

AGENDA/KAUPAPA



P O Box 747, Gisborne, Ph 06 867 2049 Fax 06 867 8076
Email service@gdc.govt.nz Web www.gdc.govt.nz

MEMBERSHIP: Her Worship the Mayor Rehette Stoltz, Deputy Mayor Josh Wharehinga, Colin Alder, Andy Cranston, Larry Foster, Debbie Gregory, Ani Pahuru-Huriwai, Rawinia Parata, Aubrey Ria, Tony Robinson, Rob Telfer, Teddy Thompson, Rhonda Tibble and Nick Tupara

EXTRAORDINARY COUNCIL/TE KAUNIHERA

DATE: Thursday 2 March 2023

TIME: Following the Operations Committee Meeting

AT: Te Ruma Kaunihera (Council Meeting Room), Awarua, Fitzherbert Street, Gisborne

AGENDA – OPEN SECTION

1. Apologies	3
2. Declarations of Interest.....	3
3. Leave of Absence	3
4. Acknowledgements and Tributes	3
5. Public Input and Petitions.....	3
6. Extraordinary Business	3
7. Notices of Motion	3
8. Adjourned Business.....	3
9. Reports of the Chief Executive and Staff for DECISION	4
9.1. 23-58 Supplementary Report - Draft Annual Plan 2023 [23-10]	4
9.2. 23-29 Governance Structure and Terms of Reference 2023	18
9.3. 23-37 Health and Safety Governance Charter.....	54

Council

Chairperson:	Mayor Stoltz
Deputy Chairperson:	Cr Wharehinga
Membership:	Mayor and all Councillors
Quorum:	Half of the members when the number is even and a majority when the number is uneven
Meeting Frequency:	Six weekly (or as required)

Terms of Reference:

The Council's terms of reference include the following powers which cannot be delegated to committees, subcommittees, officers or any other subordinate decision-making body which includes:

1. The power to make a rate.
2. The power to make a bylaw.
3. The power to borrow money, or purchase or dispose of assets, other than in accordance with the Long Term Plan.
4. The power to adopt a Long Term Plan, Annual Plan, or Annual Report.
5. The power to appoint a Chief Executive.
6. The power to adopt policies required to be adopted and consulted on under the Local Government Act 2002 in association with the Long Term Plan or developed for the purpose of the Local Governance Statement.
7. The power to adopt a remuneration and employment policy.
8. Committee Terms of Reference and Delegations for the 2019–2022 Triennium.
9. The power to approve or change a proposed policy statement or plan under clause 17 of Schedule 1 of the Resource Management Act 1991 (RMA).
10. The power to approve or amend the Council's Standing Orders.
11. The power to approve or amend the Code of Conduct for elected members.
12. The power to appoint and discharge members of Committees.
13. The power to establish a joint committee with another local authority or other public body.

14. The power to make the final decision on a recommendation from the Ombudsman where it is proposed that Council not accept the recommendation.
15. Make those decisions which are required by legislation to be made by resolution of the local authority that are not listed in 1-14 above.
16. Consider any matters referred to it from any of the Committees.
17. Authorise all expenditure not delegated to staff or other Committees.

Note: for 1-7 see clause 32(1) Schedule 7 Local Government Act 2002 and for 8-13 see clauses 15, 27, 30 Schedule 7 of Local Government Act 2002 and section 34A of Resource Management Act 1991

9. Reports of the Chief Executive and Staff for DECISION



23-58

Title: 23-58 Supplementary Report - Draft Annual Plan 2023 [23-10]

Section: Finance & Affordability

Prepared by: Pauline Foreman - Chief Financial Officer

Meeting Date: Thursday 2 March 2023

Legal: Yes

Financial: Yes

Significance: **Medium**

Report to COUNCIL/TE KAUNIHERA for decision

PURPOSE - TE TAKE

The purpose of this report is to obtain financial authorisation for emergency reinstatement works for our water supply and roading as a result of Cyclone Gabrielle, and expenditure of funds received from any external source, through an amendment to the Council's Instrument of Financial Delegation.

SUMMARY - HE WHAKARĀPOPOTOTANGA

A national emergency has been declared as a result of Cyclone Gabrielle. Gisborne city's reticulated water supply is significantly damaged with multiple breaks in the main water pipeline. While initial assessments and reinstatement options for the fixing of the water supply connection is underway, authorisation is needed for the unbudgeted works outside of the Chief Executive's current financial delegations.

Under declared emergency events such as the Cyclone Gabrielle adverse weather event – either declared at a localised level or a national level – National Emergency Management Agency (NEMA), will cover up to 60% of damage to critical infrastructure. This includes water supply, wastewater, stormwater and flood protection.

For the remaining 40% of emergency works costs within a declared state of emergency, these will be assessed by our insurer loss assessors under our Four Waters infrastructure below ground material damage policy.

However, Council may need to meet up to \$1.5m for emergency water supply costs.

The funding process is different for damage to our roading network. Any funding for reinstatement of road comes from Waka Kotahi. Council does not insure the local roading network (ie roads and bridges) and any local share not covered by Waka Kotahi must be funded by Council. The process for assessing the damage and funding for the roading network will be completed within the coming months.

Council's approval is sought to cover all reasonable costs needed for the production of drinking water and restatement of the water reticulation of the city. In addition, approval is sought for funding of roading response costs that will not be funded from Waka Kotahi.

Authorisation is also needed to enable the Chief Executive to manage any significant expenditure of funds received from any external source (for example insurance claim payments, funding from Trusts such as Trust Tairāwhiti or the Gisborne Disaster Relief Fund).

The proposed new Instrument of Financial Delegation is included as **Attachment 1** to this report. A copy of the current Instrument of Financial Delegation is included as **Attachment 2** for comparative reference.

The decisions or matters in this report are considered to be of **Medium** significance in accordance with the Council's Significance and Engagement Policy.

RECOMMENDATIONS - NGĀ TŪTOHUNGA

That the Council/Te Kaunihera:

- 1. Agrees to make the delegations and revocations specified in the Instrument of Financial Delegation in Attachment 1 to this report.**
- 2. Agrees the Mayor can sign the Instrument of Delegation in Attachment 1 of this report to confirm the delegations have been made.**
- 3. Noting that:**
 - a. Thresholds for National Emergency Funding Agency will be at least \$1.2m.**
 - b. Council's insurance Policy for Below Ground Infrastructure Waters has a deductible amount of \$1.5m.**
 - c. Based on 3a and 3b, Council costs will be at least \$1.5m and any other costs that are not covered from insurance policy and/or from NEMA.**
- 4. Noting that:**
 - a. Assessed total costs will be completed in coming weeks.**
 - b. Once assessed costs are completed and timelines of when work will be phased, the new costs affected 2023/24 will be incorporated into the Final Annual Plan for 2023/24.**
 - c. Costs incurred during the current financial year 2022/23 will be notified to Council through reports to Council Committees.**

Authorised by:

Nedine Thatcher Swann - Chief Executive

Keywords: critical infrastructure, emergency reinstatement costs, water assets, te karaka sewerage oxidation pond,

BACKGROUND - HE WHAKAMĀRAMA

1. A national emergency has been declared as a result of Cyclone Gabrielle.
2. There is significant damage to local road network, our water supply reticulated assets and the Te Karaka oxidation pond.
3. Council does have insurance policies for damage to property and Central Government also provides for some funding for Water assets in a disaster. However, not all the costs will be covered.

DISCUSSION and OPTIONS - WHAKAWHITINGA KŌRERO me ngā KŌWHIRINGA

4. While initial assessments and reinstatement options for the fixing of the water supply connections, production of drinking water and roading networks is underway, financial approval is needed for the unbudgeted works outside of the Chief Executive financial delegations.
5. Council does have insurance policies for damage to property and Central Government also provides for some funding for water assets in a disaster. However, not all the costs will be covered.
6. The discussion below outlines the types of funding available to Council, and the likely minimum residual costs that will fall to Council.

Disaster Reinstatement Funding

7. After a disaster or declared National emergency event, funding available to Council is based on different levels of support for different types of assets or service.
8. These groups include:

Service

- a. Welfare 100% assistance from National Emergency Management Agency (NEMA).

Assets

- b. Roading – Waka Kotahi, individually assessed on percentage of assistance (Financial Assistance Rate – FAR).
 - c. Water assets including Infrastructure for public water supply, wastewater, stormwater and flood protection. Funded by:
 - i. NEMA 60% of the total costs.
 - ii. Council's own insurance policies – underground assets (40% of the total costs) and material damage policy for above ground assets.
 - d. All other assets covered by Councils own Material Damage insurance policy.
9. It should be noted that the water assets have a threshold (or deductible) that up until this threshold, Council is to be responsible to cover those costs. In the case of NEMA, the threshold (or deductible) is around \$1.2m. Our insurance policy deductible for underground assets is \$1.5m.

10. Therefore, at a minimum up to \$1.5m will be a minimum residual cost to Council for water assets.
11. Roding network – including roads and bridges, are yet to be assessed both in terms of damage to the network and what rate of assistance (ie percentage) that will be provided for our local roads. This percentage is expressed as the FAR rate.

Water Supply Reinstatement and Alternative Supplementary Supplies

12. Gisborne City reticulated water supply serves around 37,000 people. In the 2021-2031 Long Term Plan, Assets identified under the activities asset management plan are shown below.

Table 1 Overview and Assets we Own

Description	Gisborne City	Te Karaka	Whatatutu	Total
Population Served	35,500*	493	280	32,483
No. of Service Connections	13,023	170	43	13,236
Length of Reticulation [km's]	274.0	6.1	2.7	284.7
No. of Pump Stations	8	1	1	10
No. of Reservoirs (treated water)	6	1	1	
How Water Sourced:	Dams, Rivers	Bores	Bores	
Total Volume of Water Produced [m³/a]:	6.1m	66,950	12,000	6.1078m
Total Volume of Water Sold [m³/a]:	2.4m	0	0	2.4m
Average Volume of Water produced [m³/d]:	16,600	193	35	16,828
Replacement Value (RV) [\$'000]	211,087	874	773	212,734
Depreciated Replacement Value (DRV) [\$'000]	103,944	758	117	104,819
Ratio DRV/RV	0.49	0.87	0.15	0.49
Comment				
The ratio of DRV/RV gives a financial indication of the remaining life of the network. Newly installed assets have a ratio of 0 (depreciation hasn't started), whereas assets needing to be replaced have a ratio approaching 1. For example, Gisborne City water assets overall can be considered to be halfway through their expected life.				

Subnational Population Estimates: [At 30 June 2019, Stats NZ](#)

Map of Reticulated areas and Treatment Plants



13. The main water pipes that connect from Waingake dam to Waingake Water Treatment Plant and to the city have been damaged in multiple areas. Refer to **Attachment 2**. This means that the main water treatment will now be coming from the “back up” - Waipaoa Water Treatment Plant.
14. Damage identified so far to the Waingake pipeline includes seven pipe bridges, and the loss of three sections of pipe.
15. An emergency pump is being installed to extract water from the Te Arai River, with the aim to increase the production of drinking water, to Gisborne city, while the reinstatement work progresses.
16. In addition to reinstatement costs relating to the damaged networks associated with Waingake area, there will be also costs that relate to drinking water production that will supplement the Waipaoa Water Treatment Plant.
17. Private Industry has supplemented Waipaoa Treatment Plant's ability to produce drinking water. But in order to connect from the private industry bores allocation, Council will need to spend around \$500-600k for connection and installation. The ballpark costs of \$500-600k, include additional UV treatment, pipe connections and installation.

Te Karaka Oxidation Pond

18. The flood inundation of Te Karaka area caused overflow issues with the Te Karaka sewerage oxidation pond. The overflow from the pond as contaminated adjacent paddocks.
19. The repairs and remediation to the contaminated land is underway. Total reinstatement costs are likely to be less than \$150k.

ASSESSMENT of SIGNIFICANCE - AROTAKENGA o NGĀ HIRANGA

Impacts on Council's delivery of its Financial Strategy and Long Term Plan

Overall Process: Low Significance

This Report: Low Significance

Inconsistency with Council's current strategy and policy

Overall Process: Low Significance

This Report: Low Significance

The effects on all or a large part of the Gisborne district

Overall Process: Medium Significance

This Report: Medium Significance

The effects on individuals or specific communities

Overall Process: Medium Significance

This Report: Medium Significance

The level or history of public interest in the matter or issue

Overall Process: High Significance

Overall Process: Medium Significance

This Report: Medium Significance

20. The decisions or matters in this report are considered to be of Medium significance in accordance with Council's Significance and Engagement Policy.

CONSIDERATIONS - HEI WHAKAARO

Financial/Budget

21. Reinstatement costs arising from Cyclone Gabrielle have not been included within existing budgets.
22. Report **23-3** The financial impact of Roothing Emergency Works being reported at Finance & Performance 2 March 2023 outlines costs relating to damage to the roading network, that arose from adverse weather event that were pre-Cyclone Gabrielle.
23. Central Government has announced \$250 million of initial roading response funding for all the regions affected by Cyclone Gabrielle – including local roads and state highways.
24. Our roading network is being assessed now and may mean that some of the \$25.8m of roading reinstatement identified in report **[23-3]** will be added to the "financial pot" and act as an initial response funding. This will allow reinstatement work to be progressed and prioritised, until the final roading network assessment has been completed.

25. The phased costs for 2023/24 and will be updated in the final Annual Plan 2023/24.
26. Similarly, Four Waters infrastructure reinstatement costs and options will be forecast within the coming weeks. Final phased costs will also be updated to be included within the Annual Plan 2023/24 and in the 2024-2034 LTP.
27. At the time of the report, it is unknown what the local share will be for roading reinstatement. For below ground infrastructure Four Water assets the minimum costs to Council will be the deductible limits (up to \$1.5m) and any costs that are not covered by our insurance policies.

Legal

28. Council has the power to delegate pursuant to Clauses 32 of Schedule 7 of the Local Government Act 2002. Exercising the power to delegate will ensure that the Chief Executive has clear authority to enter into the necessary agreements on behalf of the Council.

POLICY and PLANNING IMPLICATIONS - KAUPAPA HERE me ngā RITENGA WHAKAMAHERE

29. Updated delegations support the strategic objective of a high performing culture. These allow Council to be more agile and act in a timely manner.
30. Council has a number of insurance policies including:
 - a. Material Damage – Four Waters Infrastructure below ground assets (as noted above covering 40% of total reinstatement costs as a result of a disaster).
 - b. Material Damage for all other identified assets.
31. The Four Waters Infrastructure Material Damage Policy has a \$250m sub limit of liability. Within this sub-limit is a provision for up to \$37.5m for business interruption or expediting expenses.
32. In addition, it provides up to \$5m for “increased costs of working”. But this is a shared limit across all councils within the Bay of Plenty Local Authority Shared Services Group (included within this group are:
 - a. Bay of Plenty Regional Council
 - b. Opotiki
 - c. Tauranga
 - d. Western Bay of Plenty Regional Council
 - e. Whakatane District Council
 - f. Rotorua
 - g. Kawerau
33. **Attached** is Coverage Summary for Infrastructure Insurance (**Attachment 1**).
34. For reference of Councils full list of insurance policies please refer to report **22-50** ‘2021-22 Insurance Renewal’. These policies are still current and for the coming year they will be reported again to Audit and Risk on the 15th March 2023.

RISKS - NGĀ TŪRARU

35. There are no major risks associated with the proposed decision to expand the scope of the financial delegations. The risk of not updating the delegations is that urgent repairs to key infrastructure will be unnecessarily delayed by the need to seek Council approval for expenditure.
36. The risk of not responding to water supply needs now, means that there will be insufficient drinking water for reticulated properties. Back-ups and alternative water production needs to be implemented as soon as possible.
37. There is also a health and safety risk to our community with not having safe drinking water, and significant economic impacts to businesses within the community.
38. There are health and safety risks around the inundation of the Te Karaka sewerage oxidation pond and the adjacent contaminated properties.

NEXT STEPS - NGĀ MAHI E WHAI AKE

Date	Action/Milestone	Comments
February 2023	Council's loss assessors will be on site to facilitate and assess damage on our Water supply network	
March to May 2023	Assessments, options and reinstatement of critical infrastructure begins	
June 2023	Adoption of the 2023/24 Annual Plan	
July 2023 to February 2024	Assessments and Asset Management Plans, for 2024-2034 Long Term Plan	

ATTACHMENTS - NGĀ TĀPIRITANGA

1. Attachment 1 - Proposed Financial Delegation [**23-58.1** - 2 pages]
2. Attachment 2 - Current Financial Delegation [**23-58.2** - 1 page]
3. Attachment 3 - Infrastructure Coverage Summary [**23-58.3** - 2 pages]
4. Attachment 4 - A 1 Water Pipe Break v 2 14 February 2023 [**23-58.4** - 1 page]

Instrument of Financial Delegation

Delegation to Chief Executive

By resolution at a meeting on 2 March 2023 the Gisborne District Council:

1. Authorised its Chief Executive to commit the Council to all arrangements and contracts for the supply of goods, services, plant and labour, including execution, variation and termination of all documents, agreements and contracts aside from those required by legislation to be signed by elected representatives to enable the—
 - 1.1 implementation of decisions made by the Council, its committees and any further subordinate decision making bodies:
 - 1.2 receipt and implementation of funding received from any other source (including Crown funding):
 - 1.3 management of capital expenditure and operations and maintenance expenditure, up to the limits approved in the relevant Annual Plan or Long Term Plan:
 - 1.4 management of expenditure not included in the Annual Plan or Long Term Plan or authorised in accordance with paragraph 1.1 or 1.2 above—
 - 1.4.1 in relation to necessary infrastructure in **urgent circumstances** (see paragraph 4), without limitation on the amount of expenditure:
 - 1.4.2 in any circumstances, for any purpose, up to a maximum of \$150,000 (GST exclusive) per item.
2. Authorised its Chief Executive to exercise any financial delegations held by other Council officers, including those set out in any relevant council policies.
3. Revoked all previous financial delegations to its Chief Executive.
4. **Urgent circumstances** in paragraph 1.4.1 above includes—
 - (a) circumstances following the declaration of a state of emergency under the Civil Defence Emergency Management Act 2002; and
 - (b) any other circumstances where it is not reasonably practicable to obtain prior authorisation for the expenditure under paragraphs 1.1 to 1.3.

General Terms and Limitations

- **Maximum daily limit:** Expenditure is limited to \$30,000,000 on any one day.
- **Compliance with laws, policies and procedures:** Expenditure must be undertaken in accordance with relevant Council policies and procedures and all applicable laws.

- **Council to be informed:** For expenditure undertaken under paragraph 1.4.1 of this Instrument (urgent circumstances), Council expects the Chief Executive to inform Council of the expenditure as soon as reasonably practicable.
- **Acting:** During periods in which the Chief Executive is absent, the authority in this Instrument extends to any officer who the Council has appointed as an Acting Chief Executive, or to whom the Chief Executive has temporarily delegated all statutory functions and powers.
- **Relationship with statutory delegations:** Compliance with the limits of this financial authority is not intended as a legal condition or limitation in the scope of any statutory powers delegated.

Council resolution confirmed by:

Rehette Stoltz, **Mayor**

Date:

Instrument of Financial Delegation

Delegation to Chief Executive

By resolution at a meeting on 25 June 2020 the Gisborne District Council:

1. Authorised its Chief Executive to commit the Council to all arrangements and contracts for the supply of goods, services, plant and labour, including execution, variation and termination of all documents, agreements and contracts aside from those required by legislation to be signed by elected representatives to enable the—
 - 1.1 implementation of decisions made by the Council, its committees and any further subordinate decision making bodies:
 - 1.2 receipt and implementation of Crown funding:
 - 1.3 management of capital expenditure and operations and maintenance expenditure, up to the limits approved in the relevant Annual Plan or Long Term Plan:
 - 1.4 management of expenditure not included in the Annual Plan or Long Term Plan or authorised in accordance with 1.1 or 1.2 above, up to a maximum of \$150,000 (GST exclusive) per item.
2. Authorised its Chief Executive to exercise any financial delegations held by other Council officers, including those set out in any relevant council policies.
3. Revoked all previous financial delegations to its Chief Executive.

General Terms and Limitations

- **Maximum daily limit:** Expenditure is limited to \$30,000,000 on any one day.
- **Compliance with laws, policies and procedures:** Expenditure must be undertaken in accordance with relevant Council policies and procedures and all applicable laws.
- **Acting:** During periods in which the Chief Executive is absent, the authority in this Instrument extends to any officer who the Council has appointed as an Acting Chief Executive, or to whom the Chief Executive has temporarily delegated all statutory functions and powers.
- **Relationship with statutory delegations:** Compliance with the limits of this financial authority is not intended as a legal condition or limitation in the scope of any statutory powers delegated.

Council resolution confirmed by:

Rehette Stoltz, **Mayor**

Date:



Coverage Summary

Infrastructure Insurance – 40% Placement

This summary of cover has been prepared for general reference only. Nothing contained herein prevails over the terms, conditions and exclusions of the policy.

The Policy Covers	Physical loss to insured assets caused by a Natural Catastrophe Event including: Earthquake, Natural Landslip, Flood, Tsunami, Tornado, Windstorm, Volcanic Eruption, Hydrothermal & Geothermic Activity, and Subterranean Fire.		
	The Insurer's liability under the Policy shall not exceed 40% of the 100% loss or series of losses arising out of any one event.		
Insured	Bay of Plenty LASS, incorporating the following Councils		
	<div><div><div>✓ Bay of Plenty Regional Council</div><div>✓ Gisborne District Council</div><div>✓ Kawerau District Council</div><div>✓ Opotiki District Council</div></div><div><div>✓ Rotorua District Council</div><div>✓ Tauranga City Council</div><div>✓ Western Bay of Plenty District Council</div><div>✓ Whakatane District Council</div></div></div>		
	and/or associated and/or subsidiary companies and/or Council Controlled Organisations for their respective rights and interests and/or as may be agreed		
Period of Insurance	From 4.00 p.m. 1st November 2021 to 4.00 p.m. 1st November 2022		
Interest Insured	Above & below ground infrastructural assets, as declared.		
Location	Anywhere in New Zealand but principally Cresta Zones 3,4 & 6, as per locations declared		
Limit of Liability	The liability of Insurer(s) is limited to 40% of NZD 500,000,000 combined limit for any one loss of series of losses arising out of one event, subject to the applicable sub-limits		
Sub-Limits of Liability (Sub-limits apply in excess of the underlying deductibles)	The following sub-limits are expressed in 100% terms. The liability of the Insurer(s) shall be further limited to 40% of the following sub-limits in relation to any one loss or series of losses arising out of one event:		
	Section 1 – Material Damage		
	Bay of Plenty Regional Council	NZD	60,000,000
	Gisborne District Council	NZD	250,000,000
	Kawerau District Council	NZD	30,000,000
	Opotiki District Council	NZD	15,000,000
	Rotorua District Council	NZD	250,000,000
	Tauranga City Council	NZD	380,000,000
	Western Bay of Plenty Regional Council	NZD	60,000,000
	Whakatane District Council	NZD	120,000,000
	Demolition Costs		Included
	Capital Additions	NZD	2,000,000
	Contract Works	NZD	2,000,000
	Extra Expense (Combined Limit)	NZD	27,500,000
	Unspecified Items (Combined Limit)	NZD	4,500,000
	Section 2: Business Interruption		
	Expediting Expenses (as part of and not in addition to the council sub-limit. -24-month indemnity period)		Up to 15% of the Councils loss limit



Coverage Summary



	Addition Increased Costs of Working (Shared limit across all councils – 24 months indemnity period.)	NZD 5,000,000
	Claims Preparation Costs	NZD 1,500,000
Deductibles	The below deductibles shall be applicable to the full 100% loss any one event, prior to the 40% claim settlement adjustment.	
	Bay of Plenty Regional Council	NZD 1,500,000
	Gisborne District Council	NZD 1,500,000
	Kawerau District Council	NZD 100,000
	Opotiki District Council	NZD 100,000
	Rotorua District Council	NZD 1,000,000
	Tauranga City Council	NZD 1,500,000
	Western Bay of Plenty District Council	NZD 750,000
	Whakatane District Council	NZD 750,000
Declared Values	Bay of Plenty Regional Council	NZD 425,515,374
	Gisborne District Council	NZD 488,547,820
	Kawerau District Council	NZD 86,552,584
	Opotiki District Council	NZD 114,981,383
	Rotorua District Council	NZD 974,418,327
	Tauranga City Council	NZD 2,031,023,976
	Western Bay of Plenty District Council	NZD 503,159,935
	Whakatane District Council	NZD 421,161,595
	Total Declared Value	NZD 5,045,360,995
Indemnity Period	24 Months (Deferral of Indemnity Period endorsement applies)	
Jurisdiction	This Insurance shall be governed by the laws of New Zealand	
Insurers	Various Insurers & Lloyds of London Underwriters led by Lloyd's syndicate 4472 (Liberty Underwriters).	



Title: 23-29 Governance Structure and Terms of Reference 2023

Section: Democracy & Support Services

Prepared by: Heather Kohn - Democracy & Support Services Manager

Meeting Date: Thursday 2 March 2023

Legal: Yes

Financial: No

Significance: **Low**

Report to COUNCIL/TE KAUNIHERA for decision

PURPOSE - TE TAKE

This report presents Council with an updated version of the Council and Committee Terms of Reference (TOR) for adoption.

SUMMARY - HE WHAKARĀPOPOTOTANGA

Council, at its first ordinary meeting 17 November 2022 adopted its Committee structure, (**Report 22-228**).

Council recommended that the Delegations Manual be updated with changes in membership numbers and any changes to the structure.

The decisions or matters in this report are considered to be of **Low** significance in accordance with the Council's Significance and Engagement Policy.

RECOMMENDATIONS - NGĀ TŪTOHUNGA

That the Council/Te Kaunihera:

1. **Revokes the Governance Structure and Terms of Reference (Delegations Manual) July 2020.**
2. **Approves and adopts the updated Governance Structure and Terms of Reference (Attachment 1), subject to any amendments.**

Authorised by:

James Baty - Director Internal Partnerships

Keywords: Governance structure, terms of reference, delegations

BACKGROUND - HE WHAKAMĀRAMA

1. Council provides for the delegation of authority to its Committees. This allows for administrative efficiency in carrying out Council business while ensuring appropriate controls are in place. These delegations are set out in the current [Governance Structure and Terms of Reference 2020](#) (TOR).
2. The TOR focuses on the role and powers of Council and its Committees. Council's Standing Orders (December 2019) sit alongside the proposed TOR. Council also has Instruments of Delegation which record staff authority for decision-making. Various other Council policies also detail other matters relating to Council decision-making.

DISCUSSION and OPTIONS - WHAKAWHITINGA KŌRERO me ngā KŌWHIRINGA

3. The updated TOR reflects the Committee Structure the Council adopted on 17 November.
4. The key changes to the TOR for Council and Committees are:
 - Separation of the Operations – Environment and Communities and the Operations – Infrastructure TOR.
 - Amendments to Committee membership.
 - Addition of TOR for the Traffic & Parking Subcommittee and the Appointments Committee.
 - Amendments to the Regulatory Hearings Panel (RMA) to reflect that it is now independent commissioners only.
 - Inclusion of a TOR for the Bylaw Submission Hearing Panel, with provisions for the appointment of Hearing Panels comprising fewer members to conduct hearings on matters such as bylaws.
5. The Regional Transport Committee needs to appoint a Deputy Chair at its first meeting 22 February 2022 and the Wastewater Management Committee needs to appoint Co-Chairs once tangata whenua representatives are known.

ASSESSMENT of SIGNIFICANCE - AROTAKENGA o NGĀ HIRANGA

Consideration of consistency with and impact on the Regional Land Transport Plan and its implementation

Overall Process: Low Significance

This Report: Low Significance

Impacts on Council's delivery of its Financial Strategy and Long Term Plan

Overall Process: Low Significance

This Report: Low Significance

Inconsistency with Council's current strategy and policy

Overall Process: Low Significance

This Report: Low Significance

The effects on all or a large part of the Gisborne district

Overall Process: Low Significance

This Report: Low Significance

The effects on individuals or specific communities

Overall Process: Low Significance

This Report: Low Significance

The level or history of public interest in the matter or issue

Overall Process: Low Significance

This Report: Low Significance

6. The decisions or matters in this report are considered to be of Low significance in accordance with Council's Significance and Engagement Policy.

TANGATA WHENUA/MĀORI ENGAGEMENT - TŪTAKITANGA TANGATA WHENUA

7. There is no requirement for engagement with tangata whenua on this matter.

COMMUNITY ENGAGEMENT - TŪTAKITANGA HAPORI

8. There is no requirement for community engagement on this matter.

CLIMATE CHANGE – Impacts / Implications - NGĀ REREKĒTANGA ĀHUARANGI – ngā whakaaweawe / ngā ritenga

9. There are no implications for climate change.

CONSIDERATIONS - HEI WHAKAARO

Financial/Budget

10. There are no financial implications.

Legal

11. The Council may appoint the committees, sub committees, joint committees, or other subordinate decision-making bodies it considers appropriate under clause 30, Schedule 7 of the Local Government Act 2022 (LGA).
12. Council may delegate its functions to committees, in accordance with clause 32, Schedule 7 of the LGA. Section 34A of the Resource Management Act (RMA) permits the delegation of Council's RMA decision-making functions to hearings commissioners. Exercising these powers will ensure that Committees and Independent Hearing Commissioners will have the legal authority necessary to perform their roles.

POLICY and PLANNING IMPLICATIONS - KAUPAPA HERE me ngā RITENGA WHAKAMAHERE

13. There are no policy and planning implications.

RISKS - NGĀ TŪRARU

There are no major risks associated with the decision.

ATTACHMENTS - NGĀ TĀPIRITANGA

1. Attachment 1 - Governance Structure and Terms of Reference January 2023 (1) [**23-29.1** - 32 pages]

Governance Structure and Terms of Reference



February 2023



Te Kaunihera o Te Tairāwhiti
GISBORNE
DISTRICT COUNCIL

Record of Amendments

Version	Date	Summary
1	05/12/2019	First reviewed version following triennial election 2019
2	13/08/2020	Fully reviewed version
3	30/09/2021	Amendment to Terms of Reference for Sustainable Tairāwhiti
4	19/1/2023	Amendment following Local Body Elections 2022

Table of Contents

1. INTRODUCTION	1
2. COUNCIL	2
TERMS OF REFERENCE:	2
3. COMMITTEES OF THE WHOLE	3
3.1 SUSTAINABLE TAIRĀWHITI / TOITŪ TAIRĀWHITI	3
3.2 FINANCE & PERFORMANCE COMMITTEE	6
3.3 OPERATIONS COMMITTEE – ENVIRONMENT AND COMMUNITIES	8
3.4 OPERATIONS COMMITTEE – INFRASTRUCTURE	10
4. STANDING COMMITTEES.....	12
4.1 AUDIT AND RISK COMMITTEE	12
4.2 WASTEWATER MANAGEMENT COMMITTEE	14
4.3 EMERGENCY COMMITTEE	17
4.4 REGULATORY HEARINGS PANELS AND COMMISSIONERS.....	18
4.5 CHIEF EXECUTIVE PERFORMANCE COMMITTEE	19
4.6 BYLAW SUBMISSIONS HEARINGS PANEL	20
4.7 CONDUCT REVIEW COMMITTEE.....	22
4.8 APPOINTMENTS COMMITTEE	23
5. STATUTORY COMMITTEES.....	24
5.1 REGIONAL TRANSPORT COMMITTEE	24
5.2 CIVIL DEFENCE EMERGENCY MANAGEMENT COMMITTEE	26
5.3 DISTRICT LICENCING COMMITTEE	27
6. JOINT COMMITTEES.....	28
6.1 LOCAL LEADERSHIP BODY	28

1. Introduction

General Principles

This document sets out the Governance Structure which details how Gisborne District Council:

- carries out its governance functions; and
- formally delegates its powers and responsibilities.

The Governance Structure is developed in accordance with the Local Government Act 2002 and is intended to sit alongside Council's Standing Orders.

The terms of reference and delegations in this document are intended to allow the Council to delegate its powers and functions to the most efficient and effective levels.

The mayor has the power to establish committees and appoint chairpersons of the committees.

- a) Council retains the right to also act in any matter where delegated authority applies; it does not part with the function, duty or power being delegated. Council retains full responsibility for governance, statutory and financial powers, duties and responsibilities and contract specifications at all times.
- b) Any Committee may resolve to refer any matter to full Council with or without recommendation.

A decision made by a committee under delegation from the Council has the same effect as if it were made by the Council itself.

Powers Delegated to Committees

The Council delegates to the Committees all powers necessary to perform the Committee's responsibility contained in their Terms of Reference, except those powers which the Council either cannot or has chosen not to delegate, set out in Section 2 (Council Terms of Reference).

Unless specifically stated in its Terms of Reference, no Committee has the authority to:

- approve expenditure where no provision is made in the Long-Term Plan (LTP) or the Annual Plan for that year;
- approve over-expenditure of any account.

2. Council

Chairperson:	Mayor Rehette Stoltz
Deputy Chairperson:	Deputy Mayor Josh Wharehinga
Membership:	Mayor and all Councillors
Quorum:	Half of the members when the number is even and a majority when the number is uneven
Meeting Frequency:	Six weekly (or as required)

Terms of Reference:

The Council's terms of reference include the following powers which have not been delegated to committees, subcommittees, officers or any other subordinate decision-making body, and any other powers that are not legally able to be delegated:

1. The power to make a rate.
2. The power to make a bylaw.
3. The power to borrow money, or purchase or dispose of assets, other than in accordance with the Long Term Plan.
4. The power to adopt a Long Term Plan, Annual Plan, or Annual Report.
5. The power to appoint a Chief Executive.
6. The power to adopt policies required to be adopted and consulted on under the Local Government Act 2002 in association with the Long Term Plan or developed for the purpose of the Local Governance Statement.
7. The power to adopt a remuneration and employment policy.
8. Committee Terms of Reference and Delegations for the 2019–2022 Triennium.
9. The power to approve or amend the Council's Standing Orders.
10. The power to approve or amend the Code of Conduct for elected members.
11. The power to appoint and discharge members of Committees.
12. The power to establish a joint committee with another local authority or other public body.
13. The power to make the final decision on a recommendation from the Ombudsman where it is proposed that Council not accept the recommendation.
14. The power to make any resolutions that must be made by a local authority under the Local Electoral Act 2001, including the appointment of an electoral officer.
15. Consider any matters referred to it from any of the Committees.
16. Authorise all expenditure not delegated to staff or other Committees.

Council's terms of reference also includes oversight of the organisation's compliance with health and safety obligations under the Health and Safety at Work Act 2015.

Note: For 1-7 see clause 32(1) Schedule 7 Local Government Act 2002 and for 8-13 see clauses 15, 27, 30 Schedule 7 of Local Government Act 2002

3. Committees of the Whole

3.1 Sustainable Tairāwhiti / Toitū Tairāwhiti

Reports to:	Council
Chairperson:	Mayor Rehette Stoltz
Deputy Chairperson:	Deputy Mayor Josh Wharehinga
Membership:	Mayor and Councillors
Quorum:	Half of the members when the number is even and a majority when the membership is uneven.
Meeting frequency:	Six weekly (or as required).

Purpose

To develop, approve, review and recommend to Council (where applicable) statutory and non-statutory policy, plans, bylaws, strategies and decisions to:

- Develop a vision and a pathway for the future of the district.
- Sustainably manage resources in the region.
- Identify and promote community aspirations.
- Define and deliver on Council's roles.
- Integrate an all-of-wellbeing approach to strategy, plan and policy development.
- Have effective statutory plans and bylaws to protect community and environmental needs.

Terms of Reference

- To develop and review Resource Management Act 1991 and Local Government Act 2002 strategies, plans and policies across the Council relating to community, environment, and infrastructure.
- Make recommendations to Council to ensure the effective implementation of plans, processes, research, monitoring and enforcement to satisfy the requirements of the Resource Management Act 1991, National Policy Statements, National Environmental Standards and associated legislation.
- To lead the development of Council's draft Long Term Plan, Annual Plan and all other policies required to be included in the Long Term Plan as specified in the Local Government Act 2002 (including but not limited to the Infrastructure Strategy and Financial Strategy). This includes the ability to approve draft versions for consultation, and make recommendation to Council following consultation.
- Hear submissions to Council's Long Term Plan or amendments.
- Oversee the development and review of Council's Resource Management Act 1991 plans.
- Oversee any development of unitary/spatial plan, integrated plans or major catchment plans.

- Consider and recommend to Council strategies, policies, rules and other methods for inclusion into the Tairāwhiti Resource Management Plan and other associated plans.
- Monitor and report on environmental performance trends and the effectiveness of and compliance with Council's resource management responsibilities and activities associated with policy implementation.
- Review State of the Environment reports to assist in future activity planning and policy development.
- Bylaw development – make any decisions leading up to consultation on a proposal relating to a bylaw. This includes approval of a draft bylaw and/or proposal for consultation (and recommending the appointment of a Hearing Panel to the Bylaw Submissions Hearings Panel).
- Receive reporting from state of the environment monitoring.
- Establish, implement and review the operational policy and planning framework for decision making that will assist in achieving the strategic priorities and outcomes
- Monitor, review and develop Council responses, strategies, plans and policy in relation to Iwi and Māori commitments.
- Prepare submissions on any matter that is within its rationale and terms of reference for Council.
- Approve or change a proposed policy statement or plan under clause 17 of Schedule 1 of the Resource Management Act 1991 (RMA).
- Make decisions that are required to be made by resolution, except those that are not legally able to be delegated.

Power to Act

To make all decisions necessary to fulfil the role and scope of the Committee subject to the limitations imposed.

To establish subcommittees, working parties and forums as required.

To appoint non-voting tangata whenua representatives and/or advisory members to assist the Committee.

Power to Recommend

To Council and/or any Council committee as it deems appropriate.

Traffic and Parking Subcommittee

Reports to:	Sustainable Tairāwhiti
Chairperson:	Alternating between Crs Cranston and Gregory
Membership:	Cr Andy Cranston, Cr Debbie Gregory and Director of Lifelines David Wilson
Quorum:	Two members
Meeting frequency:	As required

Purpose

To further the purposes of the Sustainable Tairāwhiti Committee, by enabling an efficient process for the making of decisions relating to traffic and parking.

Terms of Reference

Make decisions relating to traffic and parking under the following legislation, where the subcommittee is satisfied the matter is of low or medium significance in accordance with Council's Significance and Engagement Policy:

- Land Transport Act 1998;
- Local Government Act 1974;
- any Land Transport Rules (including the [Land Transport Rule: Setting of Speed Limits 2022](#), and [Land Transport Rule: Traffic Control Devices 2004](#);
- Heavy Motor Vehicle Regulations 1974;
- Tairāwhiti Traffic and Parking Bylaw 2021;
- Gisborne District Council Speed Limits Bylaw 2013.

Power to Act

To make all decisions (including resolutions) necessary to fulfil the role and scope of the subcommittee.

Power to Recommend

To Council and/or any Committee as it deems appropriate.

3.2 Finance & Performance Committee

Reports to:	Council
Chairperson:	Mayor Rehette Stoltz
Deputy Chairperson:	Deputy Mayor Josh Wharehinga
Membership:	Mayor and all Councillors
Quorum:	Half of the members when the number is even and a majority when the membership is uneven.
Meeting frequency:	Six weekly (or as required)

Purpose

To assist Council to oversee financial and non-financial performance, including the delivery of the Council's Capital Programme and oversight of the Council Controlled Trading Organisation (CCTO).

To monitor Council activities and services performance against budget, Annual Plans, the Long Term Plan, Annual Reports and corporate and financial policies.

The Finance and Performance Committee also receives enforcement and compliance performance activity reporting to ensure financial and non-financial performance oversight of its regulatory functions.

Terms of Reference

- Set, monitor and review plans, financial measures, practices and policies; the sources of funds, banking arrangements, insurance, investment and debt criteria, future financial arrangements.
- Monitor the performance of Council's treasury function – including strategic, investment and enterprise assets.
- Set fees and charges for Council services (including parking), where such fees are not set by laws (including bylaws).
- Approve preferred suppliers for capital projects and contracts where the value of the contract exceeds staff delegations.
- Approve expenditure (including substituted capital expenditure) items that are provided for in the Long Term Plan or Annual Plan where the value of that expenditure exceeds that authority delegated to officers.
- Approve debt write-offs where those debt write-offs are not delegated to staff.
- Consider all matters regarding the Local Government Funding Agency (LGFA).
- Monitor and review Council's strategic investment and enterprise assets – including consideration of the operational and financial effectiveness of Council Organisations, Council Controlled Organisations and Council's CCTO.

- In relation to the CCTO:
 - develop and approve the draft Statement of Intent for the CCTO
 - undertake any reviews of CCTO and make recommendations on any proposed changes to CCTO governance arrangements
 - consider and approve changes to service delivery arrangements arising from the service delivery reviews required under Local Government Act 2002 (LGA) that are referred to the Committee by the Chief Executive.
- Monitor the operational performance of Council's activities and services against approved levels of service.
- Monitor the operational performance of Council's regulatory activities and in particular enforcement and compliance, financial and non-financial performance reporting.
- Review and approve business plans including any related fees, charges and expenditure (including capital expenditure).
- Review the delivery of services under section 17A of the LGA.
- Monitor the delivery of the Council's Capital Programme, including inquiring into any material discrepancies from planned expenditure.

Power to Act

To make all decisions necessary to fulfil the role and scope of the Committee subject to the limitations imposed.

To establish subcommittees, working parties and forums as required.

To appoint non-voting advisory members and/or tangata whenua representatives to assist the Committee.

Power to Recommend

To Council and/or any Council committee as it deems appropriate.

3.3 Operations Committee – Environment and Communities

Reports to:	Council
Chairperson:	Cr Andy Cranston
Deputy Chairperson:	Cr Aubrey Ria
Membership:	Mayor and all Councillors
Quorum:	Half of the members when the number is even and a majority when the membership is uneven.
Meeting frequency:	Six weekly (or as required).

Functions

- To provide governance oversight of Council's operational programmes, services, activities and projects (including major projects) related to environmental operations, community development and community assets.
- To enable the progress of the Council's operational activities, projects and services.

Its scope includes:

Environment Services and Protection

- Building Services
- Enforcement
- Environmental Health
- Pests and Plant management
- Biodiversity
- Integrated catchments
- Land management
- Animal control
- Harbour management

Communities

- Cultural Activities including Theatres, Museum and Public Art, Library and Tairāwhiti Navigations
- Recreation and Amenity – including open spaces, parks and gardens, cemeteries, community property and the Olympic Pool complex

Planning and Development

- Customer Engagement
- Support Services

Terms of Reference

Operational oversight

- Provide governance direction for the Council's operational activities as outlined in the general purposes and scope section.
- Review and adjust relevant working programme priorities within agreed budgets, activity management plans and levels of service as per the Council's Long Term Plan.
- Receive updates on programmes, major projects/projects and activities.
- To have input into, and make decisions on, operational proposals, options and cost of projects/major projects.
- Contribute to the development of short term plans for community services and community facilities.
- Consider the strategic regulatory and compliance issues.
- Prepare submissions on any matter that is within its rationale and terms of reference for Council approval and submit on behalf of Council when timelines do not allow Council prior approval.

Asset management

- Oversee the management of all Council's community assets.
- Make decisions on community assets becoming Council's and on infrastructure and community assets on behalf of Council.
- Progress the sale of properties as approved in the Long Term Plan and Annual Plan.
- Contribute to the development of and oversee delivery of economic development projects.
- Consider proposals to change the status or revoke the status of a reserve as defined in the Reserves Act 1977 (including the hearing of submissions).

Power to Act

To make all decisions necessary to fulfil the role and scope of the Committee subject to the limitations imposed.

To establish subcommittees, working parties and forums as required.

To appoint non-voting advisory members and/or Tangata Whenua representatives to assist the Committee.

Power to Recommend

To Council and/or any Council committee as it deems appropriate.

3.4 Operations Committee – Infrastructure

Reports to:	Council
Chairperson:	Cr Larry Foster
Deputy Chairperson:	Cr Teddy Thompson
Membership:	Mayor and all Councillors
Quorum:	Half of the members when the number is even and a majority when the membership is uneven.
Meeting frequency:	Six weekly (or as required).

Functions

- To provide governance oversight of Council's operational programmes, services, activities and projects (including major projects) related to infrastructural assets.
- To enable the progress of the Council's operational activities, projects and services.

Its scope includes:

Infrastructure Services

- Urban Stormwater
- Wastewater
- Water Supply
- Land, Rivers and Coastal
- Local Roding Network – including associated structures, bridges and retaining walls, walkways, footpaths and road reserve, landscaping and ancillary services and facilities, street lighting and traffic management control
- Solid Waste – including landfill and transfer stations, recycling and waste minimisation

Terms of Reference

Operational oversight

- Provide governance direction for the Council's operational activities as outlined in the general purposes and scope section.
- Review and adjust relevant working programme priorities within agreed budgets, activity management plans and levels of service as per the Council's Long Term Plan.
- Receive updates on programmes, major projects/projects and activities.
- To have input into, and make decisions on, operational proposals, options and cost of projects/major projects.
- Contribute to the development of short term plans for community services and community facilities.
- Consider the strategic regulatory and compliance issues.
- Prepare submissions on any matter that is within its rationale and terms of reference for Council approval and submit on behalf of Council when timelines do not allow Council prior approval.

Asset management

- Oversee the management of all Council's physical assets – including land, buildings and roads.
- Make decisions on infrastructure and assets becoming Council's and on infrastructure and community assets on behalf of Council.
- Progress the sale of properties as approved in the Long Term Plan and Annual Plan.
- Contribute to the development of and oversee delivery of economic development projects.
- Consider proposals to change the status or revoke the status of a reserve as defined in the Reserves Act 1977 (including the hearing of submissions).

Power to Act

To make all decisions necessary to fulfil the role and scope of the Committee subject to the limitations imposed.

To establish subcommittees, working parties and forums as required.

To appoint non-voting advisory members and/or Tangata Whenua representatives to assist the Committee.

Power to Recommend

To Council and/or any Council committee as it deems appropriate.

4. Standing Committees

4.1 Audit and Risk Committee

Reports to:	Council
Chairperson:	Independent Chairperson Bruce Robertson
Membership:	Mayor Rehette Stoltz, Deputy Mayor Josh Wharehinga, Chairs of other Council Committees
Quorum:	Half of the members when the number is even and a majority when the membership is uneven.
Meeting frequency:	Quarterly (or as required)

Purpose

To assist the Council to exercise due care, diligence and skill in relation to the oversight of:

- the robustness of the internal control framework;
- the integrity and appropriateness of external reporting, and accountability arrangements within the organisation for these functions;
- the robustness of risk management systems, process and practices;
- internal and external audit;
- accounting practice and, where relevant, accounting policy;
- health, safety and wellbeing;¹
- compliance with applicable laws, regulations, standards and best practice guidelines for public entities; and
- the establishment and maintenance of controls to safeguard the Council's financial and non-financial assets.

The Audit and Risk Committee Chair is responsible for submitting an annual report to the Council covering the Committee's operations and activities during the preceding year.

Terms of Reference

Internal Control Framework

- Consider the adequacy and effectiveness of internal controls and the internal control framework including overseeing privacy and cyber security.
- Enquire as to the steps management has taken to embed a culture that is committed to probity and ethical behaviour.
- Review the processes or systems in place to capture and effectively investigate fraud or material litigation, should it be required.
- Seek confirmation annually, and as necessary, from internal and external auditors, attending Councillors, and management, regarding the completeness, quality and appropriateness of financial and operational information that is provided to the Council.

¹ In regard to health and safety, all Councillors are required to discharge their responsibilities of due diligence under the Health and Safety at Work Act 2015. Staff will provide regular reports to Council to enable members to discharge their duties, and these reports will include any recommendations made by the Audit and Risk Committee in relation to council's health, safety and wellbeing processes.

Risk Management

- Review and consider Management's risk management framework in line with Council's risk appetite – which includes policies and procedures to effectively identify, treat and monitor significant risks, and regular reporting to the Council.
- Assist the Council to determine its appetite for risk.
- Review the principal risks that are determined by Council and Management, and consider whether appropriate action is being taken by Management to treat Council's significant risks. Assess the effectiveness of, and monitor compliance with, the risk management framework. Consider emerging significant risks and report these to Council, where appropriate.

Internal Audit

- Review and recommend the annual internal audit plan; such plan to be based on the Council's risk framework.
- Monitor performance against the plan at each regular quarterly meeting.
- Monitor all internal audit reports and the adequacy of Management's response to internal audit recommendations.
- Monitor compliance with the Delegations Manual.

External Audit

- Annually review the independence and confirm the terms of the audit engagement with the external auditor appointed by the Office of the Auditor General. This includes the adequacy of the nature and scope of the audit, and the timetable and fees.
- Review all external audit reporting, discuss with the auditors and review action to be taken by management on significant issues and recommendations and report to Council as appropriate.

Compliance with Legislation, Standards and Best Practice Guidelines

- Review the effectiveness of the system for monitoring the Council's compliance with laws (including governance legislation, regulations and associated government policies), with Council's own standards, and Best Practice Guidelines.

Powers

The Audit and Risk Committee, within the scope of its role and responsibilities, is authorised to:

- obtain any information it needs from any employee and/or external party (subject to their legal obligation to protect information);
- discuss any matters with the external auditor, or other external parties (subject to confidentiality considerations);
- make recommendations to Council and/or the Chief Executive.

The Audit and Risk Committee has no executive powers and is directly responsible to Council.

4.2 Wastewater Management Committee

Reports to:	Council
Chairperson:	TBC
Deputy Chairperson:	TBC
Membership:	Four Councillors (including the Chairperson) and four tangata whenua representatives.
Quorum:	Four members. Two to be Councillors and two to be tangata whenua.
Meeting Frequency:	Two times a year.

Purpose

The establishment of this Committee is a requirement of the conditions of the resource consents for the upgrade and discharge of Gisborne's municipal wastewater.

On 21 September 2007 the Minister of Conservation granted the coastal permit for the discharge of treated wastewater to the marine area subject to the same conditions as recommended by the Hearings Committee.

Terms of Reference

1. Ensure implementation, commissioning and monitoring of the Wastewater Treatment Plant is carried out in accordance with the consent conditions.
2. Monitor compliance with permit conditions and separated industry standards.
3. Explore feasible options for alternative use and disposal of domestic and industrial wastewater and recommend implementation.
4. Identify research, monitoring and planning projects to improve the mauri and water quality of Turanganui a Kiwa. Develop and administer the Turanganui a Kiwa Water Quality Enhancement Project.
5. Ensure development of educational information to encourage reductions in domestic and industrial wastewater.
6. Recommend membership of and receive reports from independent review panel (IRP).
7. Provide an annual report to the Chief Executive of the Gisborne District Council.
8. Carry out the functions required by the conditions of the resource consents and report them to Council.
9. The Committee has no delegated authority from Council other than the functions expressed in the conditions of the resource consents.

Collaborations

These arrangements are entered into by the Gisborne District Council and tangata whenua representatives of Turanganui a Kiwa, supported by other members of the Committee, in a spirit of goodwill and a pledge to act towards each other with the utmost good faith.

Each member to this protocol is committed to progressing and enhancing the overall wellbeing of the district's people, environment and heritage by acknowledging and accommodating each other's values and philosophies, where applicable.

The Committee will develop and maintain effective relations with other Council committees, Government and its departments, NGOs and other stakeholders to achieve its terms of reference, and in particular:

- Gisborne District Council officers
- Hauora Tairāwhiti (District Health Board)
- Department of Conservation
- Industry
- Recreational groups
- Environmental groups
- Federated Farmers.

Special Notes

- a) Membership of the Committee comprises four councillors and four tangata whenua representatives and other members that the Committee itself shall determine from time to time.
- b) The Committee may appoint, or invite participation in an advisory or consultative capacity, other persons from:
 - Gisborne District Council officers
 - Hauora Tairāwhiti
 - Department of Conservation
 - Industry
 - Recreational Groups
 - Environmental Groups
 - Federated Farmers.
 - Others who may have a particular contribution to make to the workings of the Committee.

The Council agrees to remunerate members that the Committee appoints.

Power to Act

To make all decisions necessary to fulfil the role and scope of the Committee, subject to the limitations imposed.

Power to Recommend

To Council and/or any Council committee as it deems appropriate.

4.3 Emergency Committee

Reports to:	Council
Chairperson:	Mayor Rehette Stoltz
Deputy Chairperson:	Deputy Mayor Josh Wharehinga
Membership:	<p>The Committee Chair whose portfolio aligns to the matter of urgency in the first instance or in the second instance is available.</p> <p>In the event that the Committee Chair whose portfolio aligns to the matter of urgency is unavailable, any One (1) of the Core Committee Chairs will serve as an Alternate.</p>
Quorum:	Two members.
Meeting frequency:	As required.

Purpose

- To determine matters within the authority of Council where the urgency of those matters precludes a full meeting of the Council, or emergency legislation is enacted.

Role

- To exercise all Council functions that cannot be exercised by the Council using its standard processes and procedures due to a pandemic, other natural disaster or state of emergency, except for those that:
 - Have been delegated to staff.
 - Cannot be delegated pursuant to clause 32 of Schedule 7 of the Local Government Act 2002, or pursuant to any other legislation.

Power to Act

- The Emergency Committee can only be activated by resolution of Council for specific events, or where resolution by Council is not possible, on the joint authority of the Gisborne District Council's Mayor and Deputy Mayor.

Power to Recommend

- The Emergency Committee reports to the Council.

4.4 Regulatory Hearing Panel – Resource Management Act 1991

Reports to: Council

Membership: The Chief Executive and or Directors with relevant delegation may appoint, for the purposes of determining a matter on a case-by-case basis:

- a Hearings Panel comprising a Chairperson and/or Independent Commissioners
- an Independent Commissioner to decide the matter alone.

Meeting frequency: As required

Purpose

To conduct hearings and/or determine under delegated authority applications for consent and all other matters required to be heard and determined by way of hearing under the Resource Management Act 1991.

Terms of Reference

- Conduct hearings and make decisions of a quasi-judicial nature on behalf of the Council on regulatory matters that the Council is legally empowered or obligated to hear and determine under the Resource Management Act; and
- To exercise this function in accordance with:
 - the applicable legislation;
 - the Council's corporate strategies, policies and plans; and
 - the principles of administrative law and natural justice.
- Make recommendations to the Council or a Committee where the matter is one which may only be delegated to a Council Committee (such as approving a proposed plan).
- The Regulatory Hearing Panel is not a committee for the purposes of Schedule 7 of the Local Government Act

Power to Act

To exercise any powers and functions necessary to fulfil the role and purpose for which the Panel or decision-maker are appointed.

For the avoidance of doubt, these delegations do not restrict any other existing delegations to any hearings commissioners and staff relating to decision making under the Resource Management Act 1991.

Power to Recommend

To Council and/or any Council committee as it deems appropriate.

4.5 Chief Executive Performance Committee

Reports to:	Council
Chairperson:	Mayor Rehette Stoltz
Membership:	Deputy Mayor Josh Wharehinga, Cr Andy Cranston, Cr Rhonda Tibble, Cr Ani Pahuru-Huriwai.
Quorum:	Half of the members when the number is even and a majority when the membership is uneven.
Meeting frequency:	Bi-annually

Terms of Reference

The Chief Executive Performance Committee considers and reports to the Council on the following matters:

- Overseeing the performance of the Chief Executive in line with the performance agreement and his/her ongoing relationship with the Council, and report regularly to the Council on his/her performance.
- Facilitating regular performance reviews of the Chief Executive and reporting on a regular basis to the Council.
- Undertaking reviews of the Chief Executive's remuneration package in accordance with the employment agreement and make recommendations to the Council.
- Engaging relevant external advice – including independent legal advice to assist the committee with all or any of these matters, as appropriate, ensuring such advisors are not otherwise contracted to the Council for similar services.
- Matters relating to succession planning and the appointment of a Chief Executive, as may be necessary from time to time, including:
 - Overseeing the recruitment and selection process for a Chief Executive
 - Recommending candidates and remuneration to the Council for consideration.

Powers

The Chief Executive Performance Committee has no executive powers other than outlined in the Terms of Reference and is directly responsible to Council.

4.6 Bylaw Submissions Hearings Panel

Reports to:	Council
Chair:	Cr Tony Robinson
Membership:	Cr Larry Foster, Cr Debbie Gregory, Cr Aubrey Ria, Cr Teddy Thompson and Cr Nick Tupara
Meeting frequency:	As required

Purpose

The purpose of the committee is:

- (1) Decide matters which Council may delegate only to a committee of Council under the Local Government Act 2002
- (2) Act as a panel of candidates that may be appointed to a Hearing Panel (for matters that are not required to be heard or decided by a committee).

Terms of Reference

Decide matters which Council may delegate only to a committee of Council under the Local Government Act 2002. This includes hearing and determining matters regarding drainage and works on private land under the Local Government Act 1974 and Local Government Act 2002.

For matters that are not required to be heard and determined by a Committee, the Chair of the Committee will establish a Hearing Panel (ideally comprising 2-3 members) as necessary on a case-by-case basis, for the purposes of conducting hearings and/or determining under delegated authority any other matters required to be determined by the Council under legislation.

Power to Act

The Committee will have the authority to exercise any powers and functions necessary to fulfil the role and purpose for which the panel is appointed.

The Chair of the Committee has the power to appoint a Hearing Panel comprising a Chair and at least one other member.

Hearing Panels

Terms of Reference

A Hearing Panel may be appointed by the Chair of the Committee to do one or more of the following:

- conduct a hearing and make decisions of a quasi-judicial nature on behalf of the Council on regulatory matters that the Council is legally empowered or obligated to hear and determine (including those decisions where the decision is required to be made by resolution)
- To exercise this function in accordance with:
 - the applicable legislation;

- the Council's corporate strategies, policies and plans; and
- the principles of administrative law and natural justice.
- The functions of a Hearing Panel may include:
 - Hearing submissions on a Council proposal to make, amend, or revoke a bylaw, and making a recommendation to the Council in relation to the decision.
 - Hearing and determining objections under the Dog Control Act 1996.
 - Decision-making under the Sale and Supply of Alcohol Act 2012 other than decisions required to be made by the District Licensing Committee.
 - Hearing and determining matters arising under bylaws.
 - To conduct hearings and/or determine under delegated authority applications relating to Temporary Road Closures pursuant to section 342 of the Local Government Act 1974.

A hearing panel is not a committee or subcommittee for the purposes of Schedule 7 of the Local Government Act 2002.

Power to Act

A Hearing panel appointed by the Chair of the Committee will have the authority to exercise any powers and functions necessary to fulfil the role and purpose for which the panel is appointed.

Relevant legislation includes but is not limited to:

- All Bylaws
- Biosecurity Act 1993
- Building Act 2004
- Dog Control Act 1996
- Fencing of Swimming Pools Act 1987
- Gambling Act 2003
- Land Transport Act 1998
- Health Act 1956
- Local Government Act 1974
- Local Government Act 2002
- Sale and Supply of Alcohol Act 2012
- Waste Minimisation Act 2008
- Maritime Transport Act 1994 and Related Regulations.

A Hearing Panel does not have the authority to make, amend, or revoke a bylaw, but may recommend such a decision to Council.

Power to Recommend

To Council and/or any Council committee as it deems appropriate.

4.7 Conduct Review Committee

Reports to:	Council
Chairperson:	Independent
Membership:	Independent members as required
Meeting frequency:	As required

Purpose and Terms of Reference

Conduct investigations and make recommendations regarding Councillors' compliance with the Code of Conduct, as set out in the Code of Conduct: <https://www.gdc.govt.nz/code-of-conduct/>

4.8 Appointments Committee

Reports to: Council

Membership: Mayor or Mayor's appointee, Chief Executive, one independent, Deputy Mayor Josh Wharehinga and Cr Colin Alder.

Meeting frequency: As required

Purpose and Terms of Reference

- Oversees and manages recruitment and selection process of Council appointments to other bodies.
- To recommend to Council appointments of directors and trustees as per the Board Appointment and Remuneration Policy.

5. Statutory Committees

5.1 Regional Transport Committee

Reports to:	Council
Chairperson:	Cr Ani Pahuru-Huriwai
Deputy Chairperson:	To be appointed
Membership:	As specified in the Land Transport Management Act 2003: Four Councillors One NZ Transport Agency representative
Quorum:	Three
Meeting Frequency:	Four times a year

Purpose

Under s 106 of the Land Transport Management Act 2003, the purpose of the committee is to:

- To prepare a regional land transport plan, or any variation to the plan, for the approval of the Council.
- To provide the Council with any advice and assistance the Council may request in relation to its transport responsibilities.

Terms of Reference

- Facilitate the overall aim of achieving an integrated, safe, responsive and sustainable transport system in the region that satisfies, as far as practicable, the objectives of the Land Transport Act 1998 and the Land Transport Management Act 2003.
- Oversee, prepare and monitor:
 - Regional Land Transport Plan (RLTP)
 - Regional Public Transport Plan
 - Regional Land Transport Programme or variations.
- To approve submissions to external bodies on policy documents likely to influence the content of the RLTP.
- Co-ordinate applications for regionally distributed funding.
- Facilitate the objectives of economic development, safety and personal security, public health, access and mobility, cultural interests and environmental sustainability.
- To adopt a policy that determines significance in respect of variations made to the regional land transport plan and the activities that are included in the regional land transport plan.

Power to Act

- To make all decisions necessary to fulfil the role and scope of the Committee, subject to the limitations imposed.
- To appoint advisors to assist the Committee.

Power to Recommend

- To Council and/or any Council committee as it deems appropriate.

Special Notes

The Committee has no delegated authority.

- **The NZ Transport Agency:** The Land Transport Management Act 2003 requires a NZ Transport Agency representative to be appointed by the Council as a member of the Regional Transport Committee. The NZTA representative has full voting rights on every matter before the Committee.

The Council has provided the NZ Transport Agency member the ability to appoint a another person to act as the NZ Transport Agency representative in the event the NZ Transport Agency member cannot attend a Committee meeting. The delegate has full voting rights.

The NZ Transport Agency member may abstain from voting on issues that they consider have political repercussions.

5.2 Civil Defence Emergency Management Committee

Reports to:	Council
Chairperson:	Mayor Stoltz
Deputy Chairperson:	Deputy Mayor Josh Wharehinga
Membership:	Cr Debbie Gregory, Cr Rawinia Parata, Cr Ani Pahuru-Huriwai and Cr Rob Telford.
Quorum:	Half of the members when the number is even and a majority when the membership is uneven.
Meeting Frequency:	As required. Meetings may take place on the same day as Council meetings.

Purpose

To perform the functions of a Civil Defence and Emergency Management Group required under section 12(1)(b) of the Civil Defence and Emergency Management Act 2002 (the Act).

To ensure that appropriate emergency management as detailed in the Civil Defence Emergency Management Act 2002 (the Act) is carried out within the Gisborne District.

Provide governance and oversight of the activities required to be undertaken on its behalf by the Act.

Terms of Reference

The Civil Defence and Emergency Management Committee has responsibility and authority to:

- Be Gisborne's strategic forum for civil defence emergency management planning and policy.
- Co-ordinate planning, programmes and activities related to civil defence emergency management across the areas of risk reduction, readiness, response and recovery.
- Assist in local civil defence emergency management planning activity through developing, approving, implementing and monitoring the Gisborne Civil Defence Emergency Management Group Plan and ensuring alignment of local planning with national plans and strategy.
- Establish and maintain a Civil Defence Emergency Management Co-ordinating Executive Group, as required by section 20 of the Act.
- Exercise the statutory powers and functions outlined in the Act, including those set out in sections 17 and 18 of the Act.

Relevant Legislation includes but is not limited to

- Civil Defence Emergency Management Act 2002

5.3 District Licensing Committee

Chairperson: Commissioner Pat Seymour

Deputy Chairperson: Cr Rhonda Tibble.

Membership: A chairperson and two other members who are appointed from a list of persons approved by council under s 192 of the Sale and Supply of Alcohol Act 2012 to be a member of a District Licensing Committee. Appointments are made for each application or other matter by the Secretary of the Committee under delegated authority.

Meeting Frequency: As required.

Purpose

To perform the independent statutory functions of a District Licensing Committee under the Sale and Supply of Alcohol Act 2012 (SSA).

Terms of Reference

The functions of the District Licensing Committee is specified by the SSA, and include:

- to consider and determine applications for licences and manager's certificates,
- to consider and determine applications for renewal of licences and manager's certificates,
- to consider and determine applications for temporary authority to carry on the sale and supply of alcohol in accordance with section 136,
- to consider and determine applications for the variation, suspension, or cancellation of special licences,
- to consider and determine applications for the variation of licences (other than special licences) unless the application is brought under section 280,
- with the leave of the chairperson for the licensing authority, to refer applications to the licensing authority,
- to conduct inquiries and to make reports as may be required of it by the licensing authority under section 175, and
- any other functions conferred on licensing committees by or under the SSA or any other enactment.

6. Joint Committees

6.1 Local Leadership Body

Reports to:	Council
Chairperson:	TBC
Deputy Chairperson:	TBC
Membership:	<p>The membership of the Local Leadership Body (LLB) is specified under the Ngai Tāmanuhiri Claims Settlement Act 2012 as follows:</p> <p>2 members appointed by the Ngai Tamanuhiri trustees; and</p> <p>2 members appointed by the trustees of the Rongowhakaata Charitable Trust; and</p> <p>2 members appointed by the trustees of Te Aitanga a Māhaki Trust; and</p> <p>6 members (comprising the mayor and 5 councillors holding office from time to time), appointed by the Council.</p>
Quorum:	TBC
Meeting Frequency:	TBC

General Purpose and Objectives

The Local Leadership Body is a statutory body established as a permanent joint committee of the Council under the Ngai Tāmanuhiri Claims Settlement Act 2012. Its purpose is to:

- (a) contribute to the sustainable management of the natural and physical resources in the LLB area for the use and enjoyment of present and future generations, while recognising and providing for the traditional relationship of Ngai Tāmanuhiri, Rongowhakaata, and Te Aitanga a Māhaki and Affiliates with their ancestral lands, water, sites, wāhi tapu, and other taonga; and
- (b) to enable individuals and communities within the LLB area, as resources allow,—
 - (i) to provide for their social, economic, and cultural well-being; and
 - (ii) to achieve improved outcomes in respect of the environment; and
- (c) to ensure that the Council is appropriately informed of its statutory obligations within the LLB area, including obligations in respect of Te Tiriti o Waitangi arising under the Local Government Act 2002 and the Resource Management Act 1991 and any other relevant enactment.

Terms of Reference:

The primary function of the LLB is to achieve the purpose of the LLB.

In achieving the purpose of the LLB, the LLB may—

- (a) gather and disseminate information and hold meetings for the purpose of identifying existing and any new issues that affect the LLB area:
- (b) develop policies and strategies to—
 - (i) address any significant issues relevant to the purpose of the LLB that are identified within the LLB area:
 - (ii) assist in achieving the purpose of the LLB:
- (c) monitor, evaluate, and review those policies and strategies:
- (d) promote the integrated and co-ordinated management of the natural and physical resources of the LLB area:
- (e) provide information to assist with the preparation of the regional policy statement, any regional plans, the district plan, annual plan, and any long-term plan of the Council, to the extent that those instruments are relevant to the LLB area:
- (f) provide advice to the Council on applications for resource consents, designations, heritage orders, and water conservation orders within the LLB area and in relation to the transfer or delegation of powers that are relevant to the LLB area:
- (g) monitor the extent to which the purpose of the LLB is being achieved:
- (h) take any other agreed action that is relevant to achieving the purpose of the LLB.

The members of the LLB must, individually and collectively, approach decision making in a manner that is consistent with, and reflects, the purpose of the LLB.

The LLB has the powers reasonably necessary to carry out its functions in a manner consistent with this subpart and the relevant provisions in—

- the [Local Government Act 2002](#); and
- the [Local Government Act 1974](#); and
- the [Local Authorities \(Members' Interests\) Act 1968](#); and
- the [Local Government Official Information and Meetings Act 1987](#).

Title: 23-37 Health and Safety Governance Charter

Section: Democracy & Support Services

Prepared by: Heather Kohn - Democracy & Support Services Manager

Meeting Date: Thursday 2 March 2023

Legal: No Financial: No Significance: **Low**

Report to COUNCIL/TE KAUNIHERA for decision

PURPOSE - TE TAKE

The purpose of this report is to present a draft Health and Safety Governance Charter for adoption.

SUMMARY - HE WHAKARĀPOPOTOTANGA

The Mayor and councillors recently participated in the Institute of Director's "Governance Essentials" course as part of their induction programme. During the course it was suggested by the facilitator, and supported by the elected members, that Council governors have a health and safety charter outlining their responsibilities.

A draft has been developed by the Health and Safety Manager for consideration and adoption.

Health and safety is a critical non-delegable responsibility of Council. Elected members must be pro-active in health and safety management. Health and safety governance is a fundamental part of an entity's overall risk management function and a key responsibility of elected members.

Council should consider safety risks in the same way that it considers financial and other risks. A key component of health and safety governance is elected members working to understand risk and culture in Council.

The decisions or matters in this report are considered to be of **Low** significance in accordance with the Council's Significance and Engagement Policy.

RECOMMENDATIONS - NGĀ TŪTOHUNGA

That the Council/Te Kaunihera:

- 1. Adopts the Health and Safety Governance Charter (Attachment 1) with any changes as required.**

Authorised by:

James Baty - Director Internal Partnerships

Keywords: health, safety, risk, governance, charter

ATTACHMENTS - NGĀ TĀPIRITANGA

1. Attachment 1 - Draft Health and Safety Charter 2023 [**23-37.1** - 2 pages]



Health & Safety Charter

1.0 Introduction

This Charter is approved by the Council to assist the Council to fulfil its governance responsibilities over Health and Safety. This Charter will be reviewed after 12 months.

2.0 Policy Statement

- a) The Council is committed to ensuring a safe and secure environment for its people (employees and contractors), customers, and people in the vicinity of the Gisborne District Council's places of work.
- b) The Council recognises that it has a critical role to play in the implementation of health and safety and the health and safety culture of the Gisborne District Council.
- c) The Council will ensure that appropriate policies and procedures are adopted and implemented by reviewing and monitoring the identification, reporting, and management of health and safety hazards and risks.
- d) The Council is committed to having a zero-harm culture based on continuous improvement.
- e) All elected members are committed to fulfilling their obligations under the relevant legislation (including any amendments) and ensuring the appropriate policies and processes are in place to meet those obligations.

3.0 Responsibilities of the Council

The health and safety responsibilities of the Council will include:

- a) Reviewing and approving all major health and safety policy issues such as any significant proposed changes to the Gisborne District Council's relevant policies and practices including the Safety Management System Framework (presently Damstra/Vault).
- b) Considering whether any changes to the Gisborne District Council's policies and practices are required as a result of changes to any generally accepted principles or statutory requirements (for example in relation to occupational health and safety management).
- c) Setting health and safety targets in consultation with the Chief Executive and the Central Organising Roopu and assessing performance against those targets.
- d) Ensuring that its elected members are properly and regularly informed and updated on matters relating to health and safety governance, performance, and compliance.
- e) Reviewing the adequacy of the Gisborne District Council's systems for monitoring compliance with both the relevant applicable law and the Council's Health and Safety policies.
- f) Reviewing the Gisborne District Council's procedures for identifying and managing relevant risk including, without limitation, monitoring the Council's actual and potential exposure to identified risks and whether those identified risks comprehensively cover the Council's risk profile.

- g) Requiring an annual assessment of the Council's health and safety risk profile and compliance and control processes.
- h) Obtaining regular reports from Management on the operation of Council's performance, risk management, compliance, and internal control processes.
- i) Evaluating the adequacy of the Council's relevant systems for the reporting of actual or potential incidents and breaches, subsequent investigations, and remedial actions. This shall include reviewing all health and safety incidents that meet the definition of 'serious harm' under the Health and Safety at Work Act 2015 occurring across the Council's operations and considering the appropriateness and efficacy of any identified corrective actions to minimise the risk of recurrence; and
- j) Evaluating the appropriateness of the functions of internal control and internal audit within the Council as they relate to the Council's health and safety obligations.

4.0 Meetings

The Council will receive a health and safety update from the Chief Executive during Audit & Risk meetings at Council.

The update will contain a summary of health and safety activity across Council. The Council will provide any direction it feels is appropriate. Dedicated Audit & Risk meetings containing specific health and safety matters will be scheduled at least three (3) times a year. These meetings will comprehensively review the Council's Health and Safety Strategy and its health and safety performance against the relevant KPIs and targets and make any adjustments to the Strategy, KPIs, or targets as it considers necessary.

The Council may, at its discretion, visit any site managed by or for the Council.

_____ Nedine Thatcher Swan – Chief Executive

_____ Rehette Stoltz – Mayor

Dated: _____

Review date: _____

