan minor error	ePlan change / inclusion
Map error	Whakatane Town Centre boundary line	Inclusion of boundary line on planning maps (obmitted between proposed and operative plan versions) and renamed to Whakatane Town Centre Precinct
Updated title	NES (chp11 obj, policy, advice note 3)	NES for Assessing and Managing Contaminants in Soil to Protect Human Health
Updated title	Regional Water and Land Plan	Regional Natural Resources Plan
Updated title	Regional Air Plan	Regional Natural Resources Plan
Updated title	Regional Land Plan	Regional Natural Resources Plan
Updated title	Rangitaiki Independent School	Te Kura Kuapapa Māori o te Orini ki Ngāti Awa
Updated title	St Joseph School (Whakatāne)	St Joseph's Catholic School (Whakatāne)
Updated title	Floodway and Drainage Bylaw 2008	Flood Protection and Drainage Bylaw 2020
Standardise name	Strand Character Area, The Strand Character Area, The Strand Character Policy Area	The Strand Character Policy Area
Standardise name	Strand Character Area Guidelines, Strand Character Guidelines, The Strand Character Area Guidelines, Strand Character Area Design Guidelines	The Strand Character Policy Area Design Guidelines
Standardise name	Whakatāne Riverbank Area (Greenway Concept), Whakatāne Riverbank Area, Whakatāne Riverbank Reserve Area	Whakatāne Riverbank Reserve Policy Area

7.3.4 Appendix D - RMA Schedule 1, clause 20A - Minor Amendments(Cont.)

District Plan error type	District Plan minor error	ePlan change / inclusion
Updated title	Certificates of Title	Records of Title
Updated title	Austrroads	Austrroads Road Engineering Guides 2009
Updated title	Herepu Stream (SIBS98B)	Herepuru Stream
Updated title	MHWS	Mean High Water Springs
Updated title	ONFL	Outstanding Natural Feature Landscape
Updated title	SIBS	Significant Indigenous Biodiversity Site
Updated title	SAL	Significant Amenity Landscape
Updated title	RMA	Resource Management Act
Updated title	Legislation names	Changed to full name
Standardise term	a Planning Map	the Planning Maps
Updated reference	Conditions for the Pyne Street Carparks - ODP Designations D197 and D198	Are actually for D198 (WDC-22) and D199 (WDC-23)
Macron inclusion	Insert macrons on Māori words	Macrons included for Māori words
Grammar errors	General spelling and grammar errors corrected	Grammatical errors corrected
Updated titles	Clarification of which authority referred to in text	Authority name included in full
Incorrect terminology	Controlled activity assessment criteria “restricted discretion” reference (ODP6.2.3.1)	Reference change to “exercise control over” (ePlan GIZ-AC2)

7.4 Eastern Bay of Plenty Spatial Plan Project Update

7.4 Eastern Bay of Plenty Spatial Plan Project Update



To: **Environment, Energy and Resilience Committee**

Date: **Friday, 31 May 2024**

Author: **N Woodley / Manager Policy, Planning and Consents Compliance**

Authoriser: **D Bewley / GM Development and Environment Services**

Reference: **A2673642**

1. Reason for the report - *Te Take mō tēnei rīpoata*

The purpose of this report is to provide an update on the Eastern Bay of Plenty Spatial Plan project.

2. Recommendation- *Tohutohu akiaki*

THAT the Eastern Bay of Plenty Spatial Plan project update report be **received**.

3. Background - *He tirohanga whakamuri*

3.1. Eastern Bay of Plenty Spatial Plan

Spatial plans are about the places we live in and how we want them to be for our future generations.

When completed, they provide a roadmap for our future spaces and places and an evidence base and direction to align other strategies and planning processes towards common outcomes.

In late 2022, local authorities and Iwi authorities in the Eastern Bay of Plenty began to work collaboratively with Government agencies to scope and develop a spatial plan for the sub-region. The intention is for a plan that reflects the partners aspirations for our rohe, informs Council long term plan processes and Government infrastructure investment decisions.

3.2. Project Partnerships

The Spatial Plan will influence decisions that impact a wide range of our communities in the short-term to long-term. These communities have differing needs and aspirations, and the Spatial Plan is being developed in an inclusive and collaborative manner.

Working in genuine partnership with tangata whenua is particularly important at all stages of the spatial planning process. The project intends to weave the aspirations of Iwi into the plan and ensure all decision-making forums have Iwi representation and participation. This is critical to the success of the project.

7.4 Eastern Bay of Plenty Spatial Plan Project Update(Cont.)

The Spatial Plan will also have implications for Government agencies that deliver infrastructure, housing development and other critical services (such as health and education) that will be needed to meet the growth needs across the Eastern Bay of Plenty and deliver on partner aspirations. To ensure that the project and funding implications arising from the Spatial Plan can be implemented, the Spatial Plan is being developed collaboratively with Government agencies including Waka Kotahi, the Ministry of Housing and Urban Development (MHUD), Kāinga Ora, Ministry for Education.

3.3. Last update reports to Council

June 2023: addressed the project structure, inaugural meeting of the Project Governance Group, and provided an update on tangata whenua engagement, communications/engagement, and technical work.

August 2023: addressed an update on the set up for the Project Governance Group, tangata whenua engagement, communications/engagement, and technical work.

November 2023: addressed an update on communications/engagement, a review of the project delivery, an update on the Project Leadership Group/the Project Governance Group meetings, technical work update and a programme update.

February 2024: addressed legislative reform, a review of the project delivery, an update on the Project Leadership Group/the Project Governance Group meetings, technical work update and a programme update.

4. Issue/subject - Kaupapa**4.1. Project Progress**

The following activities have been progressed since the last update report to Council in February 2024.

4.1.1. Friends of our Places

The first Friends of our Places Hui took place on 28 August 2023 at Whakatāne District Council Chambers.

The Friends of Our Places group is a well-defined group of stakeholders. Their purpose is to inform the Spatial Plan because of what they do or who they represent and their sub-regional perspective.

Since the first 'Friends' event, we have engaged further with Transpower, Horizon, Ministry of Education, and NZTA. We are in the process of contacting the telecommunication industry and relevant health providers.

We intend to keep this group updated on developments in the project as the project continues to progress and a webinar update is being planned.

4.1.2. Implementing the new project delivery approach

In 2024, the senior management of the four Councils involved in the Spatial Plan reviewed how we deliver the project, to ensure we would progress in a more timely and cost-effective manner.

7.4 Eastern Bay of Plenty Spatial Plan Project Update(Cont.)

Accordingly, it was decided we should move forward with a combined project team by pooling resources across all four Councils to second staff. The cross-Council spatial planning team will have the primary responsibility for the project and will be the primary leads for delivering the Spatial Plan (as much as practicable).

The intended benefits of this approach are to increase Council staff ownership of the project and implementation plans, build staff capabilities, strengthen Council relationships with stakeholders, and reduce the input of consultants to improve project cost affordability.

The seconded team has now held an initial meeting to become familiar with the project and are becoming increasingly engaged in the project work.

4.1.3. *Tangata Whenua Engagement*

A key aspect of this spatial planning partnership is the role of tangata whenua representatives as full partners in the process. This is critical to ensure the voice of Iwi partners, including their vision and aspirations, are well articulated in the plan. This also recognises that Māori make up a significant percentage of the population and are amongst the most significant landowners in terms of the scale and location across the Eastern Bay.

The Whakatāne District Collaborative Iwi Policy Hub is up and running and providing additional support for spatial planning to Ngāti Awa, Ngāti Manawa, Ngāti Whare and Ngāti Rangitahi Iwi, in particular. This is a significant and positive input to the project and is being resourced by the Better Off Funding. The policy hub and project team are working closely to integrate scope and deliverables between projects, to create efficiency of engagement outcomes for tangata whenua.

4.1.4. *Economic Development Strategy*

The project is working closely to align with the sub-regional Economic Development Strategy being prepared currently. We expect that the stakeholder insights, long term economic opportunities, and other key recommendations from the Economic Development Strategy will be directly applicable to Our Places – Eastern Bay Spatial Plan.

4.1.5. *Project Leadership Group*

The Project Leadership Group comprises of Council, Iwi Authority Chief Executives, and senior Central Government representatives.

A Project Leadership Group Meeting was held on 27 November 2023, where we presented an update on the technical work, endorsed the findings of the Housing and Business Needs Research Report completed by MRCagney, discussed the Friends of our Places event, discussed further work to be undertaken and discussed the change of Government and subsequent possible changes to the Spatial Planning workspace as a result.

A further Project Leadership Group Meeting was held on 25 March 2024, where we presented an update on the project, recommended the appointment of Vaughan Payne as the independent chair of the Project Governance Group, received the draft Development Options Report for discussion and discussed legislative reform opportunities.

7.4 Eastern Bay of Plenty Spatial Plan Project Update(Cont.)**4.1.6. Project Governance Group**

The Project Governance Group includes District Councils Mayors, Eastern Bay of Plenty General Constituency Regional Councillor, Chairs of Iwi Authorities, senior Government representatives, and an independent chairperson.

A Project Governance Group Meeting was held on 19 December 2023, where we presented all work undertaken to date and sought direction on measures of success for the outcomes sought through this project, we also had a meaningful discussion around what this would mean for all those involved in the project.

The next Project Governance Group meeting is in May 2024, where we will receive a project update and welcome the new independent chair Vaughan Payne.

4.1.7. Workshop with Project Leadership and Governance Group

A combined Project Leadership Group and Project Governance Group workshop is planned towards the end of June to discuss the preliminary findings of the draft Development Options Report and planned public engagement later this calendar year.

4.1.8. Workshops with Councillors

Following the Project Leadership Group and Project Governance Group joint workshop, we will provide a workshop for each Council involved in the project, and offer a similar presentation to Iwi Authorities. This is expected to take place around July or August 2024, and provides a chance to obtain feedback on the project work, and a lead-in to public engagement being considered for later this calendar year.

4.2. Programme Update

The general programme includes the following tasks by calendar year, which are subject of review following the change to a seconded team delivery approach. Changes will be communicated in future updates to Council.

2024

- Establish seconded team;
- Confirm sub-regional economic development opportunities;
- Community engagement on priorities and options;
- Select a growth option and transformative outcomes for wellbeing;
- Begin to draft an implementation programme.

2025

- Writing the spatial plan and implementation programme;
- Engagement to wrap up loose ends, if required;
- Final approvals by Councils and Iwi authorities.

7.4 Eastern Bay of Plenty Spatial Plan Project Update(Cont.)**4.3. Technical work**

Technical Working Group activities have been focused on the following project elements:

Completed

- Population and land needs assessment;
- Three waters preliminary assessment;
- Friends of our places – group established and first event held;
- Project website;
- Changes to mapping to reflect the change to a sub-regional scale for the project.

Currently underway

- Project plan refresh with respect to formed seconded team and revised programme;
- Working with Iwi Policy Hub on a sub-regional perspective of Iwi aspirations;
- Working with the Economic Development Strategy on economic development priorities;
- Draft Development Options Report;
- Transport Assessment;
- Three Waters – Options Analysis;
- Areas to protect and avoid report and mapping at sub regional scale;
- Friends of Our Places update;
- Engagement Plan refresh.

5. Significance and Engagement Assessment - *Aromatawai Pāhekoheko***5.1. Assessment of Significance**

The decisions and matters of this specific report are assessed to be of low significance in accordance with the Council's Significance and Engagement Policy. However, this report is part of a broader process that is, or may be in future, assessed to be of moderate or high significance.

5.2. Engagement and community views

Engagement with the project partners including Eastern Bay of Plenty Iwi is underway, and this process is confirming Iwi partner's level of interest and involvement at all levels of the project and enabling this to be realised.

Wider community engagement in this project will be facilitated through the project's communications and engagement approach, which is currently being refreshed. An engagement plan is being developed to guide engagement across the three districts.

It is recognised that engagement and consultation with the community is essential to the success to the project.

7.4 Eastern Bay of Plenty Spatial Plan Project Update(Cont.)

6. Considerations - *Whai Whakaaro*

6.1. **Financial/budget considerations**

The project is being funded through a blend of Council sources and Better off Funding. The project plan approved by the Project Leadership Group in April 2023 presented an updated financial position which is summarised below.

Cost to date

From inception to May 2024, project costs are approximately \$870,000.

This has been spent on the following services: scenarios development, demographics and land needs research, public and stakeholder engagement activities, Iwi engagement activities, project management, project director, project coordinator, quality assurance, project governance support (including an interim independent chairperson for the governance group), and three waters technical work.

Funding sources

Project costs incurred by Whakatāne District Council, as per table below, are funded within the Resource Management - Policy activity and are included in the 2021-31 Long Term Plan. Both Kawerau and Whakatāne District Councils have had a Better Off Funding allocation approved to support the acceleration of this project to align with other critical planning workstreams.

Further funding from the Councils involved is likely to be forthcoming but is still being confirmed for the 2024-2025 financial year.

Partner	Committed Funding
Bay of Plenty Regional Council	\$300,000
Whakatāne District Council	\$400,000
Better off Funding-WDC	\$200,000
Better off Funding-KDC	\$120,000
Total	\$1,020,000

“In kind” contribution sources to date [noting this will change as the seconded team begins work]

Partner	Committed staff
Bay of Plenty Regional Council	General Manager, Manager, Planner, GIS support, Communications support. Total approximately 20 hours per week.
Whakatāne District Council	General Manager, Manager, Planner, Communications Support. Total: approximately 20 hours per week.

7.4 Eastern Bay of Plenty Spatial Plan Project Update(Cont.)

Partner	Committed staff
Ōpōtiki District Council	Senior Planning Policy Officer. Total approximately 20 hours per week (However currently not being provided as planner on long leave and no other staff available).
Kawerau District Council	General Manager, Communications support. Total: approximately 10-15 hours per week
All Councils are providing technical expertise as required (Three waters, Transport, Open Spaces, Natural Hazards)	
Total	70-75 hours per week

Forecast project cost

The original comparable (Stage 1) cost estimate as per the Whakatāne-Kawerau Spatial Plan Project Plan was \$548,750-\$573,750. This was re-assessed as part of the Project Plan update, and a revised estimate received by the Project Leadership Group was \$640,000-\$790,000 to complete the first part of the project from the point at which the new project plan was approved.

Total project cost including all parts was estimated between \$1.85M to \$3M and reflects the complexity of managing the inputs from four Councils, up to eleven Iwi partners, stakeholders/public, and Government agencies over several years of work.

The current funding allocations means we are working under budget constraints. The seconded team model will be a more affordable approach going forward. This is expected to retain direct project costs to a lower threshold and improve ownership of the plan by Councils and Iwi through the project lifecycle and into the post-project implementation tasks.

An updated funding allocation is required to complete the plan, and Councils have been signalling the investment required in their Long-Term Plans. The project is benefitting from the work being undertaken through the sub-regional Economic Development Strategy, Iwi Policy Hub and other related projects to make the best use of work across Councils. The expectation is that the project will work to the budget enabled through new LTP allocations and apply seconded team resources to complete the work as best possible.

6.2. Strategic alignment

No inconsistencies with any of the Council's policies or plans have been identified in relation to this report.

6.3. Climate change assessment

Based on this climate change assessment, the decisions and matters of this report are assessed to have low climate change implications and considerations, in accordance with the Council's Climate Change Principles.

7.4 Eastern Bay of Plenty Spatial Plan Project Update(Cont.)**6.4. Risks**

A summarised risk register and primary mitigations are noted below for higher project risks:

- A risk that the project is not fully funded means it cannot finish due to a funding shortfall and does not reach a suitable level of quality and partner expectations are not fulfilled. This is being mitigated by the seconded team structure. This is also being mitigated through a slowed down engagement process with project partners to enable sufficient time for full participation in the project.
- A risk of misalignment of partner expectations (Council, tangata whenua and Central Government) is being mitigated by working to ensuring all partners and key stakeholders understand and agree on project principles, deliverables, timeframes, and accountabilities and being proactive in addressing where and when misalignment occurs. This is the value of a collaborative approach to the Plan.
- A risk that Iwi engagement is limited by their capacity to actively engage in the project is being mitigated by seeking technical and general support by engaging local expertise to support project, providing support from the technical working group for Iwi engaging in the project, and implementing the Collaborative Iwi Policy Hub support to alleviate capacity issues.
- A risk that implementation is unaffordable will be mitigated by quantifying implementation costs as part of project, and sequencing and staging activities, and using acceptable cost calculation methodologies.

7. Next steps - *Ahu whakamua*

- Refreshed project plan.
- Further technical work, including:
 - i. Transport assessment;
 - ii. Areas to protect and avoid report and maps;
 - iii. Updating a development options report to reflect new evidence;
- Alignment with Sub-regional Economic Development Strategy and Iwi Policy Hub.
- Project Leadership Group Meeting in May 2024.
- Project Governance Group Meeting in May 2024.
- Joint Project Leadership Group Meeting/Project Governance Group Meeting in June 2024.

7.5 Tiny Homes – Preliminary Issues and Options**7.5 Tiny Homes – Preliminary Issues and Options**

To: **Environment, Energy, and Resilience Standing Committee**

Date: **Friday, 31 May 2024**

Author: **N Woodley - Manager Policy, Planning and Consents Compliance**

Authoriser: **D Bewley - GM Development and Environment Services**

Reference: **A2673555**

1. Reason for the report - *Te Take mō tēnei rīpoata*

This report identifies issues and options for the provision of Tiny Homes and other types of small secondary dwellings.

There is an opportunity to better enable provision of Tiny Homes and other types of small secondary dwellings under the District Plan to meet part of the unmet demand for housing. Secondary dwellings have the potential to be provided in a way that improves access to housing while having a low a level of effect on natural and physical resources, including on infrastructure.

The Committee is requested to approve initial engagement with stakeholders, based on the direction provided in a Preliminary Issues and Options Report in Appendix 1.

2. Recommendations - *Tohutohu akiaki*

1. THAT the Tiny Homes – Preliminary Issues and Options Report be **received**; and
2. THAT the Environment, Energy, and Resilience Committee **approve** initiation of engagement with interested parties based on the direction provided in the Tiny Homes – Preliminary Issues and Options Report (Appendix 1 to this cover report).

3. Background - *He tirohanga whakamuri*

A community group was formed in 2023 (WHARE) to advocate for housing. WHARE was formed in part due to instances of people building/placing tiny homes on rural properties without obtaining the necessary resource and/or building consents, and the subsequent compliance/enforcement response. Several public meetings have been held concerning these matters, with a strongly expressed desire for change to the current planning rules.

In response to WHARE advocacy, initial policy work has been undertaken to consider issues and options for appropriate provision for Tiny Homes and other types of small secondary dwellings under the District Plan.

In addition, central government has recently signalled its intention to directly address the issue of “granny flats” and other small homes (now referred to as “Secondary units”) and to significantly lower consenting hurdles both under the Resource Management Act and Building Act.

7.5 Tiny Homes – Preliminary Issues and Options(Cont.)

Any proposals will also need to be incorporated into the Housing Strategy to be developed.

4. Issue / Subject - *Kaupapa*

A Preliminary Issues and Options Report has been prepared to assist with the scoping and development of policy, and to support initial engagement with stakeholders and partners, including Iwi and Hapu. This is included in Appendix 1.

The purpose of the report is to form the starting point for engagement with the community about potential policy changes to address the concerns raised by WHARE.

The Report identifies the following issues:

- Housing need
- Current District Plan housing provisions
- National direction: GPS Housing, National Policy Statement for Highly Productive Land, National Planning Standards
- Coalition Government Policy Changes for secondary dwellings
- Regional Direction: Regional Policy Statement, Regional Natural Resources Plan
- Approaches elsewhere

The Report identifies the following potential options:

1. Business as Usual, including responding as needed to the signalled change in government policy;
2. Plan Change - Do-minimum Alignment with National Planning Standards; and
3. Plan Change – Alignment with National Planning Standards plus provision for non-compliant minor residential units as a Restricted Discretionary Activity.

A plan change could support the policy direction to improve access to housing. The signalled coalition government policy change is closely aligned with the local opportunity to enable additional housing supply through small scale low impact housing, but potentially goes much further with the proposed streamlining of processes under the Building Act.

Moves to initiate a plan change should therefore await clarity on the outcomes of the current work by the coalition government on policy and legislation changes. This is likely to be known in July 2024.

The Preliminary Issues and Options Report is not necessarily exhaustive, but it does provide a basis for engagement with stakeholders and partners to further explore these issues.

Having developed this report, it is now proposed that Council engage on these options, with a report to come to a future EER Committee meeting providing an update on progress and recommendations for next steps.

7.5 Tiny Homes – Preliminary Issues and Options(Cont.)**5. Options analysis – *Ngā Kōwhiringa*****5.1. Option 1 Undertake Engagement based on the Tiny Homes: Preliminary Issues and Options Report – preferred option**

While the Preliminary Issues and Options Report in Attachment 1 contains three options concerning how Council could respond to the matter of Tiny Homes, staff are not yet asking the EER Committee to determine which of these to undertake. Instead, the recommendation is to use the Preliminary Issues and Options Report as the basis for engagement with stakeholders and partners, including Iwi and Hapū. Further issues and options are likely to arise through this engagement process, for future consideration by the EER Committee.

5.1.1. Advantages

- Allows further exploration of options and measures to respond to the concerns raised by the community about Tiny Homes;
- Promotes engagement with the community, and would demonstrate that Council responsiveness to emerging matters of concern; and
- Is consistent with central government policy direction.

5.1.2. Disadvantages

- Some costs involved in undertaking this engagement, but these are limited and can be met within existing Policy Planning budgets.

5.2. Option 2 Cease work looking at the planning requirements for Tiny Homes

Under this option, Council would not undertake any further work on the Tiny Homes issue. This would not prevent the issue being revisited through the future District Plan Review (due by 2027).

5.2.1. Advantages

- No further costs associated.

5.2.2. Disadvantages

- Ceases work on this matter which is contrary to existing engagement with the community to date and the concerns raised by them.

6. Significance and Engagement Assessment - *Aromatawai Pāhekoheko***6.1. Assessment of Significance**

The decisions and matters of this specific report are assessed to be of low significance in accordance with the Council's Significance and Engagement Policy. However, this report is part of a broader process that is, or may be in future, assessed to be of moderate significance.

6.2. Engagement and community views

Engagement is at a very early stage.

7.5 Tiny Homes – Preliminary Issues and Options(Cont.)

The engagement process will commence with initial consultation with WHARE, iwi and hapu, and other known interested parties (June/July).

Feedback from engagement will be incorporated into a final issues and options paper, by which stage there should be known direction from central government. A further report will then come back to the Committee on which way to proceed, and whether there is the need for plan changes to be considered (August).

7. Considerations - Whai Whakaaro**7.1. Financial/budget considerations**

There are available funds for the preliminary planning assessment and community engagement in the Policy Planning budget.

Financial/budget considerations will be addressed in the next report to the Committee, once there is more certainty on national direction and the need for and merits of a plan change proceeding.

Any plan changes are likely to be relatively minor in scope.

7.2. Strategic alignment

Any plan changes will need to be consistent with other Council strategies. The potential plan change as currently scoped would not be major shift in Councils strategic direction.

7.3. Climate change assessment

The climate change considerations/implications of the plan changes are consistent with those of wider Council housing policy and approaches. Secondary dwellings would be subject to same considerations such as natural hazard risk management. Secondary dwellings in residential zones have the potential to promote compact urban form and to reduce overall travel demand and related greenhouse gas emissions. Conversely, secondary dwellings in rural areas have the potential to spread development and to increase overall travel demand.

7.4. Risks

At this stage, no high or critical risks have been identified. Risks may be identified through the initial consultation and engagement. The Resource Management Act requires “risks of acting or not acting” to be included in any Section 32 evaluation of alternatives.

8. Conclusion - *Kupu whakamutunga*

The issues and options for enabling “Tiny Homes” and other types of small secondary dwellings under the District Plan can be developed further with interested parties while central government works through its signalled intention to deregulate secondary units thorough national level policy.

Attached to this report:

- Appendix 1 - Tiny Homes Preliminary Issues and Options Report

7.5.1 Appendix 1 - Preliminary Issues and Options Report

7.5.1 Appendix 1 - Preliminary Issues and Options Report

7.5.1 Appendix 1 - Preliminary Issues and Options Report(Cont.)

Tiny Homes – Preliminary Issues and Options Report

Introduction

Tiny Homes of any constructed scale or form are currently classed as “Dwellings” under the Whakatane District Plan. This leads to a resource consent process for any tiny home where there is an existing dwelling on site in the residential and rural zones.

Resource consents, while attainable, result in uncertainty, cost and time constraints that can have a disproportionately large impact on the provision of this low cost form of housing.

Tiny Homes are also subject to the Building Act and Building Consent is required. There are some exempt buildings but not where a building contains sanitary or cooking facilities.

There is an opportunity to better enable provision of “Tiny Homes” to meet part of the unmet demand for housing. Tiny homes and other types of small dwellings have the potential to be provided in a way that improves access to housing while having a low a level of effect on natural and physical resources, including on infrastructure.

Issues

Housing Need

The Whakatane District, as with many areas in New Zealand, has an insufficient supply of good affordable, healthy and sustainable housing. Access to good housing is critical to health and education outcomes.

An assessment of demand for housing and the extent to which the operative District Plan provides development opportunities that match this demand was undertaken in 2021 for the Council .

After several decades of no growth, Whakatāne district has transitioned into a high growth area. Strong growth in the population is expected to continue in the future and changes in demographics suggests that demand for dwellings is expected to remain high. Analysis of the Whakatāne District Plan suggests that there may not be enough capacity to meet the expected demands in the medium or long term.

The market has tended to supply larger dwelling types, both recently and historically. Increases in dwelling prices may result in changes to the types of dwelling that are viable within Whakatāne and Kawerau districts.

7.5.1 Appendix 1 - Preliminary Issues and Options Report(Cont.)

The capacity enabled within the Operative District Plan (ODP) and the household dwelling demand preferences indicates that there will be shortages of both traditional standalone house and attached dwellings in the future.

There is a strong strategic case to provide a larger and more diverse housing supply.

District Plan Provisions for Dwellings

The operative District Plan enables dwellings in the main zones generally as follows:

- Residential Zone - One dwelling per lot permitted, two or more dwellings requires Controlled Activity or Restricted Discretionary Activity resource consent.
- Rural Plain or Foothills Zone - One dwelling per lot permitted, two or more dwellings requires Discretionary Activity resource consent.

The definition of “Dwelling” is:

“...means a building or part of a building used or intended to be used for a residential activity on a permanent basis, being one month or more in duration, and may include an apartment, a semidetached or detached house, home unit, town house, papakāinga unit, kaumatua flat, rest home for the rehabilitation and care of any group and similar forms of permanent residential development. This includes the construction, alteration, demolition, relocation, removal and re-siting of a dwelling.”

The definition of “Building” is:

“... means any vehicle, caravan or construction, whether movable or immovable used as a place of residence or business or for assembly or storage purposes;”

The usual development controls apply to Dwellings in each zone such as height, natural light, yards, separation, density, outdoor living space, outdoor service courts, visual privacy, and building coverage. There is no minimum floor area for a dwelling.

The District Plan also enables one “accessory building for habitation” per lot in addition to a permitted dwelling in residential and rural zones.

The definition of “Accessory building for habitation” is:

“...means a habitable building such as a sleep out or granny flat which is incidental to the main dwelling.”

The usual development controls apply to an accessory building for habitation, and:

7.5.1 Appendix 1 - Preliminary Issues and Options Report(Cont.)

- A maximum gross floor area¹ limit of 65m² applies in both rural and residential zones;
- In the rural zones, vehicle access must be shared with the main dwelling, and the building must be within 20m of the main dwelling.

The “Accessory building for habitation” provision was not intended to include an independent second dwelling². This has been confirmed in legal advice to the council, which included specific consideration of Tiny Homes. If the Tiny Home is completely self-contained and is capable of being used independently of the main dwelling, it must be treated as a second dwelling, rather than as an accessory building.

National Direction

The current Government Policy Statement on Housing and Urban Development (GPS-HUD 2021) set a direction for housing and urban development in Aotearoa New Zealand.

The GPS-HUD 2021 Outcomes are

- Thriving and resilient communities
- Wellbeing through housing
- Māori housing through partnership
- An adaptive and responsive system

Six focus areas are identified as essential to achieving these outcomes:

- Ensure more affordable homes are built – to enable urban development, deliver infrastructure and drive action to build enough homes to support everybody’s wellbeing and make homes more affordable.
- Ensure houses meet needs – to ensure that our houses are warm, dry, accessible and affordable to run, and meet the needs and changing life circumstances of families and households.
- Enable people into stable, affordable homes – to ensure every New Zealander can live in a stable, affordable home from which they can thrive. Ensure that homelessness is prevented where possible.
- Support whānau to have safe, healthy affordable homes with secure tenure – the right to self-determine better housing and urban development solutions for iwi and Māori should be realised.

¹ Gross floor area (GFA) is the sum of the total areas of building or buildings (including any void area in those floors such as service shafts or lift or stairwells) measured from the exterior faces of exterior walls or from the centre lines of walls separating two buildings, but excludes the floor area allocated to car-parking or vehicular access to car-parking and vehicular unloading areas.

² District Plan Review Decision report on the Rural Chapter.

7.5.1 Appendix 1 - Preliminary Issues and Options Report(Cont.)

- Re-establish housing’s primary role as a home rather than a financial asset – to reduce speculative investment in existing housing stock, making home ownership more accessible for first-home buyers.
- Plan and invest in our places – to ensure our neighbourhoods and places meet the needs of our communities today and are well equipped to meet long- term climate, social, cultural, environmental and economic challenges and opportunities.

Another important national direction to consider is the National Policy Statement on Highly Productive Land(NPS HPL). The District Plan must meet the objective that highly productive land is protected for use in land-based primary production, both now and for future generations. NPS HPL policies include a requirement that rezoning and development of highly productive land as “rural lifestyle” is avoided. In rural zones, the nature and scale of secondary residential uses will therefore need to be carefully managed to avoid effects on land-based primary production on highly productive land.

Coalition Government Policy Changes

The coalition government recently signalled its intention to directly address the issue of “granny flats” and other small homes (now referred to as “Secondary units”) and to significantly lower consenting hurdles as one part of its wider “Going for Housing Growth” agenda,

The Coalition Agreement between New Zealand National Party & New Zealand First has announced the following:

Delivering Better Public Services - Seniors

Amend the Building Act and the Resource Consent system to make it easier to build granny flats or other small structures up to 60sqm requiring only an engineer’s report.

Building and Construction Minister Chris Penk said this on 18 February 2024:

“Another easy win can be found in National’s coalition agreement with New Zealand First. It mandates that very small dwellings, such as granny flats, will not need a building consent if they are of a certain size, and will only require an engineer’s report.”³

This coalition action is understood to be part of the second Resource Management Amendment Bill to be introduced in July 2024, and an Act to be in place by March 2025.

³ <https://www.thepost.co.nz/business/350180511/govt-plans-attack-high-home-building-costs>

7.5.1 Appendix 1 - Preliminary Issues and Options Report(Cont.)**Building Act**

Under the Building Act, all buildings must comply with the NZ Building Code and most buildings require Building Consent.

New Zealand's building legislation recognises some building work does not require a building consent. The list of building work includes conditions to manage risk.

Residential buildings are generally not exempt if they include bathroom or kitchen facilities. Sleepouts up to 30m² are exempt from needing Building Consent, subject to conditions for durability, smoke alarms, stormwater and wastewater capacity being met.

National Planning Standards

The purpose of national planning standards (NPStds) is to make council plans and policy statements easier to prepare, understand and comply with. They do this by improving the consistency of the format and content.

Under the NPStds the definition of **Minor residential unit** is

"...means a self-contained residential unit that is ancillary to the principal residential unit, and is held in common ownership with the principal residential unit on the same site."

The reference to a minor residential unit being "self-contained" clearly intends that bathroom, kitchen and laundry facilities will be included in a minor residential unit. The inclusion of being "ancillary" potentially conflicts with this. However, in context ancillary can be read as meaning the residential unit will be secondary to the principal (or primary) dwelling in terms of its scale, character and intensity, rather than its functional relationship to the principal.

If the pending Coalition Government policy changes described above come into effect, there may need to be consequential changes to the NPStds, at least to align language to refer to "secondary units" if this terminology is to be adopted in any new legislation. An NPStds change could also resolve the current conflict between "ancillary" and "self-contained" in the definition.

Regional Direction

The Regional Policy Statement provides direction for integrated management of natural and physical resources, including managing rural development and protecting versatile land with an approach largely aligned with the NPS HPL objectives and policies.

The Regional Natural Resources Plan manages land and water effects of development including requirements for onsite effluent treatment in serviced or rural areas that must be met.

7.5.1 Appendix 1 - Preliminary Issues and Options Report(Cont.)

Climate Change

Secondary dwellings are subject to same climate change consideration of wider Council housing policy and approaches such as natural hazard risk management. Secondary dwellings in residential zones have the potential to promote more compact urban form and to reduce overall travel demand and related GHG emissions. Conversely, secondary dwellings in rural areas or more remote settlement areas have the potential to spread development and to increase overall travel demand and emissions.

Approaches Elsewhere

Western Bay of Plenty District

In rural and residential and rural zones, “Minor Dwellings” up to 60m² gross floor area are a controlled activity with requirements to share a driveway with the main dwelling, and an 18m² limit on associated garaging. In the rural zones the minor dwelling must be located within 20m of the main dwelling.

WBOPDC are considering a plan change to allow Minor Dwellings as a permitted activity, but this workstream will follow central government policy direction once it is known.

Opotiki District

There are no specific provisions for secondary dwellings, relying instead on relatively generous permitted activity provisions for multiple dwellings.

In the residential zone, up to three dwellings are permitted per lot where there is a minimum of 400m² per dwelling and a sewer connection. In unsewered locations, more than one dwelling per lot is a Discretionary Activity.

In the rural zone, dwelling numbers are based on site area

- 1ha: one dwelling per lot
- 1-4ha: two dwellings per lot
- 4ha: three dwellings per lot

Dwellings above this level are a Discretionary Activity.

New Plymouth District

In rural and residential and rural zones, “Minor Residential Units” are a permitted activity. In the rural zone, Minor Residential Units must share a driveway with the main dwelling and must be located within 25m of the main dwelling. No GFA limits apply in either zone.

7.5.1 Appendix 1 - Preliminary Issues and Options Report(Cont.)

Preliminary Evaluation of Alternatives

When the Council undertakes a change to the District Plan it is required to prepare an Evaluation Report under Section 32 of the Resource Management Act 1991 (RMA).

The Evaluation Report must examine whether the objectives of the proposal are the most appropriate way to achieve the purpose of the Act, and whether the provisions (the policies, rules and other methods) are the most appropriate way of achieving the objectives.

Objectives and Policies

Changes to objectives and policies are unlikely to be needed as the existing residential and rural zone provisions appropriately address maintenance and enhancement of the character and amenity for dwellings and residential activities, balanced against the protection of natural and physical resources.

Options

Practicable options are identified as:

- Option 1: Business as Usual
- Option 2: Plan Change - do-minimum alignment with National Planning Standards
- Option 3: Plan Change – Alignment with National Planning Standards plus provision for minor residential units that do not meet permitted activity rules as a Restricted Discretionary Activity

Option 1: Business as Usual

- Continue with current District Plan policy settings and implementation.

Business as usual would also respond as needed to the signalled change in government policy to reduce consent requirements for “secondary units” once more information is provided.

Option 2: Plan Change - Do-minimum Alignment with National Planning Standards

- Delete the definition of “accessory building for habitation” and replace with “minor residential unit” as provided in the NPStds.

This option would provide certainty that tiny homes, granny flats and other small dwellings could be constructed as self-contained units, while ensuring that they remained secondary to the primary dwelling in terms of their scale, character, and intensity.

All other development standards and consent requirements would remain unchanged.

7.5.1 Appendix 1 - Preliminary Issues and Options Report(Cont.)

The existing activity status cascade for non-compliances would also continue to apply:

- Restricted Discretionary Activity status would apply to non-compliance with height , natural light, yards, separation, density, outdoor living space, outdoor service courts, visual privacy, and building coverage.
- Discretionary Activity status would apply to:
 - additional GFA above 65m²,
 - more than one minor residential unit per lot;
 - minor residential unit located more than 20m from the main dwelling in the rural zones.

See Appendix 1 - Proposed Plan Change Provisions.

Option 3: Plan Change – Alignment with National Planning Standards plus provision for minor residential units that do not meet permitted activity rules as a Restricted Discretionary Activity

- Delete the definition of “accessory building for habitation” and replace with “minor residential unit” as provided in the NPStds, and;
- Include specific provisions that allow for minor residential units that do not meet permitted activity rules to be assessed as a Restricted Discretionary Activity

Option 3 would achieve the same outcomes as Option 2 but would also allow minor residential units that did not comply with activity rules for maximum GFA, number of units and location relative to the primary dwelling to be considered through a resource consent application, assessed against specified matters of discretion and conditions.

A consistent Restricted Discretionary Activity status would be applied to all minor residential unit non-compliances, enabling flexibility to address site specific circumstances and the scale of effects of non-compliance, while ensuring the activity remained secondary to the primary dwelling in terms of their scale, character, and intensity.

Controlled Activity status is not considered to be a practicable option to address non-compliances given uncertainty over the potential range and scale of effects of non-compliance, and conditions. This option would also be inconsistent with the District Plan structure.

See Appendix 2 - Proposed Plan Change Provisions

Preliminary Option Evaluation

Option	Advantages	Disadvantages
Option 1: Business as Usual	No costs of Plan Change. Central government policy setting changes will apply	No improvement in access to housing.

7.5.1 Appendix 1 - Preliminary Issues and Options Report(Cont.)

Option	Advantages	Disadvantages
	as and when they are finalised. The current time frames for legislation may also be quicker than those of a plan change, if any opposing submissions are received.	Higher compliance costs for prospective homeowners if government policy setting changes do not proceed. Uncertainty over Central Government policy changes scope and timing.
Option 2: Do Minimum Plan Change - Alignment with National Planning Standards	Support policy direction to improve access to housing. Provides certainty on secondary dwelling provision.	Costs of Plan Change process and hearings. May require rework if initiated ahead of pending government policy changes. Potential conflict with NPS HPL if not controlled as to form and scale.
Option 3 Plan Change – Alignment with National Planning Standards plus provision for minor residential units that do not meet permitted activity rules as a Restricted Discretionary Activity	Support policy direction to improve access to housing. Provides certainty on secondary dwelling provision. Flexibility to address site specific circumstances and the scale of effects of non-compliance.	Costs of Plan Change process and hearings. May require rework if initiated ahead of pending government policy changes.

Conclusion

A Plan Change to enable secondary housing could support the policy direction to improve access to housing.

A signalled coalition government policy change is closely aligned with this local opportunity, but potentially goes much further with the proposed streamlining of processes under the BA. Moves to initiate a plan change should therefore await clarity on the outcomes of the current work on policy and legislation changes. This is likely to be known in July 2024.

If a Plan Change is ultimately required, alignment of the District Plan provisions with the National Planning Standards for “minor residential units” is the recommended “do-minimum” approach, with the further option of a Restricted Discretionary Activity for non-compliance as a way to improve effectiveness and efficiency of the provisions.

7.5.1 Appendix 1 - Preliminary Issues and Options Report(Cont.)

It would be appropriate to broaden the scope of the possible Plan Change from the current “tiny homes” to refer to “minor residential units” or “secondary units”.

7.5.1 Appendix 1 - Preliminary Issues and Options Report(Cont.)

Appendix 1 – Option 2 Proposed Plan Change Provisions

Definitions

Delete the definition of “*Accessory building for habitation*”

Include the following definition:

“Minor residential unit means a self-contained residential unit that is ancillary to the principal residential unit and is held in common ownership with the principal residential unit on the same site.”

General Residential Zone

In the General Residential Zone replace the reference to “*Accessory building for habitation*” with “*Minor residential unit*” in the following rules:

- GRZ-R3 (Heading, Number and size of buildings per lot)
- GRZ-R44 b, d, and e (Distance to boundaries)
- GRZ-R45 b, Fig 69 & legend (Distance between residential activities)
- GRZ-R49 1 (Visual privacy)
- GRZ-AC12 (Visual privacy assessment criteria)

In the General Residential Zone add a reference to “*Minor residential unit*” in the following rules:

- GRZ-R50 1a (Building coverage)

Medium Density Residential Zone

In the Medium Density Residential Zone replace the reference to “*Accessory building for habitation*” with “*Minor residential unit*” in the following rules:

- MDRZ-R3 (Heading, Number and size of buildings per lot)
- MDRZ-R44 b, d, and e (Distance to boundaries)
- MDRZ-R45 b, Fig 76 & legend (Distance between residential activities)
- MDRZ-R49 1 (Visual privacy)
- MDRZ-AC13 (Visual privacy assessment criteria)

In the Medium Density Residential Zone add a reference to “*Minor residential unit*” in the following rules:

- MDRZ-R50 1a (Building coverage)

General Rural Zone

In the General Rural Zone replace the reference to “*Accessory building for habitation*” with “*Minor residential unit*” in the following rules:

7.5.1 Appendix 1 - Preliminary Issues and Options Report(Cont.)

- GRUZ-R4 (Heading, Number, access, bulk and location per lot)
- GRUZ-R6 b, Fig 80 & legend (Distance between residential activities)

In the General Rural Zone add a reference to “*Minor residential unit*” in the following rules:

- GRUZ-R48 c (Distance to boundaries)

Rural Production Zone

In the Rural Production Zone replace the reference to “*Accessory building for habitation*” with “*Minor residential unit*” in the following rules:

- RPROZ-R3 (Heading, Number, access, bulk and location per lot)
- RPROZ-R6 b, Fig 88 & legend (Distance between residential activities)

In the Rural Production Zone add a reference to “*Minor residential unit*” in the following rules:

- RPROZ-R48 c (Distance to boundaries)

Rural Coastal Zone

In the Rural Coastal Zone replace the reference to “*Accessory building for habitation*” with “*Minor residential unit*” in the following rules:

- RCZ-R6 (Heading, Number, access, bulk and location per lot)
- RCZ-R8 b, Fig 163 & legend (Distance between residential activities)
- RCZ-AC3 (Assessment criteria for accessory buildings for habitation)

In the Rural Coastal Zone add a reference to “*Minor residential unit*” in the following rules:

- RCZ-R48 c (Distance to boundaries)

Rural Ohiwa Zone

In the Rural Ohiwa Zone replace the reference to “*Accessory building for habitation*” with “*Minor residential unit*” in the following rules:

- ROZ-R9 (Heading, Number, access, bulk and location per lot)
- ROZ-R12 b, Fig 170 & legend (Distance between residential activities)

In the Rural Ohiwa Zone add a reference to “*Minor residential unit*” in the following rules:

- ROZ-R2 1, 2, 3 (Location of buildings)
- ROZ-R51 1c (Distance to boundaries)

7.5.1 Appendix 1 - Preliminary Issues and Options Report(Cont.)

Coastal Protection Zone

In the Coastal Protection Zone replace the reference to “*Accessory building for habitation*” with “*Minor residential unit*” in the following rule:

- CPZ-R3 (Heading, Number, access, bulk and location per lot)

7.5.1 Appendix 1 - Preliminary Issues and Options Report(Cont.)

Appendix 2 – Option 4 Proposed Plan Change Provisions

Definitions

Delete the definition of “*Accessory building for habitation*”

Include the following new definition:

“Minor residential unit means a self-contained residential unit that is ancillary to the principal residential unit and is held in common ownership with the principal residential unit on the same site.”

General Residential Zone

In the General Residential Zone replace the reference to “*Accessory building for habitation*” with “*Minor residential unit*” in the following rules:

- GRZ-R3 (Heading, Number and size of buildings per lot)
- GRZ-R44 b, d, and e (Distance to boundaries)
- GRZ-R45 b, Fig 69 & legend (Distance between residential activities)
- GRZ-R49 1 (Visual privacy)
- GRZ-AC12 (Visual privacy assessment criteria)

In the General Residential Zone add a reference to “*Minor residential unit*” in the following rules:

- GRZ-R50 1a (Building coverage)

In the General Residential Zone add the following additional **Assessment Criteria for Restricted Discretionary Activities**

Minor Residential Unit

Council shall restrict its discretion to

- The extent to which the activity will remain ancillary to the principal residential unit;
- The extent to which site characteristics restrict the ability to comply with the permitted activity standards;
- Effects on local infrastructure
- Effects on the amenity of the site and adjacent public areas.

Medium Density Residential Zone

In the Medium Density Residential Zone replace the reference to “*Accessory building for habitation*” with “*Minor residential unit*” in the following rules:

- MDRZ-R3 (Heading, Number and size of buildings per lot)

7.5.1 Appendix 1 - Preliminary Issues and Options Report(Cont.)

- MDRZ-R44 b, d, and e (Distance to boundaries)
- MDRZ-R45 b, Fig 76 & legend (Distance between residential activities)
- MDRZ-R49 1 (Visual privacy)
- MDRZ-AC13 (Visual privacy assessment criteria)

In the Medium Density Residential Zone add a reference to “Minor residential unit” in the following rules:

- MDRZ-R50 1a (Building coverage)

In the Medium Density Residential Zone add the following additional **Assessment Criteria for Restricted Discretionary Activities**

Minor Residential Unit

Council shall restrict is discretion to

- e. The extent to which the activity will remain ancillary to the principal residential unit;
- f. The extent to which site characteristics restrict the ability to comply with the permitted activity standards;
- g. Effects on local infrastructure
- h. Effects on the amenity of the site and adjacent public areas.

General Rural Zone

In the General Rural Zone replace the reference to “Accessory building for habitation” with “Minor residential unit” in the following rules:

- GRUZ-R4 (Heading, Number, access, bulk and location per lot)
- GRUZ-R6 b, Fig 80 & legend (Distance between residential activities)

In the General Rural Zone add a reference to “Minor residential unit” in the following rules:

- GRUZ-R48 c (Distance to boundaries)

Add the following additional **Assessment Criteria for Restricted Discretionary Activities**

Minor Residential Unit

Council shall restrict is discretion to

- a. The extent to which the activity will remain ancillary to the principal residential unit;
- b. The extent to which site characteristics restrict the ability to comply with the permitted activity standards;

7.5.1 Appendix 1 - Preliminary Issues and Options Report(Cont.)

- c. Effects on rural amenity values, and the amenity of the site and adjacent public areas;
- d. The potential loss or restriction on the use of versatile land for primary productive use.

Rural Production Zone

In the Rural Production Zone replace the reference to “Accessory building for habitation” with “Minor residential unit” in the following rules:

- RPROZ-R3 (Heading, Number, access, bulk and location per lot)
- RPROZ-R6 b, Fig 88 & legend (Distance between residential activities)

In the Rural Production Zone add a reference to “Minor residential unit” in the following rules:

- RPROZ-R48 c (Distance to boundaries)

Add the following additional **Assessment Criteria for Restricted Discretionary Activities**

Minor Residential Unit

Council shall restrict its discretion to

- e. The extent to which the activity will remain ancillary to the principal residential unit;
- f. The extent to which site characteristics restrict the ability to comply with the permitted activity standards;
- g. Effects on rural amenity values, and the amenity of the site and adjacent public areas;
- h. The potential loss or restriction on the use of versatile land for primary productive use.

Rural Coastal Zone

In the Rural Coastal Zone replace the reference to “Accessory building for habitation” with “Minor residential unit” in the following rules:

- RCZ-R6 (Heading, Number, access, bulk and location per lot)
- RCZ-R8 b, Fig 163 & legend (Distance between residential activities)

In the Rural Coastal Zone add a reference to “Minor residential unit” in the following rules:

- RCZ-R48 c (Distance to boundaries)

Add the following additional **Assessment Criteria for Restricted Discretionary Activities**

7.5.1 Appendix 1 - Preliminary Issues and Options Report(Cont.)**Minor Residential Unit**

Council shall restrict is discretion to

- i. The extent to which the activity will remain ancillary to the principal residential unit;
- j. The extent to which site characteristics restrict the ability to comply with the permitted activity standards;
- k. Effects on rural amenity values, and the amenity of the site and adjacent public areas;
- l. The potential loss or restriction on the use of versatile land for primary productive use.

Rural Ohiwa Zone

In the Rural Ohiwa Zone replace the reference to “Accessory building for habitation” with “Minor residential unit” in the following rules:

- ROZ-R9 (Heading, Number, access, bulk and location per lot)
- ROZ-R12 b, Fig 170 & legend (Distance between residential activities)

In the Rural Ohiwa Zone add a reference to “Minor residential unit” in the following rules:

- ROZ-R2 1, 2, 3 (Location of buildings)
- ROZ-R51 1c (Distance to boundaries)

Add the following additional **Assessment Criteria for Restricted Discretionary Activities**

Minor Residential Unit

Council shall restrict is discretion to

- m. The extent to which the activity will remain ancillary to the principal residential unit;
- n. The extent to which site characteristics restrict the ability to comply with the permitted activity standards;
- o. Effects on rural amenity values, and the amenity of the site and adjacent public areas;
- p. The potential loss or restriction on the use of versatile land for primary productive use.

Coastal Protection Zone

In the Coastal Protection Zone replace the reference to “Accessory building for habitation” with “Minor residential unit” in the following rule:

7.5.1 Appendix 1 - Preliminary Issues and Options Report(Cont.)

- CPZ-R3 (Heading, Number, access, bulk and location per lot)

Add the following additional **Assessment Criteria for Restricted Discretionary Activities**

Minor Residential Unit

Council shall restrict is discretion to

- q. The extent to which the activity will remain ancillary to the principal residential unit;*
- r. The extent to which site characteristics restrict the ability to comply with the permitted activity standards;*
- s. Effects on rural amenity values, and the amenity of the site and adjacent public areas;*
- t. The potential loss or restriction on the use of versatile land for primary productive use.*

7.6 Proposed Plan Change 6 – Audible Bird Scaring Devices: withdrawal of the Proposed Plan Change**7.6 Proposed Plan Change 6 – Audible Bird Scaring Devices: withdrawal of the Proposed Plan Change**

To: **Environment, Energy and Resilience Committee**

Date: **Friday, 31 May 2024**

Author: **D Ganley / Senior Policy Planner**

Authoriser: **N Woodley – Acting GM Development and Environment Services**

Reference: **A2670540**

1. Reason for the report - *Te Take mō tēnei rīpoata*

The purpose of this report is to seek agreement from the Environment, Energy and Resilience Committee to withdraw Proposed Plan Change 6: Audible Bird Scaring Devices.

2. Executive summary - *Whakarāpopototanga*

Proposed Plan Change 6 was promoted by Council on the basis of strong community support for change to the existing District Plan rules for Audible Bird Scaring Device (ABSD) use. Submissions were received with varying levels of support for the proposed rule changes. Mediation was held prior to a hearing to narrow and resolve issues raised in the submissions.

The outcome of mediation was that all attending submitters agreed they preferred other methods for addressing concerns regarding ABSDs, including education, monitoring and industry self-regulation over the proposed plan change. The submitters no longer support proceeding with Proposed Plan Change 6 and would prefer it be withdrawn.

A hearing is scheduled for 20 June 2024 and a decision is required as to whether Council proceeds with or withdraws Proposed Plan Change 6.

3. Recommendations - *Tohutohu akiaki*

1. **THAT** Proposed Plan Change 6: Audible Bird Scaring Devices - Withdrawal of Proposed Plan Change report be **received**; and
2. **THAT** the Environment, Energy and Resilience Committee **withdraw** Proposed Plan Change 6: Audible Bird Scaring Devices in accordance with clause 8D of the First Schedule of the Resource Management Act 1991.

7.6 Proposed Plan Change 6 – Audible Bird Scaring Devices: withdrawal of the Proposed Plan Change(Cont.)**4. Background - *He tirohanga whakamuri*****4.1. Existing District Plan provisions**

The Whakatane District Plan 2017 (the District Plan) recognises that within rural environments, different levels of noise are accepted for rural productive industries. The District Plan (rule NOISE-R18) permits the use of ABSDs, provided that:

1. they operate from half an hour before sunrise to half an hour after sunset;
2. properties have a legible notice fixed to the road frontage where devices are being used, giving the name, address, contact telephone number of the person responsible for the operation of devices; and
3. sound events from an audible bird scaring device, including shots or audible sound shall not exceed 100 dB Lzpeak and not exceed 3 events within a 1 minute period and limited to a total of 12 individual events per hour.

4.2. Complaints

ABSDs are used in horticulture, primarily kiwifruit orchards, to scare birds during budding or fruiting season and are one of a number of bird deterrents used by orchardists. Other methods include flocking spray, reflective tape, predator bird kites and ultrasonic bird distress calls (to warn of predators).

On 23 October 2020, the Mayor and Councillors received a community complaint letter from Mr B and S Pryde, on behalf of 36 Poroporo residents (from 20 properties) which raised concerns about ABSD use, the frequency of use and sound levels. The letter requested Council review the planning rules and consider how to promote alternative management of bird pests specifically within local kiwifruit orchards.

A report was prepared for the Strategy and Policy Committee, on the 1 April 2021, regarding the use of audible bird scaring devices (ABSDs) within the District and options for managing their use. The committee considered the options and agreed to undertake monitoring of the District Plan noise provisions and work towards a District Plan review (plan change) if necessary.

4.3. Monitoring overview

Council subsequently undertook a review of historic ABSD complaints, a desk top acoustic modelling assessment and a field monitoring program carried out for two weeks from Monday 27 September to Friday 8 October 2021. The monitoring outcomes were reported to Strategy and Policy Committee on 25 November 2021.

The Committee was concerned with the noise level and frequency of ABSD 'booms' and resolved that a plan change be progressed to modify the permitted limits of the District Plan.

4.4. Proposed Plan Change 6

At the Strategy and Policy Committee on the 7 July 2022, a report was presented proposing amendments to the existing District Plan rule NOISE-R18, which intended to manage the wider environment and social effects from ABSDs.

7.6 Proposed Plan Change 6 – Audible Bird Scaring Devices: withdrawal of the Proposed Plan Change(Cont.)

Proposed Plan Change 6 includes reducing the permitted noise level of ABSDs from 100dB Lzpeak to 85dB Lcpeak, plus other restrictions on the permitted hours and frequency of use. Resource consents would be required for any new ABSDs exceeding the permitted standards (existing ABSDs have existing use rights where used in compliance with the rules).

4.5. Notification and submissions

Proposed Plan Change 6 was publicly notified for submissions on Monday 8 August 2022 and submissions closed on Friday 16 September 2022. Nine submissions were received from both residents and industry organisations.

Further submissions were sought from 27 January 2023 to 10 February 2023 and five further submissions were received.

Support for Proposed Plan Change 6 varied, with both support for and opposition to the proposed changes.

5. Issue/subject - *Kaupapa***5.1. Mediation**

To narrow and resolve issues raised in the submissions, an independent facilitator carried out mediation with all of the submitters who agreed to be involved (some did not wish to be involved).

Through the mediation process, the submitters discussed issues relating to:

- lack of orchardists contacting neighbours to advise of the use of ABSDs;
- contact details for neighbours to call orchardists if they have concerns with ABSD use; and
- poor practices with ABSDs being set and not actively managed.

The submitters recognised that improved orchard practices could alleviate concerns of those adjacent to or near orchards and by the community. They also all support Council taking a firm approach to any exceedances of the noise limits by ABSDs.

Representatives of the kiwifruit industry (New Zealand Kiwifruit Growers Incorporated, NZHort and Zespri) agreed to work closely together with growers to implement a best practice guide to improve orchard protocols, undertake industry monitoring, ensure proper signage is on every front fence with current contact details, introduce a standard letter for mail drops and public notices to advise of 'bird scaring season'.

The mediation recommendation, supported by all attendees is for Proposed Plan Change 6 to be withdrawn as it is no longer supported by any submitters. The mediation recommendations are included as **Appendix A**. The guidance for kiwifruit growers using ABSDs in the Whakatāne District is included as **Appendix B**.

The submitters are also aware that the District Plan must be reviewed by 2027, and if the measures they are now recommending are not successful, then the noise limits and other controls can be revisited in this review.

7.6 Proposed Plan Change 6 – Audible Bird Scaring Devices: withdrawal of the Proposed Plan Change(Cont.)**5.2. Potential next steps**

The purpose of mediation was to narrow and resolve issues between the submitters. The result of the mediation is that submitters have agreed alternative steps for how they prefer ABSDs to be managed and they have requested that Proposed Plan Change 6 be withdrawn by Council. These submitters include both those involved in the original petition (which requested something be done about ABSDs) and kiwifruit industry representative organisations.

The mediation has therefore been very successful, in that agreement between a diverse range of submitters has been reached, without the need for a hearing.

In anticipation that the mediation would not resolve all of the issues between submitters, a hearing for the plan change was scheduled for 20 June 2024. To meet the RMA requirements of having decisions on submissions no more than two years after the plan change was notified, unless the plan change is withdrawn the hearing will need to proceed.

Therefore, a decision needs to be made to either withdraw Proposed Plan Change 6 or continue with the hearing.

6. Options analysis - *Ngā Kōwhiringa*

The two options are to either withdraw Proposed Plan Change 6 in accordance with the mediation recommendation, or to proceed to the hearing on 20 June. While costs have been incurred in development of Proposed Plan Change 6, much of this work (such as the monitoring and acoustic modelling), can be used to inform the forthcoming review of the District Plan.

6.1. Option 1 Withdraw Proposed Plan Change 6 – preferred option

Proposed Plan Change 6 was undertaken due to community support for changes to how ABSDs are controlled.

Through the pre-hearing mediation, both the community and the kiwi fruit industry representatives have mutually agreed changes to the district plan are no longer supported. All parties that agreed to attend the mediation are seeking the withdrawal of Proposed Plan Change 6.

Submitters that did not attend the mediation also indicated they did not wish to attend or speak at the hearing. Council staff have contacted these submitters (by phone and email) and none are opposed to Proposed Plan Change 6 being withdrawn.

The Council will continue to work with the community and kiwifruit industry, and undertake monitoring as complaints are received.

The kiwifruit industry representatives, New Zealand Kiwifruit Growers Incorporated (NZKGI) and Zespri have committed to work to improve orchard practices by:

- implementing a guide to improve orchard protocols (this may be rolled out nationally);
- undertaken industry monitoring of ABSD acoustic levels;
- develop industry standard signage for use on every orchard front fence with relevant owner or manager contact details; and
- introduce a standard letter for mail drops and public notices to advise of 'bird scaring season'.

7.6 Proposed Plan Change 6 – Audible Bird Scaring Devices: withdrawal of the Proposed Plan Change(Cont.)

The work undertaken in the development of Proposed Plan Change 6 remains of use, as it can be combined with the outcomes of the approaches agreed through mediation to inform the forthcoming District Plan review.

6.1.1. Advantages

- No further costs associated;
- No risk of appeal to the Environment Court by submitters due to an unfavourable decision by the Hearing Panel;
- Promotes greater engagement between the community and the kiwifruit industry; and
- The RMA requires Council to review the District Plan every 10 years. Therefore, the community and or Council can review the industries improvement and propose changes to relevant District Plan rules as part of the 2027 District plan review.

6.1.2. Disadvantages

- The existing District Plan rules remain unchanged. These can be reviewed as part of the 2027 District Plan Review.

6.2. Option 2 Proceed with Proposed Plan Change 6 hearing

Council can proceed with the hearing for Proposed Plan Change 6. The Hearing Panel would make decisions on the submissions, but would also consider the mediation recommendation.

Through the pre-hearing mediation, both the community and kiwifruit industry representatives have mutually agreed changes to the district plan are not currently the best way forward. All submitters that attended the pre-hearing mediation are seeking the withdrawal of Proposed Plan Change 6. Option 2 (of this report) would be contrary to the outcome of the pre-hearing mediation process.

6.2.1. Advantages

- The Hearing Commissioners could recommend that Proposed Plan Change 6 be implemented (in full or in part), increasing restrictions on the use of audible bird scaring devices.

6.2.2. Disadvantages

- The submitters have agreed through mediation that Proposed Plan Change 6 is not currently the best way forward. Council would be progressing a plan change that is contrary to the outcomes and recommendations of facilitated mediation;
- The Hearing Panel could still recommend that Council withdraw Proposed Plan Change 6; and
- Should the Hearing Panel recommend retaining Proposed Plan Change 6, there would be a risk of subsequent appeals to the Environment Court.

7. Significance and Engagement Assessment - *Aromatawai Pāhekoheko***7.1. Assessment of Significance**

The decisions and matters in this report are assessed to be of low significance in accordance with Council's Significance and Engagement Policy. This not a matter that requires community engagement, as it itself is an outcome from a public submission process under the Resource Management Act.

7.6 Proposed Plan Change 6 – Audible Bird Scaring Devices: withdrawal of the Proposed Plan Change(Cont.)**7.2. Level of community interest:**

Proposed Plan Change 6 was initiated with a high degree of community interest. Submissions were received through the Schedule 1 Resource Management Act 1991 statutory plan change process.

The issues raised by submitters were varied with support for and against the proposed plan change. A key issue was that the kiwifruit industry does not support the proposed plan change on the basis it could limit orchard practices, and several community submitters do not support the plan change as audible bird scaring devices are not banned.

To manage community and industry tensions, pre-hearing mediation was carried out. The outcome of this mediation was that all submitters (in attendance) supported the withdrawal of the plan change in favour of improved industry practices and were necessary Council taking a firmer approach to ABSD noise limit exceedances.

Community interest in continuing with Proposed Plan Change 6 is now low.

7.3. Level of impact on current and future wellbeing:

The expected level of adverse impact on the current and future wellbeing of our communities or District is low. If there is no significant improvement in the use of ABSDs, the rules can be reviewed during the 2027 District Plan review process.

7.4. Financial impact:

The expected financial impact on the Policy, Planning and Consents Compliance budget will be low, as no additional expenditure will be required to progress Proposed Plan Change 6 if it is withdrawn.

7.5. Reversibility:

Reversing the decision to proceed with Proposed Plan Change 6 is of low difficulty, the Committee can withdraw Proposed Plan Change 6 in accordance with clause 8D of the First Schedule of the Resource Management Act 1991.

8. Significance and Engagement Assessment - *Aromatawai Pāhekoheko***8.1. Impact on Māori:**

The expected level of impact on Māori is low.

It is noted that Ngāti Awa made a submission to Proposed Plan Change 6 requesting that the definition of 'noise sensitive activities' be broadened from 'marae' to 'marae, papakainga, marae urupa'. The issue to broaden the scope of definition for sensitive activities can be included in the forthcoming 2027 District Plan Review, or as part of the District Plan (ePlan) definitions update to comply with the National Planning Standards, which will be completed by May 2026.

7.6.1 Appendix A - Pre-Hearing Mediation Recommendations**8.2. Engagement and community views**

No engagement is required for the withdrawal of a plan change in accordance with clause 8D of the First Schedule of the Resource Management Act 1991. This clause recognises that where a local authority has initiated the preparation of a plan, it may withdraw its proposal to change the plan at any time before the plan is approved by the local authority. Council needs to give public notice of any withdrawal and include the reasons for the withdrawal.

9. Considerations - *Whai Whakaaro***9.1. Financial/budget considerations**

Withdrawing Proposed Plan Change 6 will reduce further financial implications associated with this proposed plan change, as no hearing or possible Environment Court appeal costs will be incurred.

The costs incurred to prepare the proposed plan change, specifically for acoustic reports can be used as supporting information for the preparation of the 2027 District Plan review.

9.2. Strategic alignment

It is Council's policy to ensure that the District Plan gives effect to higher order planning documents, such as national legislation. Withdrawing Proposed Plan Change 6 does not affect Council's ability to give effect to higher order legislation.

9.3. Climate change assessment

Withdrawing Proposed Plan Change 6 has no climate change implications.

9.4. Risks

There are no risks associated with the matters raised in this report. Council has the power to withdraw Proposed Plan Change 6 in accordance with clause 8D of the First Schedule of the Resource Management Act 1991.

Attached to this report:

- **Appendix A:** Pre-Hearing Mediation Recommendations
- **Appendix B:** Guidance for Kiwifruit Growers using Audible Bird Scaring Devices in the Whakatāne District

7.6.1 Appendix A - Pre-Hearing Mediation Recommendations

7.6.1 Appendix A - Pre-Hearing Mediation Recommendations(Cont.)**PRE-HEARING (WDC-PC6) MEDIATION HEADS OF AGREEMENT**

The undersigned parties (the parties) are submitters on Plan Change 6 (PC6) to the Whakatāne District Plan (WDP) for Audible bird scaring devices (ABSD).

The parties have attended and participated in pre-hearing mediation on 25 March 2024 and 16 May 2024.

All submitters were provided the opportunity to participate in mediation and the undersigned are those that participated. This agreement does not purport to bind those who chose not to participate.

The parties acknowledge that:

1. Use of audible bird scaring devices has caused distress to some residents in proximity to the devices, including both rural and Edgcombe residents.
2. Growers are permitted to use ABSD under NOISE-R1, NOISE-R18, NOISE-AC2 and NOISE-AC12 (previously 11.2.6.2, 11.2.7.1.h, 11.4.5.1) of the Operative Whakatāne District Plan as long as the conditions in the rule are met; otherwise resource consent for their use is required.
3. Previous acoustic measurements have indicated that the sound levels from some ABSD are exceeding the permitted thresholds in the district plan.
4. In August 2022, Whakatāne District Council (WDC) prepared and notified PC6 in response to community concerns.
5. It has become apparent that there is a lack of information currently available which means that PC6 may not be the most efficient or effective method to address issues regarding ABSD.

In response to these issues the parties agree that, in the first instance, an alternative approach to PC6 should be pursued.

The agreed alternative approach is:

1. NZKGI and Horticulture NZ, in conjunction with Zespri, will continue development of the current draft Guidance Note for growers about the use of ABSD and compliance with the Whakatāne District Plan, to be completed and distributed to growers prior to the 2024 bud break season.
2. NZKGI in conjunction with Zespri will convene a workshop for growers prior to the 2024 bud break season, to demonstrate best practice in the use of ABSD, distribute the Guidance Note, provide a template for signage, and discuss provision of information to the community, including a template letter to communicate with neighbours.

7.6.1 Appendix A - Pre-Hearing Mediation Recommendations(Cont.)

3. Zespri, on behalf of NZKGI, (ideally in conjunction with WDC) will undertake a season of monitoring ABSD use to provide baseline data on which to base any future actions.
4. Outcomes of the monitoring will be collated in a report to be provided to WDC Monitoring and Compliance Section by December 2024.
5. NZKGI is to investigate any possible linkages of best practice for ABSD to the ZESPRI-GAP programme.
6. WDC remains committed to working proactively with both the community and growers to manage expectations of rural production activities in rural zones. Improved education around orchard practices and what to expect throughout the year, along with grower education should improve acceptance of practices such as audible bird scaring device use. Where there are complaints, and monitoring establishes that support and education are not sufficient to ensure compliance, WDC will progress to utilising enforcement action against operators shown to be non-compliant with NOISE-R1 and NOISE-R18 of the Operative Whakatāne District Plan.
7. WDC, NZKGI (and Zespri) will work together to ensure all relevant information regarding the use of ABSD will be provided to the community through a variety of mediums, including but not limited to social media, newspaper, radio, community noticeboards; prior to and during the bud break season.
8. WDC will be asked to assess, and take into account, the results of monitoring when reviewing the provisions in the District Plan relating to noise, in determining any potential changes to the district plan.

Outcome sought:

The undersigned submitters recommend that WDC withdraw PC6 and support implementation of the above programme (focused on education, monitoring, enforcement, evaluation, reporting) for the 2024 and 2025 bud break seasons.

Dated at Whakatāne on 22 May 2024

Signed:

[Redacted signature block]

7.6.1 Appendix A - Pre-Hearing Mediation Recommendations(Cont.)

[Redacted]

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7.6.2 Appendix B - Guidance for Kiwifruit Growers using Audible Bird Scaring Devices in the Whakatāne District

7.6.2 Appendix B - Guidance for Kiwifruit Growers using Audible Bird Scaring Devices in the Whakatāne District

7.6.2 Appendix B - Guidance for Kiwifruit Growers using Audible Bird Scaring Devices in the Whakatāne District(Cont.)

Appendix B: Guidance for Kiwifruit Growers using Audible Bird Scaring Devices in the Whakatāne District

**Guidance for Kiwifruit Growers using
Audible Bird Scaring Devices
in the Whakatāne District**

Working Draft

May 2024

Working Draft

7.6.2 Appendix B - Guidance for Kiwifruit Growers using Audible Bird Scaring Devices in the Whakatāne District(Cont.)

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7.6.2 Appendix B - Guidance for Kiwifruit Growers using Audible Bird Scaring Devices in the Whakatāne District(Cont.)

1

1. Objectives

The objectives of this Code of Practice are to provide practical guidance regarding:

- best practice for operating audible bird scaring devices,
- the requirements of the Whakatāne District Plan rules for Audible Bird Scaring Devices (ABSDs) and what growers need to do to comply,
- the avoidance and mitigation of unreasonable noise as required by s16 of the Resource Management Act 1991,
- recommendations regarding notification to neighbours,
- a clear process as to how complaints and concerns will be responded to.

2. Background

Kiwifruit growers use a range of methods to control birds in their orchards during bud burst in the spring. Without control, the loss of kiwifruit flower buds can occur very quickly and can be devastating due to the loss in yield and grower revenue.

While some growers are able to achieve an acceptable level of control without using ABSDs, some growers need to use them, particularly where the adjacent land use promotes the congregation of birds. Disruption sees those birds typically searching for an alternative source of food.

While ABSDs are essential to protect some orchards, it is acknowledged that they have the potential to annoy and disturb the public and this can affect the industry's social licence to operate.

The vast majority of ABSDs used in the Whakatāne District are gas guns.

3. Rules

Table 11.2 of Section 11.2.6.2 of the [Operative Whakatāne District Plan](#) contains the relevant rules for Audible Bird Scaring Devices, and section 11.2.7.2 specifies which New Zealand Standards apply and measurement positions. These are reproduced in Attachment 1 and detailed below in Section 6.

If a grower can comply with all the conditions of the permitted activity rule stipulated in Table 11.2 of the Whakatāne District Plan, no resource consent is required. While growers could theoretically apply for a resource consent if they cannot comply with the permitted activity rule, at the time of writing no growers with gas guns have applied for resource consents in the Whakatāne District.

If the permitted activity rule is not complied with, there is a risk of complaints and/or the possibility of enforcement action, and for this reason it is important that growers know and understand what they need to do to comply.

7.6.2 Appendix B - Guidance for Kiwifruit Growers using Audible Bird Scaring Devices in the Whakatāne District(Cont.)

Appendix B: Guidance for Kiwifruit Growers using Audible Bird Scaring Devices in the Whakatāne District

4. Interpretation of the Rules

The wording of the conditions can be confusing for growers. With that in mind, the following is intended to be a plain English guide to help growers understand what they need to do to comply.

4.1 Signage

A legible notice must be fixed to the road frontage of the property on which the device is being used, giving the name, address, and contact telephone number of the person responsible for the device(s).

4.2 Hours of Operation

ABSDs can only be operated from half an hour before sunrise to half an hour after sunset. Sunrise and sunset times for Whakatāne can be found [here](#)

Some gas guns have a photoelectric cell that controls their operation. This needs to be kept clean and maintained so that it is free from obstruction. A mechanical timer may be used to back up the photoelectric switch.

The ABSD season generally spans the introduction of daylight savings. Growers need to ensure that the start and finish times of their devices are adjusted as necessary for daylight savings, and that they do not operate any longer than they need to.

4.3 Number of Events

The number of shots from devices that generate discrete sound events (gas guns) shall not exceed 3 events within a 1 minute period and shall be limited to a total of 12 individual shots per hour.

4.4 Noise Level

The noise level of shots from devices that generate discrete sound events (gas guns) shall not exceed 100 dB Lzpeak.

For devices that generate short or variable sound events (screamers) no event may result in sound level greater than 50 dBA SEL.

4.5 Where the Required Noise Levels Apply

The maximum noise levels stipulated in the District Plan are intended to protect the amenity of nearby residents. For this reason, they do not apply at the device, but at the measurement locations specified in the permitted activity rule.

The permitted activity rule states the following regarding the measurement location:

*“At any point within the **notional boundary** of any rural zoned site, or within the site boundary of any other site used for a **noise sensitive activity** excluding any dwelling/s located on the same site as that on which the device is being operated.”*

This means that the measurement location differs depending on whether a neighbouring dwelling is within the rural zone, or whether a site in a zone other than rural contains a noise sensitive activity. The following describes what this means in practice.

7.6.2 Appendix B - Guidance for Kiwifruit Growers using Audible Bird Scaring Devices in the Whakatāne District(Cont.)

Appendix B: Guidance for Kiwifruit Growers using Audible Bird Scaring Devices in the Whakatāne District

4.5.1 Surrounding Dwellings Within the Rural Zone

For dwellings located in the rural zone¹, the measurement location is within the notional boundary of the dwelling. The notional boundary is defined as a line 20m from the façade of any rural dwelling, or the legal boundary where this is closer to the dwelling.

It should be noted that a line 20m from the façade of any rural dwelling may be on privately owned land and compliance monitoring in the correct location will require the permission of the owner and/or occupier to access the land. From a practical perspective and depending on whether the landowner/occupier is able to be contacted in a timely manner and is prepared to grant access, monitoring may need to be carried out as close as possible to the line 20m from the façade where access is possible, which may be the nearest public road, or the boundary of the kiwifruit orchard.

What this means in practice is described in the following scenarios:

Scenario 1



In this case the monitoring location would be at the property boundary because it is closer to the dwelling than a line drawn 20m from the façade. Monitoring can be carried out next to the road.

¹ Excluding any dwelling/s located on the same site as that on which the device is being operated.

7.6.2 Appendix B - Guidance for Kiwifruit Growers using Audible Bird Scaring Devices in the Whakatāne District(Cont.)**Appendix B: Guidance for Kiwifruit Growers using Audible Bird Scaring Devices in the Whakatāne District****Scenario 2**

In this case monitoring should be carried out at the property boundary, but access to the most appropriate monitoring location would require the approval of the landowner/occupier of the dwelling. If the owners/occupiers cannot be contacted in a timely manner or refuse access, approval could be sought from the owner of the grazed block between the kiwifruit orchard and the dwelling to allow monitoring to still be carried out on the property boundary. Failing that the only option would be to monitor at the boundary of the kiwifruit orchard, and to factor the distance to the dwelling into an assessment of the noise. As a very rough approximation, measured outdoor sound levels for a source like this may reduce by 4-5 dB for every doubling of distance.

Note that measurement of the noise at the boundary of the kiwifruit orchard cannot be used for enforcement purposes but could be used to provide an indication as to whether the ABSD is likely to be compliant.

7.6.2 Appendix B - Guidance for Kiwifruit Growers using Audible Bird Scaring Devices in the Whakatāne District(Cont.)

Appendix B: Guidance for Kiwifruit Growers using Audible Bird Scaring Devices in the Whakatāne District

Scenario 3



In this case monitoring should be carried out at a line 20m from the façade of the dwelling because the line is closer to the dwelling than the property boundary. If access is not approved by the landowner/occupier, monitoring would have to be undertaken at the boundary of the kiwifruit orchard with a calculation to factor in the distance to the dwelling. Note that measurement of the noise at the boundary of the kiwifruit orchard cannot be used for enforcement purposes, but could be used to provide an indication as to whether the ABSD is likely to be compliant.

Scenario 4

7.6.2 Appendix B - Guidance for Kiwifruit Growers using Audible Bird Scaring Devices in the Whakatāne District(Cont.)

Appendix B: Guidance for Kiwifruit Growers using Audible Bird Scaring Devices in the Whakatāne District



In the figure above there are two dwellings located on the site that has the ABSD. Where there are dwelling(s) located on the same site as that on which the device is being operated, the noise conditions do not apply.

4.5.2 Noise Sensitive Activities Outside of the Rural Zone

Noise sensitive activities are defined as:

- a. Buildings used for residential activities including:
 - i. Boarding establishments
 - ii. Homes for elderly persons
 - iii. Retirement villages
 - iv. In-house aged-care facilities; and
 - v. Dwellings.
- b. Buildings used as temporary accommodation including hotels and motels but excluding campgrounds
- c. Marae
- d. Spaces used for overnight patient medical care within buildings
- e. Teaching areas and sleeping rooms in buildings used as educational facilities including tertiary institutions and schools, and premises licensed under the Education (Childhood Services) Regulations, and playgrounds which are part of such facilities and located within 20m of buildings used for teaching purposes.

Noise sensitive activities do not include:

- f. Residential accommodation in buildings which predominantly have other uses such as commercial or industrial premises
- g. Garages and ancillary buildings.

Where a noise sensitive activity is located in any zone other than the rural zone and can hear the noise from an ABSD the noise level applies anywhere within the site boundary of the noise sensitive activity. From a practical perspective the monitoring location would normally be on the closest property boundary of the site of the noise sensitive activity to the property on which the ABSD is located.

7.6.2 Appendix B - Guidance for Kiwifruit Growers using Audible Bird Scaring Devices in the Whakatāne District(Cont.)

Appendix B: Guidance for Kiwifruit Growers using Audible Bird Scaring Devices in the Whakatāne District

5. New Dwellings and New Orchards

The noise conditions leave growers vulnerable to new dwellings that may establish close by. The district plan contains objectives, policies and rules that have the aim of protecting rural production activities from reverse sensitivity effects.

Growers seeking to establish new kiwifruit orchards on greenfields sites need to be aware that existing dwellings located close by will limit the level of noise that can be generated from any ABSD that they intend to operate.

6. How the Monitoring is to Be Undertaken

Good practice measurement techniques in line with the relevant New Zealand standards are summarised below:

- Measurements should be taken at 1.2 – 1.5 m above the immediate ground level, and at least 3.5 m from any reflecting surface other than the ground
- Sound level measurements shall only be taken when wind levels are between 0 and 5 m/s (no more than a gentle breeze), and the sound level meter fitted with an appropriate windscreen. Measuring in calm, or light downwind conditions (wind blowing towards the measurement location) will give the most consistent measurement results
- The operator should be aware that sound levels, especially as the distance from the ABSD increases, will be quite different depending on the weather conditions. Measurements in upwind, or cross wind conditions won't represent worst case levels
- The orientation of the ABSD relative to the measurement location (and any line-of-sight screening) should be recorded as measurements in the "line of fire" will likely be louder
- Measurement uncertainty will be reduced the more events are recorded, and the more measurement locations
- As most gas guns fire off three shots in quick succession, recording two of the three shots in succession would be sufficient. Ideally one recording would comprise three shots in succession, with two recordings to be done at each site
- ABSDs that produce short or variable events such as screamers have different noise limits that require monitoring for longer durations,
- Measurements close to the ABSD will not be influenced as much by weather conditions. This means that measurements undertaken at 20 metres in a grid around the ABSD (wearing appropriate hearing protection), adjusted by -4 to -5 dB for every doubling of distance, could be used instead to estimate likely levels at the closest receivers
- The sound level meter should be calibrated at least every two years.

7.6.2 Appendix B - Guidance for Kiwifruit Growers using Audible Bird Scaring Devices in the Whakatāne District(Cont.)

Appendix B: Guidance for Kiwifruit Growers using Audible Bird Scaring Devices in the Whakatāne District

7. How Growers Can Be Sure That They are Complying with the Noise Limits

Growers have two options to ensure that they are complying with the noise limits at the start of the ABSD season. They can either:

- Call the NZKGI hotline on 0800 232 505 to arrange a visit from Zespri's Compliance Investigation Specialist, to ensure that the device is compliant and for property specific guidance on how the device should be operated, the distance that the device needs to be located from boundaries to comply, and other matters that growers need to be aware of e.g. the potential effects of windspeed and direction, or
- Call Whakatāne District Council on XXXX XXX XXX and ask for guidance as described above (**need to agree with the Council that they are happy to do this, what the cost might be and that growers won't be prosecuted if the device exceeds the noise limit when a grower is proactively seeking advice to ensure compliance**).

8. Factors that Can Affect Noise Levels Received

The noise that neighbours experience is influenced by a number of factors such as distance from the device, topography, whether any screening is present between the device and the receiver and weather conditions. The weather conditions should be recorded when a noise reading is taken. Accurate noise readings cannot be obtained when the windspeed is greater than 5 m/s for measurements that are more than 30m from the device.

Noise travels much further downwind and particular care needs to be taken with devices that swivel with the wind. To avoid or mitigate unreasonable noise, growers should place ABSDs as far away as possible from the closest receiver, and where fixed in position, the device should be pointed away from neighbours. Devices should be properly maintained and checked regularly to detect any malfunctions that could result in complaints.

9. Best Practicable Option

The Resource Management Act (1991) states the following in Section 16:

16 Duty to avoid unreasonable noise

- (1) *Every occupier of land (including any premises and any coastal marine area), and every person carrying out an activity in, on, or under a water body or the coastal marine area, shall adopt the best practicable option² to ensure that the emission of noise from that land or water does not exceed a reasonable level.*

² **Best practicable option** in relation to a discharge of a contaminant or an emission of noise, means the best method for preventing or minimising the adverse effects on the environment having regard, among other things, to—

7.6.2 Appendix B - Guidance for Kiwifruit Growers using Audible Bird Scaring Devices in the Whakatāne District(Cont.)

Appendix B: Guidance for Kiwifruit Growers using Audible Bird Scaring Devices in the Whakatāne District

This means that growers should firstly explore all of the practicable³ options available to them to control birds, with ABSDs being used as a last resort. Other forms of bird deterrent include reflective tape, kites, balloons, laser bird scarers, bird repellents, ultrasonic high frequencies and the use of intensive sward planting.

What might be considered unreasonable will be dependent on the situation and the concerns of the receiver(s) of the noise. Simply reading a noise meter will not be sufficient to determine reasonableness and Council officers will likely consider each circumstance, including the level of noise, the number of events, duration of the activity, and sensitivity of the receiving environment.

10. Calibration and Training

Zespri's noise meter is calibrated against Whakatāne District Council's meter. Data from Zespri's noise meter is intended to be used to help growers understand whether their device complies with the noise limits, and if not, what they need to do to comply. Zespri's data is not to be used for enforcement purposes.

While growers have the option of contacting Whakatāne District Council to have their device checked, it should be noted that the council has an enforcement role and for this reason a more formal calibration procedure for the device, and training procedure for staff, is required. Whakatāne District Council's noise meter needs to be regularly calibrated and calibration certificates should be made available upon request. In addition, the staff undertaking the monitoring need to be adequately trained under the guidance of existing experienced personnel, with additional specialist training, support and guidance provided by an appropriately qualified and experienced acoustic consultant on an as-required basis. Training records should be available upon request as should monitoring procedures.

11. Cumulative Effects

While the consent conditions do not control cumulative effects through conditions that limit the number of devices per area, the industry understands that there is the potential for cumulative effects where a large number of devices are being used in a relatively small area with neighbours close by.

(a) the nature of the discharge or emission and the sensitivity of the receiving environment to adverse effects; and

(b) the financial implications, and the effects on the environment, of that option when compared with other options; and

(c) the current state of technical knowledge and the likelihood that the option can be successfully applied

³ Cost forms part of the assessment of practicability. For example, while full netting of an orchard might solve a bird problem, if it is cost prohibitive then the option is not practicable.

7.6.2 Appendix B - Guidance for Kiwifruit Growers using Audible Bird Scaring Devices in the Whakatāne District(Cont.)

Appendix B: Guidance for Kiwifruit Growers using Audible Bird Scaring Devices in the Whakatāne District

While not mandatory, it is recommended that all growers with a device advise Zespri's Compliance Investigation Specialist so that the devices can be recorded on a plan. Concerns regarding cumulative effects can then be responded to on a case-by-case basis.

12. Talking to Neighbours

Given the potential for disturbance and misunderstanding associated with the use of ABSDs, it is recommended that growers talk to their neighbours to inform them why they need their devices and how they intend to operate them.

As for the general population, neighbours will respond to noise from ABSDs in different ways. Some will be very tolerant and these may include other kiwifruit growers. At the other end of the spectrum, some people find noise in general that is not of their own making, or particular types of noise to be very annoying.

Some neighbours may appreciate advance notice of the devices being used and an indication of the intended duration of use, along with the contact details of the person managing the device so that they know who to call if they wish to discuss any concerns and complaints. Neighbours are less likely to be alarmed when the use of the device commences if they are advised beforehand. Some neighbours may appreciate notification in the same way that they are notified regarding spray application.

13. Complaints and Concerns Process

People with complaints and concerns should be encouraged to contact the operator of the device in the first instance. They also have the option of phoning NZKGI's hotline or Whakatāne District Council and may request a site visit and monitoring. Either way, NZKGI/Zespri and the council will share information and respond accordingly.

14. Document Review

This guidance document should be regarded as a working document that can be reviewed and updated as required.

7.6.2 Appendix B - Guidance for Kiwifruit Growers using Audible Bird Scaring Devices in the Whakatāne District(Cont.)

Appendix B: Guidance for Kiwifruit Growers using Audible Bird Scaring Devices in the Whakatāne District

Attachment 1 - Summary of Permitted Activity Rule

Activity	Noise Controls
Audible bird scaring devices (see Note h).	<p><u>General Requirements</u> Audible bird scaring devices shall only be operated from half an hour before sunrise to half an hour after sunset. A legible notice is to be fixed to the road frontage of the property on which the device is being used, giving the name, address, contact telephone number of the person responsible for the operation of any such device(s).</p> <p><u>Devices that Generate Discrete Sound Events</u> Discrete sound events from audible bird scaring device, including shots or audible sound shall:</p> <ul style="list-style-type: none"> i. Shall not exceed 100 dB Lzpeak, ii. Not exceed 3 events within a 1 minute period and shall be limited to a total of 12 individual events per hour. <p><u>Devices that Generate Short of Variable Sound Events</u> Where audible sound is used over a short or variable time duration, no event may result in a sound level greater than 50dBA SEL. Audible bird scaring devices which do not comply with this rule are a restricted discretionary activity.</p> <p>Audible bird scaring devices which do not comply with this rule are a restricted discretionary activity.</p>

Note h:

*“At any point within the **notional boundary** of any rural zoned site, or within the site boundary of any other site used for a **noise sensitive activity** excluding any dwelling/s located on the same site as that on which the device is being operated.”*

Definitions:

Notional boundary is defined as a line 20m from the façade of any rural dwelling, or the legal boundary where this is closer to the dwelling.

7.6.2 Appendix B - Guidance for Kiwifruit Growers using Audible Bird Scaring Devices in the Whakatāne District(Cont.)

Appendix B: Guidance for Kiwifruit Growers using Audible Bird Scaring Devices in the Whakatāne District

Noise sensitive activities means:

- h. Buildings used for residential activities including:
 - vi. Boarding establishments
 - vii. Homes for elderly persons
 - viii. Retirement villages
 - ix. In-house aged-care facilities; and
 - x. Dwellings.
- i. Buildings used as temporary accommodation including hotels and motels but excluding campgrounds.
- j. Marae;
- k. Spaces used for overnight patient medical care within buildings;
- l. Teaching areas and sleeping rooms in buildings used as educational facilities including tertiary institutions and schools, and premises licensed under the Education (Childhood Services) Regulations, and playgrounds which are part of such facilities and located within 20m of buildings used for teaching purposes.

Noise sensitive activities do not include:

- m. Residential accommodation in buildings which predominantly have other uses such as commercial or industrial premises.
- n. Garages and ancillary buildings.

Residential activity means the use of land or buildings by people for living accommodation where those people voluntarily live at the site alone or in family and/or non-family groups, whether the person is subject to care, supervision or not, and who will generally refer to the site as their home and permanent address.

Section 11.2.7.2 of the Operative District Plan states the following:

“Unless stated otherwise, sound shall be measured in accordance with NZS 6801:2008 Acoustics Measurement of Environmental Sound and assessed in accordance with NZS6802:2008 Acoustic- Environmental Noise. The noise limits in 11.2.6 shall not apply to sound from sources outside the scope of NZS 6802:2008. Sound from such sources shall be assessed in accordance with the relevant New Zealand Standard listed in 11.2.6.2.”

Section 11.2.7.3 of the Operative District Plan states the following:

“Sound levels shall be measured and assessed at the positions given in Table 11:1 and Table 11:2 and clause 11.2.7.2. The assessment position in a rural zone is at any point within the notional boundary of any building or space used for a noise sensitive activity as defined in this Plan...”