

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

COUNCIL/TE KAUNIHERA

DATE: Thursday 2 May 2024

TIME: 9:00AM

AT: Pōtaka Marae, Pōtaka

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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

3.1. Confirmation of non-confidential Minutes 14 March 2024

MINUTES

Draft & Unconfirmed



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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

MINUTES of the GISBORNE DISTRICT COUNCIL/TE KAUNIHERA

Held in Te Ruma Kaunihera (Council Meeting Room), Awarua, Fitzherbert Street, Gisborne on Thursday 14 March 2024 at 9:00AM.

PRESENT:

Her Worship the Mayor Rehette Stoltz, Colin Alder, Andy Cranston, Larry Foster, Debbie Gregory, Ani Pahuru-Huriwai, Rawinia Parata, Aubrey Ria, Tony Robinson, Rob Telfer, Daniel Thompson & Josh Wharehinga.

IN ATTENDANCE:

Chief Executive Nedine Thatcher Swann, Acting Director Lifelines Dave Hadfield, Director Internal Partnerships & Protection James Baty, Director Liveable Communities Michele Frey, Director Engagement & Maori Partnerships Anita Reedy-Holthausen, Chief Financial Officer Pauline Foreman, Director Sustainable Futures Jo Noble, Chief Advisor - Māori Gene Takurua, Democracy & Support Services Manager Heather Kohn and Committee Secretary Jessica Taylor.

The meeting commenced with a karakia.

1. Apologies

MOVED by Cr Pahuru-Huriwai, seconded by Cr Gregory

That the apologies from Cr Tibble and lateness for Cr Parata be sustained. **CARRIED**

2. Declarations of Interest

There were no interests declared.

3. Confirmation of non-confidential Minutes

3.1 Confirmation of non-confidential Minutes 25 January 2024

MOVED by Cr Wharehinga, seconded by Cr Telfer

That the Minutes of 25 January 2024 be accepted. **CARRIED**

3.2. Confirmation of Public Excluded Minutes 25 January 2024

MOVED by Cr Pahuru-Huriwai, seconded by Cr Cranston
That the Minutes of 25 January 2024 be accepted.

CARRIED

4. Leave of Absence

There were no leaves of absence.

5. Acknowledgements and Tributes

There were no acknowledgements or tributes.

6. Public Input and Petitions

There were no public input and petitions.

7. Extraordinary Business

There was no extraordinary business.

8. Notices of Motion

There were no notices of motion.

9. Adjourned Business

There was no adjourned business.

Secretarial Note Items were heard out of the order described in the agenda. For ease of reference the Minutes have been recorded in agenda order.

10. Reports of the Chief Executive and Staff for DECISION

10.1 24-15 Draft Development Contributions Policy for Three Year Plan Consultation

Secretarial Note: Cr Parata arrived at 9:10am.

MOVED by Cr Robinson, seconded by Cr Gregory

That the Council/Te Kaunihera:

1. Approves the draft Development Contributions Policy (Attachment 1) for consultation as part of the Three Year Plan Consultation Document, subject to any amendments required to reflect Council decisions made as part of the development of the Three Year Plan.

CARRIED

10.2. 24-26 Tairāwhiti Future Development Strategy 2024 -2054

- In relation to the valves having to be opened, this is due to the inundation of extraordinary rainfall. Director of Lifelines Tim Barry adds that Gisborne has capacity for six times the dry weather flow. There's also no other system in New Zealand that doesn't have overflows in it. The incremental work that DrainWise has been doing is addressing this issue.
- Ngati Oneone is unaware of the redevelopment to the water reservoir on Nob Hill that has been earmarked in the Future Development Strategy for \$14.5m.
- There's little mention of a managed retreat in the Future Development Strategy.

Secretarial note: Cr Robinson and Cr Thompson voted against the recommendations and requested that this be recorded.

MOVED by Cr Parata, seconded by Cr Gregory that the recommendations be amended as follows:

That the Council/Te Kaunihera:

1. Notes the contents of this Report regarding recent consultation on the Draft Future Development Strategy including the analysis of the submissions received (Attachment 1).
2. Receives the submissions to the Draft Future Development Strategy in Attachment 2 to this report.
3. Adopt the Final Tairāwhiti Future Development Strategy (attached as Attachment 3).
4. Directs staff to develop a draft master plan for Kaiti with Kaiti within the next 12 months.

CARRIED

10.3 24-61 Three Year Plan (2024-2027) Engagement Plan and Consultation Document

- It was noted that staff need to use the terms mana whenua and tāngata whenua consistently as it has been raised before and it seems staff aren't on the same page with what the meanings are.
- Councillors wanted clarification on paragraph 10, page 222 to be clarified as: "The options in the CD highlight that there may be some changes to the levels of service following a review of the roading network where it may mean that instead of sealed roads in some areas, we transition some roads to unsealed roads."

Secretarial note: Meeting adjourned for morning tea at 10:00am and reconvened at 10:15am.

MOVED by Cr Parata, seconded by Cr Pahuru-Huriwai

That the Council/Te Kaunihera:

1. Approves the draft Consultation Document for formal consultation from 20 March to 19 April 2024.
2. Adopts Gisborne District Council's 2024–2027 Three Year Plan Consultation Document – subject to any minor changes.

CARRIED

10.4 24-45 Establishment of a Tairāwhiti Resource Management Plan Committee

- Chief Executive Nedine Thatcher-Swann and Director of Sustainable Futures Jo Noble suggested to add another recommendation: "Directs the Tairāwhiti Resource Management Plan (TRMP) Committee appoints two Independent Commissioners to the Committee."
- The Independent Commissioners must have the appropriate skills, attributes, and knowledge to assist the Committee and be accredited under the Making Good Decisions Programme.

- Councillors voted unanimously to replace Cr Tupara with Cr Wharehinga in the TRMP Committee.

MOVED by Cr Stoltz, seconded by Cr Robinson that the recommendations be amended as follows:

That the Council/Te Kaunihera:

1. Agrees to establish the Tairāwhiti Resource Management Plan Committee as a Council-only committee, noting that seats remain available to iwi if they choose to exercise their right to participate.
2. Reconfirms the membership of the Tairāwhiti Resource Management Plan Committee currently being Colin Alder, Larry Foster, Rawinia Parata, Aubrey Ria, and Josh Wharehinga with Mayor Rehette Stoltz as Chair.
3. Requests that the Delegation Manual be updated to include the Terms of Reference for the Tairāwhiti Resource Management Plan Committee (Attachment 1) subject to any changes that have been agreed to by Council and be reported back for adoption by Council.
4. Directs the Tairāwhiti Resource Management Plan Committee to appoint two Independent Commissioners to the committee.

CARRIED

10.5 24-68 Proposed Changes to Committee Structures

MOVED by Cr Robinson, seconded by Cr Thompson

That the Council/Te Kaunihera:

1. Approves changing the Appointments Committee to a committee of the whole.
2. Appoints Councillor Larry Foster to the Audit & Risk Committee.
3. Removes Councillor Rhonda Tibble from the Gisborne District Sister Cities Committee Incorporated.
4. Instructs the Chief Executive to update the Delegation Manual and Terms of Reference to reflect these changes if adopted.

CARRIED

10.6 24-69 Category 2P: Elevating Tairāwhiti Policy

MOVED by Cr Wharehinga, seconded by Cr Foster

That the Council/Te Kaunihera:

1. Adopts the Category 2P: Elevate Tairāwhiti Policy (Attachment 1).
2. Notes the Chief Executive will have delegated authority to make decisions implementing the Policy.
3. Notes that the Policy has been approved by Central Government (via CIP).
4. Notes the Elevate Tairāwhiti Fund will commence upon funding released by CIP as per the approval of the Policy.

CARRIED

11. Reports of the Chief Executive and Staff for INFORMATION

11.1 24-28 Chief Executive Activity Report March 2024

Secretarial note: Meeting adjourned at 11:30am and reconvened at 11:35am.

- Nedine updated Council about central government agreeing to suspend the requirement for Councils to comply with the Significant Natural Area provisions of the National Policy Statement of Indigenous Biodiversity for 3 years while it replaces the Resource Management Act.
- Cr Parata declared an interest as she's mentioned in the Ruatoria update for Community Facilities on page 309 of the agenda.

MOVED by Cr Stoltz, seconded by Cr Robinson

That the Council/Te Kaunihera:

1. Notes the contents of this report.

CARRIED

12. Close of Meeting

There being no further business, the meeting concluded at 12:10 pm.

Rehette Stoltz

CHAIR

3.2. Action Register

Meeting Date	Item No.	Item	Status	Action Required	Assignee/s	Action Taken	Due Date
14/12/23	11.2	23-328 Draft Financial Strategy for the 2024-2027 Three Year Plan	In progress	Advise Councillors the portion of the roading asset which is owned by Waka Kotahi and Council in our District.	Dave Hadfield		09/04/24
14/12/23	11.9	23-316 Three Year Plan Capital Programme	Completed	Provide Councillors with the Asset Management Plan in relation to Community Housing.	Ally Campbell, Pauline Foreman	<p>05/03/2024 Ally Campbell Draft Asset Management Plan for Gisborne Holdings Ltd forecast to be delivered at the 18 April 2024 Operations Committee.</p> <p>08/04/2024 Ally Campbell Report has been prepared for Operations committee meeting which provides the Draft Asset Management Plan for Community Housing from GHL.</p>	26/03/24
25/01/24	10.1	24-3 Three Year Plan 2024-2027 Draft Estimates	In progress	Cost of community housing to be discussed at the next Gisborne Holdings Limited meeting.	Ally Campbell, Pauline Foreman	<p>05/03/2024 Ally Campbell Update at the June Finance & Performance Committee Meeting.</p>	05/06/24
25/01/24	10.3	24-1 Dangerous, Affected and Insanitary Buildings Policy 2024 - Deliberation and Adoption Report	In progress	Concerns regarding the Dangerous, Affected, and Insanitary Buildings be discussed with the Minister of Housing and Urban Development.	Annie Cousins		09/04/24
25/01/2024	15.1	Additional Action Item	In progress	24-3 Three Year Plan 2024-2027 Draft Estimates Funding information for Taruheru Cycleway/Walkway be provided to councillors.	Dave Hadfield		09/04/24

3.3. Governance Work Plan

2024 COUNCIL						Meeting Dates							
HUB	Activity	Name of agenda item	Purpose	Report type	Owner	25-Jan	14-Mar	2-May	27-Jun	8-Aug	17-Oct	14-Nov	12-Dec
Office of the Chief Executive	Risk & Performance	Chief Executive Activity Report	The purpose of this report is to provide elected members with an update on Council activities from 1 November 2023 to 29 February 2024.	Information (I)	Joy Benioni								
Sustainable Futures	Strategy and Science	Freshwater Policy Planning - Scientific Evidence for Groundwater and Surface Water	Report to give an overview of the findings from latest GDC-commissioned groundwater report and NIWA report	Information (I)	Janic Slupski; Sarah Thompson; Paul Murphy								
Sustainable Futures	Strategic Planning	Freshwater Policy Planning Update	Report to give an update on the freshwater policy planning under the TRMP review	Information (I)	Janic Slupski; Ariel Yann le Chew								
Sustainable Futures	Strategy and Science	Freshwater Implementation Update	Report to give an update on the freshwater implementation projects	Information (I)	Janic Slupski; Ariel Yann le Chew								
Sustainable Futures	Strategic Planning	Regional Policy Statement - Public notification	Report to seek Council resolution to publicly notify the Regional Policy Statement as part of the TRMP review	Decision (D)	Yvonne Legarth; Paula Hansen								
Sustainable Futures	Strategic Planning	Smoke free outdoor	Report to seek Council decision to take the decision to adopt/not to adopt the policy	Decision (D)	Makarand Rodge								

2024 COUNCIL

Meeting Dates

HUB	Activity	Name of agenda item	Purpose	Report type	Owner	25-Jan	14-Mar	2-May	27-Jun	8-Aug	17-Oct	14-Nov	12-Dec
Sustainable Futures	Strategic Planning	Adoption of the Tairāwhiti Future Development Strategy 2024-2054	Summary of consultation and seeking the adoption of Tairāwhiti Future Development Strategy 2024-2054	Decision (D)	Drew Williams								
Sustainable Futures	Strategic Planning	Cemeteries Bylaw and Policy	Report to seek the Council decision for determinations report for bylaw	Decision (D)	Summer Agnew								
Sustainable Futures	Strategic Planning	Easter Sunday Trading Policy	Report to seek the Council decision for policy review	Decision (D)	Summer Agnew								
Sustainable Futures	Strategic Planning	Climate Risk Assessment	Decision report	Decision (D)	Abi Wiseman								
Sustainable Futures	Recovery	Elevating Tairāwhiti - adoption of policy framework	To adopt the Category 2P: Elevating Tairāwhiti Policy that provides a framework for funding or part funding house lifting for some of the dwellings inundated during Cyclone Gabrielle	Information (I)	Steve Fabish /contractor								
Sustainable Futures	Strategic Planning	Update on a new Emissions Inventory	Overview of process and timeframes	Information (I)	Jacqui Wallens								
Sustainable Futures	Strategic Planning	Alcohol Bylaw	Decision to report to determine whether to/not to review bylaw	Decision (D)	Makarand Rodge								
Sustainable Futures	Strategic Planning	DC Policy	Council to decide around adoption on DC Policy	Decision (D)	Charlotte Knight								
Sustainable Futures	Strategic Planning	Procurement Policy	Council to decide around consultation on procurement Policy	Decision (D)	Chris Gilmore								

2024 COUNCIL						Meeting Dates							
HUB	Activity	Name of agenda item	Purpose	Report type	Owner	25-Jan	14-Mar	2-May	27-Jun	8-Aug	17-Oct	14-Nov	12-Dec
Sustainable Futures	Strategic Planning	TRMP Committee	To revive TRMP Committee	Decision (D)	Janic Slupski								
Sustainable Futures	Strategic Planning	Contract: Navigational Safety Bylaw	Decision report to seek Council decision to/not to consult on the policy	Decision (D)	Makarand Rodge								
Engagement and Māori Partnerships	Communication and Engagement	2024-2027 Three Year Consultant Document	Present the 3YP consultation document for adoption	Decision (D)	Melanie Thornton								
Finance & Affordability	Risk & Performance	2024-2027 Three Year Plan	Present the 3YP document for adoption	Decision (D)	Kim Everett								
Sustainable Futures	Strategic Planning	Draft Uawa Catchment Forestry Plan workshop	Workshop to socialise draft forestry plan, approximately 2 hours	Workshop	Janic Slupski								
Engagement and Māori Partnerships	Democracy Support Services	Ombudsman's Recommendations on Council Workshops	Present options for increasing the transparency of Council workshops and briefings.	Decision (D)	Heather Kohn								
Sustainable Futures	Strategic Planning	Mobile Shops and other traders' bylaw	Decision report to seek Council decision around consultation	Decision (D)	Makarand Rodge								
Engagement and Māori Partnerships	Democracy Support Services	Local Government NZ - Four Monthly Report February 2024		Information (I)	Heather Kohn								
Engagement and Māori Partnerships	Democracy Support Services	Governance Structure - Delegations to Committees 2024	Present to Council an updated version of the Governance Structure and Terms of Reference (ToR) for adoption.	Decision (D)	Heather Kohn								

2024 COUNCIL

Meeting Dates

HUB	Activity	Name of agenda item	Purpose	Report type	Owner	25-Jan	14-Mar	2-May	27-Jun	8-Aug	17-Oct	14-Nov	12-Dec
Engagement and Māori Partnerships	Māori Responsiveness	Te Tiriti Compass Workshop	PD	Workshop	Gene Takurua								
Sustainable Futures		Water Security report following workshop	Seeking direction on Council's future role in terms of managing water demand and supply	Decision (D)	Juliette Gottlieb								
Finance & Affordability	Financial Services	Rates Setting report	Provide the proposed rates for Council approval	Decision (D)	Fiona Scragg								

10. Committee Recommendations to Council



24-128

Title: 24-128 Committee Recommendations to Council - March-April 2024
Section: Democracy & Support Services
Prepared by: Heather Kohn - Democracy & Support Services Manager
Meeting Date: Thursday 2 May 2024

Legal: No

Financial: No

Significance: **Low**

Report to COUNCIL/TE KAUNIHERA for decision

PURPOSE - TE TAKE

The purpose of this report is to approve recommendations arising from the Audit & Risk Committee, Regional Transport Hearings Committee, and the Operations Committee.

SUMMARY - HE WHAKARĀPOPOTOTANGA

Audit & Risk Committee 13 March 2024

24-44 Internal Audit Plan Update

1. Recommends that Council:
 - a. Approves the amended internal Audit Charter; and
 - b. Approves the draft Internal Audit Plan.

24-71 Ernst & Young 2023-24 Audit Plan

1. Recommends that Council:
 - a. Approves the adoption of the Ernst & Young 2023-2024 Audit Plan.

Regional Transport – Regional Land Transport Plan & Regional Public Transport Plan Hearings 11 April 2024

24-107 Let's Talk Transport Consultation Deliberations Report: Mode Shift Plan and Active Transport Strategy

1. Recommends that Council:
 - a. Adopts the draft Mode Shift Plan and draft Active Travel Strategy with any changes supported or proposed by the Regional Transport Committee.

- b. Provides directions on whether to make changes to:
 - i. Include proposed locations for pedestrian crossings in the Active Travel Strategy maps.
 - ii. Include anonymised testimony from vulnerable users in the Active Travel Strategy.
 - iii. Move current and programmed active travel infrastructure for Townships from the Active Travel Strategy to an updateable appendix.
 - iv. Update the Active Travel Strategy maps to reflect the infrastructure necessary to support safe active movement to and from Te Wharau school to reflect the voices of those who submitted to show they have been heard.

Operations Committee 18 April 2024

24-117 Confirmation of Support for Iwi Priorities

- 2. Recommends that Council supports the following priorities:
 - a. The retention of Māori Wards.
 - b. Fast track consenting that supports iwi housing and water storage projects – while also ensuring that the Fast Track regime being without prejudice to the provisions in Te Tiriti of Waitangi and Rohe Moana settlements in Turanga/Tairāwhiti.

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 recommendations from the Audit & Risk Committee:**
 - a. **Approves the amended internal Audit Charter; and**
 - b. **Approves the draft Internal Audit Plan.**
 - c. **Approves the adoption of the Ernst & Young 2023-2024 Audit Plan.**
- 2. **Adopts the recommendations from the Regional Transport – Hearings Committee:**
 - a. **Adopts the draft Mode Shift Plan and draft Active Travel Strategy with any changes supported or proposed by the Regional Transport Committee.**
 - b. **Provides Directions on whether to make changes to:**
 - i. **Include proposed locations for pedestrian crossings in the Active Travel Strategy maps.**
 - ii. **Include anonymised testimony from vulnerable users in the Active Travel Strategy.**
 - iii. **Move current and programmed active travel infrastructure for Townships from the Active Travel Strategy to an updateable appendix.**
 - iv. **Update the Active Travel Strategy maps to reflect the infrastructure necessary to support safe active movement to and from Te Wharau school to reflect the voices of those who submitted to show they have been heard.**

3. **Adopts the recommendations from the Operations Committee:**
 - a. **The retention of Māori Wards.**
 - b. **Fast track consenting that supports iwi housing and water storage projects – while also ensuring that the Fast Track regime being without prejudice to the provisions in Te Tiriti of Waitangi and Rohe Moana settlements in Tūranga/Tairāwhiti.**

Authorised by:

Anita Reedy-Holthausen - Director Engagement & Maori Partnerships

Keywords: committee recommendations to Council, audit & risk committee, regional transport committee, operations committee, regional land transport plan, regional public transport plan, internal audit plan, mode shift, active transport strategy, let's talk transport, maori wards, iwi housing, water storage projects, treaty of Waitangi, rohe moana settlements, te wharau school

11. Reports of the Chief Executive and Staff for DECISION



24-49

Title: 24-49 Ombudsman's Recommendations on Council Workshops
Section: Democracy & Support Services
Prepared by: Heather Kohn - Democracy & Support Services Manager
Meeting Date: Thursday 2 May 2024

Legal: Yes

Financial: Yes

Significance: **Low**

Report to COUNCIL/TE KAUNIHERA for decision

PURPOSE - TE TAKE

The purpose of this report is to present options for increasing the transparency of Council workshops and briefings following the release of the Ombudsman's investigation into local council meetings and workshops.

SUMMARY - HE WHAKARĀPOPOTOTANGA

In October 2023 the Ombudsman released a report on their investigation into workshop and meeting practices of eight local authorities for the purpose of compliance with the principles and purposes of the Local Government Official Information and Meetings Act 1987 (LGOIMA).

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. **Agrees that the process for workshops, as detailed in Attachment 3, together with the noting of workshops in the Council and Committees Governance Workplans, be applied up until the LGNZ Standing Orders Guidance has been received.**

Authorised by:

Anita Reedy-Holthausen - Director Engagement & Māori Partnerships

Keywords: workshops, Ombudsman, transparency, decision, LGOIMA

BACKGROUND - HE WHAKAMĀRAMA

1. Following the release of the Ombudsman's report (**Attachment 1**) Taituarā commissioned a Webinar on Council Workshops and LGOIMA (**Attachment 2**). These documents form the basis of the background for this report.
2. Workshops are not public meetings as defined by LGOIMA.
3. Under Council's Standing Orders Appendix 12: Workshops (**Attachment 3**), workshops are not considered to be meetings of Council. Furthermore, under Standing Orders it states that public notice of a workshop is not required, and workshops can be either open to the public or public excluded.
4. Council has not, in the past, assessed each workshop to decide whether or not the public should be excluded, we have by default followed our Standing Orders and not advertised.
5. At Gisborne District Council all workshops have an agenda, all reports are information reports and there are no decisions made at workshops. Staff keep a record of the workshop as per Standing Orders. Occasionally external facilitators take detailed notes to inform a subsequent workshop or a decision report for Council or Committees. Recent examples of this are the Risk Appetite workshops facilitated by PwC and the Three-Year Plan workshops facilitated by Chris Mene. Any workshops with small break out groups means that detailed note taking is difficult but the time, date, location, duration, persons present, and general subject matters covered are recorded.
6. There is no consistent approach across New Zealand, councils vary in their approach, examples from other councils include outlining the purpose of workshops (Mackenzie DC), proactive release (Tasman DC) and having a Policy (Stratford DC). [Workshops | Mackenzie District Council](#) , [Workshops, Briefings and Confidential Information releases | Tasman District Council](#) , [Policy - Council Workshops - 2023 Stratford](#)

DISCUSSION and OPTIONS - WHAKAWHITINGA KŌRERO me ngā KŌWHIRINGA

7. Simpson Grierson recommended that:
 - Workshops should be open by default, but there is a place for closed workshops.
 - The approach of minutes and records should be reviewed.
 - Look at some easy, low-cost solutions – website changes etc.
 - Increase accessibility - livestreaming, audit, etc: likely higher cost involved.
8. One reason for withholding official information of excluding the public is to maintain the effective conduct of public affairs through the free and frank expression of opinions. This is provided in LGOIMA section 7(2)(f)(i) unless the withholding of that information is outweighed by other considerations which render it desirable, in the public interest, to make that information available.
9. The Ombudsman has provided guidance and case notes on free and frank advice. [Free and Frank opinions August 2019](#). Given that workshops are not defined as meetings of council under the Local Government Act 2002 (LGA) and LGOIMA then this section may be relied on, provided there are no overriding public interest considerations. This is because workshops occur in the early stages of future decision making, such as problem definition, and provide a creative space to think about and to discuss solutions and options.

10. Some improvement processes have already been put in place, including:

- Since 2020 all workshops now have an agenda with an information report and are authorised by the Chief Executive.
- Inclusion of workshops on Council and Committee Governance Workplans, these are publicly available in agendas on Council's website.
- Report writers and managers, when requesting workshops, are now required to state whether the workshop should be public or not and the reasons why under LGOIMA.

11. LGNZ have commissioned Simpson Grierson to review the Ombudsman's recommendations and incorporate those that are relevant into LGNZ's Guide to Standing Orders. The Guide is expected to be re published later this year.

12. Options are detailed in the table below;

Option	Positive (Pros)	Negative (Cons)	Status
<p>Option one Status quo together with LGNZ review by Simpson Grierson and input into the LGNZ Guide to Standing Orders</p>	<p>Workshop procedures are currently compliant with Council's Standing Orders. There are no decisions made at workshops. Guidance has been commissioned and the LGNZ Guide will be updated.</p>	<p>Not necessarily seen to be reviewing with view to increasing transparency.</p>	<p>Preferred option.</p>
<p>Option two Advertise workshops on Council's website only.</p>	<p>Increased transparency</p>	<p>Increased visibility from media and the general public resulting in information requests and therefore increased workload which is not an efficient and effective use of council resources.</p>	<p>Not the preferred option.</p>
<p>Option three Develop a Policy and Procedure for workshops, including proactive retrospective release of minutes and briefings, except where officers have included the content of the workshop in the ensuing decision report. Have the meetings open to the public (observers only) as a default unless there is a good reason to make the workshop public excluded. Have the Policy available on Council's website with a summary on the website Meetings page along the lines of Tasman District Council.</p>	<p>Transparent Public more aware of decision-making process Council staff have a clear understanding of the process. Proactive release would mean less requests for information.</p>	<p>Increased workload for the Governance team and not an efficient and effective use of council resources.</p>	<p>Not the preferred option.</p>

Option	Positive (Pros)	Negative (Cons)	Status
<p>Option four As for Option three but including advertising in the local paper and livestreaming workshops that lend themselves to livestreaming.</p>	<p>The most transparent process of all options.</p>	<p>Increased costs in advertising in the local paper.</p> <p>Increased cost (staff time) in setting up the live stream and editing it following workshops.</p> <p>A large percentage of the population does not receive or have access to the local newspaper.</p>	<p>Not the preferred option.</p>

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

13. 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

14. This is a transactional decision and as such there is no requirement for engagement with tangata whenua/Māori.

COMMUNITY ENGAGEMENT - TŪTAKITANGA HAPORI

15. This is a transactional decision and as such there is no requirement for engagement with the community.

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

16. There are no climate change impacts arising from this decision.

CONSIDERATIONS - HEI WHAKAARO

Financial/Budget

17. Advertising workshops in the local paper and increased governance staff time has not been budgeted for.

Legal

18. Workshops are not public meetings as defined by LGOIMA. Simpson Grierson has been commissioned by LGNZ to review the Ombudsman's report and update the LGNZ Standing Orders guidance which will be available to councils later in the year.

POLICY and PLANNING IMPLICATIONS - KAUPAPA HERE me ngā RITENGA WHAKAMAHERE

19. A policy on workshops would make it clear to Council staff and the public that workshops are not where decisions are made. Whether a policy should be developed or not could be considered once LGNZ's guidance on standing orders is published.

RISKS - NGĀ TŪRARU

20. There are no foreseeable risks in taking the recommended option of the status quo with the enhancement of the workshops now being in the Council and Committee's Governance Workplan and awaiting the updated LGNZ Standing Orders template and guidance.

ATTACHMENTS - NGĀ TĀPIRITANGA

1. Attachment 1 - Ombudsman Open for Business Thematic Report Workshops [**24-49.1** - 50 pages]
2. Attachment 2 - Simpson Grierson Presentation Council Workshops and LGOIMA [**24-49.2** - 14 pages]
3. Attachment 3 - Standing Orders Appendix 12: Workshops [**24-49.3** - 1 page]



Chief Ombudsman Peter Boshier

Open for business

A report on local council meetings and workshops

October 2023

Office of the Ombudsman
Tari o te Kaitiaki Mana Tangata

A report on the Chief Ombudsman's investigation into workshop and meeting practices of eight local authorities for the purpose of compliance with the principles and purposes of the Local Government Official Information and Meetings Act 1987.

Te Kaitiaki Mana Tangata Aotearoa | The Ombudsman New Zealand
October 2023

ombudsman.parliament.nz

Open for business

A report on local council meetings and workshops.

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Introduction

The Local Government Official Information and Meetings Act 1987 (LGOIMA) is a key tool and safeguard of New Zealand’s democracy. The LGOIMA was introduced five years after the Official Information Act 1982 (OIA) turned the existing legislation—the Official Secrets Act 1951—on its head. The Official Secrets Act was based on the premise that all official information should be withheld from the public, unless good reason existed to release it. New Zealand’s freedom of information legislation (both the OIA and the LGOIMA) reversed the presumption of secrecy and introduced the principle of availability—that official information should be available to the public unless there is good reason to withhold it.

The purposes of the LGOIMA are to increase the availability of information held by local authorities and to ‘*promote the open and public transaction of business at meetings*’ to enable the public to participate in local authority decision making, to promote accountability of elected members and staff, ultimately enhancing respect for the law and ensuring the promotion of good local government in New Zealand.¹

As Chief Ombudsman, I have been tasked by Parliament to monitor agencies’ official information and meeting practices, resources and systems. I have jurisdiction to investigate ‘*any decision or recommendation made or any act done or omitted*’² by a local authority.³ One way I do this is by undertaking targeted investigations and publishing reports of my findings. I am committed to improving the operation of the LGOIMA to ensure the purposes of this important constitutional measure are realised.

Local councils in New Zealand face a challenging task: meeting high expectations of public accountability and participation, while delivering services in an efficient and effective way, as well as keeping rates as low as possible. Local democracy is built on the premise that the closer decision makers are to the population they serve, the more the people can, and should, participate directly in decisions that affect their daily lives. This is an important task for councils to get right.

Trust is at the core of the relationship between the people and their locally elected representatives. One way local government can earn trust is through transparent decision making that is open to public involvement and scrutiny. Transparency supports accountability, encourages high performance and increases public confidence. People may not always agree with council’s decisions but a transparent process allows them to understand a council’s reasoning, and can mitigate any suspicions of impropriety in the decision making process. Even a perception of secrecy can be damaging, as secrecy breeds suspicion.

A 2023 report by the Organisation for Economic Co-operation and Development (OECD) titled *Drivers of Trust in Public Institutions in New Zealand* found that only 45 percent of

¹ Link to [section 4](#) LGOIMA

² Pursuant to section 13(1) and 13(3) of the Ombudsmen Act 1975.

³ ‘Local authority’ in the context of this investigation refers to all city, district and regional councils referred to in Part 3 of Schedule 1 of the Ombudsmen Act 1975.

New Zealanders surveyed reported having trust in local government councillors.⁴ This is significantly lower than reported trust in the public service at 56 percent. Councils' conduct around meetings and workshops are likely to be factors that contribute to the level of public trust in elected officials.

I initiated this investigation on 2 August 2022 to test concerns that councils were using workshops and other informal meetings to make decisions.⁵ As outlined in my chapter on [Workshops](#), final decisions and resolutions cannot lawfully be made outside the context of a properly constituted council meeting. If councils were making decisions of this nature in workshops, it would be an avoidance of their responsibilities under the LGOIMA. I also examined councils' practices around excluding the public from meetings that are regulated by the LGOIMA.

The scope of my investigation was to investigate eight councils'⁶ actions and decisions in relation to both council meetings⁷ held under the LGOIMA; and workshops (or informal meetings) to which LGOIMA meeting provisions do not apply.⁸ In particular, I explored whether councils met their obligations under Part 7 of the LGOIMA in relation to council meetings, and good administrative practice in relation to workshops, briefings and informal meetings. The timeframe of matters considered in my investigation was from the electoral term beginning 12 October 2019 until 30 June 2023.

In order to investigate workshops, it was important to clearly understand what a 'meeting' is in accordance with the LGOIMA, and whether or not 'workshops' (or other informal meetings) should in fact be treated as 'meetings' under that Act.

The LGOIMA states that any meeting of a local authority, at which no resolutions or decisions are made, is not a 'meeting' for the purposes of the Act. During the course of my investigation, it became apparent that there is a lack of clarity around the definition of a 'decision'. As discussed in [Relevant Legislation](#), the historical context of the drafting of section 45(2) of the LGOIMA indicates that legislators thought it was not necessary or appropriate to require deliberative meetings (such as workshops) to be notified to the public. When actual and effective decisions or resolutions are made, the meetings must be notified.

I saw no evidence in my investigation that actual and effective decisions were made in workshops, but I saw some workshop practices that are counter to the principles of openness

⁴ [OECD report](#) *Drivers of Trust in Public Institutions in New Zealand*, published in February 2023.

⁵ Link to meeting and workshop practice investigation [announcement](#).

⁶ My investigation considered practices from a mix of different sized councils, both urban and rural, across a variety of geographical locations. I notified eight councils across the country that I would be investigating their meeting and workshop practices: Rotorua Lakes Council, Taranaki Regional Council, Taupō District Council, Palmerston North City Council, Rangitikei District Council, Waimakariri District Council, Timaru District Council and Clutha District Council.

⁷ For the purpose of this investigation 'meeting' has the meaning given to it in section 45(1) of the LGOIMA.

⁸ Any organised or scheduled meeting attended by council staff and elected members which falls outside of the definition of a 'meeting' in section 45(1) of the LGOIMA.

and could contribute to a public perception that workshops are not being used in the right way.

This investigation has highlighted to me the important role that workshops play in the decision making process for councils. Provided an actual and effective decision is not made, deliberative discussion may take place in a workshop. Workshops can be an efficient use of time, in order to convey information which may be voluminous and complex to elected members, and for elected members to give council officials advice to focus their efforts on the range of tenable options. This prevents time and energy being wasted on options that aren't realistic.

However, this is not to say that all workshops should take place behind closed doors or without adequate record keeping. The principles of openness and good administrative practice apply to workshops as much as any other aspect of council business. It is crucial that these are adhered to in order to maintain public trust and avoid perceptions that councils are operating in secret. In this report, I provide guidance on what those principles are, to ensure each council's practices are consistent with good record keeping and the requirement under the Local Government Act 2002 (LGA) to *'conduct its business in an open, transparent, and democratically accountable manner'*.⁹

I expect all councils to make sure their policies and practices meet my expectations of good workshop practice. Crucially, this includes opening workshops to the public by default; closing them only where good reason exists. I acknowledge concerns raised by some councils about what they consider to be a 'growing trend' of people with strong views and/or activist groups applying undue pressure to elected members and staff. At least one elected member said they had been threatened by a member of the public. I understand there is an escalating environment of misinformation and elected members should not have to endure unreasonable or harassing behaviour. However, they should be resilient enough to withstand reasonable public scrutiny. Ensuring the public has access to accurate information should provide an antidote to misinformation. Local government will need to look at how to respond to these challenges, perhaps by leveraging new technologies, in ways that advance open government principles.

Workshops are not the only forum in which the public may perceive councils to be conducting business behind closed doors. My investigation also looked at a variety of practices around council meetings, which are required to be open under the LGOIMA. In particular, I looked at councils' practices around public excluded portions of meetings, as well as the records kept of council meetings. I am pleased that the majority of councils I investigated now live stream council meetings, which greatly aids transparency.

Conducting a great deal of council business behind closed doors, whether through workshops or public excluded meetings, can have a damaging effect on how open the community perceives a council to be. The appropriate use of meeting provisions and workshops is at the heart of openness and transparency. As set out in the purposes of the LGOIMA and LGA, it is crucial that councils conduct their business in an open and transparent manner so the public

⁹ Link to [section 14](#) LGA

can see democracy in action, and participate in democratic processes. Local authorities in New Zealand should be open for business.

Peter Boshier
Chief Ombudsman
October 2023

Summary: what councils should do now

Leadership and culture

- Induction training for staff and elected members must highlight the distinction between the operational and governance arms of local councils.
- Senior leaders should communicate clear and regular messages to all staff, signalling the council's commitment to conducting business in a manner that is open, transparent, and promotes accountability and public participation.
- Councils should have clear and visible public statements about their commitment to conducting business in a manner that is open, transparent, and facilitates accountability and public participation.
- Ensure pathways exist for council staff to make suggestions about meeting and workshop practices.
- Consider including a link to information about meetings and workshops prominently on the website landing page.
- Consider surveying constituents to establish the type of information about meetings and workshops they want to see on the website.

Meetings

- Review ease of access for meeting agendas, papers, and minutes on council websites (with a clear navigation path from the home page and minimal 'clicks' required).
- Make sure agendas and papers are posted on council websites with as much advance notice as possible before the meeting date.
- Review practice and internal guidance for the writing of public exclusion resolutions, ensuring:
 - the form includes all elements of the Schedule 2A form;
 - exclusion grounds are clearly identified, and section 7(2)(f)(i) is not relied on to exclude the public from meetings; and
 - the reasons for applying the named exclusion ground to the content of the agenda item are clearly set out in plain English along with how the decision to exclude the public has been balanced against public interest considerations.
- Review practice and internal guidance for the keeping of meeting minutes, ensuring that minutes reliably contain a clear audit trail of the full decision making process, including any relevant debate and consideration of options, and how individual elected members voted.
- Formalise a process for reconsidering the release of public excluded content at a time when the basis for withholding it may no longer apply.

Workshops

- Adopt a principle of openness by default for all workshops (and briefings, forums etc.), including a commitment to record a clear basis for closure where justified, on a case-by-case basis.
- Make sure the time, dates, venues, and subject matter, of all workshops are publicised in advance, along with rationale for closing them where applicable.
- Review practice and internal guidance for keeping records of workshop proceedings, ensuring they contribute to a clear audit trail of the workshop, including details of information presented, relevant debate, and consideration of options. Councils may wish to consider consulting with Archives NZ to determine good practice in this respect.
- Publish workshop records on the council's website as soon as practicable after the event.
- Formalise a process for considering release of information from closed workshops.
- Consider adding the message that members of the public are able to make a complaint to me about the administration of workshops on a relevant section of a council's website.

Accessibility

- All councils should aim to live stream council meetings and/or audio visually record meetings and publish the recording on their website.
- Consider live streaming and/or audio visually recording workshops.
- Consider making meeting dates and times more visible to the public.
- Ensure full agendas, including reports, supporting materials, and meeting minutes are in a searchable format for screen readers.
- Undertake an accessibility audit to identify any barriers to inclusion and on completion of the audit, put in place a schedule of work to remedy any access issues or barriers to full inclusion of a wide range of people.

Organisation structure, staffing and capability

- Ensure sufficient staff have training in governance functions so that institutional knowledge does not rest with only a small number of staff, and processes for fulfilling these functions are written down and easily accessible.
- Explore ways of using existing networks in local government to bolster resilience in critical areas of meeting and workshop practice.
- Review the general training and guidance provided to staff, and consider approaching my office for assistance in improving those resources or in assisting with direct training of relevant staff.

Terminology

- When I use the term ‘council’ this primarily relates to the operational arm of the organisation, unless the context suggests otherwise. When I am referring to the governance function, I use the term ‘elected members’.
- I undertook online surveys of staff, elected members and the public. These are referred to as my ‘staff surveys’, ‘elected member surveys’ and ‘public surveys’.
- I and my staff spoke with council officials and elected members to gain their views and experiences of council meetings and workshops. I refer to those who participated in these conversations as ‘staff meeting attendees’ or ‘elected member meeting attendees’.

Legislation referred to in this report:

- [Local Government Act 2002](#) (LGA)
- [Local Government Official Information and Meetings Act 1987](#) (LGOIMA)
- [Ombudsmen Act 1975](#) (OA)
- [Public Records Act 2005](#) (PRA)
- [Legislation Act 2019](#)
- [Official Information Act 1982](#) (OIA)

Legislative context

The purposes of the LGOIMA are to increase the availability of information held by local authorities and to promote the open and public transaction of business at meetings. This ensures people can:

- effectively participate in the actions and decisions of local authorities;
- hold local authority members and their officials to account for any decisions; and
- understand why decisions were made, which will enhance respect for the law and promote good local government in New Zealand.

The LGOIMA also protects official information and the deliberations of local authorities from disclosure but only to the extent consistent with the public interest and the need to protect personal privacy. The principle and purposes of the LGOIMA are set out in full in [Appendix 1](#).

A reference point for understanding how local government should operate in New Zealand is the Local Government Act 2002 (LGA), and in particular, the sections that set out the purpose (section 10) and principles (section 14) of local government as a whole. The most pertinent principle states that in performing its role, a local authority should conduct its business in an open, transparent and democratically accountable manner. These provisions of the LGA are also set out in [Appendix 1](#).

In light of the statutory obligations that openness, transparency, and public participation are foundational principles for local government practice - as required by both the LGOIMA and the LGA - it is not surprising that Part 7 of the LGOIMA (which regulates council meetings where decisions or resolutions are made) is quite prescriptive. Part 7 sets out what is required before, during, and after, any council meeting. I have described what part 7 of the LGOIMA stipulates in [My expectations](#) of council meetings.

The definition of a 'meeting' in section 45 of the LGOIMA is fundamental to understanding the scope of the requirements. Section 45(2) provides:

- (2) *For the avoidance of doubt, it is hereby declared that any meeting of a local authority or of any committee or subcommittee of a local authority, at which no resolutions or decisions are made is not a meeting for the purposes of this Part.*

The breadth of the exclusion in section 45(2) was determined as the result of discussion and debate that followed the commencement of the LGOIMA in 1988 and added by the Local Government Official Information and Meetings Amendment Act 1991 (1991 No 54). The legislative history of Part 7 of the LGOIMA, and this subsequent amendment, sheds helpful light on what Parliament intended to include in its coverage. The legislative history of key terms is included in [Appendix 2](#).

In my view, the legislative history illustrates that policy makers thought it was not necessary or appropriate to *require* deliberative meetings (such as workshops) to be 'notified' and held in public because:

- it is not possible or desirable to stop elected members from 'caucusing' in private (that is, discussing matters among themselves where no council staff are present);
- anything that is discussed at deliberative meetings (such as workshops) is official information (therefore the public has a right to request it);
- councils have a discretion to notify and hold deliberative meetings in public; and
- actual and effective decisions always have to be made at notified public meetings as required by the LGOIMA.

Viewed in this context, and in the context of a general expectation of openness, Part 7 of the LGOIMA with its very prescriptive rules for meetings can be seen as having a deliberately narrow application. The LGOIMA only requires meetings with these prescriptive rules where '*actual and effective decisions or resolutions are made*'.

The Ombudsmen Act 1975 (OA) allows me to review any act or omission by a local authority, except a decision made by full council.¹⁰ This allows me to examine and comment on how councils are administering meetings as defined in the LGOIMA, as well as workshops and briefings that are not regulated by the LGOIMA, either in response to a complaint or using my powers under the OA to initiate my own investigation.¹¹

¹⁰ Link to [section 13\(1\)](#) of the OA

¹¹ Link to [section 13\(3\)](#) of the OA

As established in the above section on the LGOIMA's legislative history, councils have the discretion to notify and hold all non-decision making meetings (such as workshops) in public if they choose. I can examine the exercise (or non-exercise) of this discretion.

In examining the ways councils conduct meetings that fall outside of Part 7 of the LGOIMA, I can draw on:

- the LGA, which requires a local authority to '*conduct its business in an open, transparent, and democratically accountable manner*'. This obligation complements the requirements in the LGOIMA to conduct decision making meetings in public; and
- the requirement that anything taking place or provided to any meeting is official information and can be requested unless there is good reason to withhold.

This provides a basis for me to adopt the following principles of good administrative practice that should guide council meetings that fall outside of Part 7 of the LGOIMA:

- Councils have a general discretion to advertise and undertake all meetings in public, and this is consistent with the principle in the LGA that councils should conduct their business in an open, transparent, and democratically accountable manner.
- A general policy of not publicising/closing all non-decision making meetings, such as workshops, may be unreasonable and/or contrary to law. The Ombudsman can assess this on a case-by-case basis.
- Using closed workshops to do 'everything but' make a final decision could be seen as undermining the principles in the LGA and purposes of the LGOIMA, and may be unreasonable in terms of the OA.

Leadership and culture

My expectations

Achieving the principle and purposes of the LGOIMA depends significantly on the culture of a council, and the attitudes and actions of its senior leaders. Elected members, chief executives, and senior managers, should take the lead in developing an environment that promotes openness and transparency within the organisation, with external stakeholders, and importantly, with their constituents. This environment should champion positive engagement with those who want to know and understand the work a council is doing.

Councils' senior leaders must role model open and transparent behaviour by ensuring that council practices and processes around conducting meetings and workshops are transparent, and promote accountability. They should also demonstrate clear knowledge and support for their obligations set out in the LGOIMA. Council chief executives must make clear, regular statements to staff and stakeholders in support of the principle and purposes of official information legislation, and remind staff about their obligations. Consistent, clear messaging and behaviours communicate a real expectation that councils are committed to openness and transparency.

My conclusions

Interactions between councils' operational and governance arms

The word 'council' is sometimes used as a catch-all that encompasses the operational arm of the organisation as well as the governance provided by elected members. However, the distinction between the operational and governance functions should not be forgotten. Senior leaders, staff, and elected members, must carefully tread this line in their interactions.

Elected members have a reasonable requirement to be aware of operational issues, but there should be a clear delineation between operations and governance. Elected members should not cross the line into directing or influencing operations. A commonality in the investigated councils that were perceived as open, by staff and the public, were respectful relationships between the operational and governance arms of the organisation. Staff and elected members must have a clear understanding of the responsibilities and limits of their, and each others' roles. Councils should ensure these lines are clearly drawn in their induction training for elected members and for council staff.

Internal perceptions of openness

I surveyed the staff of the eight councils under investigation in order to gather their perspectives of the agencies' overall commitment to a strong culture of openness and public participation in meetings and workshops. The results were encouraging. Across the eight councils, an average of 81 percent of staff survey respondents perceived their council to be

strongly or moderately pro-openness and public participation in meetings and workshops, as shown in the table below:¹²

What is your impression of your council's overall commitment to a strong culture of openness and public participation, in meetings and workshops?

	Strongly or moderately pro-openness and public participation	'It is silent on the issue' or 'I don't know'	Strongly or moderately anti-openness and public participation
Highest percentage at an individual council	97%	15%	17%
Lowest percentage at an individual council	68%	3%	0%
Average across eight councils	81%	11%	8%

It is important for senior leaders to communicate clear and regular messages to all staff, signalling the councils' commitment to conducting business in a manner that is open, transparent, and facilitates accountability and public participation. Senior leaders can actively promote a culture of openness in their regular communications via, for example:

- statements published on intranet pages;
- as standing items in internal meetings; and
- in high-level statements including written guidance.

Promoting an open culture through a variety of methods may help ensure that the message is received by all staff.

In councils that appeared to have a strong culture of openness, staff expressed that the Chief Executive played a key role in establishing and building that culture:

The understanding about openness and transparency has been driven by our CE [Chief Executive]...When the CE is leading that culture, it filters down to [our] leadership team and onwards to elected members.

The Chief Executive has no qualms regarding communicating issues to all staff however difficult they might be.

I think we've got a very exceptional CE and [their] views filter down to [their] immediate staff as well.

...the current CEO is more open and transparent than I have ever seen...

...new CE is all about getting ideas from everyone in the council.

¹² Percentages are rounded to the nearest whole number.

While messaging is important, senior leaders must follow their words with action. Failing to do so risks undermining their own messages. For example, senior leaders should ensure there is sufficient capacity and capability to execute governance functions, which I discuss further in [Organisation structure, staffing and capability](#). They should also ensure their council has robust practices and policies in place around meetings and workshops which facilitate and emphasise openness. I will speak about this in more detail in the [Meetings](#) and [Workshops](#) sections.

It is important that councils establish mechanisms for staff to give feedback and suggestions to senior leaders about council practices. It is staff who give effect to councils' policies and practices, so they can help make sure these are fit-for-purpose. Councils that are open to staff feedback also appear to have an open and transparent culture.

Public perceptions of openness

The public's perception of a council's openness is heavily influenced by how easy people find it to participate in elected members' decision making; and by how easy it is to find records of the key proceedings related to those decisions. More generally, the public's experience of navigating council websites to find information relevant to them, and the helpfulness of a council's overall messaging about accessibility and openness, are also key to this perception.

All of the councils under investigation gave assurances that workshops were not used to make decisions. All of the council staff and elected members spoken to during the course of my investigation were very clear that decisions could only be made in meetings held under Part 7 of the LGOIMA. However, the public's perception of council decision making processes do not appear to always align with councils' own confidence in the integrity of their processes. Many respondents to my public survey expressed concern about the reasons used to exclude the public from meetings, and about some councils' practices around workshops:

Not enough debate. It all seems to have been decided beforehand. Too much 'public excluded' with very little explanation.

Seems a level of predetermination occurs [in workshops].

...there seems to be a disproportionate number of public excluded meetings—behind closed doors.

I understand the need for information sharing and discussion, but I feel workshops often take it beyond that and reduce the ability for the public to have input on issues until it's too late.

These views were expressed, to varying degrees, about all of the councils under investigation. It is understandable that the public is sceptical when their elected members meet behind closed doors, particularly where the reasons for closing the meeting or workshop are not made sufficiently clear, and little or no information about what took place in a closed meeting or a closed workshop is made available after the fact. This inevitably breeds suspicion.

While councils may have confidence in the integrity of their processes, I urge them to understand it is in the public interest not only that decisions are made appropriately but *they*

must be seen to be made appropriately. Councils must ensure that their processes leave no room for perceptions to develop that decisions are being made in workshops, or that workshops are being used to ‘debate out’ issues to the extent that a decision has been made in all but name, and just need to be ‘rubber stamped’ in the council meeting. Does this mean that all workshops and meetings must be open without exception? No. There will be occasions where there is good reason to close meetings, parts of meetings¹³, or workshops. Where this is the case, councils must be scrupulous in:

- ensuring that the occurrence of closed workshops are made public (i.e. even if a workshop is closed, the public should still be aware it is happening. If the public is unaware of a workshop, they will be unable to request, under the LGOIMA, information about it);
- publishing their reasons for closing the meeting or workshop;¹⁴
- keeping adequate records of the content of closed meetings and workshops; and
- releasing information about workshops and closed meetings where possible.

I will speak more about [meeting](#) and [workshop](#) practices in their respective chapters below.

Website content

I consider the content of a council’s website to be one indicator of their culture. Councils must ensure they deliver clear and consistent messaging to the public about their commitment to openness and transparency. A visible and explicit statement should exist on councils’ websites affirming this commitment in its work.

Information about meetings

The majority of respondents to my public survey said they found it difficult to access information about meetings on council websites. One respondent said:

Information is not easily accessible as there is no ‘tab’ on the front page for the meetings, you actually have to put ‘meeting’ in the search bar to get direction to it.

This accords with my assessment of council websites. Of the eight councils under investigation, only three had a visible link to ‘meetings’ on the landing pages, and none of these were displayed very prominently. On the websites of the other five councils, information about meetings was one mouse click away from their landing pages under the very broad heading ‘Council’ or ‘Your council’ which, according to my survey, users do not appear to find intuitive:

¹³ Section 48 of the LGOIMA recognises this.

¹⁴ Except where explaining the harm might, itself create a prejudice to the protected interest.

How easy or difficult is it to navigate the Council's website to find information about the Council's Meetings?

	'Somewhat' or 'very' easy	Neither easy nor difficult	'Somewhat' or 'very' difficult	I don't know
Highest percentage at an individual council	27%	42%	60%	11%
Lowest percentage at an individual council	0%	7%	43%	0%
Average across the eight councils under investigation	19%	22%	53%	6%

I consider it is good practice for councils to clearly signpost information about meetings on their landing pages.

My survey also asked respondents what additional information, if any, they would like to see councils publish about meetings on their websites. There were a range of answers, with some of the common themes from respondents being:

- meeting agendas should be published more than two days in advance;¹⁵
- more information about why meetings or parts of meetings, were closed;
- more details in minutes, such as which elected members voted for and against resolutions; and
- easy-to-read summaries of key information and updates on key projects.

Councils may find it useful to do their own surveys of constituents and website users about the type of information about decision making and council proceedings the public would like to find on their websites.

Councils are required under Part 7 of the LGOIMA to notify the public of the occurrence of meetings,¹⁶ and to make available meeting minutes¹⁷ and agendas.¹⁸ When the LGOIMA passed into law in 1987, councils would publicly notify meetings through advertising in newspapers, and meeting minutes and agendas would be available at councils' public offices. Nowadays, councils advertise meetings on their websites as well as in local newspapers, and minutes and agendas are often made available on councils' websites.

¹⁵ Section 46A(1) of the LGOIMA states that the public may inspect within a period of *at least* two working days before every meeting, all agendas and associated reports circulated to members of the local authority and relating to that meeting.

¹⁶ Link to [section 46](#) of the LGOIMA

¹⁷ Link to [section 51](#) of the LGOIMA

¹⁸ Link to [section 46A](#) of the LGOIMA

I asked public survey respondents how easy or difficult it was to find information about when meetings occurred; and how easy or difficult they found it to access meeting minutes and agendas. Their responses are in the table below:

How easy or difficult is it to find information about when meetings occurred, and accessing meeting minutes and agendas?

How easy or difficult is it to:	'Somewhat' or 'very' easy	Neither easy nor difficult	'Somewhat' or 'very' difficult	I don't know
Find out when a public meeting of the council is being held	27%	22%	47%	4%
Obtain a copy of the meeting agenda prior to a public meeting of the council	18%	15%	52%	15%
Obtain a copy of the meeting minutes following a public meeting of the council	17%	15%	50%	17%

Councils can do more to make the occurrence of meetings visible to the public, and to increase access to minutes and agendas. As noted above, website users may find it easier to find information about meetings if prominently displayed on the landing page of councils' websites. Councils may also wish to consider how they can use social media platforms to promote awareness of meetings and workshops.

What councils should do now

- Induction training for staff and elected members must highlight the distinction between the operational and governance arms of local councils.
- Senior leaders should communicate clear and regular messages to all staff, signalling the council's commitment to conducting business in a manner that is open, transparent, and promotes accountability and public participation.
- Councils should have clear and visible public statements about their commitment to conducting business in a manner that is open, transparent, and facilitates accountability and public participation.
- Ensure pathways exist for council staff to make suggestions about meeting and workshop practices.
- Consider including a link to information about meetings and workshops prominently on the council's website landing page.
- Consider surveying constituents to establish the type of information about meetings and workshops they want to see on the council's website.

A range of additional suggestions specific to meetings, workshops, and accessibility improvements, are included in the following sections. I believe implementing these will improve the public experience and perception of council engagement and openness.

Meetings

My expectations

As outlined in [Appendix 1: Relevant legislation](#), Part 7 of the LGOIMA sets out a number of specific requirements for council meetings to meet the Act's overarching purpose to '*promote the open and public transaction of business at meetings of local authorities*'.¹⁹ The Working Group on Official Information in Local Government²⁰ specifically considered that a standalone Act applying the principles of the Official Information Act 1982 to local authorities was the most appropriate legislative course of action. Importantly, the new Act was designed to incorporate meetings to supersede the Public Bodies Meetings Act 1962.

The key requirements of Part 7 are:

- every local authority must publicly notify all 'meetings' that are scheduled to take place each month, but failing to do so does not invalidate any meeting;²¹
- agendas and reports are publicly available at least two days in advance;²²
- meetings are open to the public, unless there is good reason for excluding them;²³ and
- minutes of a meeting must be made accessible to members of the public.²⁴

Meeting minutes should represent a full and accurate record of the content of local authority meetings. Minutes should not just record the final decision taken by elected members, but details of any debate or discussion preceding and informing the decision. In addition to aligning with principles of openness and accountability, recording the content of discussion and debate is a safeguard against any perception that decisions have been taken prior to the meeting, and are merely being 'rubber stamped' in the meeting setting. Though it is not a legislative requirement, I consider it is good administrative practice, and in the interests of accountability, to record the names of elected members who voted 'for' and 'against' resolutions and motions.

Where good reason exists to exclude the public from a meeting, this must be effected by way of a resolution.²⁵ This may apply to the whole or a relevant part of a meeting. A resolution to exclude the public is a decision made by full council (elected members), with their decision typically being informed by advice given by council staff. In considering how councils administer meetings, I do not have jurisdiction to consider decisions taken by full councils

¹⁹ Link to [section 4\(a\)](#) of the LGOIMA

²⁰ Report of the Working Group on Official Information in Local Government, June 1986: a report to the Minister of Local Government and the Minister of Justice by the Working Group on Official Information in Local Government.

²¹ Link to [section 46](#) of the LGOIMA

²² Link to [section 46A](#) of the LGOIMA

²³ Link to [section 48](#) of the LGOIMA

²⁴ Link to [section 51](#) of the LGOIMA

²⁵ Link to [section 48](#) of the LGOIMA

(committees of the whole).²⁶ However, in relation to decisions by full councils, I can review the reasonableness of any advice provided by officials or employees (on which the decisions were based).

Section 48 of the LGOIMA states that a local authority may exclude the public from meetings where good reason exists under sections 6 or 7 of the LGOIMA, though it specifically excludes section 7(2)(f)(i).²⁷ That is, a council cannot close a meeting to the public to have a 'free and frank' discussion. This is because local authority meetings are precisely where elected members are expected to hold their free and frank discussion and debate in full view of the public.

Councils considering the application of a clause or clauses of section 7(2) of the LGOIMA to exclude the public from a meeting, must also consider the extent of any public interest in the release of the information (the matters to be discussed). For example, there will always be a public interest in meetings being open to the public to promote accountability, transparency, and public participation. If it is considered that the public interests favouring release in a particular case outweigh the identified need to withhold the information, then the clause(s) in section 7(2) of the LGOIMA cannot be relied on as good reason to exclude the public.

This weighing of competing interests is known as 'the public interest test'.²⁸ I expect that where the advice of council staff is for elected members to hear an item in a public excluded meeting, this advice should include the officials' assessment of public interest considerations in hearing the item in an open session. Council staff should also document how they formulated their advice. In making their decision, elected members should weigh these competing interests, and record their considerations, as well as their final decision. Public interest considerations can be recorded by councils in the Schedule 2A form discussed below, and I consider it would be beneficial to adopt this practice.

A resolution to exclude the public must be put forward at a time when the meeting is open to the public.²⁹ In other words, elected members must make the decision to go into a public excluded part of a meeting in front of the public. The meeting is then closed in accordance with standing orders. The resolution to exclude the public must be made in the form set out in Schedule 2A of the LGOIMA³⁰, and must include:³¹

- the general subject of any matters to be considered while the public is excluded;
- the reasons for passing a resolution (with reference to the particular provision relied on);
- and

²⁶ Link to [section 13\(1\)](#) of the OA

²⁷ Link to [section 7\(2\)\(f\)\(i\)](#) of the LGOIMA. This section allows for information to be withheld where it is necessary to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to members or officers or employees of any local authority.

²⁸ Link to Ombudsman guide [Public interest: A guide to the public interest test](#).

²⁹ Link to [section 48\(4\)](#) of the LGOIMA

³⁰ Link to [Schedule 2A](#) of the LGOIMA

³¹ Link to [section 48\(3\)](#) of the LGOIMA

- the actual ground in section 48(1) relied on.

The general subject of matters to be considered should be detailed enough to give the public a clear sense of the matter being discussed, in the interest of being as open as possible about the work a council is conducting. I expect the reason for passing a resolution should contain specific details about the harm the agency is trying to avoid, rather than simply reciting the clause from section 6 or section 7(2) as it is written in the LGOIMA. Councils can allow for specified people to remain while the public is excluded if they have knowledge that would assist. In that case, the resolution must state the particular knowledge they possess, and how it is relevant to the matter under consideration.

The public can request information heard in the public excluded part of a meeting under the LGOIMA. I expect that council guidance makes clear that if a LGOIMA request is made for information heard in a public excluded meeting, such a request must be considered on its individual merits and based on the circumstances at the time of the request; it may not be refused under the LGOIMA merely on the basis the information was earlier heard in a public excluded meeting.

It is also good practice to ensure there is a process for re-visiting public excluded parts of meetings to determine if any of the information heard in a public excluded part of a meeting can subsequently be released, when the reasons for withholding the information no longer apply.

Finally, I expect that councils will organise their structure and resources so they meet their legal obligations under Part 7 of the LGOIMA and good administrative practice generally, in a way that is fit for purpose considering their particular size and responsibilities.

My conclusions

To aid clarity, I have organised my conclusions by the different phases of a meeting: pre-meeting; during the meeting; and post-meeting. For each phase, there are mandatory requirements prescribed by the legislation and there are also good practice elements (where non-compliance is not in breach of the law but may be the subject of adverse comment or opinion by an Ombudsman as part of an investigation). I have covered both elements in my commentary for each phase, with footnotes identifying the relevant statutory provision for each mandatory element.

Pre-meeting

All meetings (gatherings at which elected members make decisions on behalf of their community) must be publicly notified in accordance with section 46 of LGOIMA, and all agendas and papers must be available to any member of the public at least two working days before the date of that meeting.

As outlined in [Information about meetings](#), when the LGOIMA passed into law in 1987, councils would publicly notify meetings through advertising in newspapers, as that is what the LGOIMA specifically requires. However, now councils advertise meetings on their websites as well as in

local newspapers and website prominence is likely to be the most effective way of reaching the greatest number of constituents.

Although I did not identify any particular issues with the publication of agendas at the councils I investigated, a number of public survey respondents wanted agendas and associated reports published on a council's website as early as possible, with the statutory minimum of two working days prior to the meeting sometimes allowing insufficient time to prepare (particularly in cases where the associated material for the meeting is lengthy). Comments from my survey of members of the public included:

The agendas are published only two days prior to a meeting and often contain a lot of material. They should provide the agendas much earlier so that the material provided can be digested properly before a meeting. Only the most determined can do so.

One of the main problems is that meeting agendas are published really late, with never sufficient time for the public to review the content and to think about potential submissions or deliberations. The agendas are often over 100 pages long, often with highly technical information, that is difficult to navigate and understand. There is seldom time to review the agenda and associated materials properly let alone seek technical advice before the meetings.

Although the LGOIMA states agendas are to be published within a period of least two working days before every meeting, this should not be the goal. I encourage councils to release documents with enough time to allow ample preparation for meeting participants (which will benefit both attendees from the public as well as elected members themselves).

During the meeting: excluding the public

The practice of excluding members of the public from any part of a council meeting is an exception to the usual presumption of openness emphasised by both the LGOIMA and the LGA. The stipulations in the LGOIMA are reasonably detailed and exacting.

A primary requirement is that public exclusion may only be made by way of formal resolution of elected members at the meeting itself. It is important that elected members take this responsibility seriously and carefully consider the advice of council officials. The resolution must:

- Be put at time when the meeting is open to the public, with the text of the resolution being available to anyone present.³²
- Be in the form set out in Schedule 2A of the LGOIMA.³³
- Only exclude on one of the grounds set out in section 48(1).³⁴

³² Link to [section 48\(4\)](#) of the LGOIMA

³³ Link to [section 48\(3\)](#) of the LGOIMA

³⁴ Link to [section 48\(1\)\(a\)](#) of the LGOIMA

- State reasons for the resolution, including the interests it is protecting in the case of section 6 or 7 withholding grounds.³⁵
- Where exceptions to the exclusion are made for particular individuals, the resolution must detail their relevant expertise to the topic for discussion.³⁶

To gain an understanding of councils' use of reasons to exclude the public from meetings, my investigators reviewed a number of examples of resolutions to exclude the public. The reviews found that three of the eight councils investigated had excluded the public from some meetings citing section 7(2)(f)(i) (free and frank expression of opinions) as the reason. However, section 48(7)(a)(1) of the LGOIMA specifically states that section 7(2)(f)(i) cannot be used as a good reason to exclude the public from meetings.

I wrote to those councils to raise my concerns as soon as I identified this practice. Each council advised me that they had ceased the practice of using 'free and frank' to exclude the public from meetings, and put systems in place to prevent this error from happening again. For instance, one council said it had tightened its practices in relation to reviewing the reasons to exclude the public from meetings. Another council said it had corrected its workflow system (InfoCouncil) to align with the requirements of the LGOIMA. The third council provided additional training and support to its governance team, as well as updating its agenda template.

While I was pleased with these actions, I am concerned that unchecked errors were allowed to occur and potentially embed into councils' practices. I urge all councils to make sure this is not occurring at any of their meetings. Most councils cited eligible withholding grounds in their exclusion resolutions, but lacked records about how those grounds were applied to the specific topic for discussion (described in more detail below). This makes it difficult to scrutinise the quality of the advice on which the resolution was based.

My surveys of the public and of elected members showed a sharp disparity in their perceptions of the clarity, robustness, and appropriateness, of the reasons for public exclusion.

***What is your experience/view of the council's use of public excluded meetings?*³⁷**

	The reasons for excluding the public are always clear, robust and in line with the LGOIMA	The reasons for excluding the public are always clear, but are not always in line with the LGOIMA	The reasons for excluding the public are often unclear, or do not align with the LGOIMA	I don't know/Other
Elected member survey responses	80%	10%	5%	5%

³⁵ Link to [section 48\(3\)\(b\) and \(c\)](#) of the LGOIMA

³⁶ Link to [section 48\(6\)](#) of the LGOIMA

³⁷ Respondents to my survey of the public were asked for their *view* of the council's use of public excluded meetings; elected members were asked about their *experience*.

	The reasons for excluding the public are always clear, robust and in line with the LGOIMA	The reasons for excluding the public are always clear, but are not always in line with the LGOIMA	The reasons for excluding the public are often unclear, or do not align with the LGOIMA	I don't know/Other
Public survey respondents	7%	6%	62%	25%

As shown in table above, 80 percent of elected member respondents considered the reasons for exclusion to be clear, robust and appropriate, whereas 62 percent of public respondents were of the opposite opinion.

It seems elected members generally consider they are excluding the public in a robust and principled way. However, it appears that councils are not communicating the reasons for these decisions to those they are excluding in a way that is clear to them. This is best addressed by ensuring that public exclusion resolutions are documented properly and a clear rationale for exclusion is easily accessible—and I deal with this next.

Record keeping: public exclusion resolutions

Of the eight councils I investigated, four were using the form in Schedule 2A of the LGOIMA for exclusion resolutions, while the other four were using their own templates.

While the LGOIMA states that the Schedule 2A form should be used, the Legislation Act 2019 allows minor variations to forms prescribed by legislation,³⁸ and I consider that the content of the form is more important than the layout. I take no issue with councils using a template form of their own design, providing that it contains the same prompts to enter information as detailed in the Schedule 2A form:

- a prompt to include the general subject matter for each item;
- a prompt to enter the grounds under section 48 for excluding the public;
- a prompt to enter the plain English reason for excluding the public; and
- wording around allowing specific people to remain, if they have knowledge that would assist the agency, while the public is excluded.

Whatever form a council uses, it needs to meet these minimum requirements and the form should clearly identify the specific exclusion ground, and also explain in plain English how the council has applied that ground to the meeting content under consideration.

I do not consider it good practice to cite a section number under the 'Ground' field and simply quote the text of that section in the 'Reason' field. Instead, both the section number and its text should appear under 'Ground'. The 'Reason' field should be used to explain, in plain English and in reasonable detail, the reason(s) for excluding the public (that is, how the

³⁸ Link to [section 52](#) of the Legislation Act 2019

LGOIMA ground applies to the information held or created) and weighing this against any countervailing public interest arguments for non-exclusion.

This should not be too difficult. By excluding the public by means of a section 7 ground, a council is obliged to both determine specifically how the ground applies to the agenda item, and how it has balanced the public interest in the information being shared against the need to withhold it. While ultimately, the public interest balancing question should be assessed by the body conducting the meeting (essentially, the elected members), it is reasonable to expect that their decision is informed by advice from council officials that includes public interest considerations. The details of the ultimate decision should be included in the meeting minutes, with the preceding advice from council staff also included in a council's records.

A smooth process relies on councils having clear and consistent guidance for staff about the records they should create and maintain for public exclusion decisions. This includes documenting the rationale for advice to elected members on public excluded meetings. The guidance should outline the requirement to apply the public interest test, and should include the following:

- that the public interest factors must be weighed when relying on section 7(2) of the LGOIMA to hear an item in a public excluded meeting; and
- factors that affect the public interest in favour of opening a meeting, such as:
 - the policy or decision-making process involved and the stage it has reached;
 - the ability of the public to be informed, influence that process or decision and/or hold the officials involved to account;
 - the level of public interest or debate;
 - the level of any disquiet, speculation or controversy;
 - the extent of information in the public domain;
 - the significance of the issue to the public or the operations of the council; and
 - the amount of public money involved.

When updating guidance, councils may wish to refer to my guide titled '*Public interest: a guide to the public interest test*'.³⁹

My investigation revealed significant variation in the way councils fill out the Schedule 2A form, and few would meet my expectations of good practice. Not one gave an actual, plain English reason for excluding the public from a meeting, rather, most are simply clipping wording from the legislation or using a vague term such as 'commercial sensitivity' as full rationale for public exclusion, with no attempt to apply the exclusion ground to the facts of the affected agenda item.

The opportunity to use the Schedule 2A form to record information about the public interest considerations is also going unrealised. When the evidence of thoughtful application of exclusion rationale is so starkly absent from the resolution itself, the public may well wonder how robust the determinations were. Addressing these deficiencies must be a priority if councils are to improve public trust in the process.

³⁹ Link to Ombudsman guide [Public interest: A guide to the public interest test](#).

Record keeping: minutes

Ombudsmen have consistently supported a full audit trail for advice that contributes to decisions made by an agency. This also ensures council practices are consistent with sections 17(1) and 17(2) of the Public Records Act 2005 (PRA)⁴⁰ which respectively, require councils to:

- create and maintain full and accurate records of affairs in accordance with normal, prudent business practice; and
- maintain records in an accessible form to enable use for subsequent reference.

In addition to complying with the relevant legislation, sound record keeping discipline in meetings will also benefit councils by promoting transparency and openness, and improving business practices in general. Keeping good meeting records:

- helps ensure transparency of council decision making by providing a complete and clear record of reasoning;
- provides a reference for councils in the event of issues around decision making processes that may arise internally or externally;
- provides an opportunity to create a repository of knowledge about how councils make decisions, and so develop a consistent approach.

My review of the meeting minutes of the councils I investigated showed that some included very little detail about any discussion, debate, or questioning, that may have taken place. I do not expect that a verbatim transcript is taken at a meeting but simply recording the final decision taken by elected members is plainly inadequate.

Local Government New Zealand (LGNZ)'s guidance for minute taking⁴¹ includes the following pointers for good practice:

- *minutes should be a clear audit trail of decision making;*
- *less is best;*
- *someone not in attendance will be able to understand what was decided; and*
- *anyone reading in 20 years' time will understand them.*

I agree with this guidance, with two important comments:

1. A '*clear audit trail of decision making*' is more than simply recording the decision itself. It entails clearly documenting the path by which the decision was made, including how options were considered and how the decision ensued from the deliberation.
2. '*Less is best*' should be interpreted as a prompt to maintain clarity and succinctness, rather than sacrificing elements of the decision making audit trail.

Minutes should record both the final decision and key details of any debate or discussion preceding and informing the decision. In addition to aligning with the principles of openness and accountability, recording the content of discussion and debate is a safeguard against any perception that decisions were made prior to the meeting, and are merely being 'rubber stamped' in the meeting setting. Though it is not a legislative requirement, as outlined earlier, I

⁴⁰ Link to [sections 17\(1\) and 17\(2\)](#) of the Public Records Act 2005

⁴¹ Link to [The guide to LGNZ standing orders](#), Ko Tātou LGNZ, 2022, p 35.

consider it good practice, in the interest of accountability, to record the names of elected members who voted 'for' and 'against' resolutions and motions.

Councils' internal guidance and training material should also include clear instructions for staff to record advice and decision making processes around public excluded meetings. This includes taking notes of relevant internal meetings and documenting any verbal conversations held in relation to council decisions on public excluded meetings. These, and other relevant records (such as emails), should be documented in a manner that makes them easily accessible.

Any review and update of guidance material should also be accompanied by training and messaging to staff about the importance of comprehensive record keeping to comply with the law and promote the transparency of council's practices and accountability to the public.

Post-meeting

Making minutes publicly accessible

All the councils within my investigation published meeting minutes on their websites. I reiterate that I expect that meeting minutes should also comprise a full and accurate record of the meeting. As noted under [Leadership and culture](#), a number of public survey respondents consider that the minutes are not always easy to find. This may be addressed, as I noted, by making information about meetings more prominent on council websites.

Revisiting public excluded material for release

A powerful way to increase the public's trust in Councils and to improve transparency is to establish a consistent practice of reconsidering public excluded information for release at a point when the reason for withholding information no longer applies. Mutual trust between the public and their representatives will likely improve if the public knows why the information was protected. This way the public can see that a council is making efforts to be as open as possible.

I appreciate this may not be at the top of mind for council staff as they juggle the multiple demands of busy meetings schedules. However, I consider it integral to sound practice, and should not be unduly burdensome when integrated into a well-designed process.

Practice in this area was mixed among the councils I reviewed, with most examples of post-meeting review of information being ad hoc rather than consistent. However, I was encouraged that most of the eight councils have either begun scheduling later reviews for public excluded information, or have agreed to consider adding this step to their standard meeting processes.

What councils should do now

- Review how easy it is for the public to access meeting agendas, papers, and minutes on council websites (this should include a clear navigation path from the home page and minimal 'clicks' to reach it).

- Make sure agendas and papers are posted on council websites with as much advance notice as possible before the meeting date and certainly no later than the minimum requirement of two working days.
- Review practice and internal guidance for the writing of public exclusion resolutions, ensuring:
 - the form includes all elements of the Schedule 2A form;
 - exclusion grounds are clearly identified, and section 7(2)(f)(i) is not relied on to exclude the public from meetings; and
 - the reasons for applying the named exclusion ground to the content of the agenda item are clearly set out in plain English along with how it has been balanced against public interest considerations.
- Review practice and internal guidance for the keeping of meeting minutes, ensuring that minutes reliably contain a clear audit trail of the full decision making process, including any relevant debate and consideration of options, and how individual elected members voted.
- Formalise a process for reconsidering the release of public excluded content at a time when the basis for withholding it may no longer apply.

Workshops

My expectations

The LGOIMA does not define or regulate workshops (or other informal meetings),⁴² but *The Guide to LGNZ Standing Orders* states that workshops are best described as ‘*informal briefing sessions where elected members get the chance to discuss issues outside of the formalities of kaunihera meeting*’.⁴³ It is common for councils to conduct workshops about complex or technical issues on which elected members will later be required to debate and make decisions.

The purpose of workshops should be to prepare elected members with the appropriate background and knowledge to make robust decisions for their communities, and to allow interrogation, discussion and deliberation among and between elected members and council staff. As outlined in the earlier section [Legislative context](#), workshops are part of the educative and deliberative phases of councils’ decision making process. However, final decisions and resolutions cannot lawfully be made outside the context of a properly constituted meeting.

Because workshops cannot lawfully be used to make actual and effective decisions, and are not conducted under the LGOIMA, the legal requirements in the LGOIMA that relate to council meetings—such as requirements to notify the public, to take minutes, and to exclude the public only under certain defined circumstances—do not apply to council workshops. Nonetheless, councils have a general discretion to advertise and undertake workshops that fall outside of Part 7 of the LGOIMA, in public. While it may be reasonable to close a workshop in a particular case, I consider that a general policy of not advertising workshops or having all workshops closed to the public, is likely to be unreasonable. It is my expectation and a requirement of the LGA, that ‘...a local authority should conduct its business in an open, transparent and democratically accountable manner...’⁴⁴

As a matter of good practice, workshops should be closed only where that is reasonable. What might be considered reasonable is a truly open category depending on each individual case, and may include situations where the reasons for withholding information under sections 6 and 7(2) of the LGOIMA might apply, as well as other situations. What is reasonable in a particular case will vary, however the decision to close a workshop should be made on the individual merits of each workshop, rather than being based on a blanket rule.

Even where it is reasonable to close a workshop, I encourage councils to be mindful of the public perception of secrecy this may create, and mitigate this risk through ensuring the public has access to sufficient and timely information about the purpose and content of workshops. The legislative history of the LGOIMA makes it clear that full and accurate records of

⁴² For the purpose of this investigation, ‘workshops, briefings and informal meetings’ mean any organised or scheduled meeting attended by Council staff and elected members which fall outside the definition of ‘meeting’ in section 45(1) of the LGOIMA.

⁴³ Link to [The guide to LGNZ standing orders](#), Ko Tātou LGNZ, 2022

⁴⁴ Link to [section 14](#) of the LGA

workshops are expected to be kept. Consistent with the guiding principle and purposes of the LGOIMA, the public can request this information under Part 2 of that Act. It is also a requirement of the PRA (see [Appendix 1](#) and [Appendix 2](#)).⁴⁵ Keeping full and accurate records of workshops is a safeguard against the perception that decisions are being made outside a local authority meeting; and, being able to request access to this information allows members of the public to meaningfully engage with the work of councils.

Information arising from workshops can be requested under the LGOIMA although, ideally, councils would proactively release information generated in workshops.⁴⁶ Creating records of workshops is good administrative practice, and it promotes a council's accountability and transparency. Councils should adopt a standard approach to recording information about workshops/forums and ensure this is embedded in its guidance on record keeping for workshops.

All workshop attendees should be aware that workshops cannot be used for making an actual and effective 'decision', and take care when discussion and deliberation in a workshop could carry elected members too far down a path toward a decision. For example, where council staff present a range of options to elected members in a workshop, and those options are narrowed down significantly, it could give the appearance of a 'decision' being made in the workshop in all but name. There may then be a perception that the corresponding decision made in the public council meeting is a 'rubber stamp' of earlier workshop discussions. In particular, using a closed workshop to do 'everything but' make a decision could be seen as undermining the principles of the LGOIMA and the LGA, which I may view as unreasonable.

As Chief Ombudsman, I can review the reasonableness of any act or omission by a local authority under the OA.⁴⁷ This includes whether it is reasonable for a council to advise or decide to not advertise or close workshops, or using closed workshops to do 'everything but' make a final decision.⁴⁸ I expect councils to make it clear to the public that they can complain to me about workshops.

Some councils draw a distinction between 'workshops' and 'briefings' with the former being open to the public and the latter; closed. Other councils may refer to the same type of informal briefing session between elected members and staff using different terminology entirely, such as a 'forum' or 'hui'. Irrespective of the title(s) a council chooses to give informal briefing sessions, the same requirements to conduct business in a transparent and accountable manner, and to keep full and accurate records, apply to all.

⁴⁵ Link to [section 17\(1\)](#) of the PRA

⁴⁶ Even if no record is made at the time, information held in an official's memory as to what transpired at a workshop can also be requested under the LGOIMA, and it is preferable to have a contemporaneous account of what happened.

⁴⁷ Link to [section 13](#) of the OA

⁴⁸ This refers to council staff, not a decision of full council.

My conclusions

Terminology around workshops

The terminology used for workshops is an area that can cause confusion. Many councils define workshops in their standing orders based on a template developed by LGNZ, which defines workshops as follows:

Workshop in the context of these Standing Orders, means a gathering of elected members for the purpose of considering matters of importance to the local authority at which no decisions are made and to which these Standing Orders will not apply, unless required by the local authority. Workshops may include non-elected members. Workshops may also be described as briefings.⁴⁹

One council organised what it termed ‘non decision making meetings’ regularly and used the terminology of ‘briefing’ or ‘workshop’ to differentiate whether a specific topic for discussion within the meeting would be open to the public (workshops) or closed to the public (briefings). This distinction between ‘workshops’ and ‘briefings’ is one that is also adopted by LGNZ in its guidance for standing orders and is widely used by councils throughout New Zealand.

In addition to ‘workshops’ and ‘briefings’, a number of other terms have been adopted by councils at different times for non-decision making meetings. One council that held all its workshops in private was aware of the negative public perception that had developed around the use of the term ‘workshops’. To address this, the council changed its terminology to ‘forums’, rather than amending the actual practice of closing workshops to the public. While councils are able to use their own terminology, creating different terms for what is essentially the same thing—a meeting of elected members and staff to progress council business, at which no decision making occurs—risks distraction and confusion. The guidelines for good practice in this report apply to any workshop, briefing, forum, hui, wānanga, or whatever else a council calls the gatherings of elected members and council officials used to transact council business.

Councils’ use of workshops

All councils that were part of my investigation used workshops to some degree. A number of staff and elected member meeting attendees commented that workshops were a key part of the decision making process for elected members and used for ‘direction setting’. Workshops are used by elected members to discuss policy options put forward by staff in order to eventually make a decision in a local authority meeting. This includes adding, removing or amending options, and ensuring elected members have the information needed to make an informed decision on a topic. Workshops may also involve elected members giving feedback to

⁴⁹ Nearly all councils have incorporated into their standing orders this definition, or the following variation: *Workshops, however described, provide opportunities for members to discuss particular matters, receive briefings and provide guidance for officials. Workshops are not meetings and cannot be used to either make decisions or come to agreements that are then confirmed without the opportunity for meaningful debate at a formal meeting.*

staff where they might require further information to support their consideration of a particular option.

A chief executive I spoke with during my investigation said there were different stages to get to a final decision in a formal council meeting. If there was a complex, contentious decision to be made, it will need *'pre-work and pre-thinking'* with multiple layers of workshops and consultations in order to reach the final decision. Staff will not be writing the final decision report for the formal council meeting *'all in one go'* because it takes time, and revisions will be made as it develops. Multiple workshops may be held on a topic in order to explore the options, with the most realistic and reasonable ones being included in the report which goes to the full council meeting for a final decision.

Some councils appeared to give their view on *'direction setting'* with a show of hands and indicated that there was *'some degree of straw polling'* in order to narrow options down. Examples of comments from my surveys of both staff and elected members include:

...workshops have been a valuable avenue to get a fuller understanding of issues and ask the dumb question if needed. Differences of opinion may occur and be discussed/debated but full deliberation and decision making is made at the full Council meeting.

...[workshops] can be used as a gauge for staff to structure formal advice to Councillors for decision-making at the Committee phase. Workshops are critical.

Workshops provide staff with the opportunity to spend more time with elected members to improve their understanding on a topic. Often formal meetings don't have the time allocated for this to occur. They are also a good way to build trust and rapport between staff and councillors, and allows for open and honest feedback in a less formal setting than a meeting.

Councillors over a period of months or years will have a myriad of matters that require at the very least a working knowledge of the issue under consideration. ...workshops serve a meaningful part of the process where Councillors can better understand the issues and this will lead to stronger debate and better decisions.

Provided an *'actual and effective decision'* is not made, I consider this type of deliberative process may appropriately take place in a workshop. However, a perception is likely to grow that the council is not operating transparently, if the following occurs:

- workshops are regularly conducted behind closed doors;
- the fact that they are occurring, and the rationale for closing the workshop, is kept out of public awareness;
- full and accurate records are not kept or are withheld from the community without explicit and robust rationale.

I also caution against workshops including a significant component of determination, such as a substantial narrowing of options prior to public consultation. At several councils I investigated, a range of options would occasionally be narrowed down at workshops so staff would not waste time and resources pursuing options that the elected members were not willing to

consider. A meeting attendee said there was ‘*some degree of straw polling*’ in order to narrow down the options for decision, typically to four or five options. The risk is that such straw polling may be perceived by the public as decision making. Good records of workshops and making the records available to the public would go some way to alleviating this perception.

Councils should be mindful of the public perceptions that may develop where council business is conducted behind closed doors. Even when the reasons for conducting a closed workshop are entirely legitimate, secrecy inevitably breeds suspicion. While it may not be the reality that the council is wrongfully keeping information from the public, even the perception of such may result in reduced public trust and diminished public participation in council processes. Councils can reduce this risk by opening workshops to the public where possible and by publishing information from workshops, as I will discuss further below.

Open by default

I was pleased that the majority of councils open workshops, or had begun to open their workshops from the start of the 2022 electoral term.

My view is that the principle of ‘open by default’ should be followed for all meetings and workshops.⁵⁰ I understand there may be occasion to close, either partially or fully, a particular workshop. However, councils should start from a position of openness, and then consider specific reasons why any proceedings may need to be closed and whether those reasons are compelling.

The principle of ‘open by default’ is also supported by *The Guide to LGNZ Standing Orders*:⁵¹

Please note, when deciding to hold a workshop or briefing the first question that should be considered is whether there is a convincing reason for excluding the public. The default position should be to allow public access.

I accept that, in some cases, there may be a need to protect some of the information presented in such a workshop where good reason exists. In such a case, I expect that councils would endeavour to present material in such a way that the public could have access to as much information as possible. This might be achieved through providing the protected information (such as names/costings) to elected members in advance and ensuring this information doesn’t enter the discussion held in public.

Some of the councils I investigated advised me that they needed to hold closed workshops to provide training/background to elected members on complex issues—the intent being to ensure elected members are equipped to make a robust decision on the matter at hand. I absolutely support the use of workshops to educate elected members and to facilitate better decision making. However, it seems evident to me that, where there is benefit to elected

⁵⁰ The ‘open by default’ principle is also consistent with section 4 of LGOIMA ‘to promote the open and public transaction of business at meetings of local authorities’.

⁵¹ Link to [The guide to LGNZ standing orders](#), Ko Tātou LGNZ, 2022, p 41

members to understand an issue in order to make a decision, it is equally beneficial to allow the public access to the same information so they can better understand the eventual decision.

Another reason put forward by councils for closing workshops was to provide elected members a 'safe space' to ask 'silly questions' out of the public eye. I do not accept this argument. Councillors are elected to public office, a position that demands accountability. They should be prepared for a level of scrutiny and even reasonable criticism from those they represent. The questions and concerns councillors have are no doubt shared by many of their constituents. It may be valuable for the answers to these 'silly questions' to be heard by the public.

This is not to say that no good reasons exist to close workshops, only that I do not consider controversy, complexity, or the potential for embarrassment, to be good reasons in themselves. Difficult or contentious issues are often the very ones that warrant the greatest level of transparency. The determination to close a workshop should always be made on the basis of what best serves the public interest, and the rationale for that determination should be as open as possible.

Publicising upcoming workshops

It is important that details (time, dates, venue, and subject matter) of open workshops are publicised in advance so that members of the public can attend, and for transparency about the business the council is conducting. As a matter of good practice, councils should maintain awareness of community groups with a particular interest in topics for upcoming workshops and consider contacting them directly to encourage their attendance and contribution. This is in keeping with the principles of inclusiveness included in the LGA.

It is equally important that *closed* workshops and their subject matter are publicised, along with a suitably detailed reason for closing them. This maintains transparency and allows for members of the public to request under the LGOIMA information about the closed workshop, while also clearly identifying and safeguarding against harms to council deliberations that legitimately need to be conducted in confidence.

I saw very little evidence of consistently sound practice about publicising the timing and subject matter of closed workshops, along with the rationale for closing them. For instance, at least one council advised me that they held 'open workshops' yet they did not tell the public they were happening. It is difficult to imagine how a council could consider a workshop to be 'held in public' when the public doesn't know about it. I am encouraged that several of the councils under investigation are now advising the public about closed workshops, their topics, and the reason they are being held in a closed session.

Records of workshops

Many councils did not keep records of workshops. Councils would commonly explain that this was because decisions are not made in workshops and records were not required. This is not only incorrect, but counter to the principles of openness and public participation in the LGOIMA and the LGA, respectively; and may constitute a breach of the PRA. It does not matter if no decisions are made, it is good administrative practice to keep a record. How can the

public, the Ombudsman or even the council *itself* look back at how council business was undertaken without having record of the information elected members were given and the discussions that resulted?

The baseline is the requirement under the PRA to ‘*create and maintain full and accurate records in accordance with normal, prudent business practice*’. LGNZ’s standing orders guide suggests:⁵²

A written record of the workshop should be kept and include:

- *time, date, location, and duration of workshop*
- *people present, and*
- *general subject matter covered.*

My view is that the detail in the first and third of these bullets should be publicised before the workshop even occurs as explained in the previous section. The record made during the workshop should include all these elements, plus details of the discussion that contribute to a clear, concise and complete audit trail.

I expect each council to adopt a standard approach to ensuring that full and accurate records are created and maintained for workshops. It is important to note that this process does not have to be as detailed as taking meeting minutes. Nor is there an expectation of a verbatim transcript of workshops. However, councils must make sure a full and accurate record is kept which should encompass not just the information presented to elected members but any substantive, deliberative discussion or debate around that material. Councils should make records publicly accessible as soon as practicable after the workshop. Where the workshop was not open to the public, councils should implement a system for revisiting those records and releasing information when and if the reason for presenting and discussing material out of public view, no longer applies.

What councils should do now

- Adopt a principle of openness by default for all workshops (and briefings, forums etc), including a commitment to record a clear basis for closure where justified, on a case-by-case basis.
- Make sure the time, dates, venues, and subject matter, of all workshops are publicised in advance, along with rationale for closing them where applicable.
- Review practice and internal guidance for the keeping of records of workshop proceedings, ensuring they contribute to a clear audit trail of the workshop (including details of information presented, relevant debate and consideration of options). Councils may wish to consider consulting with Archives NZ to determine good practice in this respect.
- Publish workshop records on the council’s website as soon as practicable after the event.

⁵² Link to [The guide to LGNZ standing orders](#), Ko Tātou LGNZ, 2022, p 41.

- Formalise a process for considering release of information from closed workshops.
- Consider adding a message on a relevant section of council websites stating that members of the public are able to make a complaint to me in relation to the administration of workshops.

Accessibility

Accessibility of meetings and workshops is not guaranteed by unlocking the doors, issuing invitations, and publishing the records. If some members of the public are unable to get to the door, if they cannot access the record as published, then they are excluded as surely as if they were physically barred. Universal design in access to public spaces, and publication mechanisms built to maximise reach to all, are essential if a public body is to be truly representative and inclusive of all.

My expectations

The United Nations Convention on the Rights of Persons with Disabilities (Disability Convention) is an international human rights agreement that New Zealand signed up to in 2007.⁵³ The purpose of the Disability Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities. As Chief Ombudsman, I have a role as an Independent Monitoring Mechanism partner, under the United Nations Convention on the Rights of Persons with Disabilities.

Councils should take all practicable steps to remove barriers to full participation in their processes. Public meetings and workshops should be made as accessible as possible to the public, keeping in mind those people with disabilities as well those with other challenges to attending meetings. This might include living a long distance from where meetings take place or being unable to attend because of the time the meeting is held.

Ideally, all councils would livestream and audio visually record their meetings, and publish the recording after the meeting. Keeping a record in this way benefits the community by making the meetings accessible to those who are not able to attend in-person. Another benefit of livestreaming is that it provides an accurate record of the public portion of the meeting is immediately available.

My conclusions

I am pleased the majority of councils investigated are now livestreaming meetings, and those that are not have committed to live streaming or considering it in the near future. Live streaming, audio visual recording meetings, and publishing the records, can increase the transparency of meetings to the public.

Councils should also consider audio visually recording workshops and either making the recordings publicly available or letting the public know they can be requested. As discussed in [Workshops](#), the public may perceive decisions are being made behind closed doors if workshops are not open to the public. If councils take the additional measure of live streaming or audio visually recording workshops (and publishing the recording), transparency and public participation in local government will likely improve.

⁵³ Link to the [United Nations Convention on the Rights of Persons with Disabilities \(Disability Convention\)](#)

There are other ways councils can make meetings more accessible. For instance, meeting agendas, associated reports and minutes should be published in a searchable format, rather than 'image only' (such as scanned PDF or JPEG). Image only formats are not accessible for blind and low vision individuals using screen readers, or those with learning disabilities using read aloud applications. It also limits the ability to search documents using keywords. Ideally searchable PDF documents will also be accompanied by accessible Microsoft Word versions and the public advised that they can ask for other accessible formats if required.

Meetings and workshops should be advertised widely and on as many mediums as possible to reach a diverse range of people. Some councils advertise meetings on their website, on social media, and in their local newspapers. As discussed in [Leadership and culture](#), councils should make sure that the links to meetings are in a prominent place on their websites' home pages. I have suggested a number of councils consider additional ways of making meeting dates and times more visible to the public.

I was pleased that there was a range of other accessibility measures in place. For instance, one council's website utilises ReadSpeaker, a text-to-speech aid which allows text to be read aloud. Another council uses NZ Relay, which is a telecommunications service for people who are deaf. The majority of council chambers are wheelchair accessible, although one public survey respondent said that one council appeared to be physically difficult to access. Disabled people have the right to take part in all aspects of community life, on an equal basis with others. Public meetings, and all public spaces, need to be accessible. To ensure appropriate accessibility and public participation, I suggested the council undertake an accessibility audit by a suitable provider to identify barriers to inclusion.

Ultimately, making spaces such as meetings and workshops accessible, and welcoming to as many people as possible means that a diverse group of people are able to participate as fully as possible in council business. Ideally, this will encourage diverse voices to participate in local government, which should lead to a council that is more representative of the community as a whole.

What councils should do now

- All councils should aim to live stream council meetings and/or audio visually record meetings and publish the recording on their website.
- Consider live streaming and/or audio visually recording workshops.
- Consider making meeting dates and times more visible to the public.
- Ensure full agendas, including reports, supporting materials, and meeting minutes, are in a searchable format for screen readers.
- Undertake an accessibility audit to identify any barriers to inclusion and on completion of the audit, put in place a schedule of work to remedy any access issues or barriers to full inclusion of a wide range of people.

Organisation structure, staffing and capability

I am aware that it will take some effort to fully meet expectations of good administrative practice for meetings and workshops, and that councils are juggling competing demands with limited resources. I recognise that an important way to meet and sustain the reasonable standard I expect is through the building of organisational capacity, capability and resilience, which is especially challenging for small councils. Nonetheless, organisational stewardship that fosters long-term strength and institutional integrity is fundamental to any democratic institution of whatever size.

My expectations

I expect councils to organise their structure and resources to meet their legal obligations under Part 7 of the LGOIMA in a way that is relevant to their particular size and responsibilities. I also expect councils to make sure there is sufficient awareness of the LGOIMA and meeting administration across the organisation, and to provide coverage for key staff when they are away or if a staff member leaves.

I expect the LGOIMA function to be appropriately resourced, with roles and responsibilities clearly defined, and with resilience arrangements in place. This ensures staff are able to draw on specialist expertise when required. Sufficient resilience could involve building the skill set of a group of senior staff, combined with regular training, good resources and guidance material.

My conclusions

I identified organisational resilience as an issue in some of the councils I investigated. Business continuity and legislative adherence may be at risk during periods where councils are overwhelmed with work or when experienced staff members leave or are temporarily absent. There was a correlation between the size of the council and organisational resilience. I was not surprised to find that the smaller councils had less governance staff and weaker resilience measures.

Each of the councils identified as having issues in this area employed under 200 staff members and either did not have a team responsible for the administration of meetings and workshops, or had a very small team. They each had one or two staff members with specialist knowledge of the LGOIMA and provided advice to the chief executive regarding meetings or workshops. There is a risk that when those staff members are away or leave a council, especially if their departure is unexpected, their institutional knowledge is lost. This effect is amplified in a small council where the absence or departure of just one staff member can have a disproportionately large impact.

I also identified specialist knowledge as an issue, particularly for smaller councils. Two of the three small councils only had one key staff member providing advice to the chief executive about items to be heard in the public excluded portion of meetings. I am concerned that where there is only one subject matter expert at the senior leadership level this will not provide

adequate flexibility to allow a council to respond to short term shocks. If the COVID-19 pandemic has demonstrated anything, it is the importance of preparation.

Regular training and accurate guidance should ensure staff know enough about the legislation to make correct decisions, and not simply rely on what others have done before them, or on using standard templates. I acknowledge that templates are useful for consistency of practice. However, it is important that templates are supported by guidance and training, especially for those who do not have specialist or legal knowledge; and that templates are updated to reflect changes in practice or legislation.

I identified a number of councils as having good organisational resilience. The LGOIMA function was appropriately resourced in these councils and they were able to draw on specialist expertise when required. A number had dedicated governance and democracy teams that were responsible for administering council meetings and taking minutes.

One council in particular demonstrated that bolstering its governance team could lead to increased transparency by making improvements to practices such as releasing documents heard in the public excluded portion of meetings. The council underwent a significant internal culture shift, which included increasing the number of staff in its Governance and Democracy team and legal oversight. A number of staff survey respondents and staff meeting attendees said the strengthening of this team led to improvements in transparency.

I acknowledge that a lack of organisational resilience is a common issue among smaller councils, and it takes resources to establish formal training and guidance. I encourage councils to consider taking advantage of the expertise and existing resources of other councils within its networks, and outside of them, in order to share and develop good meeting and workshop practices. Bolstering specialist expertise and organisational resilience, including through training and resources such as guidance and process documents, will provide an extra layer of protection.

One staff meeting attendee from a smaller council said that if they have a 'curly' issue, they talk to one of their network contacts in another council. They said their surrounding councils meet up to four times a year to discuss issues and work collaboratively. The meeting attendee said the council works hard to strengthen networks. I am pleased that some of the smaller councils are taking advantage of the resources available to them and working in a collaborative way. I encourage other councils to share resources and reach out to networks if their organisational resilience or specialist knowledge is lacking.

Councils should ensure there is sufficient resilience in their structure to respond to contingencies such as staff absences or departures. Organisational risk can be reduced by investing in regular LGOIMA training and resources such as guidance, policies, and process documents, to assist them to carry out their responsibilities, particularly if a key staff member is away. I encourage councils to ensure that regular training is delivered to staff and elected members on these topics. Some staff and elected members may be proficient in these areas but I urge councils to train staff and not rely on individuals' knowledge and past experience alone. Good training and guidance provide staff with additional tools to utilise when they encounter a complex or unique problem in relation to meetings and workshops.

What councils should do now

- Ensure sufficient staff have training in governance functions so that institutional knowledge does not rest with only a small number of staff, and processes for fulfilling these functions are written down and easily accessible.
- Explore ways of using existing networks in local government to bolster resilience in critical areas of meeting and workshop practice.
- Review the general training and guidance provided to staff, and consider approaching the Ombudsman for assistance in improving those resources or in assisting with direct training of relevant staff.

Appendix 1. Relevant legislation

The LGOIMA sets out the principle and its overall purposes as follows:

4 Purposes

The purposes of this Act are—

- (a) *to increase progressively the availability to the public of official information held by local authorities, and to promote the open and public transaction of business at meetings of local authorities, in order—*
 - (i) *to enable more effective participation by the public in the actions and decisions of local authorities; and*
 - (ii) *to promote the accountability of local authority members and officials,—*

and thereby to enhance respect for the law and to promote good local government in New Zealand:...

5 Principle of availability

The question whether any official information is to be made available, where that question arises under this Act, shall be determined, except where this Act otherwise expressly requires, in accordance with the purposes of this Act and the principle that the information shall be made available unless there is good reason for withholding it.

Section 10 and 14 of the Local Government Act 2002:

10 Purpose of local government

- (1) *The purpose of local government is—*
 - (a) *to enable democratic local decision-making and action by, and on behalf of, communities; and...*

14 Principles relating to local authorities

- (1) *In performing its role, a local authority must act in accordance with the following principles:*
 - (a) *a local authority should—*
 - (i) *conduct its business in an open, transparent, and democratically accountable manner; and*
 - (b) *a local authority should make itself aware of, and should have regard to, the views of all of its communities; and*

- (c) *when making a decision, a local authority should take account of—*
 - (i) *the diversity of the community, and the community's interests, within its district or region; and*
 - (ii) *the interests of future as well as current communities; and*
 - (iii) *the likely impact of any decision on each aspect of well-being referred to in section 10:*
- (d) *a local authority should provide opportunities for Māori to contribute to its decision-making processes:*
- (e) *a local authority should actively seek to collaborate and co-operate with other local authorities and bodies to improve the effectiveness and efficiency with which it achieves its identified priorities and desired outcomes;*
- ...
- (2) *If any of these principles, or any aspects of well-being referred to in section 10, are in conflict in any particular case, the local authority should resolve the conflict in accordance with the principle in subsection (1)(a)(i).*

The Public Records Act 2005 sets out a fundamental obligation of all public sector organisations in section 17:

17 Requirement to create and maintain records

- (1) *Every public office and local authority must create and maintain full and accurate records of its affairs, in accordance with normal, prudent business practice, including the records of any matter that is contracted out to an independent contractor.*
- (2) *Every public office must maintain in an accessible form, so as to be able to be used for subsequent reference, all public records that are in its control, until their disposal is authorised by or under this Act or required by or under another Act...*

Appendix 2. Legislative history of key terms

Part 7 of the LGOIMA has its origins in the Public Bodies Meetings Act 1962.⁵⁴ In 1986, officials recommended to Ministers that this Act be incorporated into a new piece of legislation to deal with access to local authority information and meetings, and this became the LGOIMA.⁵⁵

Accordingly, in the Local Government Official Information and Meetings Bill⁵⁶ as introduced, the definition of ‘meeting’ largely mirrored the wording from the 1962 Act:⁵⁷

‘Meeting’, in relation to any local authority, includes any annual, biennial, triennial, ordinary, special, or emergency meeting of that local authority, and also includes any meeting of the representatives of 2 or more local authorities, and any meeting of a committee or a subcommittee of a local authority other than a special committee or subcommittee without power to act:

This definition was carried into the LGOIMA as enacted in 1987.

The Hansard debates discussing the Bill, as reported back from Select Committee, contains a useful statement from the Minister for Local Government, at Second Reading:⁵⁸

The intent of clause 44 is that all council meetings, and any council committee meetings which have a decision making role, will be covered by Part VII. The meetings of the full council, and the meetings of a council committee that has decision making powers, will be open to the public unless that council or the council committee determines to go into closed session.

This supports the view that, at the time, the intent was:

- All full council meetings be notified and open, *whether or not a decision was being made at the meeting* [emphasis added].
- The meetings of any committees of the full council only have to be notified and open where the committee is exercising a power of decision.

However, not long after the LGOIMA came into force, proposals to amend the definition of ‘meeting’ were considered by officials and Ministers. Papers prepared by the Department of Internal Affairs and the legislative history help illustrate the intended scope of section 45(2). A paper for a ‘Local Government Consultative Group’ in April 1988 discussed problems being posed by ‘informal gatherings’ taking place in councils:

Since the Act came into force the Minister has correspondence received considering the activities of the local authorities in holding “informal gatherings” of all their

⁵⁴ Link to the [Public Bodies Meetings Act 1962](#).

⁵⁵ Report of the Working Group on Official Information in Local Government, June 1986: a report to the Minister of Local Government and the Minister of Justice / by the Working Group on Official Information in Local Government.

⁵⁶ Link to [Local Government Official Information and Meetings Bill](#).

⁵⁷ Clause 44

⁵⁸ Second Reading of Local Government Official Information and Meetings Bill, Hansard, page 10250, 7 July 1987.

Councillors, with officers present, to discuss council business (such as the estimates and relations with citizen/ratepayer groups) but with no formal agenda or minutes taken. The question was raised in correspondence whether this procedure is an attempt to circumvent the provisions of Part 7 of the Act.

The Mayor of Hamilton City Council wrote seeking the views of the Chief Ombudsman at the time who, in reply, noted:

There is a distinction between a 'meeting of a Council' and 'a meeting together of councillors', the latter not being in any way ...controlled or regulated provided no attempt is made to conduct Council business which is only authorised to be done at a properly constituted meeting of the Council or its subcommittees.

The Chief Ombudsman at the time went on to say that any information arising from an informal gathering, even though it may not be contained in any official document, is clearly official information and therefore subject to disclosure in terms of the legislation.

The Minister at the time went on to comment:

It is the view of the Minister that the conduct of 'informal gatherings' or caucusing within local authorities is legitimate and LGOIMA recognises this. However the potential does exist for local authorities to use 'informal gatherings' to reduce the level of open debate and in this way be deliberately secretive in its activities to an extent which is not in keeping with the spirit of the legislation. This is particularly of concern where the 'informal gathering' happens to consist of all of the elected members of a local authority with senior officers also present. While not wanting to affect the rights of elected members to caucus, it is felt that some action must be taken to clarify in the minds of elected members and the public, the difference between a meeting of the Council and a meeting of councillors.

In 1989, the Minister of Local Government, Hon Michael Bassett, established a 'Working Party on LGOIMA' in response to concerns that some local authorities were conducting business of direct concern to the public committee or closed sessions. The Working Party's final report stated:

... it may not be clear whether or not recommendatory and purely deliberative meetings are covered in the definition of the word 'meetings' in the Act.

The Working Party noted that some submissions held that meetings of working parties and similar groups which make recommendations to parent authorities and committee, and informal meetings of councillors, ought to be open to the public. Such groups could make decisions or recommendations that could be rubber stamped by local authorities. In such circumstances decisions could be made without issues being fully debated in public.

While it appreciated the above argument, the Working Party also recognised the truth of a comment contained in a British report [the Committee of Inquiry in to the Conduct of Local Authority Business]:

It is a simple reality, which no legislation can alter, that politicians will develop policy options in confidence before presenting the final choice for public decision. We do not think that is unreasonable. If the law prevents them from conducting such discussions in private in formal committees then they will conduct them less formally elsewhere ... It is unsatisfactory to force policy deliberation out of the formal committee system into groupings of indeterminate status. It is also unnecessary. No decisions can be taken by a local authority without it eventually being referred to a decision making committee or the Council, where there will be full public access to the meeting and documentation. Given this basic safeguard, we can see no benefit in applying the Act also to deliberative committees. We would not in any way wish to discourage individual local authorities from opening deliberative committees to the public and press if that is appropriate to their particular circumstances, but do not believe they should be required by law to do so.

The Working Party concluded that the availability of information arising from ‘working parties’, similar groups and informal meetings, coupled with the need for recommendations to be confirmed at a public meeting was sufficient protection of the public’s interest. In addition local authorities have discretion to open informal meetings to the public if they wish.

The Working Party was also concerned that it may not be clear under the present definition of ‘meeting’ whether or not recommendatory and purely deliberative meetings are covered by Part 7 ... The Working Party sought advice from the Department of Affairs. It was advised that the current legislation was unclear on this point. There is no legal convention or definition which makes it clear whether the discussion of a function is in fact part of the exercise or performance of that function.

The Working Group did not specifically recommend a change to the definition of ‘meeting’ in the LGOIMA, but its preference *not to include* deliberative meetings in scope of Part 7 is relatively clear from the excerpts above. It appears that the Department of Internal Affairs did recommend to the Minister that the definition of meetings should be amended to make it clear that ‘deliberative’ meetings are not covered by Part 7.

The Local Government Law Reform Bill 1991 (62-1)⁵⁹ that was then introduced, which contained a clause that inserted a new subclause into section 45 of the LGOIMA to ‘*make it clear that any meeting of a local authority that is solely deliberative in nature is not subject to Part VII of the principal Act.*’⁶⁰ The wording proposed was:

(2) For the avoidance of doubt, it is hereby declared that any meeting of a local authority that is solely deliberative in nature and is a meeting at which no resolutions or decisions are made is not a meeting for the purposes of this Part of this Act.

⁵⁹ Link to [Local Government Law Reform Bill 1991 \(62-1\)](#).

⁶⁰ From the Explanatory Note to the Bill.

This clause was amended at Select Committee to remove *‘that is solely deliberative in nature and is a meeting.’* The Departmental Report stated that *‘The words “solely deliberative” are unnecessary as meetings which do not make resolutions or decisions are “solely deliberative”’.*

There was limited debate in the House about this provision (it being one small aspect of a much larger set of local government reforms), but one comment from an opposition MP at second reading is consistent with the tenor of the policy discussions outlined above:⁶¹

We have seen in the Dominion as recently as 19 June 1991 that the [...] Council has come in for some criticism. No notification of a meeting was sent to the news media, but the council held a meeting. But was it a meeting? That is the real point. Council meetings are meetings at which decisions are made. To try to stop councils from getting together outside of the decision-making process to discuss ideas would be a very backward step.

On 1 October 1991 the change came into force.

Two pieces of correspondence from the then Minister (Hon Warren Cooper) expanded on the intention in enacting section 45(2):

*[section 45(2)] ... is not new, but rather a clarification of an existing provision. The previous definition of meeting was ambiguous and it was felt that it was unfair to expect councils to comply with the provision when they were not clear on what they were complying with. Meetings at which no resolutions or decision are made are not subject to the Act for two reasons. Firstly, it is inevitable that local authority members will sometimes initially discuss matters in private. It is better that they can do so at formal meetings which all members may attend than at private meetings to which some members may not be invited. Secondly, decisions cannot be made at such meetings. Any meeting which does require a resolution, even if that resolution is only recommendatory, is subject to Part 7 and must be publicly notified and open to the public. Local authorities therefore can only decide to hold meetings that do not comply with Part 7 of LGOIMA where they are certain, in advance of the meeting, that they will not be making decisions or recommendations.*⁶²

And:

*While local authorities are not required to publicly notify informal meetings it is at their discretion to do so and you might like to suggest to the Deputy Mayor that these meetings be publicly notified ... In any case, any information generated from informal meetings is official information under LGOIMA and may be requested under that Act.*⁶³

⁶¹ George Hawkins, Labour MP, Manurewa, Local Government Reform Bill, Second Reading, Hansard, 20 June 1991.

⁶² Undated letter to G Liddell.

⁶³ Letter dated 13 November 1991 to Secretary of the Te Atatu Residents and Ratepayers Association.



Open for Business: Council workshops and LGOIMA

Mike Wakefield and Judith Cheyne
13 December 2023



What we will cover

1. Background
2. The legislative framework
3. Ombudsmen's role
4. Key findings
5. The response
6. What does it mean moving forward?



Background

- Self-initiated investigation in August 2022
- **Purpose:** to test *concerns* that workshops / informal meetings were being used to make decisions
- Also examined council's practices re excluding the public from meetings
- 8 councils investigated – general meeting practices
- **Focus:** did they comply with part 7 of LGOIMA, and good administrative practice for informal meetings

Legislative Framework

“Meeting”

“any annual, biennial, triennial, ordinary, or extraordinary meeting of a local authority”

s45(1), LGOIMA

Part 7, LGOIMA applies

Not a meeting

“any meeting of a local authority or of any committee or subcommittee of a local authority, at which no resolutions or decisions are made is not a meeting for the purposes of this”

s45(2), LGOIMA

Part 7 does not apply

LGA purpose and principles

a local authority should—

conduct its business in an **open, transparent, and democratically accountable manner**; and

give effect to its identified priorities and desired outcomes in an **efficient and effective manner**:

s10, 14, LGA

Legislative Framework

Meetings to be conducted...

“in accordance with Part 7 of LGOIMA; and standing orders”

cl 19(3), Schedule 7

Minutes

“A local authority must keep minutes of its **proceedings**”

Cl 28(1), Schedule 7

Right to access Minutes

Any member of the public may, without payment of fee, at the local authority’s office and during normal office hours, inspect the minutes of any **meeting** or part of any **meeting** of the local authority

s51(1), LGOIMA

Ombudsman's role

- Ombudsman Act 1975, section 13:
 - broad powers to investigate - any decision, recommendation, act, or omission
 - either on a complaint or on own motion

Section 22, potential consequences:

- If decision / act “contrary to law, unreasonable, based on a mistake of law/fact, or wrong”
 - Can make recommendations – to reconsider, rectify, or even cancel or vary the decision, or alter practices.
-
- This investigation: No issues identified - good practice ‘expectations’ made

Before diving into the recommendations...

*“I saw **no evidence in my investigation that actual and effective decisions were made in workshops**, but I saw some workshop practices that are **counter to the principles of openness** and could contribute to a public perception that workshops are not being used in the right way”*

*“This investigation has highlighted to me the **important role that workshops play in the decision making process for councils**. **Provided an actual and effective decision is not made, deliberative discussion may take place in a workshop**”*

“However, this is not to say that all workshops should take place behind closed doors or without adequate record keeping”

Summary of key expectations

Leadership and culture

Clear communication to Council staff and public:
Council is committed to conducting business in an open, transparent manner that facilitates accountability and public participation.

Accessibility

Livestreaming of meetings and workshops - making information more visible.
Councils should undertake an “accessibility audit.”

Summary of key expectations

Organisation structure, staffing and capability

A focus on training for all staff on governance functions and processes

Meetings

Improve access to agendas, papers and minutes

Review guidance on PX resolutions.

Formalise processes for the release of PX content.

The response – a mixed bag

- **Taxpayers Union:**

“... a watershed moment. Councils have, for far too long, operated what can appear as 'shadowy' meetings, circumventing the very tenets of transparency. The public has a right to know how their hard-earned money is used and how pivotal decisions are shaped.”

- **Media:** endorse findings

- **Councils:** varied, some have changed practices, others are continuing with workshops, others consider they are compliant already

Council “meetings”	Ombudsman expectations Attachment 24-49.2
<p>Section 46(1), LGOIMA – Public notice of all meetings, including dates, times and location</p>	<p>Time, dates, venues and subject matter of all workshops to be publicised in advance</p>
<p>Section 46A – Meeting agendas to be available for public inspection at least 2 working days prior to every meeting</p>	<p>No equivalent finding, but implicit that there needs to be prior notice</p>
<p>Section 47 – Meetings to be open to the public, unless otherwise provided</p>	<p>Adopt principle of ‘openness by default’ for all workshops, ,briefings etc</p> <p>Commit to providing a clear basis for closure, where justified</p>
<p>Section 48 – Right to exclude public from meetings</p>	<p>Record clear basis for closure, on a case-by-case basis</p>
<p>Section 51 – Meeting minutes to be available for public inspection</p>	<p>Keep records, ensuring they contribute to a clear audit train – including details of information presented, relevant debate and consideration of options</p> <p>Publish ‘workshop records’ as soon as practicable after the workshop</p>
<p>Section 51(3) – Request for a copy of minutes, where public was excluded, deemed a request for access to official information</p>	<p>Formalise process for release of information from closed workshops</p>

What does it mean moving forward?

- A place for training, or at least review of practices, on issues raised by the Ombudsman
- Open by default, but still a place for closed workshops – general approach needs to be reviewed
- Be careful to not allow substantive deliberations, decision-making during informal meetings (but no evidence of that to date)
- Minutes and records – potential to review approach, but some expectations unrealistic
- In terms of legislative requirements, and exceeding legal requirements, is legislative amendment more appropriate
- Leadership and culture: some easy, low-cost solutions – adding to induction materials & employee codes of conduct, website changes, existing suggestions/ surveys?
- Accessibility – livestreaming, audit, etc: likely higher cost involved

A large, stylized green graphic consisting of two thick, curved lines that form a question mark shape. The lines are bright green and set against a dark green background. The word "Questions?" is centered within the negative space of the question mark.

Questions?



Mike Wakefield | Partner

+64 4 924 3598 | +64 22 355 1231

Mike.Wakefield@simpsongrierson.com



Judith Cheyne | Senior Associate

+64 3 968 4049 | +64 21 262 3631

Judith.Cheyne@simpsongrierson.com

Appendix 12: Workshops

1. Definition of workshop

Workshops, however described, provide opportunities for members to discuss particular matters, receive briefings and provide guidance for officials. Workshops are not meetings and cannot be used to either make decisions or come to agreements that are then confirmed without the opportunity for meaningful debate at a formal meeting.

2. Application of standing orders to workshops

Standing orders do not apply to workshops and briefings. The chairperson or workshop organisers will decide how the workshop, briefing or working party should be conducted.

3. Calling a workshop

Workshops, briefings and working parties may be called by:

- a) a resolution of the local authority or its committees
- b) the mayor
- c) a committee chairperson; or
- d) the chief executive.

4. Process for calling workshops

The chief executive will give at least 24 hours' notice of the time and place of the workshop and the matters to be discussed at it. Notice may be given by whatever means are reasonable in the circumstances. Any notice given must expressly:

- a) state that the meeting is a workshop
- b) advise the date, time and place; and
- c) confirm that the meeting is primarily for the provision of information and discussion, and will not make any decisions or pass any resolutions.

Public notice of a workshop is not required and workshops can be either open to the public or public excluded.

5. Record of workshop

A written record of the workshop should be kept and include:

- a) time, date, location and duration of workshop
- b) persons present; and
- c) general subject matters covered.

Title: 24-98 Governance Structure - Delegations to Committees 2023
Section: Democracy & Support Services
Prepared by: Heather Kohn - Democracy & Support Services Manager
Meeting Date: Thursday 2 May 2024

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 Governance Structure and Terms of Reference (ToR) May 2024 for adoption.

SUMMARY - HE WHAKARĀPOPOTOTANGA

Council has made numerous minor changes to the Governance Structure and Terms of Reference (Delegations Manual) since its adoption on 2 March 2023.

In addition, at its meeting on 14 March 2024, changes were made to the Audit & Risk and the Appointments Committees, and the Terms of Reference for the Tairāwhiti Resource Management Plan Review Committee were adopted (Reports **24-45** and **24-68** [COUNCIL Meeting - 14 March 2024 \(gdc.govt.nz\)](#)).

All changes to the ToR have been tracked so they are easily identified.

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 March 2023.**
- 2. Approves and adopts the updated Governance Structure and Terms of Reference May 2024 (Attachment 1), subject to any amendments.**

Authorised by:

Anita Reedy-Holthausen - Director Engagement & Māori Partnerships

Keywords: Governance structure, terms of reference, delegations, appointments committee, Tairāwhiti Resource Management Plan Review Committee, TRMP

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 2023](#).
2. The ToR focuses on the role and powers of Council and its committees. Council's Standing Orders (November 2022) sit alongside the 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 (**Attachment 1**) reflects the Committee Structure adopted in November 2022 (Report **22-228**) together with the changes listed below.
4. The key changes to the ToR for Council and committees are:
 - 3.1 Traffic and Parking Subcommittee – membership updated to replace David Wilson with Tim Barry: Director of Lifelines.
 - 3.5 Appointments Committee - included in Committees of the Whole.
 - 4.1 Audit and Risk Committee – addition of Cr Larry Foster to the Committee.
 - 4.2 Wastewater Management Committee – addition of co-chairs and inclusion of the names of the tangata whenua members.
 - 4.6 Bylaw Submissions Hearing Panel - addition of Cr Ani Pahuru-Huriwai to the panel.
 - 5.1 Regional Transport Committee - addition of Cr Teddy Thompson as Deputy Chair.
 - 6.2 Tairāwhiti Resource Management Plan Review Committee - ToR added.

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

5. 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

6. There has been engagement with iwi regarding membership of the CDEM Group and the TRMP Review Committee, however, participation on these committees is not something iwi wish to pursue at this time.

COMMUNITY ENGAGEMENT - TŪTAKITANGA HAPORI

7. There is no requirement for community engagement on the ToR.

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

8. There are no implications for climate change.

CONSIDERATIONS - HEI WHAKAARO

Financial/Budget

9. There are no financial implications.

Legal

10. 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 2002 (LGA).
11. Council may delegate its functions to committees, in accordance with clause 32, Schedule 7 of the LGA. Section 34A of the Resource Management Act 1991 (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

12. There are no policy and planning implications.

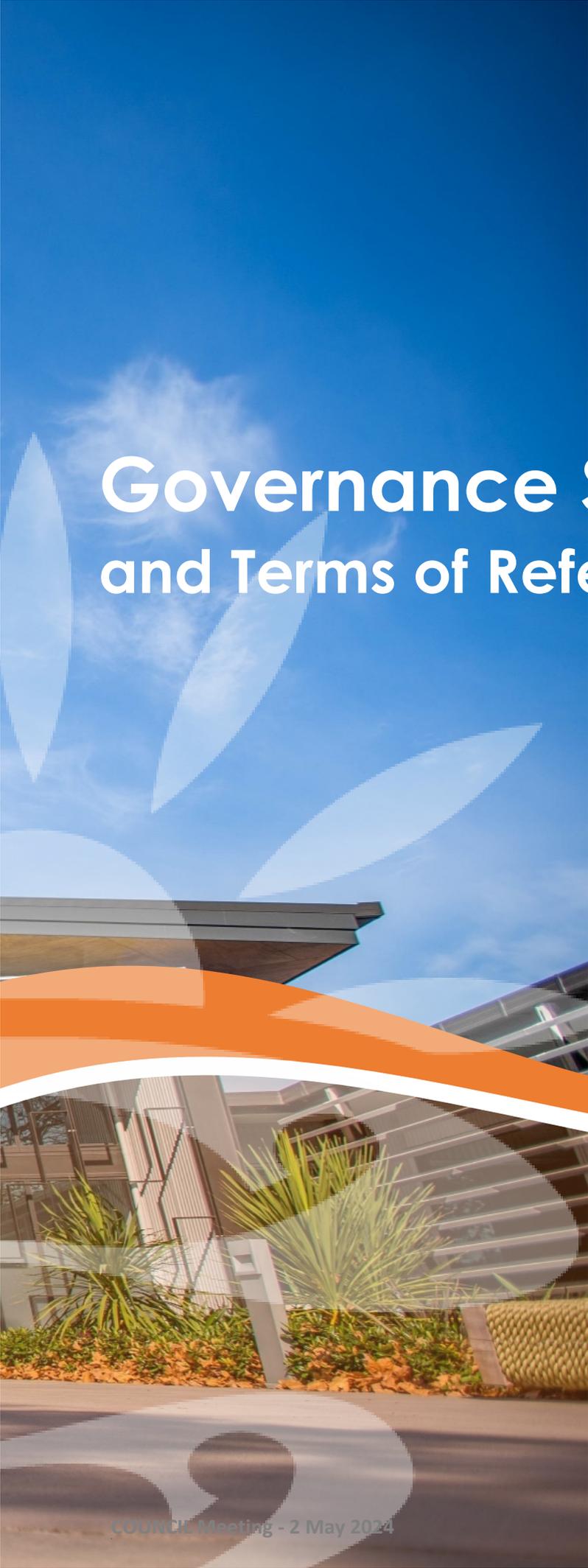
RISKS - NGĀ TŪRARU

13. There are no major risks associated with the decision.

ATTACHMENTS - NGĀ TĀPIRITANGA

1. Attachment 1 - Draft Governance Structure and Terms of Reference May 2024 [**24-98.1** - 34 pages]

Governance & and Terms of Reference



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
5	2/5/2024	Amendment following 14 March 2024 Council meeting

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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.
- Receive and review State of the Environment monitoring 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).
- 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 role 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 advisory members (such as tangata whenua representatives) 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 Tim Barry .
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 (such as 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 (such as 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 (such as tangata whenua representatives) to assist the Committee.

Power to Recommend

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

3.5 Appointments Committee

Reports to: Council

Chair: Mayor Rehette Stoltz

Deputy Chair: Deputy Mayor Josh Wharehinga

Membership: Mayor and all Councillors.

Meeting frequency: As required

Purpose and Terms of Reference

- Oversees and manages recruitment and selection process of Council appointments to Council organisations.

To recommend to Council appointments of directors and trustees as per the Board Appointment and Remuneration Policy. Board Appointments and Remuneration Policy 2022

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, Cr Colin Alder, Cr Andy Cranston, Cr Tony Robinson, and Cr Rob Telfer <u>and Cr Larry Foster</u>
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
Co-Chairperson:	<u>TBC Cr Larry Foster and Ronald Nepe</u>
Deputy Chairperson:	TBC
Membership:	<u>Cr Larry Foster</u> , Cr Tony Robinson, Cr Rhonda Tibble and Cr Nick Tupara, <u>Pene Brown, Angus Ngarangione</u> and <u>LeRoy Pardoefour tangata-whenua representatives</u> .
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
 - Te Whatu Ora
 - 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 and 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, <u>and</u> Cr Nick Tupara <u>and Cr Ani Pahuru-Huriwai.</u>
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: [Code of Conduct](#)

4.8 Appointments Committee

Reports to: Council

Chair: Mayor Rehette Stoltz

Deputy Chair: Deputy Mayor Josh Wharehinga

Membership: Mayor and all Councillors 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 Council organisations.
- To recommend to Council appointments of directors and trustees as per the Board Appointment and Remuneration Policy. [Board Appointments and Remuneration Policy 2022](#)

5. Statutory Committees

5.1 Regional Transport Committee

Reports to:	Council
Chairperson:	Cr Ani Pahuru-Huriwai
Deputy Chairperson:	To be appointed <u>Cr Teddy Thompson</u>
Membership:	As specified in the Land Transport Management Act 2003: Four Councillors – Cr Debbie Gregory, Cr Rob Telfer and Cr Teddy Thompson 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 Telfer and four iwi appointees (TBC).
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 Licencing 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:	Mayor Rehette Stoltz
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>5 councillors holding office appointed by Council being; Cr Andy Cranston, Cr Ani Pahuru-Huriwai, Cr Tony Robinson, Cr Nick Tupara and Deputy Mayor Josh Wharehinga.</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](#).

6.2 Tairāwhiti Resource Management Plan Review Committee

Reports to:	Council
Chairperson:	Mayor Rehette Stoltz (or nominee)
Membership:	Mayor Rehette Stoltz (or nominee), Deputy Mayor Josh Wharehinga, Cr Colin Alder, Cr Larry Foster, Cr Rawinia Parata, Cr Aubrey Ria, two independent commissioners and up to six iwi appointees
Quorum:	Half of the members when the number is even and a majority when the membership is uneven
Meeting frequency:	Quarterly or as required in order to achieve the TRMP review work programme.

Purpose

- A committee to support the Tairāwhiti Resource Management Plan (TRMP) review process.
- To promote the sustainable management of Tairāwhiti's natural and physical resources by overseeing the review and development of plans, changes and variations as required under the Resource Management Act 1991 (RMA).
- To apply a Te Tiriti articles-based approach to governance direction when undertaking the future planning and decision making on how Tairāwhiti's, natural and physical resources are managed within the Tairāwhiti under the RMA.

Terms of Reference

- Provide governance oversight and guidance on policy directions presented by staff ahead of whole of Council recommendations.
- Approve for recommendation to Council:
 - draft catchment plans and regional freshwater planning provisions for notification prepared under the RMA and the National Policy Statement for Freshwater Management 2020 (NPS-FWM)
 - draft Regional Policy Statement provisions for notification
 - draft urban growth and development provisions for notification to achieve the purpose of the RMA and to give effect to the National Policy Statement for Urban Development
 - draft and proposed regional and district plan provisions and changes
 - plan evaluation reports supporting proposed changes to the TRMP
 - hearing committees or hearings panels, composed of accredited persons, to hear and decide upon submissions on proposed regional plans, proposed variations and proposed plan changes (such hearing committees or panels may include members of the committee and/or other persons chosen for their particular skills, attributes or knowledge that will assist the hearing committee or panel). This includes the ability to approve draft versions for consultation and make recommendations to Council following consultation.
- Ensure that legislative obligations for plan making, including pre-consultation engagement and giving effect to national directions relating to the TRMP review are considered and complied with.
- Make recommendations to Council to approve or change a proposed policy statement or plan under Schedule 1 of the Resource Management Act 1991 (RMA).

Power to Act

- To make all decisions necessary to fulfil the role and scope of the Committee subject to the limitations imposed.
- To establish working parties as required.
- To appoint non-voting members ~~(such as tangata whenua representatives)~~ to assist the Committee.

Delegations

- The Council delegates all the functions and powers of the Council that are capable of delegation under the Resource Management Act 1991 to the Tairāwhiti Resource Management Plan Review Committee which are necessary for it to carry out the specific responsibilities listed above relating to the review and development of regional plans, changes and variations.

Power to Recommend

- To Council and/or any Council committee as it deems appropriate through a report on an agenda to the appropriate meeting of Council or committee.

Review of Terms of Reference

- A review of the Committee's Terms of Reference will be undertaken:
 - When an iwi appointee joins the committee
 - When the Proposed Tairāwhiti Resource Management Plan becomes operative
 - At any time at the Council's discretion

Title: 24-123 Local Alcohol Policy Deliberations Report
Section: Sustainable Futures
Prepared by: Makarand Rodge - Policy Advisor
Meeting Date: Thursday 2 May 2024

Legal: No

Financial: No

Significance: **Medium**

Report to COUNCIL/TE KAUNIHERA for decision

PURPOSE - TE TAKE

The purpose of this report is to:

- a) Provide information to support the Submissions Panel's deliberations on the Draft Local Alcohol Policy.
- b) Seek the Panel's direction on any proposed changes to the draft policy to include in the Panel's decision report to Council.

SUMMARY - HE WHAKARĀPOPOTOTANGA

Council's current Local Alcohol Policy (**Attachment 1**) which came into effect in March 2018 has undergone its statutory six-year review. On 28 February 2024, Council adopted the Statement of Proposal (SOP), including the draft Local Alcohol Policy (the draft policy) (**Attachment 2**), for consultation ([Report 24-35](#)) from 1 March to 1 April 2024. Council received 100 written submissions on the proposal.

On 24 April 2024, Council received all the written submissions ([Report 23-13](#)) and heard from 9 submitters who spoke to their submissions. The additional material tabled by the submitters has been attached to this report as **Attachment 3**.

Over 80% of the written submissions opposed Proposal 1 – restricting new licences for Class 1 restaurants located within 150m of sensitive sites and Proposal 2 - reducing operating hours for Class 2 and 3 On Licences.

A considerable proportion of submitters support including a discretionary condition ceasing external advertising for liquor stores while feedback on including explanatory footnotes in the draft policy was inconclusive.

The proposals were made at the guidance and recommendations of representatives from Tairāwhiti District Health (TDH), New Zealand Police and the Inspectorate while having clear rationale for their positions, could only provide limited evidence of alcohol related harm.

In the absence of evidence of sustained or increased alcohol related harm, emergency department admissions or incidents of alcohol fuelled anti-social behaviour, enacting these proposals to operative policy required substantive support from the community, which was not forthcoming.

Additionally, the available evidence suggests at least some of those metrics, particularly alcohol related emergency department admissions, have declined steadily over the term of the current policy.

Staff recommend maintaining status quo with respect to Proposal 1 and Proposal 2, while endorsing the preferred options under Proposal 3 and Proposal 4 as detailed under the SOP.

Following the Panel's deliberations and direction on any changes to the draft policy, staff will prepare a decision report to Council on behalf of the Panel for final approval of the draft Policy in June 2024 (*date to be confirmed*).

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. Provides direction on any proposed changes to the Draft Local Alcohol Policy 2024.**

Authorised by:

Joanna Noble - Director Sustainable Futures

Keywords: Local Alcohol Policy, alcohol licences, alcohol harm, alcohol restrictions, District Licensing Authority, Sale and Supply of Alcohol Act 2012.

BACKGROUND - HE WHAKAMĀRAMA

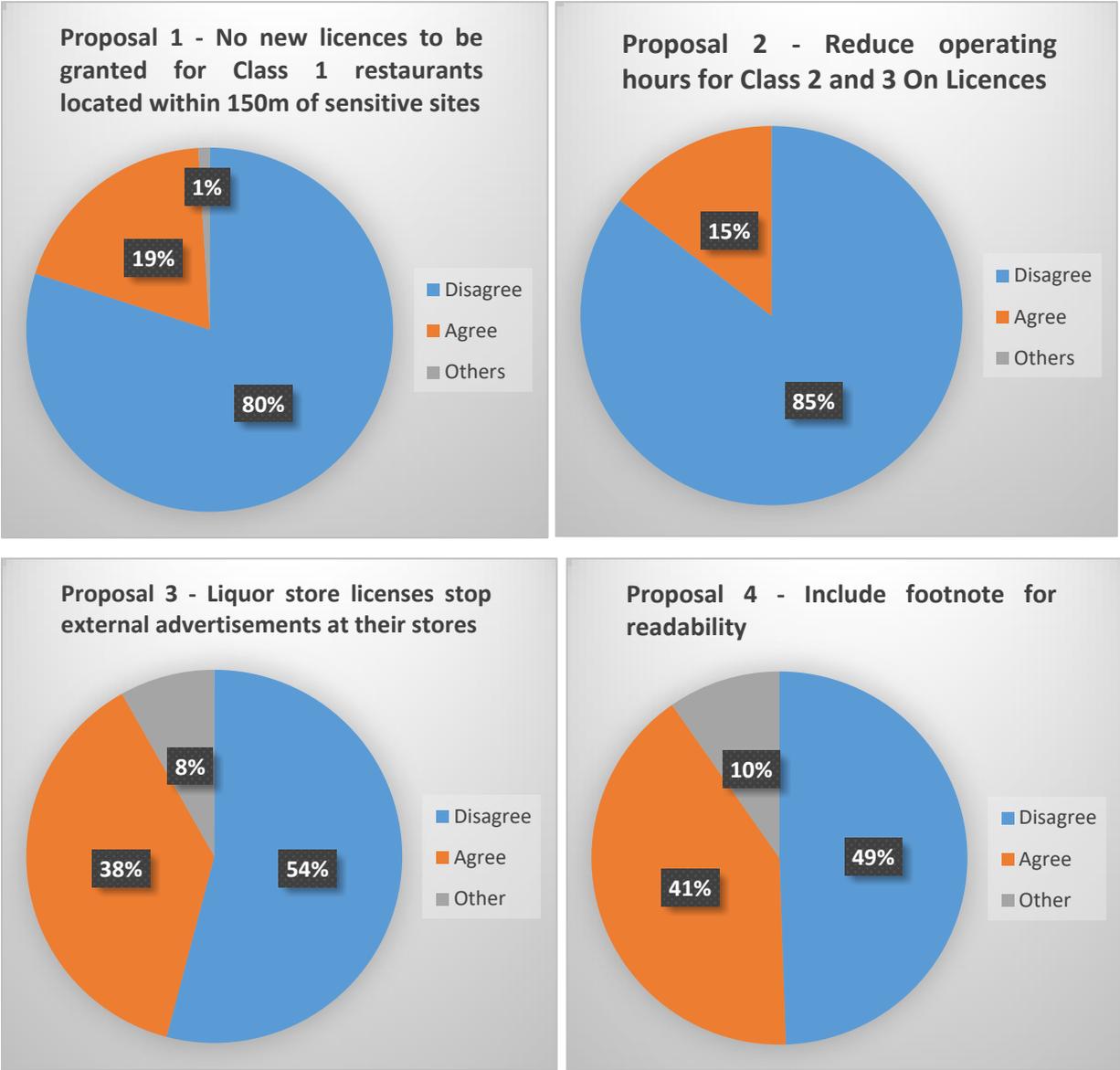
1. The current Local Alcohol Policy (the current policy) aims to give effect to the Sale and Supply of Alcohol Act 2012 (the Act) by maintaining the sale, supply, and consumption of alcohol in a safe and responsibly manner; and minimising any harm caused because of excessive or inappropriate consumption of alcohol.
2. Council's current policy which came into effect in March 2018 has undergone its statutory six-year review. On 28 February 2024, Council adopted the SOP, including the draft policy, for consultation ([Report 24-35](#)) from 1 March to 1 April 2024.
3. The SOP included four (4) changes to the current policy. The proposals were:
 - a. No new licences to be granted for Class 1 restaurants located within 150 meters of sensitive sites.
 - b. Reduce operating hours for on-licences Class 2 and 3 restaurants, cafes, and wineries from 10am to 12am instead of 10am to 2am.
 - c. Option to include a discretionary condition in liquor store licences that facilitates ceasing of external advertisements at liquor stores.
 - d. Include legal definition of Class 1, Class 2, and Class 3 Restaurants through footnotes for better readability.
4. At the 28 February Sustainable Tairāwhiti meeting, Council made minor changes to the SOP prior to adoption in the following manner:
 - a. Addition of an option under Proposal 1 to consider exempting existing and new Class 1 restaurants within CBD/City centre from the sensitive sites rule (*Option 3 under Proposal 1*).
 - b. Addition of a map showing CBD/City centre area (*Annexure 1 of amended SOP*).For reference, the amended SOP that was consulted on, has been attached to this report at **Attachment 4**.
5. The proposals were made at the guidance and recommendations of representatives from Tairāwhiti District Health (TDH), New Zealand Police and the Inspectorate. Whilst these Agencies had a clear rationale for their positions, they could only provide limited evidence of alcohol related harm, despite several requests being made to them to provide further information (including Police statistics).
6. The available evidence suggests at least some of those metrics, particularly alcohol related emergency department admissions, have declined steadily over the term of the current policy.
7. In the absence of evidence of sustained or increased alcohol related harm, emergency department admissions or incidents of alcohol fuelled anti-social behaviour, enacting these proposals to operative policy needs substantive support from the community.

Consultation on the proposed changes

8. Public consultation occurred between Friday, 1 March 2024 and 1 April 2024 which involved multiple channels, including but not limited to focus groups, a stakeholder meeting, leveraging an e-newsletter and written submissions. Each channel provided a unique opportunity for individuals and groups to voice their opinions, concerns, and suggestions regarding the subject matter under consideration.
9. During consultation, staff reached out to all the existing licensees via email inviting them to make a submission on the proposals and participate in the consultation process.
10. QR code flyers were distributed to various locations more commonly visited by rangatahi. Emails asking our existing licensees (if they wished to) to post these QR code flyers within their licensed premises were also sent out.
11. Currently, due to technical constraints, it is not feasible to determine the number of submitters utilising the QR code for submissions. These concerns have been addressed with the IT team, and it is noted that for future consultations using QR codes, this data can be captured with minor technical adjustments.
12. Staff attended a hui organised by Mr Jared Johnstone on 25 March 2024 at Tahu, Gisborne, where several restaurant owners and existing license holders expressed their opinions on the draft policy and proposals.
13. In response to the above measures, Council received 100 written submissions on the proposed changes.
14. Based on the information provided by submitters in their submissions, 10 submissions were received from current licensees, 8 submissions were received from business owners not having any record of any active alcohol licenses, 3 submissions were received from other organisations, while the remaining 79 submissions were received from non-business / individuals.
15. Council received a Hearings report that included all the submissions from the consultation process ([Report 24-112](#)) on 24 April 2024, and heard from 9 submitters who spoke to their submissions.
16. The feedback received mainly raises concerns around:
 - The proposal to restrict new licences to be granted for Class 1 restaurants located within 150m of sensitive sites (Proposal 1).
 - The proposal to reduce operating hours for Class 2 and 3 on-license premises (Proposal 2).
17. The primary reason for Proposal 1 is to provide clarity and consistency in terms of operational realities between taverns and Class 1 restaurants and to reduce the accessibility and availability of alcohol for longer periods near sensitive sites.
18. The reason for Proposal 2 is to reflect operational realities of certain businesses to avoid the possibility of such businesses providing alcohol in a time frame that is outside the framework of their scope of operation.

SUBMISSION ANALYSIS and STAFF RECOMMENDATIONS

19. The following charts represent an overview of the written responses received from submitters:



Proposal 1: No new licences for Class 1 restaurants located within 150 meters of sensitive sites.

20. The rationale for the preferred option of Proposal 1 in the SOP was:

Under the current LAP, no new licenses can be provided to taverns located within 150 metres of sensitive sites while all restaurants (including Class 1) and cafes can be granted a new license.

To provide clarity and consistency in terms of operational realities between taverns and Class 1 restaurants. Staff note that based on their experiences when dealing with various Class 1 restaurants, these premises often use their legal classification to function as a tavern most nights of the week, where the purpose of the business is to principally provide alcohol to the public.

The proposed change also allows Council to reduce accessibility and availability of alcohol for longer periods near sensitive sites. Staff note that if this proposal is accepted then a case-by-case approach will be adopted when dealing with new licences relating to Class 1 restaurants.

Table 1: Submission analysis for Proposal 1

Support for the preferred option	Notable / common themes in opposition of proposal	Notable / common themes in support of proposal
<p>No new licences to be granted for Class 1 premises located within 150 metres of sensitive sites.</p> <p>Disagree: 80%</p> <p>Agree: 19%</p> <p>Other: 1%</p>	<p>Sensitive Sites</p> <p>No clarity on the definition of sensitive sites</p> <p>Sensitive sites are not operative at nighttime and don't coincide with normal drinking hours.</p> <p>Need to have a reciprocal law to stop sensitive sites from setting up around licenced premises.</p> <p>Gisborne is too small to apply the 150m rule.</p>	<p>Class 1 restaurants can operate as taverns.</p> <p>Class 1 restaurants at times have the effect of operating as de facto taverns or nightclubs and are less suitable to be issued licences near sensitive sites.</p>
	<p>Shrinking Hospitality and Entertainment Industry / Support our CBD.</p> <p>Venues are struggling to get licenses while taking over existing business.</p> <p>Many families rely on the hours of employment to survive. This proposal would take that away.</p> <p>Difficult to survive for businesses in a hard economic environment.</p> <p>Adversely effects vibrancy in CBD area.</p> <p>CBD is dying.</p> <p>Leave CBD off limits if applying this rule.</p>	<p>Additional recommendations received via submissions.</p> <ol style="list-style-type: none"> Extend protection around sensitive sites from 150m to 300m. Remove exception to sensitive site rule provided in 3.1.2 of proposed LAP. Include additional examples of sensitive sites.
	<p>Supervised Licensed premises are not the issue as they are controlled environments.</p> <p>Supervised licensed areas are controlled environments and are not the cause of alcohol harm, but bottle stores and supermarkets are.</p> <p>Most issues from drinking come from people buying alcohol at liquor stores and drinking in excess at home. Controlled environments in the CBD should not be punished. What is the CBD for if not for business?</p> <p>The alcohol problem lies with people's ability to purchase alcohol from the many off licenses to drink in "uncontrolled" environments.</p>	

Discussion on Proposal 1

21. Under the current Local Alcohol Policy, **new** licenses cannot be issued to taverns situated within 150 metres of sensitive sites. However, all types of restaurants, including Class 1 establishments, are eligible for new licenses.
22. Class 1 restaurants, under Regulation 6 of Sale and Supply of Alcohol (Fees) Regulations 2013, are defined as a restaurant that has or applies for an on-licence and:
 - a. has, in the opinion of the territorial authority, a significant separate bar area; and
 - b. in the opinion of the territorial authority, operates that bar area, at least 1 night a week, in the manner of a tavern.
23. A few examples of Class 1 restaurants in our region are Tahu (Centennial Marine Drive), Bollywood (Gladstone Road), Crawford Road Kitchen (Kaiti) and Lonestar (Kaiti).
24. A *tavern* is defined under the act as
 - a. premises used or intended to be used in the course of business principally for providing alcohol and other refreshments to the public; but
 - b. does not include an airport bar.
25. A few examples of taverns in our region are The Tav (Lytton West), The Rivers (Gladstone Road), Sugar Club (Peel Street) and Shipwreck (Gladstone Road).
26. The main objective behind this proposal was to ensure consistency and clarity regarding operational similarities between taverns and Class 1 restaurants, while also allowing Council to reduce accessibility and availability of alcohol for longer periods near sensitive sites.

Applications made because of a change of ownership:

27. The proposed change would not affect any *existing* licenses or licence applications made because of a change of ownership of the premises, provided the licence type and scope of the new licence are the same as the existing licence for the premises.
28. In this context, if a licensee intends to sell their business, they can maintain their alcohol license unless it expires, is voluntarily surrendered, or is revoked by the Territorial Authority. To facilitate seamless transition for potential buyers and ensure uninterrupted trade, buyers must submit a Temporary Authority (TA) application to the District Licensing Committee (DLC).
29. Each TA remains valid for three months, and applicants have the option to request multiple TAs. Throughout this period, alcohol sales and service must adhere to the terms of the existing license. Simultaneously, the TA holder must initiate the process of applying for a new license. While adjustments to existing conditions of the license are possible, certain standard license conditions cannot be altered.
30. It is important to note that surrendering the existing license disrupts continuity, necessitating the new operator to apply for a **new** license.

31. The community feedback received via submissions strongly suggest that there is no need for a change to the Policy, for the following reasons:
- The definition of sensitive sites needs reconsideration before changing the policy.
 - Gisborne's hospitality sector is shrinking and hence there is a need to maintain vibrancy in our CBD zone.
 - On-licensed premises are a controlled environment and provide a safe space for alcohol consumption (compared to alcohol consumption related to purchases from off-licences).
32. Staff further acknowledge the recommendations received via submissions, in addition to the proposal, which are as follows:
- Extend protection around sensitive sites from 150m to 300m.
 - Remove exception to sensitive site rule provided in 3.1.2 of proposed LAP.
 - Include additional examples of sensitive sites such as drug and alcohol treatment centres.
33. In this context, staff note that the option of a 300m protection around sensitive sites and applying the sensitive site rule to Off-licenses was considered at the time of adopting the current policy in 2017. While these options garnered strong public support during public consultation at that time, the 300m protection zone was reduced to 150m following mediation with parties who had appealed Council's Provisional Local Alcohol Policy (PLAP). Further, the exception for Off-licenses from the sensitive site rule was included due to concerns raised during appeal proceedings before the Alcohol Regulatory and Licensing Authority (ARLA), which deemed such a rule overly restrictive. Thus, the current policy includes a 150m protection zone (Clause 3.1.1 of the current policy) and an exemption for Off-licenses from the sensitive site rule based on certain conditions being met (Clause 3.1.2 of the current policy).

Option analysis and recommendations

34. With reference to the above discussions, staff have prepared the options available for Council in the table below, followed by the staff recommendation.

Table 2: Available options and analysis for Proposal 1:

Available options	Benefits	Costs / risks
Option 1: Maintain status quo – re-adopt current policy in its current form, without the proposed change.	<p>a) Boost to economic prosperity and vibrancy in the CBD. For example:</p> <ul style="list-style-type: none"> potential for CBD area to be an attractive space for hospitality to invest. May support investment in strengthening earthwork prone buildings or character buildings. Enable potential re-use of vacant or underutilised buildings. <p>b) Echoes community sentiments.</p>	New Class 1 restaurant application for premises located within 150 metres of sensitive sites may be granted, which will increase accessibility and availability of alcohol for longer periods around sensitive sites.

Available options	Benefits	Costs / risks
<p>Option 2: Adopt proposal 1 that restricts new Class 1 licenses along with taverns within 150 metres of sensitive sites.</p>	<p>a) Reduces potential for alcohol harm around sensitive sites.</p> <p>b) Allows Council to have operational consistency and clarity between Taverns and Class 1 restaurants.</p>	<p>a) Potential loss of economic prosperity and vibrance in CBD area. Public support for revitalization of our city centre has been noted as part of Consultation around Council's Urban Strategy 2015, Tairāwhiti 2050 and Future Development Strategy.</p> <p>b) Community sentiments not echoed – unhappy community.</p>
<p>Option 3: Adopt proposal 1 but exclude CBD area from this rule.</p>	<p>a) Reduce alcohol harm around sensitive sites outside CBD area.</p> <p>b) Boost to economic prosperity and vibrancy in the CBD. For example:</p> <ul style="list-style-type: none"> • potential for CBD area to be an attractive space for hospitality to invest. • May support investment in strengthening earthwork prone buildings or character buildings. • Enable potential re-use of vacant or underutilised buildings 	<p>a) New Class 1 restaurant applications for premises located within 150 metres of sensitive sites in the CBD may continue to be accepted, which will increase accessibility and availability of alcohol for longer periods around sensitive sites.</p> <p>b) Potential pushback from operators who operate on the borders of or outside the CBD.</p> <p>c) Community sentiments are unknown around this option. Although this option was included in the SOP document for consultation ("Option 3 under Proposal 1" along with a map showing the potential CBD area Council may consider), we only received 13 submissions in favour of this option.</p>
<p>Option 4: Adopt proposal 1 along with the following additional changes:</p> <ol style="list-style-type: none"> i. Extend protection around sensitive sites from 150m to 300m. ii. Revisit definition of sensitive sites to include additional examples of sensitive sites such as drug and alcohol treatment centres. iii. Remove exception for off-licenses to sensitive site rule provided in 3.1.2 of proposed LAP. 	<p>a) Greater protection to sensitive sites by reducing ability of any new licensed premises to set up around such sites.</p> <p>b) Clearer definition of Sensitive areas.</p> <p>c) Allow Council to have operational consistency and clarity between Taverns and Class 1 restaurants</p>	<p>a) Community sentiments are unknown around this option. This option was not included in the SOP document for consultation and so, community feedback on this aspect is not available.</p> <p>b) As this option was not part of the changes proposed under the SOP, Council would need to have a separate consultation procedure to be followed before adopting this option.</p> <p>c) Loss of economic prosperity and vibrance in CBD area as well as other areas that where there is already a high density of sensitive areas.</p>
<p><u>Staff recommendation and reasoning:</u></p> <p>Option 1 – Maintain status quo i.e. readopt the current policy regarding sensitive sites, without any changes as community feedback shows most submitters (80%) oppose Proposal 1 referred to under the SOP, and the extent of support for Option 3 is not clear.</p>		

Sensitive sites:

35. Submissions indicate concerns regarding the interpretation of sensitive site definitions outlined in the current policy and sensitive sites being a hindrance in the licensing processes. In this context, staff have conducted investigations by retrieving past Council reports in order to gain insight into the matter.
36. Staff note that the sensitive sites definition has been formulated in the current policy as result of a combination of an initial research paper prepared by Council staff ([A480674](#)), community feedback ([Report 14/220](#)), mediation with appellants and recommendations from ARLA ([Report 17-346](#)).
37. Staff acknowledge that the current definition of sensitive sites covers a broad range of sites varying from educational, spiritual, and recreational facilities. However, the language in the current policy grants the DLC the discretion to assess whether a site is "*either deemed more susceptible to alcohol-related harm or is already encountering higher levels of alcohol-related harm compared to other areas.*" (Clause 3.1.3 of the current policy).
38. In this context, staff have been informed that DLC deal with licensing matters involving sensitive sites on a case-by-case basis. Licenses have been granted in the recent past in circumstances where an operator has successfully demonstrated to the DLC that the hours, and/or operation of the premises will have no significant impact on sensitive sites and/or persons using sensitive sites. An example of a case-by-case approach being adopted by the DLC is "Tahu" at Centennial Marine Drive, Awapuni - where a new Class 1 restaurant has been granted license in close proximity of a sensitive site.
39. Submissions further indicate placing restrictions on sensitive sites prior to setting up in close proximity of existing licensed premises. In this context, staff note that such provision cannot be included under a Local Alcohol Policy as this is a matter outside the realm of licensing issues.
40. Maps showing the current licensed premises and a 150m buffer zone around sensitive site locations in our region have been produced at **Attachment 5**.
41. If Council resolves to amend the definition of sensitive sites and the protection zone of 150m, then a separate special consultation procedure would be required to be followed before adopting any amendments to the current policy, as these issues were not part of the changes proposed under the SOP.

Recommendations:

42. Staff recommend maintaining status quo which is to retain the definition of sensitive sites and the protective zone around sensitive sites of 150m, as referred to in the current policy.

Proposal 2: Reduce operating hours for On-licence Class 2 and 3 restaurants, cafes, and wineries from 10am to 12am instead of 10am to 2am.

43. The rationale for the preferred option of Proposal 2 in the SOP was:

The present operating hours (10am to 2am) do not reflect the reality of the business commercial operations and open up the possibility for certain businesses to provide alcohol in a timeframe that is outside the framework of their scope of operation (E.g. cafés operating at 2 am). In the current setup the provisions of food and free water is sufficient to allow these types of businesses to legally operate until late. Cafes, wineries, Class 2 and 3 restaurants, are known to operate well within the operating hours under the current LAP (10am to 2am).

Staff note that in reality the usual operating hours for such type of premises is between 10am to 10pm. Adoption of this proposal would also allow reduction in effects of alcohol caused by premises that fall within 150 meters of sensitive sites.

Table 3: Submission analysis for Proposal 2

Support for the preferred option	Notable / common themes in opposition of proposal	Notable / common themes in support of proposal
Reduce operating hours for on-licences Class 2 and 3 restaurants, cafes, and wineries from 10am to 12am instead of 10am to 2am. Disagree: 85% Agree: 15% Other: N/a	<p>Vibrancy of CBD will be adversely affected.</p> <p>The council has said it wants to promote Gisborne as a "24-hour city". This does the opposite.</p> <p>The proposal will decrease the vibe of this town that is already dying. Not that long ago there were loads more bars & social venues & it was wonderful fun vibrant town.</p>	<p>Reducing operating hours is key for reducing alcohol-related harms</p> <p>International and national studies have shown that hazardous drinking increases with longer hours and greater availability, and that extended trading hours at On-licence premises was typically followed by increases in the incidence of assault, unintentional injury or drink driving offences.</p>
	<p>Not good for small businesses</p> <p>Reducing operating hours for these establishments will maintain a monopoly type of situation for the very few tavern or night club establishments Gisborne currently has.</p> <p>If we want to attract youth, talent, and vibrancy to our region, then there need to be venues that can cater to that market,</p>	
	<p>Problem is not cafes / restaurants / wineries.</p> <p>Problem is not cafes selling alcohol - its people buying cheap booze from liquor outlets. Licensed premises are the safest place to socialise with a few drinks. Reducing these hours will put alcohol onto the streets.</p> <p>Most people going out for dinner don't stay out late but there should be the option for the business to stay open if it is busy!</p>	

Discussion on Proposal 2

44. The current policy permits Class 2 and 3 establishments like restaurants, cafes, and wineries to stay open from 10am to 2am, mirroring the hours allowed for Class 1 venues such as taverns, nightclubs, and BYO entertainment spots. Staff note that such premises usually operate well within this timeframe.
45. Class 2 restaurants, under Regulation 6 of Sale and Supply of Alcohol (Fees) Regulations 2013, have been defined as a restaurant that has or applies for an on-licence and—
 - a. has, in the opinion of the territorial authority, a significant separate bar area; and
 - b. in the opinion of the territorial authority, does not operate that bar area in the manner of a tavern at any time.
46. A few examples of Class 2 restaurants are Breakers (Grey Street), The Works (Kaiti) and Forces Café (Childers Road).
47. Class 3 restaurants, under Regulation 6 of Sale and Supply of Alcohol (Fees) Regulations 2013, have been defined as a restaurant that has or applies for an on-licence and that, in the opinion of the territorial authority, only serves alcohol to the table and does not have a separate bar area.
48. A few examples of Class 3 restaurants are Flagship Eatery (Childers Road), PBC Café (Childers Road) and Portofino (Peel Street).
49. The main objective for this proposal is to avoid creating a situation where businesses might serve alcohol outside their usual operating hours, like cafes serving at 2am. Staff note that under the current setting, providing food and free water would adequately support these businesses to legally operate late.
50. A class 2 or 3 restaurant can continue to operate after its license end time provided there is no sale of alcohol, and the separate bar area is closed to public.

Special Licenses

51. Staff note that at present (2023-2024) there are 12 Class 2 and 17 Class 3 active On-licenses. Where all of operating hours for such licenses commence from 10 am, however, the closing hours on licenses vary between 4pm (7%), 8pm (7%), 9pm (3%), 10pm (14%), 11PM (14%), 12am (17%), 1am (10%) and 2am (28%).
52. Operators can also apply for a special licence to extend license hours for specific events. The current LAP allows a maximum of 20 'special' events per year. The cost of an application is between \$55 (small), \$180 (medium) and \$500 (large) depending on the size of the event (number of attendees) and the number of events included in the application. The processing time is usually around 20 working days.
53. Staff further note that majority of special licenses application are received from clubs (90%), while a few are received from unlicensed premises (7%) and On-licence premises (3%). Special licenses application specifically from Class 2 or 3 premises are scarce (less than 1%).

54. However, the community feedback received via submissions strongly suggest that there is no need for such a change, mainly for the following reasons:
- Vibrancy of CBD will be adversely affected due to reduced operating hours.
 - Not good for small businesses.
 - On-licensed premises are a controlled environment and provide a safe space for alcohol consumption (compared to alcohol consumption related to purchases from off-licences).

Option analysis and recommendations

55. With reference to the above discussions, staff have prepared the options available for Council in the table below, followed by the staff recommendation.

Table 4: Available options and analysis for Proposal 2

Available options	Benefits	Costs / risks
Option 1: Maintain status quo – re-adopt current policy in its current form, without the proposed change.	<ol style="list-style-type: none"> Potential boost to economic prosperity and city centre vibrancy if Class 2, 3 restaurants, cafes and wineries can remain open till late night. Echoes community sentiments. 	<ol style="list-style-type: none"> The current licensed operating hours may not reflect the actual operating hours of these premise. Potential increase in alcohol consumption due to additional hours of business
Option 2: Adopt proposal 2 that reduces operating hours for on-licences Class 2 and 3 restaurants, cafes, and wineries from 10am to 12am instead of 10am to 2am.	<ol style="list-style-type: none"> Reflects operational realities where such premises close well before the current licensed operating hours. Facilitates reduction of alcohol consumption where premises fall under 150 meters of sensitive sites. 	<ol style="list-style-type: none"> Potential loss of economic prosperity and vibrancy in CBD area. Regulatory costs: possible rise in special licences applications in case such premises wish to operate later than 10pm. Community sentiments not echoed – unhappy community.
Option 3: Adopt proposal 2 but exclude CBD area from this rule.	<ol style="list-style-type: none"> Reflects operational realities where premises are located outside CBD and close well before the current licensed operating hours. Boost to economic prosperity and vibrancy in the CBD as restrictions would not apply to premises within the CBD area, for example: <ul style="list-style-type: none"> potential for CBD area to be an attractive space for hospitality to invest. May support investment in strengthening earthwork prone buildings or character buildings. Enable potential re-use of vacant or underutilised buildings 	<ol style="list-style-type: none"> The current licensed operating hours may not reflect the actual operating hours of such premise within the CBD area. Potential increase in alcohol consumption and related alcohol problems in CBD area due to additional hours of business. Community sentiments are unknown around this option. This option was not included in the SOP document for consultation and so, community feedback on this aspect is not available. As this option is not part of the changes proposed under the SOP, Council would need to have a separate consultation procedure to be followed before adopting such option.
Staff recommendation and reasoning:		
Option 1 – Maintain status quo i.e. re-adopt current policy as it is, without any changes as community feedback shows a majority of submitters (85% disagreeing) opposing Proposal 2 as referred to in the SOP.		

Proposal 3: Option to include a discretionary condition in liquor store licenses that facilitates ceasing of external advertisements at liquor stores.

56. The rationale for the preferred option of Proposal 3 in the SOP was:

At present, liquor stores are able to advertise alcohol outside their licenced premises unless regulated through means of discretionary conditions in the alcohol licencing process. The TDH have provided advise that our region is leading in the number of liquor stores per capita in the nation. Therefore, the tri-agencies (TDH, Police, LI) strongly recommend adding this proposed change in the new LAP to cease external advertisements outside liquor stores.

Staff note that if this proposal is accepted then a case-by-case approach will be adopted when dealing with matters relating to external advertisements at liquor stores.

Table 5: Submission analysis for Proposal 3

Support for the preferred option	Notable / common themes in opposition of proposal	Notable / common themes in support of proposal
<p>Option to include a discretionary condition in liquor store licenses that facilitates ceasing of external advertisements at liquor stores.</p> <p>Disagree: 54%</p> <p>Agree: 38%</p> <p>Other: 8%</p>	<p>Not good for business</p> <p>This removes the rights of retailers to market their products, impacting commerce and profitability.</p>	<p>There are other means to advertise but should not be done publicly</p> <p>If customers need to know about an alcohol product there are other ways of finding out. Advertising should not be allowed in public spaces.</p>
	<p>Aggressive advertising is not happening so why have restrictions.</p> <p>There is very little, if any, of this happening. Not a problem</p> <p>This might be beneficial however most liquor stores don't advertise much as is.</p>	<p>Alcohol advertising is known to be harmful.</p> <p>There is evidence that alcohol advertising is prevalent in urban settings, with tamariki Māori and Pasifika children disproportionately exposed.</p> <p>Research also shows that heavy or problem drinkers can be more responsive to alcohol advertising and imagery, placing them at risk of triggering alcohol use in relapse and maintaining alcohol dependence.</p>

Support for the preferred option	Notable / common themes in opposition of proposal	Notable / common themes in support of proposal
		<p>Additional recommendations received via submissions.</p> <p>Propose strengthening any discretionary condition on external advertising at liquor stores by including the following conditions:</p> <ul style="list-style-type: none"> a. No external or external facing alcohol product, price or alcohol-related lifestyle or brand advertising b. Premises identification must not exceed 20% of the facade of the premises. c. Window signs to cover no more than 50% height or 50% width of window. d. Wall mounted signs to be no larger than 3 square metres, e. No above veranda or roof signs. f. Maximum of 1 portable sign per premises. g. Mandating of pregnancy warning signs at points of sale and various other locations in off-licence premises, so as to be easily seen and read by people using the premises. h. Cap on new liquor premises opening in Turanganui-a-kiwa.

Discussion on Proposal 3

57. At present, there is no express provision in the current policy to restrict alcohol advertising outside liquor stores unless subjected to discretionary conditions in the alcohol licensing procedure.
58. The proposal is based on advice from TDH that our region stands out for having the highest density of liquor stores per capita nationwide. Consequently, the tri-agencies (TDH, Police, Inspectorate) strongly advocate for incorporating the suggested change in our new Local Alcohol Policy to prohibit external advertisements outside liquor stores, thereby mitigating exposure.
59. Moreso, our region has more Off-licence alcohol retailers per 10,000 of population, i.e. a higher density of alcohol retailers when compared to the New Zealand average.
60. Staff further note that nationally, it is the regular practice of Police to follow the process of removing external advertisements at liquor stores as and when aggressive branding is evidenced, although there is no specific provision explicitly backing this action in our current Policy.
61. Analysis of community feedback reveal a variety of sentiments. Some themes in opposition of the proposal have been that:
 - a. This proposal is not good for business as this removes the rights of retailers to market their products, impacting commerce and profitability in an already saturated market, and
 - b. There is no sign of aggressive advertisements around town, so why have restrictions.
62. Nevertheless, there has been a notable level of support (38%) for this proposal with some additional recommendations, the implications of which have been discussed in Table 6 below.
63. Some notable recommendations received via submissions in support of this proposal are:
 - a. Mandating of pregnancy warning signs at points of sale and various other locations in Off-licence premises, so as to be easily seen and read by people using the premises.
 - b. Cap on new liquor stores.
64. Moreso, staff have been in contact with the Police, who have proposed an additional measure of implementing a cap on liquor stores in our region.
65. Although the above recommendations around mandating pregnancy warnings and cap on new liquor stores are beneficial for our region and unique, staff propose that these suggestions be considered during the next review of our Local Alcohol Policy for the following reasons:
 - a. Community sentiments are unknown as these options were not part of the SOP.
 - b. Scarcity of evidence regarding alcohol-related harm caused by such establishments in our region.
 - c. Council would need to have a separate consultation procedure to be followed before adopting such options.

Option analysis and recommendations

66. With reference to the above discussions, staff have prepared the options available for Council in the table below, followed by the staff recommendation.

Table 6: Available option analysis for Proposal 3:

Available options	Benefits	Costs / risks
Option 1: Maintain status quo – re-adopt current policy in its current form, without the proposed change.	Echoes community sentiments.	Since our region has more Off-licence premises as compared to nationwide, more availability of advertisements outside liquor stores will increase exposure to alcohol products.
Option 2: Adopt proposal 3 - include ceasing of external advertisements at liquor stores as one of the discretionary conditions.	<p>a) Reduced exposure to alcohol especially in cases where liquor stores are located within close proximity of sensitive sites.</p> <p>b) More support for Police in exercising removal of external advertisements where necessary.</p>	a) Does not echo majority of community sentiments.
Option 3: Adopt proposal 3 and further impose targeted restrictions on internal and external advertising (as per recommendations received via submissions)	<p>a) Overall reduced exposure to alcohol at all liquor stores.</p> <p>b) More support for Police in exercising removal of external advertisements where necessary.</p>	<p>a) Community sentiments are unknown around this option. This option was not included in the SOP document for consultation and so, community feedback on this aspect is not available.</p> <p>b) As this option is not part of the changes proposed under the SOP, Council would need to have a separate special consultation procedure to be followed before adopting such options.</p>
Staff recommendation and reasoning:		
Option 2 – Adopt proposal 3: Retain preferred option to include ceasing of external advertisements at liquor stores as one of the discretionary conditions to facilitate law enforcement in carrying out their regular duties.		

Proposal 4: Include legal definition of Class 1, Class 2 and Class 3 Restaurants through footnotes for better readability.

67. The rationale for the preferred option of Proposal 4 in the SOP was:

The current policy does not cover certain interpretations referred to in the Sale and Supply of Alcohol Act 2012 such as what is meant by Class 2 or Class 3 restaurants/premises. Adding these as footnotes facilitates better understanding of these technical terms and makes it easier for the readers to understand what the proposed changes would mean.

Table 7: Submission analysis for Proposal 4

Support for the preferred option	Notable / common themes in opposition of proposal	Notable / common themes in support of proposal
<p>Include footnotes for readability.</p> <p>Disagree: 49%</p> <p>Agree: 41%</p> <p>Other: 10%</p>	No notable / common themes in opposition of proposal have been received via submissions.	No notable / common themes in support of proposal have been received via submissions.

Discussion on Proposal 4

68. The current policy does not cover certain interpretations referred to in the Sale and Supply of Alcohol Act 2012 such as what is meant by Class 1, Class 2 or Class 3 restaurants / premises.
69. Adding these as footnotes facilitates better understanding of these technical terms and makes it easier for the readers to understand what the proposed changes would mean.
70. There has been no feedback received from the community for the reason of opposition or the reason for support.

Table 8: Available option analysis for Proposal 4:

Available options	Benefits	Costs / risks
Option 1: Maintain status quo – re-adopt current policy in its current form, without the proposed change.	None identified	Lesser clarity around classes of licensed premises for readers and users of the policy.
Option 2: Include legal definition of Class 1 Class 2 and Class 3 in footnotes of the policy document.	Instant clarity over classes of premises subject to alcohol licencing and better readability.	None identified
Staff recommendation and reasoning:		
Option 2 – Include legal definition: Retain preferred option to include legal definition of Class 1 Class 2 and Class 3 in footnotes of the policy document for clarity and better readability.		

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: High Significance

This Report: Medium Significance

The effects on individuals or specific communities

Overall Process: High Significance

This Report: Medium Significance

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

Overall Process: **Medium** Significance

This Report: **Medium** Significance

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

TANGATA WHENUA/MĀORI ENGAGEMENT - TŪTAKITANGA TANGATA WHENUA

72. Staff have reached out to our tangata whenua partners via email inviting them to participate in the consultation process. However, no response from our tangata whenua partners has been received so far.

COMMUNITY ENGAGEMENT - TŪTAKITANGA HAPORI

73. Over the consultation period, staff received 100 written submissions following which a public hearing was organised on 24 April 2024 where 9 submitters addressed the Council and spoke to their submissions.

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

74. There are no climate change implications associated with the decision to change or adopt the draft Local Alcohol Policy.

CONSIDERATIONS - HEI WHAKAARO

Financial/Budget

75. Costs for the review are met by the Strategic Planning budget. Ongoing compliance monitoring and enforcement costs are included in the Compliance, Monitoring & Enforcement team budgets.

Legal

76. [Section 77](#) of the Act specifies that a LAP "must not include any matter not relating to licensing". The following matters may be included in the LAP:
- a. location of licensed premises by reference to broad areas:
 - b. location of licensed premises by reference to proximity to premises of a particular kind or kinds:
 - c. location of licensed premises by reference to proximity to facilities of a particular kind or kinds:
 - d. whether further licences (or licences of a particular kind or kinds) should be issued for premises in the district concerned, or any stated part of the district:
 - e. maximum trading hours:
 - f. the issue of licences, or licences of a particular kind or kinds, subject to discretionary conditions:
 - g. one-way door restrictions.

77. [Section 97](#) of the Sale and Supply of Alcohol Act 2012 requires a Territorial Authority (TA) to review a Local Alcohol Policy by adopting the special consultative procedure.
78. [Section 83](#) of the Local Government Act 2002 (LGA) refers to the special consultative procedure to be followed by local authorities. Section 83(1)(d) of the requires local authorities to “provide an opportunity for persons to present their views to the local authority in a manner that enables spoken (or New Zealand sign language) interaction between the person and the local authority, or any representatives”.
79. Further, Section 83(1)(e) of the LGA, requires local authorities to ensure that person(s) presenting their views are given “reasonable opportunity” to register their views while also ensuring that such individuals are informed about how and when such opportunity may be available.

Recent case law

80. A recent Supreme Court Judgement ([Woolworths New Zealand Limited vs Auckland Council \[2023\] NZSC45](#)) made several key findings regarding Local Alcohol Policies (LAPs) and their implementation under the Sale and Supply of Alcohol Act 2012:
 - a. LAPs are reflections of elected territorial authorities' policy choices, influenced by community preferences, and don't necessarily need to be evidence-based.
 - b. Councils have the freedom to set trading hours different from default maximums without needing justification, and appeals against LAP elements are judged based on their reasonableness concerning the Act's objectives of promoting safe alcohol sale and minimizing harm.
 - c. The judgment implies that councils can adopt LAPs aligned with community preferences without fearing merit-based legal challenges.
81. However it is worth noting that, following the SC judgement, under the recent amendments in the Sale and Supply of Alcohol Act 2012 (Sale and Supply of Alcohol (Community Participation) Amendment Act 2023), Council is no longer required to adopt a provisional LAP and further provide right of appeal against the draft/provisional policy.
82. Prior to this amendment, Council was required to produce a provisional LAP and further entertain appeals from person/s or entities that had made a submission on the provisional policy during the consultation phase.
83. The recent legislative amendments mean that, once the special consultative procedure is concluded, Council can now directly proceed to making a final decision on the draft policy.

POLICY and PLANNING IMPLICATIONS - KAUPAPA HERE me ngā RITENGA WHAKAMAHERE

84. The draft Local Alcohol Policy 2023 as proposed may have implications on Council's [Tairāwhiti 2050 spatial plan](#).

85. The spatial plan refers to opportunities to enhance our city to have vibrant centres and destinations for business, employment and tourism. The plan further aspires to create a vibrant city and township centres that attracts locals and visitors.
86. The proposed changes (Proposal 1 and Proposal 2) in the draft policy may impact the aspirations of the spatial plan by limiting new licences to Class 1 restaurants which are open till late at night and further by reducing the trading hours for Class 2, 3 restaurants, cafés and wineries.

RISKS - NGĀ TŪRARU

87. **Reputation:** Council's reputation could be impacted if the resulting policy were considered overly permissive or restrictive by different groups. To mitigate this, staff have made recommendations with appropriate reasoning to maintain status quo against Proposals 1 and 2, while adopting Proposals 3 and 4.
88. **Process:** if the Panel makes recommendations that are outside the scope of the SOP, then additional consultation will be needed before these changes could be adopted as is mentioned in relevant sections of this report.

NEXT STEPS - NGĀ MAHI E WHAI AKE

Date	Action/Milestone	Comments
June 2024 (date TBC)	Panel report presented to Council with the revised draft Policy for approval.	Subject to Panel signing off report in time to make the agenda
TBC	Public Notification of Police	Subject to Council approval in June 2024.

ATTACHMENTS - NGĀ TĀPIRITANGA

- Attachment 1: Gisborne District Local Alcohol Policy 2018 [24-123.1 - 4 pages]
- Attachment 2 - Draft LAP 2024 [24-123.2 - 6 pages]
- Attachment 3 - Additional Submissions from the Hearings [24-123.3 - 10 pages]
- Attachment 4: Statement of Proposal - Draft Local Alcohol Policy 2024 [24-123.4 - 7 pages]
- Attachment 5: Buffer Sensitive Sites [24-123.5 - 5 pages]

Gisborne District Local Alcohol Policy

28 August 2017



POLICY REFERENCES

Sponsor	Director Environmental & Regulatory Services
Effective	5 March 2018
Review due	In line with the next review of the Combined Regional Land and District Plan or within 6 years, whichever is first
Legal compliance	Sale and Supply of Alcohol Act 2012
Associated documents	Alcohol in the Gisborne District (A441290)

1. INTRODUCTION

- 1.1 The Sale and Supply of Alcohol Act 2012 ("the Act") is the primary legislation regulating the sale and supply of alcohol in New Zealand. The aim of the Act is that:
- The sale, supply and consumption of alcohol should be undertaken safely and responsibly; and
 - The harm caused by the excessive or inappropriate consumption of alcohol should be minimised.
- 1.2 The Act allows a territorial authority to develop a Local Alcohol Policy ("LAP") in consultation with its community, about the sale and supply of alcohol in its geographical area. Gisborne District Council has decided to develop an LAP for its district and to set different restrictions and conditions for identified areas and licence types within the district.
- 1.3 The LAP must be read in conjunction with the Act and relevant regulations.
- 1.4 The Council's District Licensing Committee ("DLC") and the Alcohol Regulatory Licensing Authority ("ARLA") must have regard to the LAP when deciding licence applications in the District.
- 1.5 A LAP may include policies about the:
- Location and density of licensed premises;
 - Number of licensed premises of different types;
 - Hours of operation of licensed premises;
 - Discretionary conditions that may be imposed on licences including one-way door conditions.

2. POLICY OBJECTIVE

- 2.1 The Gisborne District LAP provides guidance for the DLC so that licensing decisions:
- Balance a healthy and safe Tairāwhiti with a vibrant and prosperous Tairāwhiti;
 - Encourage licensed environments that foster positive, responsible drinking behaviour and minimise alcohol-related harm; and
 - Reflect the views of local communities as to the appropriate location, number, hours and conditions that should apply to licensed premises within their communities.
- 2.2 Indicators and measures for monitoring the effectiveness of the Policy will be identified at the implementation phase.

3. POLICY PROVISIONS

3.1 Location and Density of Licensed Premises

- 3.1.1 No new licence of any type, except for restaurants or cafes and Special Licences, to be granted for locations within 150 metres of sensitive sites existing at the time of the application for a licence. This clause will not apply to an application for a new licence made because of a change of ownership of the premises, provided the licence type and scope of the new licence are the same as the existing licence for the premises.
- 3.1.2 Applications for new off-licences are exempt from clause 3.1.1 where the applicant can demonstrate to the DLC that the hours, alcohol-related signage, and/or operation of the premises will have no significant impact on sensitive sites and/or persons using sensitive sites. In relation to that test, provided the Applicant demonstrates how the conditions for off-licences listed in 3.4.3.1 will be achieved, the following shall be considered to have no significant impact:
- The hours of an off-licence where there is no external display of alcohol advertising; and
 - The operation of an off-licence where the licensee implements an ID 25 policy.

Nothing in this clause affects the operation of sections 105 (1) (h) and (i) and section 106 of the Act.

- 3.1.3 For the purpose of clauses 3.1.1 and 3.1.2, sensitive sites are defined as areas, premises or facilities that are either considered more sensitive to alcohol-related harm, or are already experiencing greater levels of alcohol related harm than other areas as determined by the DLC. Such sites are educational institutions¹, spiritual facilities², marae and recreational facilities³.
- 3.1.4 Applicants should be aware that the DLC will consider whether an area is a high crime area when making decisions on licensing applications.

3.2 Maximum Licensed Operating Hours

OFF-LICENCE			
Off-Licence types	Maximum operating hours	Trading days	Location
Supermarkets, wineries, taverns, bottle stores, grocery stores, clubs	7 am – 9 pm	Monday-Sunday	district-wide
ON-LICENCE			
On-Licence types	Maximum operating hours	Trading days	Location
Restaurants, cafes, wineries, taverns (including night-clubs), BYO, entertainment centres	10 am – 2 am One-way door from 1 am for taverns including night clubs	Monday-Sunday	district-wide

¹ Educational Facilities are defined as early-learning and child-care facilities, primary, secondary and tertiary institutions and institutions delivering educational services for vulnerable groups such as unemployed, youth or disabled groups.

² Spiritual Facilities are defined as a building or part of a building used primarily for public and private worship, or for religious purposes, including ceremonies, services, instruction or education, or for meetings or social functions directly related to the work of a religious organisation, and includes all land which is held for any of the foregoing purposes.

³ Recreational facilities are defined as including parks, reserves, skate parks, youth centres and libraries.

CLUB LICENCE			
Club licence types ⁴	Maximum operating hours	Trading days	Location
All Clubs including sports and other (including RSA)	10 am – 11 pm	Sunday-Thursday	district-wide
	10 am – 12 midnight	Friday - Saturday	
	Clubs holding commemorative Anzac celebratory services are permitted to open at 6 am on Anzac Day		

3.3 Special Licences

- 3.3.1 Non-licensed premises will not be issued a Special Licence beyond 2 am.
- 3.3.2 Licensed premises applying for a Special Licence will not be permitted to operate beyond 3 am.
- 3.3.3 All Class 1 Special Licences shall be exercised by a person holding a Manager's Certificate under the Act.
- 3.3.4 Any special licence for a series of events should not be for a period exceeding six months.
- 3.3.5 No premises should have more than 20 events under special licence in any 12-month period.

3.4 Conditions

- 3.4.1 The DLC may issue any licence subject to any reasonable conditions not inconsistent with the Act.
- 3.4.2 A combination of conditions that are appropriate to the operating context of the licensee (both mandatory conditions as defined by the Act, and discretionary conditions) will add effect to licensing decisions and contribute towards meeting the object of the Act. It is important that conditions are consistent and adhered to across operations with similar scope and type of licence for greatest impact.
- 3.4.3 Where the DLC is satisfied that one or more of the following matters are relevant to an application and is not satisfied that the applicant has adequately addressed that matter (or matters), the DLC may include (among other things) the following discretionary conditions as applicable.
- 3.4.3.1 Conditions related to the following matters may be appropriate for all licences:
- Display of safe and responsible drinking messages/material.
 - Appropriate management: such as certified staff required.
 - Application of the principles of Crime Prevention Through Environmental Design where they achieve the following outcomes:

Lighting

- Internal lighting inside the premises enables passive surveillance by staff and active surveillance by CCTV.
- Lighting allows customers to be seen as they enter the premises.
- Lighting allows staff to check identification.
- External areas such as car parks and loading bays are well lit, subject to the requirements of any resource consent or a District Plan rule

⁴ Chartered Clubs are not subject to licensing under the District Licencing Committee, unless they operate outside the rules of their charter, so are exempt from this Policy.

CCTV

- CCTV is installed in suitable locations to monitor areas which are not easily or not continuously monitored by staff.
- Customers are aware of the CCTV system

3.4.3.2 In addition to the general matters in 3.4.3.1, the following conditions may be appropriate for On-Licences and Special Licences:

- Number of door staff and provision of additional appropriately qualified security staff after a specified time.
- Management of patrons queueing to enter the licensed premises.
- Limit on the type and/or size of drinks and the number of drinks per customer and/or the use of glasses after a specified time.
- Limit on the use of glass drinking receptacles at specified times.
- One-way door restrictions applying earlier than default of 2pm.
- Provision of transport or information about transport options for patrons.
- Restrictions on use of outdoor areas after a specified time.
- Provision of food.
- Adoption of a Host/Social Responsibility Policy.

Kaupapa Waipiro ā rohe o Te Tairāwhiti 2024
(Tairāwhiti Local Alcohol Policy 2024)

DRAFT

Made by Gisborne District Council

Resolution of Council dated _____ **2024**

Review date _____ **2030**

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DRAFT

1. Introduction

- 1.1. The Sale and Supply of Alcohol Act 2012 ("the Act") is the primary legislation regulating the sale and supply of alcohol in New Zealand. The aim of the Act is that:
- The sale, supply and consumption of alcohol should be undertaken safely and responsibly; and
 - The harm caused by the excessive or inappropriate consumption of alcohol should be minimised.
- 1.2. The Act allows a territorial authority to adopt its Local Alcohol Policy ("LAP") in consultation with its community, about the sale and supply of alcohol in its geographical area. Gisborne District Council has decided to adopt this LAP for its district and to set different restrictions and conditions for identified areas and licence types within the district.
- 1.3. The LAP must be read in conjunction with the Act and relevant regulations.
- 1.4. The Council's District Licensing Committee ("DLC") and the Alcohol Regulatory Licensing Authority ("ARLA") must have regard to the LAP when deciding licence applications in the District.
- 1.5. A LAP may include policies about the:
- Location and density of licensed premises;
 - Number of licensed premises of different types;
 - Hours of operation of licensed premises;
 - Discretionary conditions that may be imposed on licences including one-way door conditions.

2. Objective of this Policy

- 2.1. The Gisborne District LAP provides guidance for the DLC so that licensing decisions:
- Balance a healthy and safe Tairāwhiti with a vibrant and prosperous Tairāwhiti;
 - Encourage licensed environments that foster positive, responsible drinking behaviour and minimise alcohol-related harm; and
 - Reflect the views of local communities as to the appropriate location, number, hours and conditions that should apply to licensed premises within their communities.
- 2.2. Indicators and measures for monitoring the effectiveness of the Policy will be identified at the implementation phase.

3. Our policy

3.1. Location and Density of Licensed Premises

- 3.1.1. No new licence of any type, except for Class 2¹ or Class 3² restaurants or cafes and Special Licences, to be granted for locations within 150 metres of sensitive sites existing at the time of the application for a licence. This clause will not apply to an application for a new licence made because of a change of ownership of the premises, provided the licence type and scope of the new licence are the same as the existing licence for the premises.

¹ As per Regulation 6 of Sale and Supply of Alcohol (Fees) Regulations 2013:
Class 2 restaurant means a restaurant that has or applies for an on-licence and—
(a) has, in the opinion of the territorial authority, a separate bar; and
(b) in the opinion of the territorial authority, does not operate that bar area in the manner of a tavern at any time.

² As per Regulation 6 of Supply of Alcohol (Fees) Regulations 2013:
Class 3 restaurant means a restaurant that has or applies for an on-licence and that, in the opinion of the territorial authority, only serves alcohol to the table and does not have a separate bar area.

3.1.2.Applications for new off-licences are exempt from clause 3.1.1 where the applicant can demonstrate to the DLC that the hours, alcohol-related signage, and/or operation of the premises will have no significant impact on sensitive sites and/or persons using sensitive sites. In relation to that test, provided the Applicant demonstrates how the conditions for off-licences listed in 3.4.3.1 will be achieved, the following shall be considered to have no significant impact:

- The hours of an off-licence where there is no external display of alcohol advertising; and
- The operation of an off-licence where the licensee implements an ID 25 policy.

Nothing in this clause affects the operation of sections 105 (1) (h) and (i) and section 106 of the Act.

3.1.3.For the purpose of clauses 3.1.1 and 3.1.2, sensitive sites are defined as areas, premises or facilities that are either considered more sensitive to alcohol-related harm or are already experiencing greater levels of alcohol related harm than other areas as determined by the DLC. Such sites are educational institutions³, spiritual facilities⁴, marae and recreational facilities⁵.

3.1.4.Applicants should be aware that the DLC will consider whether an area is a high crime area when making decisions on licensing applications.

3.2. Maximum Licensed Operating Hours

OFF-LICENCE			
Off-Licence types	Maximum operating hours	Trading days	Location
Supermarkets, wineries, taverns, bottle stores, grocery stores, clubs	7 am – 9 pm	Monday-Sunday	District-wide

ON-LICENCE			
On-Licence types	Maximum operating hours	Trading days	Location
Restaurants, taverns (including nightclubs), BYO, entertainment centres	10 am – 2 am One-way door from 1 am for taverns including night clubs	Monday-Sunday	district-wide
Class 2 and 3 Restaurants, cafes and wineries.	10am to 12am	Monday-Sunday	District-wide

³ Educational Facilities are defined as early learning and child-care facilities, primary, secondary and tertiary institutions and institutions delivering educational services for vulnerable groups such as unemployed, youth or disabled group.

⁴ Spiritual Facilities are defined as a building or part of a building used primarily for public and private worship, or for religious purposes, including ceremonies, services, instruction or education, or for meetings or social functions directly related to the work of a religious organisation, and includes all land which is held for any of the foregoing purposes.

⁵ Recreational facilities are defined as including parks, reserves, skate parks, youth centres and libraries.

CLUB LICENCE			
Club licence types ⁶	Maximum operating hours	Trading days	Location
All Clubs including sports and other (including RSA)	10 am – 11 pm	Sunday-Thursday	district-wide
	10 am – 12 midnight	Friday - Saturday	
	Clubs holding commemorative Anzac celebratory services are permitted to open at 6 am on Anzac Day		

3.3. Special Licences

- 3.3.1. Non-licensed premises will not be issued a Special Licence beyond 2 am.
- 3.3.2. Licensed premises applying for a Special Licence will not be permitted to operate beyond 3 am.
- 3.3.3. All Class 1⁷ Special Licences shall be exercised by a person holding a Manager's Certificate under the Act.
- 3.3.4. Any special licence for a series of events should not be for a period exceeding six months.
- 3.3.5. No premises should have more than 20 events under special licence in any 12-month period.

3.4. Conditions

- 3.4.1. The DLC may issue any licence subject to any reasonable conditions not inconsistent with the Act.
- 3.4.2. A combination of conditions that are appropriate to the operating context of the licensee (both mandatory conditions as defined by the Act, and discretionary conditions) will add effect to licensing decisions and contribute towards meeting the object of the Act. It is important that conditions are consistent and adhered to across operations with similar scope and type of licence for greatest impact.
- 3.4.3. Where the DLC is satisfied that one or more of the following matters are relevant to an application and is not satisfied that the applicant has adequately addressed that matter (or matters), the DLC may include (among other things) the following discretionary conditions as applicable.

3.4.3.1. Conditions related to the following matters may be appropriate for all licences:

- Display of safe and responsible drinking messages/material.
- External alcohol advertising at liquor stores to be ceased.
- Appropriate management: such as certified staff required.
- Application of the principles of Crime Prevention Through Environmental Design where they achieve the following outcomes:

Lighting

- Internal lighting inside the premises enables passive surveillance by staff and active surveillance by CCTV.
- Lighting allows customers to be seen as they enter the premises.
- Lighting allows staff to check identification.

⁶ Chartered Clubs are not subject to licensing under the District Licensing Committee, unless they operate outside the rules of their charter, so are exempt from this Policy.

⁷ As per Regulation 6 of Sale and Supply of Alcohol (Fees) Regulations 2013:

Class 1 restaurant means a restaurant that has or applies for an on-licence and—

(a) has, in the opinion of the territorial authority, a significant separate bar area; and

(b) in the opinion of the territorial authority, operates that bar area, at least 1 night a week, in the manner of a tavern.

- External areas such as car parks and loading bays are well lit, subject to the requirements of any resource consent or a District Plan rule.

CCTV

- CCTV is installed in suitable locations to monitor areas which are not easily or not continuously monitored by staff.
- Customers are aware of the CCTV system.

3.4.3.2. In addition to the general matters in 3.4.3.1, the following conditions may be appropriate for On-Licences and Special Licences:

- Number of door staff and provision of additional appropriately qualified security staff after a specified time.
- Management of patrons queueing to enter the licensed premises.
- Limit on the type and/or size of drinks and the number of drinks per customer and/or the use of glasses after a specified time.
- Limit on the use of glass drinking receptacles at specified times.
- One-way door restrictions applying earlier than default of 2am.
- Provision of transport or information about transport options for patrons.
- Restrictions on use of outdoor areas after a specified time.
- Provision of food.
- Adoption of a Host/Social Responsibility Policy.

(Submission from Ben

Members of the council,

I stand before you today not just as Ben McCann, but as a passionate advocate for the revitalisation of our beloved Gisborne CBD. For the past 19 months, I've been entrenched in a battle for the right to open a venue in a historic building on Main Street which has held a license for over 40 years. Yet, I find myself not just fighting against bureaucracy, but against a tide of misguided regulations that threaten to stifle progress and suffocate our city's potential.

We find ourselves in a perplexing situation. Despite the council's ambitious plans to breathe new life into our CBD, archaic rules and regulations stand as formidable barriers to progress. How can it be that in a city plagued by vacant buildings and a desperate need for economic stimulation, we are hindered at every turn from opening businesses that could revitalise a part of our community?

Take a moment to examine the current venues within 150m of a sensitive site. Tahu is next to the Kiwa pools and Midway Surfclub, The Rivers un consented school main street, as is Anjuna, Tav is next to house of break through and the hospital, Smash Palace will be next to a new worship facility, verve café and bar next to the library, Sadiri is next to a Kura school and the library, PBC is next to OT, the court house and a childcare facility, Neighbourhood Pizza is next to a childcare facility, and Usco which has sadly succumb to closure may never be able to reopen if the proposed alcohol policies are implemented.

Soon, there will be nothing left of our CBD but a desolate wasteland, devoid of the vibrant businesses that once thrived here. This sinking lid policy is not just a metaphorical term; it's a grim reality that threatens to sink our city into irrelevance.

This poses the question - why are so many sensitive sites allowed to open within 150m of a licence premise?

Additionally, you'll also find that other districts have smaller radius and exclude the CBD from their LAP.

While I acknowledge the genuine concerns about alcohol-related harm within our community, I implore you to consider the evidence objectively.

Is it safer to confine alcohol consumption in controlled, compliant premises, or to drive it underground into unmonitored environments fueled by cheap alcohol?

Let's address the draft policy presented by Makarand, which appears to rest on questionable reasoning and conclusions. Simply referring to alcohol density statistics, ED visit fails to provide an accurate representation of the situation in Gisborne. Furthermore, there's a lack of compelling evidence indicating that either the current or proposed Local Alcohol Policies have effectively curbed alcohol-related harm in our community.

Let me explain, the use of emergency department (ED) hospitalisation data, it's important to note that this may not provide a comprehensive understanding of what's truly happening in Gisborne. For instance, the peak in ED visits in 2008 could be attributed to events like Rhythm and Vines, which draws around 30,000 attendees to celebrate New Year's. This significant influx presents a clear anomaly in the data. To offer some context, the spike in ED visits coincided with the year Rhythm and Vines expanded into a three-day event, causing strain on hospital resources. Although rhythm and vines has now established over 30 full time medics onsite daily and multiple medical clinics, Gisborne hospital still receives injuries that can't be treated onsite.

Given this considerable anomaly, Is this data reliable to make decisions about on premise?

Recent studies from Christchurch University highlight the ineffectiveness of blanket restrictions on licensed premises. The majority (67%) of hospital admissions for alcohol-related issues happened with out the patient ever stepping foot in a licensed premise. We cannot ignore the fact that people will continue to drink, regardless of the regulations imposed upon licensed premises.

Furthermore, the availability theory, often cited in support of restrictive policies, is called into question by the same research. This is also reflective of what is stated by the nz police where the majority of crime offenders did not consume alcohol in licensed premise before committing crime, debunking the notion that these establishments are hotbeds of increased criminal activity. Further to this In Point 23: Makarand mentions alcohol density, asserting that Gisborne's higher number of on and off licences leads to a higher risk alcohol related harm. I would like to call his maths into question, upon calculating the total number of premises across all licence types Gisborne it is in fact less 21.1 outlets per 10,000 residents, slightly below the national average of 21.7.

A more accurate way to measure that would be on premise (on-licence and club) and off licence. Where you will find that Gisborne has 13.8 on-premise venues compared to the national average of 15.8 per 10,000.

Licence Type per 10,000	Gisborne	New Zealand
On Licence (on prem)	3.8	3.2
Off license	7.3	5.9
Club (On prem)	10	12.6
Total	21.1	21.7
On premises total	13.8	15.8

In conclusion, I urge you to reconsider the proposed policy and instead focus on solutions that promote responsible alcohol consumption while fostering economic growth. Let us not be shackled by fear, but rather emboldened by the opportunity to shape a vibrant, thriving CBD for generations to come.

I propose that we take away sensitive site restrictions out of the CBD not just for class one restaurants but for Taverns. Whats the point of a CBD if you can't open a business on the Main Street.

Please view the academic study below.

<https://www.otago.ac.nz/news/newsroom/study-finds-alcohol-ed-presentations-increasing-among-older-new-zealanders#:~:text=Findings%20from%20a%20new%20University,over%2Dstretched%20hospital%20emergency%20departments.\>

"Although media attention often focuses on "young people drinking in pubs and bars on a Saturday night", this is not the case in terms of ED presentations in this study," Dr Joyce says.

"Our findings are in line with other research showing that over one-third of older New Zealanders are drinking at levels which may result in harm.

“This is concerning, as people in this age group are more likely to have additional co-morbidities and the potential for medication interactions.”

Conversely, the study shows a drop in the numbers of youth presenting to the ED with alcohol-related issues; in 2013 youth aged 25 and under made up 33.6 per cent of presentations, dropping to 19.3 per cent in 2022.

“This drop in youth drinking alongside an increase in alcohol consumption by older adults, has also been observed in other high-income countries around the world.”

The study shows binge-drinking is still prevalent in New Zealand society, with a significant proportion of patients in each wave (26.5 percent in 2022) admitting to having consumed 20 or more standard drinks in a single occasion.

The findings also detected a shift back to on-license alcohol purchase over time (such as bars and clubs), although off-license alcohol purchases (bottle stores, supermarkets, and online sales) remain the primary source of alcohol purchase.

Two-thirds of patients in the study had consumed alcohol (leading to their ED visit) in a private location, such as their own home.

“We feel this highlights the need for stronger local alcohol policies for off-license venues, particularly seeing they are a key supplier of large quantities of cheap alcohol and contribute to New Zealand’s drinking culture as a whole,” Dr Joyce says.

“With the recent passing of the Sale and Supply of Alcohol (Community Participation) Amendment Bill, Councils can now implement strong controls on alcohol availability without the risk of alcohol industry appeals, particularly from alcohol retailers.”

The study authors say it’s highly important that EDs in New Zealand systematically collect alcohol-related data, to help inform effective population-level alcohol policies to reduce excessive drinking.

“Alcohol-related presentations are preventable, contribute to ED overcrowding, impact other patients requiring care, put considerable stress on hospital staff and resources, and place a high financial burden on the entire health system.

“Implementation of evidence-based alcohol policies is urgently needed to reduce the impact of alcohol in the ED and improve the health of our communities,” Dr Joyce says.



"We're not talking about people who've had just one or two drinks."

The study of the last place where offenders consumed alcohol shows that of the 56% who took their last drinks in a private home, 71% were deemed to be moderately or extremely affected by alcohol, of the 29% who had their last drinks on licensed premises - 76% and of the 14% who had their last drinks in a public place such as a park, club or on the street, 96% were deemed to be moderately or extremely affected by alcohol.

VII. Conclusions

Overall, we find little evidence that LAPs introduced by TAs between July 2014 and January 2019 have had a significant impact on crime. As all LAPs restrict, rather than liberalise, the temporal and/or physical availability of alcohol in society, we find little empirical evidence to support the Availability Theory. Our findings are robust to many different specifications, including: controlling for specific LAP dimensions and the stringency at which they are applied; subsampling by different types of crimes; subsampling by crimes occurring at different times of the day/week. In addition, we do not find any strong evidence of temporal shifts in

²⁵ The results also appear to suffer from multicollinearity between the 1am on-licence closing time and the dummy variable for whether a TA has an extended maximum closing time for CBD on-licences.



link research.

"Our intelligence clearly indicates that the consumption of alcohol in homes and public places has a greater impact on alcohol-related crime than licensed premises alone.

This should be of real concern to society and the way we regard the consumption of alcohol and the downstream effects this has on our rates of crime," said Assistant Commissioner Broad.

ENDS

Leah McCann

Submission → 49

Karen McCann

From: Leah McCann <neptunespizza@gmail.com>
Sent: Wednesday, 24 April 2024 8:23 am
To: Karen McCann

Objective

2.1. Balance a healthy and safe Tairāwhiti with a vibrant and prosperous Tairāwhiti;

maintaining vibrancy in our city is crucial. tourism and hospitality go hand in hand, you'll often hear those two words in the same sentence.. if there is no hospitality... that will drastically effect tourism.. and there goes your vibrancy.. it doesn't leave Gisborne looking like a very attractive option for new people considering moving to our region.

Restaurants and licensed venues are essential for creating memorable experiences for both visitors and locals alike.

We are currently experiencing a noticeable decline in social venues here in Gisborne limiting the opportunities for community engagement and connection.

A bustling Main Street should be a hub of social interaction, offering spaces for relaxation, celebration, and new encounters. Imagine a city where after 3pm, there's no place to enjoy a refreshing beer or a glass of wine on the Main Street.. Such limitations are rarely seen in thriving cities.

Encouraging licensed environments that promote positive, responsible drinking behaviours and mitigate alcohol-related harm should be the goal!.. These controlled settings offer patrons a space to unwind responsibly, fostering a culture of moderation and safety.

It's important to acknowledge that obtaining a liquor license is a rigorous process and a serious commitment for business owners, not taken lightly. They are bound by the Sale and Supply of Alcohol Act 2012, ensuring that alcohol is sold and consumed in a manner that prioritizes public safety and minimizes harm.

... piece of legislation includes large fines for businesses who are not meeting these standards the licensees should be fostered and supported by our local council these are people who are doing their best to keep hospitality alive and by doing so they are putting themselves in a position personal liability.

In regards to

our current LAP in which no new licenses can be provided to taverns² located within 150 meters of sensitive sites..

in terms of a sensitive site in the CBD there is also a framework in which to follow in regards to resource consent...

it would make sense that in such cases where a sensitive site applies for consent in an area with long standing existing licensed premises within 150 meters of their proposed site..

that resource consent should be denied for that reason..

v
c

Sensitive sites should also have to prove some on going long term commitment to the proposed site in the form of a substantial lease term Or have purchased the property..

A
at
gl

For example: a month to month lease in the CBD should not be allowed to dictate the futures of surrounding businesses and the prosperity and vibrancy of our Main Street.. the very place where visitors to our region expect to find restaurants and bars

En
alc
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I think the 150 meter rule shouldn't apply in the CBD to any licensed premises in the CBD

t's
or
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in

these policies need to be clearer, fairer and more transparent.. with a common sense approach used in such matters

Kia Ora Councillors and community members,

I have joined the list of speakers this morning with a view to helping our town get back on its feet after what I'm sure you'll all agree has been a difficult few years for the Gisborne Tairāwhiti region.

As a returning Gisborne local, from a family background of individuals who have cared deeply for the education and development of our region and its people for many decades, I have been saddened to return to our town and see it reduced to such a desperate state of disrepair, where it was once a lively, colourful town full of entrepreneurial energy.

During my time away from Gisborne I have been fortunate enough to gain a wealth of experience in the fields of urban planning, high street restoration, and the design of public sector infrastructure and educational facilities for those from disadvantaged backgrounds.

This has allowed me to take an objective view of the difficulties facing our region, along with its processes and policies.

In reviewing the LAP report prepared by Makarand, I (too) noticed indiscrepancies in the data relied upon. It was clear the evaluation of alcohol related hospitalisations between 2006 and 2011 had not taken into consideration the growth timeline of our region's crowning jewel of the Summer social calendar - Rhythm & Vines. The festival numbers were at a peak during this time and would naturally have presented a significantly higher proportion of alcohol related incidents, compared to the national average. As the festival has developed and reduced in size, so too have our hospitalisation figures.

The suggestion that **on-licence** premises are responsible for a heightened presentation of ED cases between 3-4am is again misleading, as this is widely recognised as the peak time for alcohol related incidents regardless of where the drinking is taking place.

Many of our hospitals ED presentations in 2023 can be attributed to a **lack of on-licence premises** and the increasing cost of drinks at bars and restaurants, leading to an increase in unregulated alcohol consumption at private residences in the suburbs. A lack of transportation options and reduced availability of Taxis has also lead to an increase in people driving under the influence.

It's generally concerning to see policy proposals are based on reducing licensed premises near sensitive sites, as this is largely irrelevant to our region's particular challenges which primarily revolve around the aforementioned unregulated drinking culture.

Creating buffers around sensitive sites has proven ineffective compared with other methods tested by the world health association as part of their SAFER drinking initiatives. The approach is also not recommended in situations where it incapacitates the entirety of the CBD or hospitality sector of any given municipality.

Proposal One - No new licences to be granted for Class 1 restaurants located within 150 metres of sensitive sites - with a sinking lid policy - serves only to sink our community recovery, growth, business start up and as a result - tourism, economy and regional development.

Why would we adopt a disproven method favouring sensitive sites, over the livelihood of our restaurant and tavern establishments which should be forming the backbone and lifeblood of our town?

Most of the sensitive sites in question would not be the least bit affected by having licensed premises nearby, and the CBD is certainly not a place for unnecessary restrictions on hospitality.

Calls for alcohol related interventions such as this which are speculative, unproven and distracting should be swiftly rejected.

If the council is looking for the key to rejuvenating and introducing vibrancy back into our town, all they need to do is look to the faces of the business owners who are here speaking today -

These are your rejuvenators,

Your creators of vibrancy,

And they are here because our processes and policies are counter to the reinvigoration we so desperately seek.

We need to listen to our business leaders - the needs of our most entrepreneurial community members and work together with them, because they will have no issues taking their time, effort and investment elsewhere if we are not willing to find solutions together.

We need to build a community culture of encouragement rather than entertaining more of these policies which have an undeniable undertone of excessive caution and suppression.

Ultimately, there is plenty of evidence to suggest the existing alcohol policy as it stands is more than stringent enough, and I believe **we need to be wary of adding further restrictions as perceived improvement.**

Given the range of challenges local businesses already face there appears to be a strong case for considering alternative interventions to the sinking lid proposal.

Regulating the number, density, location and marketing of **off-licence premises** /S an option and will likely have a greater impact on community safety than further restricting an already fading hospitality sector,

but the best protection for our community against alcohol related harm will come from education and the reform of drinking culture at an individual level - part of which can be achieved by encouraging the safe and regulated consumption of alcohol in public settings such as taverns and class 1 and 2 restaurants.

Without these environments **where clear standards and examples can be set**, we leave drinking behaviour open to individual interpretation.

Remove our establishments ability to gain licences and you remove their licence to help educate and revitalise our community.

Thank you

Tamara Creswell-Wells

Statement of Proposal: Draft Local Alcohol Policy 2024

The Gisborne District Council (Council) is proposing to update its Local Alcohol Policy 2018. The Policy is made under Subpart 2 of the Sale and Supply of Alcohol Act 2012. This allows Council to maintain the sale, supply, and consumption of alcohol to be undertaken in a safe and responsibly manner; and minimize any harm caused because of excessive or inappropriate consumption of alcohol.

As per Section 97 of the Sale and Supply of Alcohol Act 2012, a Local Alcohol Policy once adopted is required to be reviewed within six (6) years from its adoption. Council's current Local Alcohol Policy was adopted in March 2018 and as such, Council is required to review the current policy by March 2024.

This document is the Statement of Proposal for the purposes of Section 83(1)(a) of the Local Government Act 2002 and Section 97 of the Sale and Supply of Alcohol Act 2012. This document contains:

- A summary of relevant information
- A description of the problems and the options to address these problems.
- Legislative requirements
- A draft of the proposed Policy
- How you can have your say

Summary of information

Council is proposing to update its Local Alcohol Policy 2018 and wants to hear what the community think about the changes.

The changes being suggested are:

- No new licences to be granted for Class 1 restaurants located within 150 meters of sensitive sites.
- Reduce operating hours for on-licences Class 2 and 3 restaurants, cafes, and wineries from 10am to 12am instead of 10am to 2am.
- Option to include a discretionary condition in liquor store licenses that facilitates ceasing of external advertisements at liquor stores.
- Include legal definition of Class 1, Class 2 and Class 3 Restaurants through footnotes for better readability.

More details about why Council is proposing these changes can be found under each proposal in the following section.

Have your say: Before making any final decisions, we'd like to have your input. You can make a submission:

- Online: [[LINK to PARTICIPATE](#)]
- By Post: P.O Box 747, Gisborne 4040
- In person: At Gisborne District Council – 15 Fitzherbert Street, Gisborne

If you would like to speak to your submission, please indicate this and provide your contact details. We will be in touch to let you know the date and time for verbal submissions.

Timeline:

Consultation period begins: 01 March 2024

Closing date for submissions: 01 April 2024

Next Step(s):

Following the recent amendments in the Sale and Supply of Alcohol Act 2012 ([Sale and Supply of Alcohol \(Community Participation\) Amendment Act 2023](#)) Council is no longer required to adopt a provisional LAP and further provide right of appeal against the draft/provisional policy. The next step for Council after the consultation phase ends would be to take a final decision on Tairāwhiti's Local Alcohol Policy 2023.

Proposal

The following tables describe what Council is proposing, the reason for the proposal, the options considered, and Council's preferred option.

Changes to the Policy and Bylaw

Proposal One	No new licences to be granted for Class 1¹ restaurants located within 150 meters of sensitive sites.
<i>Reasoning</i>	<p>Under the current LAP no new licenses can be provided to taverns² located within 150 meters of sensitive sites while all restaurants (including Class 1) and cafes can be provided new licenses.</p> <p>The primary reason for this proposal is to provide clarity and consistency in terms of operational realities between taverns and Class 1 restaurants. Staff note that based on their experiences when dealing with various Class 1 restaurants, these premises often use their legal classification to function as a tavern most nights of the week, where the purpose of the business is to principally provide alcohol to the public.</p> <p>The proposed change also allows Council to reduce accessibility and availability of alcohol for longer periods near sensitive sites.</p> <p>Staff note that if this proposal is accepted then a case-by-case approach will be adopted when dealing with new licences relating to Class 1 restaurants.</p>
<i>Options Considered</i>	<p>Option One – Status quo: Allow Class 1 restaurants applications for new licences to be assessed without consideration for sensitive sites located within 150 meters.</p> <p>Option Two – No new licences to be granted for Class 1 restaurants located within 150 meters of sensitive sites.</p> <p>Meaning, adopt a sinking lid approach and disallow any new Class 1 restaurant licences for premises located within 150 meters of sensitive sites.</p> <p>The above approach would reduce accessibility and availability of alcohol and offer protection for young people from exposure to alcohol promotion, helping to reduce the risk of early onset of drinking and problems developing.</p> <p>Option three - No new licences to be granted for Class 1 restaurants located within 150 meters of sensitive sites unless such premises are within the CBD area³.</p> <p>This option would allow Class 1 restaurants to apply for alcohol licenses within CBD region even if they are within 150 meters of any sensitive sites. This option will allow Council to strike a balance between health and safety of the region and a vibrant and prosperous CBD.</p>
<i>Preferred Option</i>	Option Two – No new licences to be granted for Class 1 premises located within 150 meters of sensitive sites.

¹ As per Regulation 6 of Sale and Supply of Alcohol (Fees) Regulations 2013:
Class 1 restaurant means a restaurant that has or applies for an on-licence and—
(a) has, in the opinion of the territorial authority, a significant separate bar area; and
(b) in the opinion of the territorial authority, operates that bar area, at least 1 night a week, **in the manner of a tavern.**

² As per Section 5 (1) (Interpretation) of the Sale and Supply of Alcohol Act 2012 a Tavern:
a. means premises used or intended to be used in the course of business principally for providing alcohol and other refreshments to the public; but
b. does not include an airport bar.

³ A map showing the CBD region has been attached at the end of this document at Annexure 1.

Proposal Two**Reduce operating hours for on-licences Class 2⁴ and 3⁵ restaurants, cafes, and wineries from 10am to 12am instead of 10am to 2am.**

Reasoning

The current policy allows Class 2 and 3 restaurants, cafes and wineries to operate between 10am to 2am similar to that of Class 1 restaurants, Taverns, Night clubs and BYO entertainment centres. However, the present hours do not reflect the reality of the business commercial operations and open up the possibility for certain businesses to provide alcohol in a time frame that is outside the framework of their scope of operation (E.g. cafés operating at 2 am). In the current setup the provisions of food and free water is sufficient to allow these types of businesses to legally operate until late.

Cafes, wineries, Class 2 and 3 restaurants, are known to operate well within the operating hours under the current LAP (10am to 2am). Staff note that in reality the usual operating hours for such type of premises is between 10am to 10pm. Adoption of this proposal would also allow reduction in effects of alcohol caused by premises that fall within 150 meters of sensitive sites.

Options Considered

Option One: Maintain Status Quo: Allow Class 2 and 3 restaurants, cafes, and wineries to operate between 10am to 2am.

Option Two: Reduce operating hours for on-licences Class 2 and 3 restaurants, cafes, and wineries from 10am to 12am instead of 10am to 2am.

Preferred Option

Option Two: Reduce operating hours for on-licences Class 2 and 3 restaurants, cafes, and wineries from 10am to 12am instead of 10am to 2am

⁴ As per Regulation 6 of Sale and Supply of Alcohol (Fees) Regulations 2013:

Class 2 restaurant means a restaurant that has or applies for an on-licence and—

(a) has, in the opinion of the territorial authority, a separate bar; and

(b) in the opinion of the territorial authority, does not operate that bar area in the manner of a tavern at any time.

⁵ As per Regulation 6 of Supply of Alcohol (Fees) Regulations 2013:

Class 3 restaurant means a restaurant that has or applies for an on-licence and that, in the opinion of the territorial authority, only serves alcohol to the table and does not have a separate bar area.

Legislative Framework

Sale and Supply of Alcohol Act 2012 (the act):

What can a LAP include:

[Section 77](#) of the act specifies that a LAP "**must not include any matter not relating to licensing**".

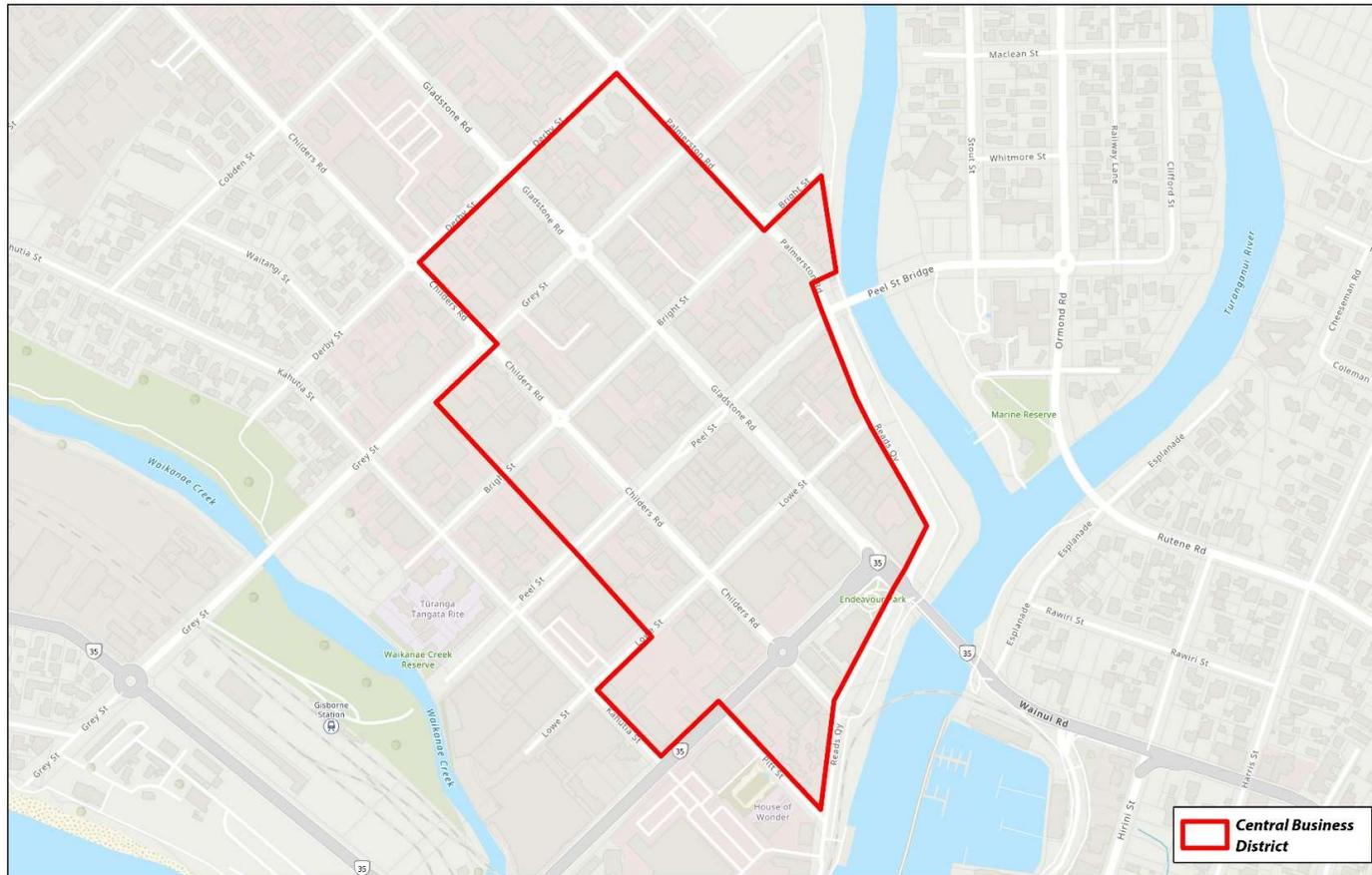
The following matters may be included in the LAP:

- (a) location of licensed premises by reference to broad areas:
- (b) location of licensed premises by reference to proximity to premises of a particular kind or kinds:
- (c) location of licensed premises by reference to proximity to facilities of a particular kind or kinds:
- (d) whether further licences (or licences of a particular kind or kinds) should be issued for premises in the district concerned, or any stated part of the district:
- (e) maximum trading hours:
- (f) the issue of licences, or licences of a particular kind or kinds, subject to discretionary conditions:
- (g) one-way door restrictions

How and when can a LAP be reviewed:

[Section 97](#) of the act stipulates that, once adopted, the Local Alcohol Policy must be reviewed every six (6) years and follow the special consultative procedure set out by the Local Government Act 2002.

Annexure 1 – Map showing CBD area

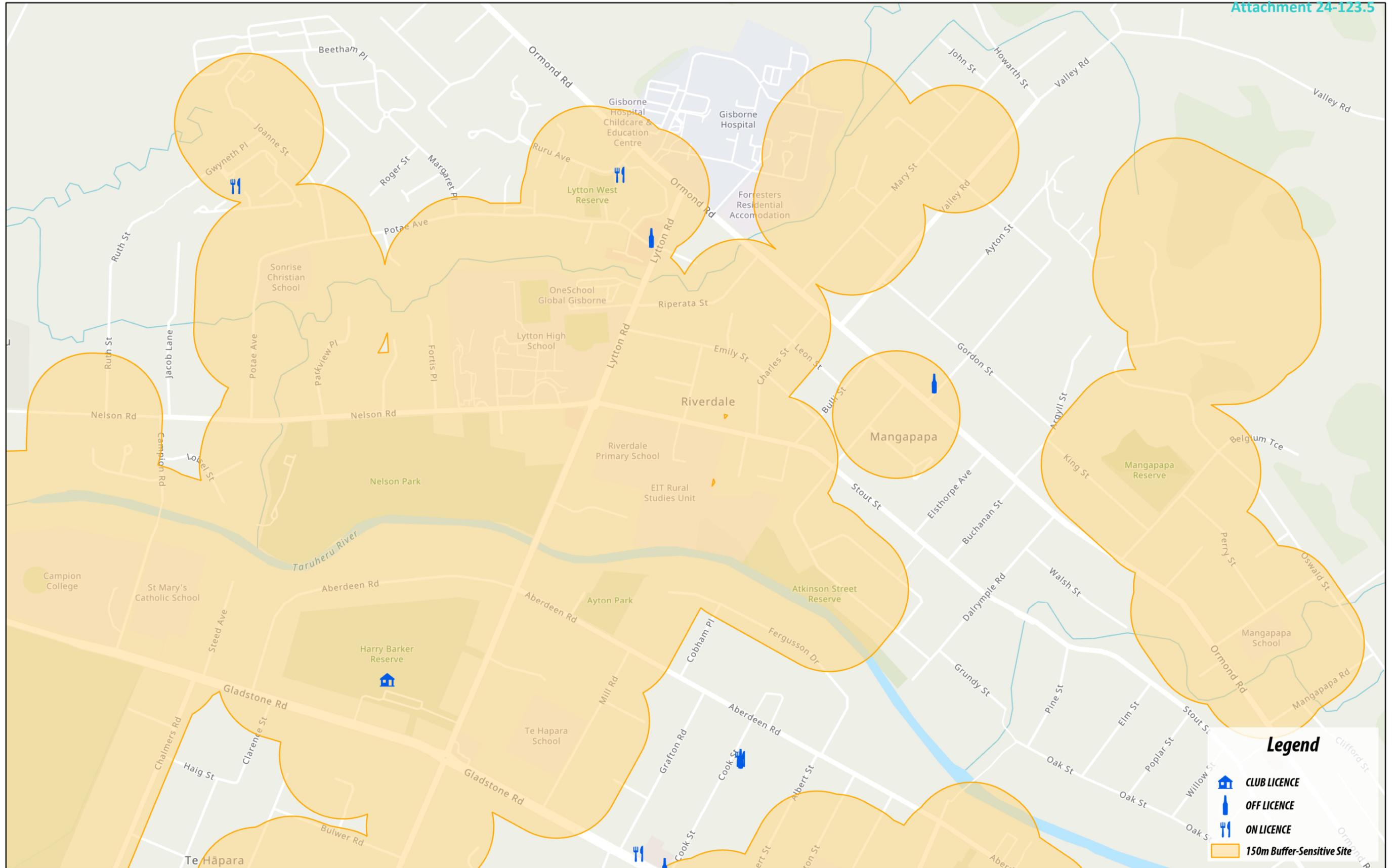


Gisborne Central Business District (CBD) | Scale: 1:4,000

Gisborne District Council does not make any representation or give any warranty as to the accuracy or exhaustiveness of the information provided. The information included on this map is indicative only and does not purport to be a complete database of all information in Gisborne District Council's possession or control. Gisborne District Council shall not be liable for any loss, damage, cost or expense (whether direct or indirect) arising from reliance upon or use of any information provided.

Name: A3 Landscape Date: 1/03/2024 User: old
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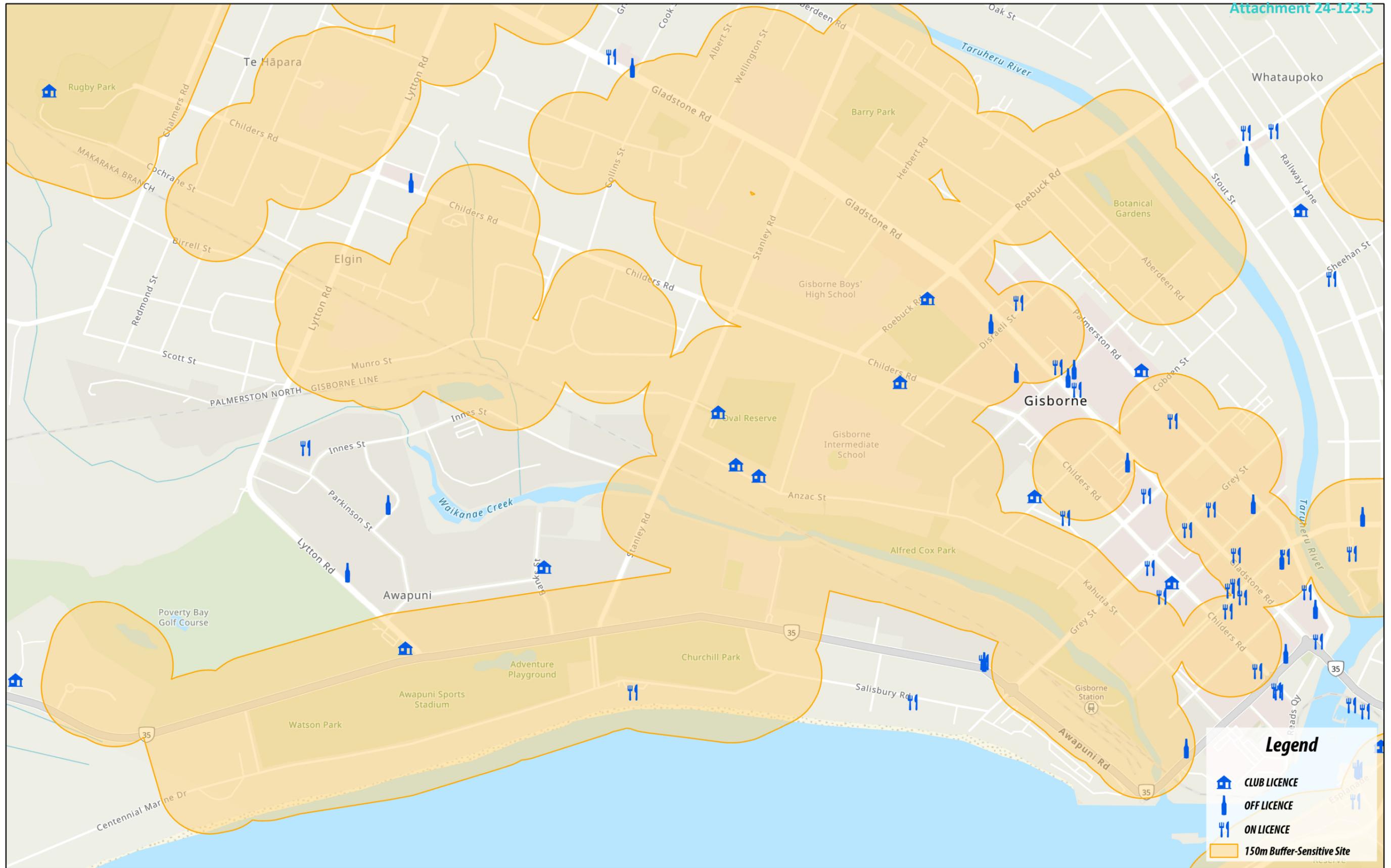
Legend

-  CLUB LICENCE
-  OFF LICENCE
-  ON LICENCE
-  150m Buffer-Sensitive Site

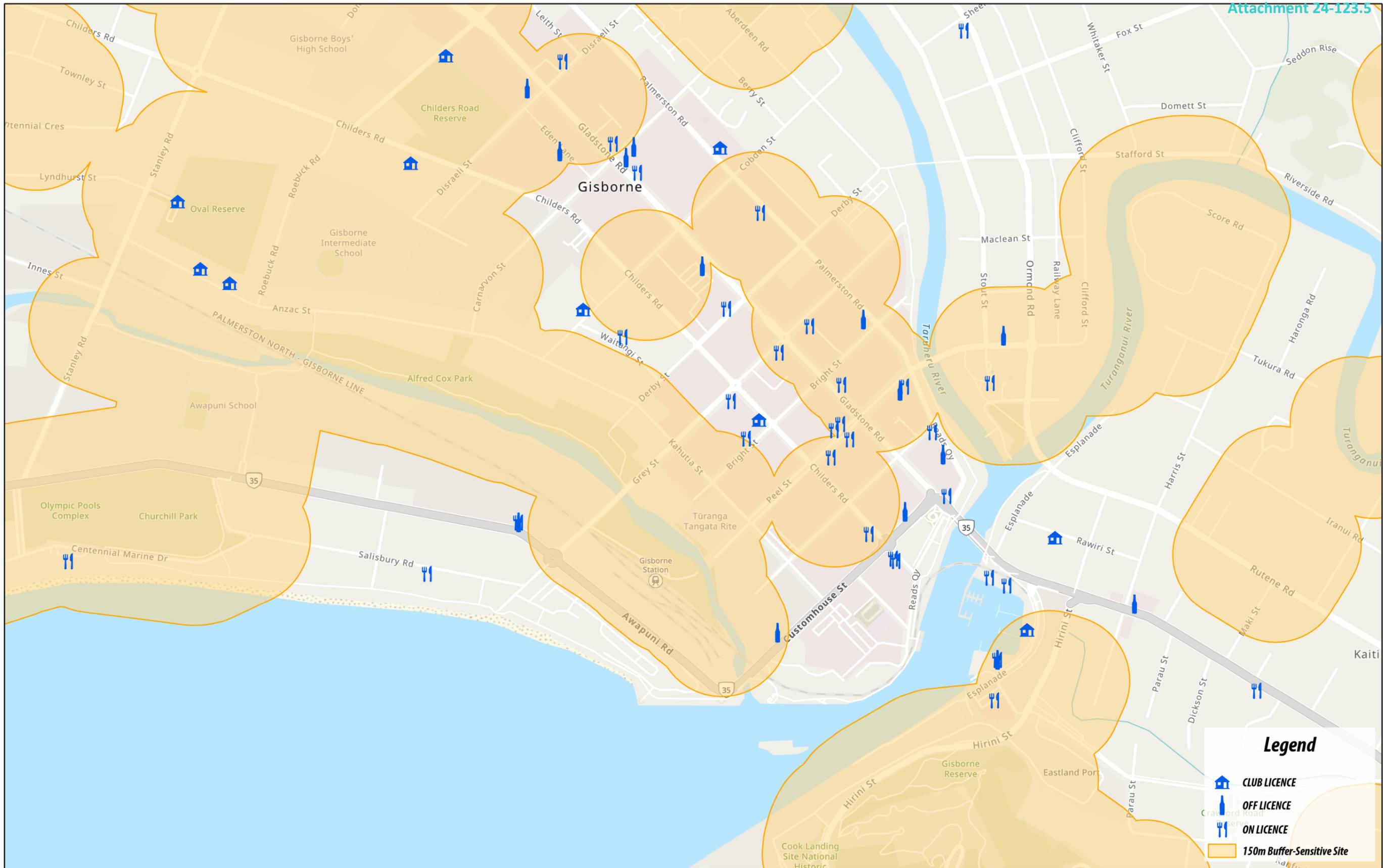
Sensitive Sites - Mangapapa/Lytton West | Scale: 1:8,000

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 Eagle Technology, LINZ, StatsNZ, NIWA, Natural Earth, © OpenStreetMap contributors.
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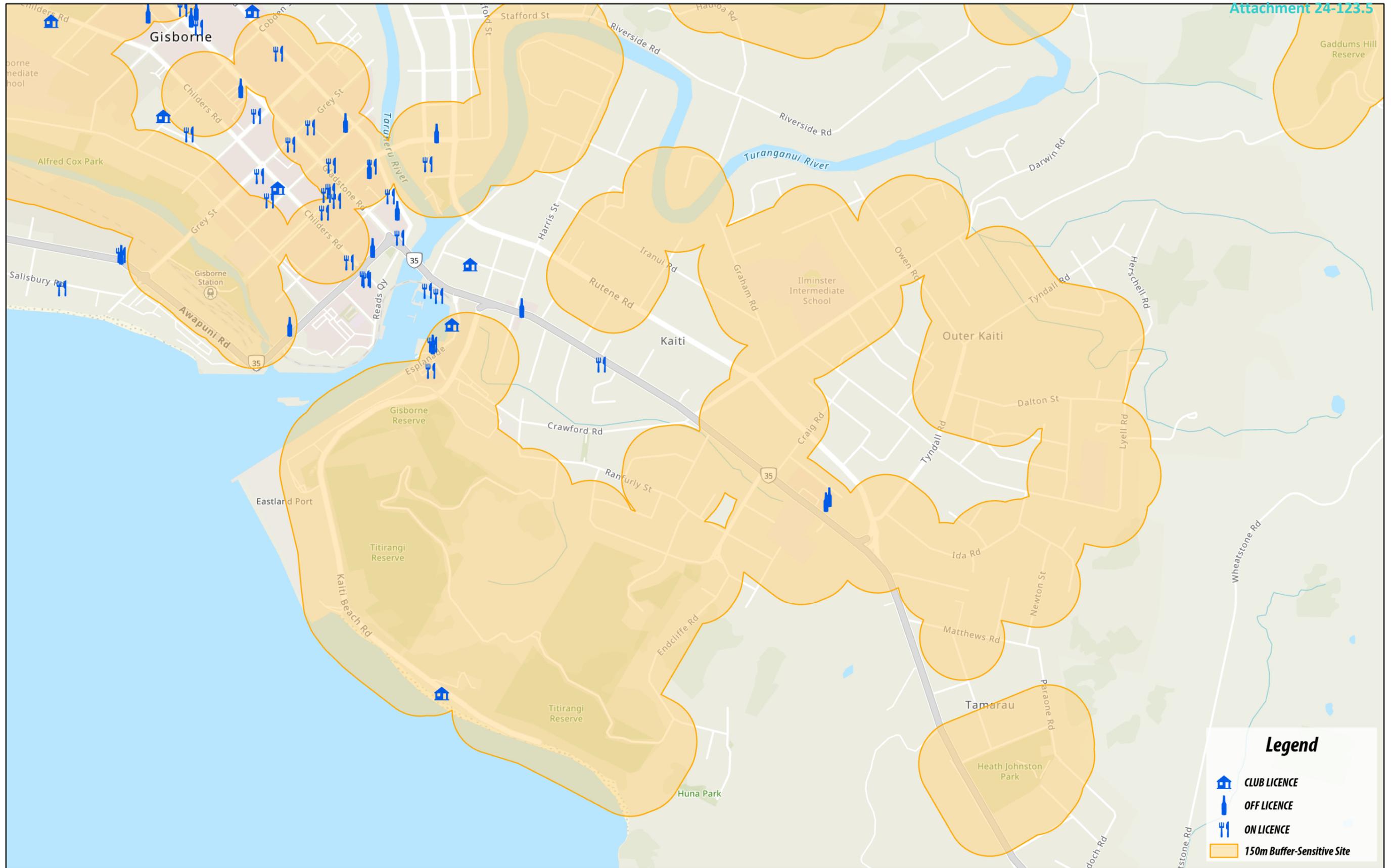
Sensitive Sites - Elgin | Scale: 1:10,000



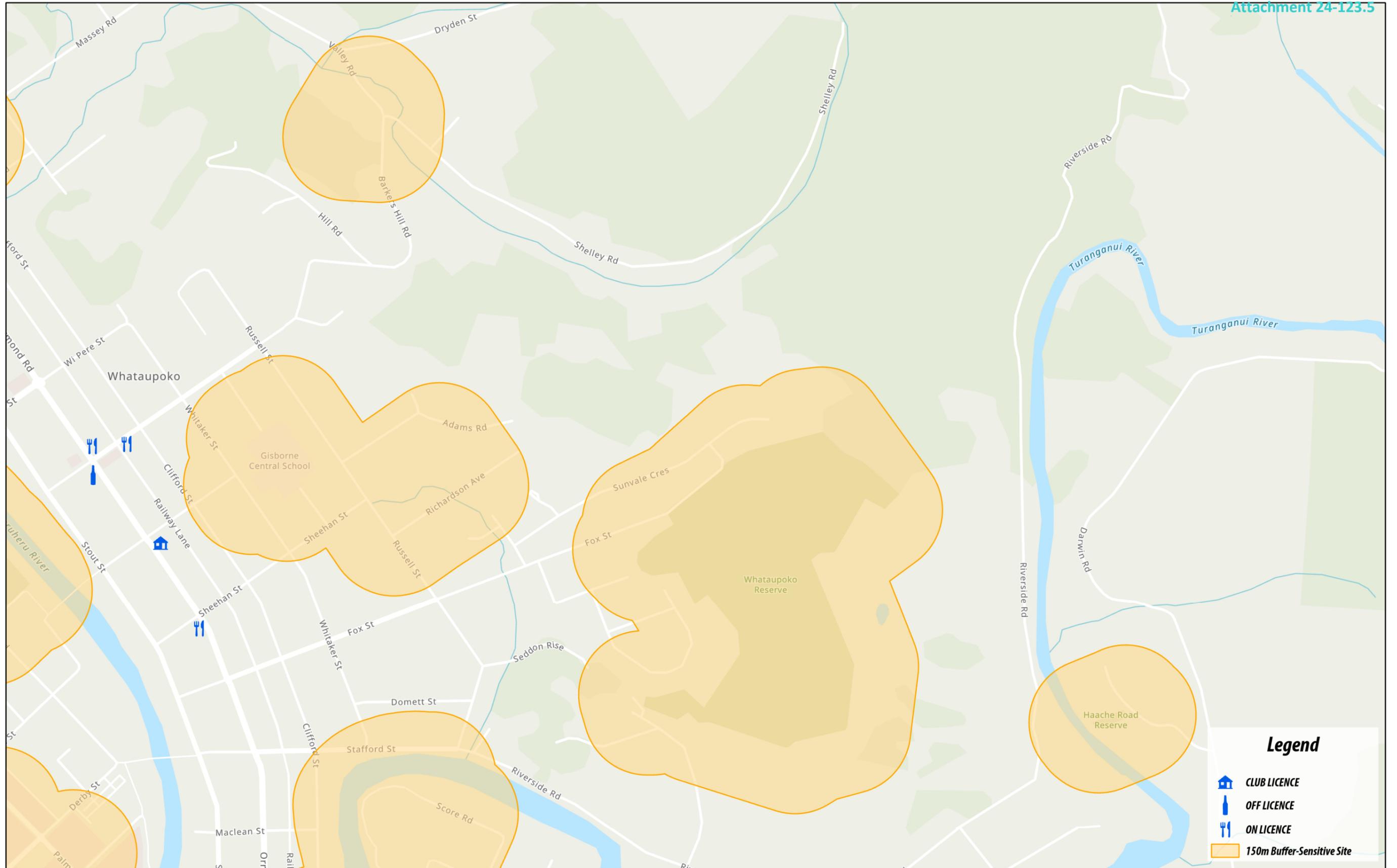
Legend

-  CLUB LICENCE
-  OFF LICENCE
-  ON LICENCE
-  150m Buffer-Sensitive Site

Sensitive Sites - CBD | Scale: 1:7,800



Sensitive Sites - Kaiti | Scale: 1:12,000



Legend

-  CLUB LICENCE
-  OFF LICENCE
-  ON LICENCE
-  150m Buffer-Sensitive Site

Sensitive Sites - Whataupoko | Scale: 1:8,000

12. Reports of the Chief Executive and Staff for INFORMATION



24-105

Title: 24-105 Local Government NZ - Four Monthly Report February 2024
Section: Democracy & Support Services
Prepared by: Heather Kohn - Democracy & Support Services Manager
Meeting Date: Thursday 2 May 2024

Legal: No

Financial: No

Significance: **Low**

Report to COUNCIL/TE KAUNIHERA for information

PURPOSE - TE TAKE

The purpose of this report is to table the Local Government New Zealand (LGNZ) Four Monthly Report for members for discussion and feedback.

SUMMARY - HE WHAKARĀPOPOTOTANGA

Highlights of this period from November 2023 to February 2024 have included building relationships with key Cabinet Ministers in the new Government and locking in regular meetings for the year.

For the first time this year LGNZ was officially represented at Waitangi.

Significant policy/advocacy work on behalf of councils, along with media and social media activity, is reported on in detail.

There is an update on Ākōna inclusive of proposed new courses. Appendix one of the LGNZ report contains a list of existing courses.

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. Notes the contents of this report.**

Authorised by:

Anita Reedy-Holthausen - Director Engagement & Maori Partnerships

Keywords: LGNZ, four monthly, report, Waitangi, priorities

BACKGROUND - HE WHAKAMĀRAMA

1. LGNZ was founded in 1988 and is the local government association of New Zealand. It represents the interests of the regional, city and district councils in New Zealand.
<https://www.lgnz.co.nz/about-lgnz/who-we-are/>

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

2. 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

3. There is no requirement for engagement with tangata whenua/Māori on the matters contained in LGNZ's four monthly report.

COMMUNITY ENGAGEMENT - TŪTAKITANGA HAPORI

4. There is no requirement for community engagement on the matters contained in LGNZ's four monthly report.

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

5. There are no climate change impacts or implications.

CONSIDERATIONS - HEI WHAKAARO

Financial/Budget

6. There are no financial considerations.

Legal

7. There are no legal considerations.

POLICY and PLANNING IMPLICATIONS - KAUPAPA HERE me ngā RITENGA WHAKAMAHERE

8. There are no policy and planning implications.

RISKS - NGĀ TŪRARU

9. There are no risks associated with this information report.

ATTACHMENTS - NGĀ TĀPIRITANGA

1. Attachment 1 - LGNZ Four Monthly Report for Members February 2024 [24-105.1 - 23 pages]



LGNZ FOUR-MONTHLY REPORT FOR MEMBER COUNCILS

// NOVEMBER 2023-FEBRUARY 2024



Ko Tātou LGNZ.

This report summarises LGNZ’s work on behalf of member councils and is produced three times a year. It complements our regular communication channels, including Keeping it Local (our fortnightly e-newsletter), providing a more in-depth look at what we do.

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Introduction

This report is designed to be put on your council agenda for discussion and feedback. We would welcome the chance to speak to it at your council meeting, whether in person or via zoom – please get in touch with us to arrange that.

Highlights of this period from November to February have included building relationships with key Cabinet Ministers in the new Government and locking in regular meetings for the year. We have resumed meetings with the Prime Minister and enjoyed good levels of attendance of Ministers and MPs at sector meetings. This follows our [Briefing to the Incoming Government](#), which was well received both by members and central government. In 2024, for the first time, LGNZ was officially represented at Waitangi, marking a step change in our approach to strengthening partnerships with Māori – as well as providing valuable opportunities for both formal and informal political engagement. Significant policy/advocacy work on behalf of councils, along with media and social media activity, is reported on in detail below.

December's Special General Meeting wrapped up an intensive five-month process on the Future **by** Local Government that included new ways to engage members. The next step is taking this long-term platform and determining what to advocate on in the shorter and longer term – and tailoring this for the right audience. We'll be engaging more with members on that soon.

LGNZ advocated for more time and flexibility around LTPs given the changes to water reform. This was achieved, with the repeal legislation giving councils an additional three months to adopt their LTPs, an ability to forgo the audit of the consultation document, and to reduce consultation requirements on subsequent amendments. There's a lot more detail about all areas of our policy and advocacy work in this report.

Another highlight of this period was agreeing an interim collaboration agreement with Auckland Council CE Phil Wilson. The arrangement allows access to professional development opportunities for Local Board members, particularly Te Maruata and Young Elected Members.

In the area of professional development support, you will see the increasing range of Ākona modules in response to your requests.

Ngā mihi
Sam and Susan



Progress on strategic goals

Priority/01

Resetting the relationship with Central Government

Political engagement and government relations

Our reset political strategy initially focused on establishing credibility and building relationships with key Cabinet Ministers. As with any change of government, the first step is to get to know Ministers – how they operate and what they expect – and to slowly build their understanding of the intricacies of local government, the challenges we face and the opportunities we could unlock together.

Regular meetings between LGNZ and Prime Minister Christopher Luxon, Local Government Minister Simeon Brown and Regional Development Minister Shane Jones are locked in the diary for the year. We're also working to schedule regular meetings with Resource Management Reform and Infrastructure Minister Chris Bishop. We'll have a raft of Ministers speaking at our March sector meetings to help set the agenda for the rest of the year.

As well as our regular formal meetings with the Prime Minister, Ministers and key officials, our broader approach has included:

- // Being part of political events such as Waitangi commemorations, where it's possible to speak to a broad range of Ministers in formal and informal settings (more on Waitangi below);
- // Hosting a localism briefing for new National Party MPs to bring them up to speed on what localism means, why taking a place-based approach works well and how councils can enable the delivery of government policy if the system is set up right.
- // Taking steps to set up a network of former members of local government who are now MPs – and who understand and can champion local government's interests inside the Beehive. This kicked off with an informal pizza and drinks night.

Sitting alongside this, we are undertaking policy work that positions LGNZ as a speed boat – rather than the slow-moving cruise liner the public service can be viewed as – more detail on this below.

Susan and key public sector CEs have 1:1s scheduled throughout the year to build trust and help build the public service's knowledge about local government's challenges, as well as explore where the opportunities may lie for quick wins.

Briefing to the Incoming Government

We finalised and shared our [Briefing to the Incoming Government](#) in late November. The briefing focussed on localism and where we would like to work together on the Government's priorities and



was aimed at opening the door for future engagement. It included content regarding issues like investing in infrastructure, water services, resource management, and emergency management.

Priority/02

Establishing stronger Te Tiriti-based partnerships with Iwi Māori

Waitangi commemorations

For the first time, LGNZ was officially represented at Waitangi, marking a step change in our approach to strengthening partnerships with Māori as well as providing valuable opportunities for political engagement. Our contribution included hosting a panel discussion in the Forum Tent on local government's role in honouring Te Tiriti. About 100 people attended and contributed some thought-provoking pātai from the floor; feedback about the event was positive. We took a proactive approach to media coverage that outlined our position on Māori Wards, which is based on fairness and treating Māori Wards the same as other wards.

Te Maruata update

Te Maruata Rōpū Whakahaere met in Wellington in November to refine their priorities for the rest of the triennium, and will be holding a whānui hui online on 14 March. The hui is also an opportunity for the wider whānui to meet LGNZ's new Kaitohutohu Matua Māori (Principal Advisor Māori), Mereana Taungapeau, who started in February. Mereana is currently developing a Te Ao Māori workstream that seeks to support LGNZ with the design of tools/processes/approaches to create a stronger, more meaningful Te Ao Māori foundation. This foundation will support increased cultural capability of LGNZ staff that will then extend into positive outcomes for members. It will help Te Maruata to maximise their capacity and transform their work programme to focus on pro-active kaupapa of importance to Māori across Aotearoa. We've been able to extend the invitation to the online whānui hui to Māori Local Board members because of the cooperation agreement with Auckland Council Local Boards. At the hui, the whānui will elect three new members to sit on the Rōpū Whakahaere. The new Rōpū Whakahaere will meet in person in April, to discuss their forward work programme with Mereana and the wider LGNZ team.

A key issue for Te Maruata is strong advocacy on retaining current arrangements for the establishment of Māori wards and constituencies, and protecting those wards and constituencies that are already in place.



Priority/03

Campaigning for greater local decision-making and localism

Choose Localism and Future by Local Government

FbLG process

December's Special General Meeting wrapped up an intensive five-month process that included new ways to engage members.

The second FbLG event on 2 November concentrated on four areas identified at the September event as potentially being possible to reach agreement on. The nearly 200 attendees split into four groups – Funding, System transformation, Te Tiriti, and Wellbeing & working with central government. Each group created a position and presented it back to the whole audience, then revising it in response to feedback and presenting again.

Between the first and second events, we also ran participative online engagement that allowed people to see how their opinions fitted with other people's and make comments. In total 164 people engaged with the online platform. People from 19 different councils took part.

Supporting all this engagement was a range of email communications, including designed emails to all elected members, promotion in Keeping it Local, personal emails from Sam, and personal emails from Susan. We shared all the of the data and outputs from the events back with members.

Some of the email campaigns (which were all to 1500 recipients) recorded extremely high open rates by industry standards. For context, the average open rate for non-profit member organisations is 39%¹

- “Last chance to complete online engagement” on 30 October had a 67% open rate
- Make your voice heard – new FFLG online tool on 13 October had a 68% open rate
- “We're making progress towards FFLG consensus” (which included the pack for councils to hold conversations) on 4 October had a 57% open rate

We used all the feedback and data to create a consensus outcome paper, which was shared with members on 24 November ahead of a Special General Meeting on 11 December, which voted to include all five sections in the FbLG package. These were the final results:

// Section 1 – Build a new system of government that's fit for purpose – **93.6% in favour**, 6.4% against; 0% abstain.

¹ https://knowledgebase.constantcontact.com/email-digital-marketing/articles/KnowledgeBase/5409-average-industry-rates?lang=en_US



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- // Section 2 – Rebalance the country’s tax take between central and local government – **98.0% in favour**, 2.0% against, 0% abstain.
 - // Section 3 – Create stronger, more authentic relationships between local government and iwi, hapū and Māori – **76.1% in favour**; 19.5% against; 4.4% abstain.
 - // Section 4 – Align central, regional and local government priorities – **93.6% in favour**, 6.4% against, 0% abstain.
 - // Section 5 – Strengthen local democracy and leadership – **89.4% in favour**; 10.6% against; 0% abstain.

What now for FBLG?

Not everything in the package of ideas that came out of the Future by Local Government process will be palatable to the new government and some ideas won’t be advanced in this political term. The package approved at the SGM is the start of a long-term platform for advocacy that goes beyond this current government (and the next too). The next step is to tailor our advocacy to the appropriate audience – right now for the National-led Coalition – and to actively involve members in that. This will be workshopped at our April sector meetings.

Choose Localism

We have developed a plan to activate Choose Localism this year that includes political, member and media engagement, with our annual SuperLocal Conference a key milestone where localism will be brought to life.

A key part of our work will be launching a Choose Localism toolkit, which our Policy Team is working on. This will be a practical resource for elected members and staff that shows how councils can adopt localism as part of their core work. We’ll be releasing the toolkit in stages, with the first part of the toolkit focused on applying localism to engagement and consultation processes. We plan to use the toolkit as a way to showcase good practice examples of work happening across councils.

As part of the Choose Localism campaign, we are looking at ways to tackle the issue of voter turnout (and therefore mandate) for local government. There have been several reviews and numerous calls for local government electoral reform over the years, with no progress being made. Only four out of ten eligible voters have their say in local elections, compared with eight out of ten for central government. Mayor Nick Smith, who has been part of a number of Justice Select Committees looking into this, will lead an LGNZ Technical Working Group to get traction on the issue. The working group will have a very clear purpose: to drive LGNZ’s advocacy work to strengthen the democratic mandate for local government to represent and meet the needs of its communities. Moving local government to a four-year term will be part of this work.



Priority/04

Ramping up our work on climate change

Inquiry into community-led retreat and climate adaptation funding

In late 2023, we submitted on the inquiry into community-led retreat and climate adaptation funding that was started by the previous government. Our submission stressed the importance of an enduring framework for climate adaptation and retreat that has cross-party support. We have encouraged the government and Environment Committee to continue with the inquiry and climate adaptation work in both our submission and our briefing to the incoming government. We understand that work is underway to re-ignite the inquiry. There is a real opportunity for LGNZ to play an active role in working with the Government to develop its climate change adaptation policy framework.

Other climate change work

In late 2023, we worked with Whakatāne District Council, Northland Regional Council, the Aotearoa Climate Adaptation Network (ACAN) and Beca to produce guidance that sets out climate change legislative requirements and reforms that councils should think about when preparing their LTPs. This guidance will be a living document and updated in the coming months to reflect the new Government's emerging policy and legislative reform programme.

We also supported ACAN's two-day hui for council staff working in the adaptation space in Christchurch, which was attended by over 100 people.

Support for Cyclone-affected councils

We've continued to engage with affected members on what they needed from additional orders in council or support from the new Government. Alongside helping councils to address their specific needs, we've continued our wider call for a more sustainable approach to emergency event recovery, which has been included in recent submissions as well as in the Briefing to the Incoming Government.

Our Policy Team met with the secretariat of the Cyclone Gabrielle Recovery Taskforce to support development of their insights framework, which seeks to capture the lessons learned from their work. We have also started engagement with the Department of Prime Minister and Cabinet on their next steps on their critical infrastructure framework and minimum standards.

The report on the Government Inquiry into the Response to the North Island Severe Weather Events is expected to be out shortly. We understand that consideration of the Emergency Management Bill (which we submitted on in October 2023) is on hold until the release of this report, so the Select Committee can consider it and any changes needed to the Bill. This may involve further submissions or engagement.



Priority/05

Delivering and building on our core work

Water services reform

LGNZ advocated for more time and flexibility around LTPs given the changes to water reform. This was achieved, with the repeal of the previous government's water services legislation giving councils an additional three months to adopt their LTPs, ability to forgo the audit of the consultation document, and to reduce consultation requirements on subsequent amendments. Alternatively, councils can defer development of their LTP for 12 months if they produce an enhanced Annual Plan.

The replacement approach for water services will be rolled out in two parts. A first bill will be passed by the middle of the year and will require the development of service delivery plans (which will be the vehicle to self-determine future service delivery arrangements). This bill will also put in place transitional economic regulation and provide a streamlined process for establishing joint water services CCOs. A second bill will be introduced at the end of the year and will set out provisions relating to long-term requirements for financial sustainability, provide for a complete economic regulation regime, and introduce a new range of structural and financing tools, including a new type of financially independent council-controlled organisation.

Taumata Arowai is starting to develop regulations for storm water and wastewater, and attended LGNZ sector meetings in March.

Resource management reform

Having repealed the Natural and Built Environments and Spatial Planning Acts prior to Christmas, the Government has worked at pace to develop a new fast-track consenting regime, with legislation introduced to the House in early March. We are planning to make a joint submission on the Bill with Taituarā and Te Uru Kahika.

We're also thinking about how we can influence the new Government's thinking around what a replacement resource management system could look like – which is something it has signalled it's interested in. Our sense is that there is alignment across the membership on some aspects of resource management, including strong support for retaining regional spatial planning, shifting to integrated national direction and developing a climate adaptation framework. There is also a strong desire to see local and regional planning decisions made at place.

We also understand that the new Government is working at pace to make a number of changes to the NPS-Freshwater Management. We're monitoring these changes closely along with Te Uru Kahika.

Transport

Late last year we stood up the LGNZ Transport Forum, which includes a mix of National Council spokespeople and other representatives. The group has recently met to discuss its work programme, following both National Council's adoption of the [Position Statement on Transport](#) and the swearing-



in of the new government, which gave us a steer on the broad direction for transport policy over the next three years and beyond. Mayor Neil Holdom has been elected Chair of the forum.

The Forum will support the development of LGNZ's submission on the [draft Government Policy Statement on Land Transport](#), which is due on 2 April 2024.

Our position statement includes the following key policy objectives:

- // A strategic, long-term approach to planning that joins up central and local government decision-making to address maintenance and climate adaptation needs.
- // Sufficient, long-term transport investment that prioritises resilience building, safety and better asset management across both new developments as well as maintenance and renewals.
- // Integrated transport and freight networks that support placemaking by connecting our rural communities, towns and cities and making them great places to live and work.
- // A transport network that can adapt to the future climate and prioritise decarbonisation.

City and regional deals

The Government has strongly signalled interest in long-term city and regional deals as a way to partner with local government to create pipelines of regional projects.

In late 2023, we commissioned Linda Meade, Director at Kalimena Advisory, to provide insight into the international experience around city and regional deals, and how this might be applied in the New Zealand context. [The paper](#), which was presented at the November Metro Sector meeting and has since been shared with members more widely, set out background on the key elements of city and regional deals, different options that have been used in the United Kingdom and Australia, and considerations and key takeaways that could be applied when designing a city and regional deals framework for New Zealand.

We're continuing to think about how city and regional deals can be structured to maximise the benefits for local government. The Policy Team is pulling together a think piece that will highlight how city and regional deals could support better alignment between central and local government. This will be shared with members and support conversations we're having with Ministers and officials on the framework for these deals.

Local government funding and financing

We have commissioned NZIER to estimate the financial impacts of various reforms on councils – which is all about quantifying the unfunded mandate. This work will support our ongoing conversations with the Government on how they consider and mitigate the implementation and operational costs on local government of their reforms. The specific areas we are costing (National Policy Statement for Freshwater Management, National Policy Statement on Urban Development and Medium Density Residential Standards, Local Alcohol Policies, improving recycling and food scrap collections) have been chosen to be representative of reforms with a range of impacts on councils. This work is expected to be completed in May.



We've also recently commissioned Brad Olsen and the team at Infometrics to develop a report that looks at the various factors that have driven up local government's costs. We'll be sharing this with members shortly, and discussing it in detail at our April Combined Sector Meeting.

Both of these pieces of work are part of the broader advocacy we're doing around rates rises and building community understanding of the reasons for them.

Ratepayer Assistance Scheme

The RFS is a special purpose tool that would provide support to ratepayers to finance any local authority charge. With balance sheet separation, and proximity to both local and central government, it would have a very high credit rating and therefore be able to provide the cheapest possible financing terms to ratepayers.

The Ratepayer Financing Scheme's flexibility would enable it to support:

- // Development contributions to enable housing development.
- // Home improvement policy to meet healthy homes, earthquake strengthening, home insulation and solar panel installation, water separation and storage etc.
- // Rates postponement to provide relief to ratepayer experiencing affordability pressures.

A detailed business case supporting the RFS's viability has been completed with the support of Auckland, Hamilton, Tauranga, Wellington, Christchurch councils alongside the LGFA and LGNZ. So far Auckland and Tauranga have confirmed financial support to establish the RAS.

Remits

We're continuing to make progress on remits where we can – though as is always the case following a General Election, progress has slowed somewhat as we wait for the new government to bed in and understand how our remits relate to its priorities. We are thinking carefully about ways that we can build remits into our existing policy and advocacy work programmes to maximise limited resources across a wide number of issues.

Remit	Progress update
Allocation of risk and liability in the building sector	We raised the issues that this remit addresses through our involvement in a working group that was reviewing the building consent system in 2023. Our Metro Sector met with the Minister for Building and Construction in March 2024. More substantive work is needed to progress this remit.
Rates rebates	We wrote to the Minister of Local Government on 21 January 2024 asking the Government to amend the Rates Rebate Scheme and benchmark further increases to changes in the local government cost index.
Roading/transport maintenance funding	This remit will be picked up through the work that our Transport Forum leads.
Local election accessibility	For us to achieve the intent of the remit, there will need to be an amendment to the Electoral Act 1993. We will begin work soon to



	develop a case for change before engaging with the Minister of Justice.
Ability for co-chairs at formal meetings	Guidance on how to introduce co-chairs, which has been informed by legal advice, has been incorporated into our revised Guide to the LGNZ Standing Orders Template, which was published in early February 2024.
Parking infringement penalties	We're yet to start substantive work to progress this remit.
Rural and regional public transport	This remit will also be picked up through the work that our Transport Forum leads.
Establishing resolution service	National Council agreed that work to progress this remit will form part of our 2023 – 2025 strategy.
Earthquake prone buildings	We met with the Deputy Mayor of Manawatū District Council to begin development of a proposed plan for next steps on this remit, which will be delivered this year. We have also reached out to Engineering New Zealand to understand their perspectives on the viable options.
KiwiSaver contributions for elected members	We've received legal advice from Simpson Grierson on the changes that would need to be made to the Local Government Act 2002 and the KiwiSaver Act 2006 to enable elected members to be eligible for KiwiSaver contributions and have begun drafting advice for Ministers and officials.
Scope of audits and audit fees	Part of the approach to reduce audit fees is to ensure that the legislative requirements and scope (and resulting repetition and complexity) of Long-Term Plans and Annual plans and reports are reduced to be better aligned with needs and cost less to audit. To support this, we are in the process of undertaking a desktop review of a number of reports that made recommendations on how to achieve this. We've also made recommendations around the need revisit councils' planning and accountability obligations in our Future by Local Government Consensus Outcome Paper.

Other policy and advocacy work

Freedom camping

The Policy Team have released updated guidance and a model bylaw that reflect recent amendments to legislation and case law, to support councils to develop, review, and administer bylaws relating to the Freedom Camping Act 2011 (FCA). Amendments to the FCA came into force on 7 June 2023, but there is a transitional period before the new certification for self-contained motor vehicles and related provisions come into force.

The Ministry of Business, Innovation and Employment and the New Zealand Motor Caravan Association part funded this work, and we worked with them and Taituarā to develop it.



The guidance is available [here](#). Two versions of the new model bylaw are available, [one](#) highlighting the changes to the 2018 model bylaw, and [one](#) without the highlighted changes.

Drought planning

We were engaged by the Ministry for Primary Industries to participate in an all-of-government group that undertook work to prepare for expected impacts of drought over Summer 2023-2024. Our involvement in this work was principally to ensure that local government remains front and centre in the government's planning and thinking, and to help provide appropriate communications channels back to councils.

Media

Media was a strong advocacy tool used to its full advantage during the pre-election period when politicians were in the middle of campaigning. The post-election period, including when special votes came out and coalition talks were underway, was also a good opportunity to thrust local government issues into the political spotlight. This served dual purposes: to inform political journalists of the challenges that government needs to address to ensure local government thrives; and to firmly demonstrate to the incoming government that the challenges facing local government needs the Government's attention or they risk not being able to deliver on their priorities.

Here are some examples of LGNZ's proactive work in that period:

- [Funding anxiety across the country as local government considers its future | The Post](#)
- [Councils plead for more certainty over National's Three Waters plans | RNZ News](#)
- [Local councils facing cost pressures across the country | RNZ](#)
- [Councils plead for clarity on water infrastructure reform | RNZ](#)
- [Christopher Luxon claims victory: 'Our children can grow up to live the lives they dream of' | Newsroom.co.nz](#)

Towards the end of last year, our media campaign centred on proposed rate rises and what's driving them ramped up. LGNZ led the narrative by using champions like Cameron Bagrie and Āpopo to visibly back our message. Sam also fronted a proactive media conference and numerous interviews over December and January. As at the end of February, we generated 48 unique pieces of media coverage capturing Sam's message for the need for more funding and financing tools for local government.

Another major piece of advocacy through media is four-year-terms for local government. Sam has used every opportunity to talk about the efficiencies we'd gain by implementing longer electoral terms. This has led to stories in local papers as well as in-depth coverage by RNZ's political reporter, Russell Palmer.

Our social media channels have had a 16.4% increase in engagement for the last quarter compared to this time last year, along with a 458% increase in followers. In March, we're launching a social media campaign to further amplify a national perspective on rates rises. This campaign aims to explain why rate rises occur, especially in the face of rising living costs, and to highlight that this is a widespread systemic issue. Through this series, we'll explore how councils are financed, the services they offer, and the benefits residents receive from their investment in rates. This is part of a wider



campaign to support councils in the rates rise conversation that will include other resources for members.

Conference and Excellence Awards update

Planning continues for both SuperLocal 2024 and the Community Board conference in August in Wellington. There will be additional events for Te Maruata, Young Elected Members, LGNZ's Annual General Meeting, Mayors for Taskforce breakfast and numerous networking events spread across the three days. Work on various streams such as programme and speakers, awards, engagement and marketing is underway. The theme this year is Bringing localism to life, and once again, we're stepping up the programme to reflect the feedback we got last year and ensure we have the right mix of informative, practical and inspirational content.

Engagement with members, including sector and zone meetings

Our new website went live in December. It provides much more flexibility to showcase local government and all it has to offer our communities, as well as a home for resources, news and insights – and a working search function.

We met with zone administrators and chairs in early February to talk about any challenges and opportunities, and for LGNZ to share what's happening more broadly to help develop agendas. This was the first in a series of three meetings.

On 13 April, we held a zoom for women in local government. We've been repeatedly asked to provide a forum to help support women elected members, so we created this zoom as a starting point. About 20 women attended and there was really strong engagement during the zoom, which was led by Christchurch City Councillor Sara Templeton. We are planning to hold a lunch immediately before SuperLocal as the next step in this conversation.

We have achieved outstanding open rates for *Keeping it Local* this year so far. If you're not receiving *Keeping it Local*, which is our key communications channel and goes out fortnightly on Thursdays, please get in touch.

Date	Open rate	Subject line
19-Jan	67%	We've developed new freedom camping guidance and a model bylaw
1-Feb	68%	We've updated our Guide to Standing Orders Templates
15-Feb	60.20%	Talking all things localism with National Party MPs

We're also planning the launch of a monthly zoom for all elected members. To make sure this is successful and responds to member needs, we've carrying out a series of phone conversations with some randomly selected elected members as part of that planning. The first zoom will be held in late March/early April and will focus on online safety/harassment.



Mayors' Taskforce for Jobs

Mayors' Taskforce for Jobs (MTFJ) is refreshing its five-year strategic plan. The plan reconfirms the focus of the MTFJ kaupapa firmly on rangatahi, particularly those youth who are NEET (Not in Employment, Education or Training).

To support this strategic planning, we've completed two pieces of research on the value of MTFJ and where opportunities might lie for both sustainable funding and future growth. TRA (The Research Agency) completed a qualitative research piece on the MTFJ Community Employment Programme, which is funded through our current partnership with MSD. The research explored its value proposition, potential scope and growth parameters. Critical findings included the complexity of NEETs, the innovative success of the programme, and the unique impact that the authority bias of the Mayor has in this initiative. The Impact Lab Social Return on Investment review resulted in the very credible finding of \$5.60 return for every \$1.00 spent, alongside strong commentary on other positive key social accountability metrics.

The evidence from these two pieces of research, alongside our own data and analysis, underpin our engagement with the Government and targeted Ministries as we work to strengthen existing funding arrangements and explore new opportunities. We continue to position MTFJ as a tangible exemplar of localism in action.

The 35 current-CEP-contract councils are reviewing their six-month performance milestone in the two-year contracts, with the MTFJ team's support. We are in good shape to fully deliver contracted outcomes.

We have also welcomed two new councils into the MSD-funded contract – Central Otago DC and Kāpiti Coast DC. They are being supported to pilot initiatives.

In late February we hosted a very successful national gathering of 80+ MTFJ coordinators, key council staff and MSD colleagues in Wellington.

Te Uru Kahika and the LGNZ Regional Sector

The LGNZ Regional Sector met virtually in January to consider how the change of government will impact on its priorities. Our Regional Sector and Te Uru Kahika share three priorities: climate resilience, resource management system, Te Ao Māori. It was agreed that the new government's reform agenda in freshwater, water services regulation and transport are also priorities for engagement.

These priorities informed the agenda for the first Regional Sector meeting of the year on 7-8 March. The Sector had dinner with Minister McClay (Agriculture, Forestry, and Trade) and Minister Simmonds (Environment) and met with Minister Bishop (RM Reform and Infrastructure), which was a good opportunity to form relationships and understand their priorities for their respective portfolios. They also had good meeting with Minister Bishop where he outlined his priorities and the Government's forward programme on resource management reform. The sector shared their desire for close collaboration on implementation and what they want to see from resource management changes.



Our team is meeting regularly with Te Uru Kahika to ensure we are joined up in our support for the Regional Sector. We continue to work together closely on submissions and engagement on central government reforms; for example, on submissions on the inquiry into community-led retreat and the proposed National Policy Statement for Natural Hazard Decision-making. We're also engaging closely with Te Uru Kahika on resource management reform.

Young Elected Members

The annual YEM hui was held in late 2023 in Waitangi. The YEM Committee, LGNZ and Far North District Council delivered a very successful three-day hui for around 45 YEM that included a range of panel discussions, workshops, keynote speakers, a tour of the Waitangi Treaty Grounds and visits to other culturally significant sites in the Far North.

The programme content included leveraging opportunities through partnerships to deliver good outcomes for communities, developing the YEM Strategy and Kaupapa, effective leadership and looking after your health and wellbeing as a leader, how to effectively engage with the media and building cultural confidence and understanding. Creative New Zealand sponsored the event, which helped to keep costs down and enabled a panel session that focused on how councils can invest in arts and culture in their long-term plans to support wider economic, social and cultural wellbeing outcomes for their communities.

Attendees gave their overall hui experience an average rating of 9.4 (1 being poor, 10 being outstanding). Because of LGNZ's cooperation agreement with Auckland Local Boards, two Auckland Local Board members were able to attend.

The YEM Committee meet online in March. As well as discussing the next Hui and their pre-SuperLocal gathering, the Committee will be refining the YEM Strategy and Kaupapa based on feedback was received from the network at the end of last year.

Community Boards Executive Committee

Over the last few months CBEC has been actively involved in a number of initiatives:

- // **Satisfaction survey of community boards and mayors:** CBEC commissioned FrankAdvice to undertake a survey of community boards and mayors to better understand the mood of community boards, and relationships between councils and community boards, as well as identify areas for improvement, with particular emphasis on roles, remuneration and relationships with councils. The final report, with recommendations, is expected to be released in late February. The findings will be used for ongoing advocacy by CBEC and to inform updates to the Governance Guide for Community Boards.
- // **Community Boards Conference:** CBEC is well underway with planning for the 2024 Community Boards Conference, which is being held as part of SuperLocal. CBEC members have been working hard with the LGNZ team to pull together a programme, and seek speakers and sponsorship.
- // **Declarations:** the Committee has discovered that some councils do not require appointed board members to make a community board declaration – creating a potential risk to councils should a board decision be challenged on the basis that some members were ineligible to vote. CBEC sought legal advice, which confirmed that all appointed members should make a community



board declaration as well as their council declaration. That advice has been sent to all councils with community boards.

// **Remuneration:** CBEC is working with the Remuneration Authority to improve the basis on which community board remuneration is set. CBEC is working on a “time and motion” survey to provide more accurate information to the Authority on the nature of community board members’ responsibilities and the time board members spend on official duties. The Authority has not been able to resolve how to remunerate boards with additional responsibilities (member pay is based on population without any consideration of the level of responsibility). CBEC plans to provide feedback to the Authority when it is next reviewing its remuneration approach, within the next year or so.

The Committee met in person in Wellington in late February and is looking forward to having Te Maruata and YEM representatives join them in the coming weeks.

Council capability

CouncilMARK

Our continuous improvement programme has undergone significant enhancements over the past year in response to feedback from the sector. These changes aim to increase programme participation and deliver greater value to participating councils. The programme has extended its focus beyond independent assessments to support councils throughout their continuous improvement journey, both before and after assessment.

It now emphasises wraparound support for councils, the establishment of development benchmarks and aligning council performance with priorities. The introduction of additional development pathways facilitates the translation of assessment findings into actionable plans, enabling councils to optimise their performance.

Ākona

In late 2023, we developed and launched six new courses, including Health & safety, Chairing meetings, Writing and delivering great speeches, Working with media, Engaging with Māori, and LGOIMA. Many of these have been in response to requests from councils and designed in conjunction with council experts. We worked closely with Tararua District Council on the Health & Safety module – a first for elected members – and with Queenstown Lakes District Council on the LGOIMA module. Chairing meetings, giving great speeches and working with the media have all been popular with our subscribed councils.

New courses being developed ready for release over the next few weeks include:

- // Climate Change
- // Decision Making
- // The CE Relationship
- // Te Reo
- // Unconscious Bias



Refer to **Appendix 1** for a complete list of learning and development assets.

A targeted workshop focused on Chairing Meetings/Standing Orders has also been developed, along with a Critical Thinking workshop. A survey was distributed in February to identify preferred Ako Hour topics – this will lead to a 2024 schedule being built and promoted by the end of March

We're working closely with Taituarā and the Local Government Commission. Discussions have begun with Taituarā to develop an induction pack that will include pre-elected learning resources, (as per the framework). A pre-candidacy package of learning will also soon be developed to support the promotion of local governance participation in our communities.

Guidance and advisory for members

The Policy Team has been working on several pieces of research and good practice guidance over the past four months. These include:

- // **The 2022 -25 elected member census:** This summary report shows that there has been a significant increase in the number of members who identify as Māori and that overall, members are getting younger.
- // **Local government voters 2022:** This report summarises the survey of voters and non-voters undertaken shortly after the 2022 elections. It shows the number of voters aged between 18 – 25 has grown significantly since 2001, and a big increase in the number of voters who placed their completed voting papers in a ballot or voting box from 12% in 2016 to 28% in 2022.
- // **An elected members' guide to representation reviews:** This is to strengthen elected members' and citizens' understanding of the representation review process.
- // **Ombudsman's report on workshops – update to standing orders guidance:** In October 2023 the Ombudsman published a report "Open for Business" in which he was critical of the number of public excluded workshops held by councils. The report, while finding that there was no evidence that workshops were being used for making decisions, made several recommendations for improvements. We have commissioned Simpson Grierson to review the recommendations and incorporate those that are relevant into LGNZ's Guide to Standing Orders. We expect to republish that Guide later this year.
- // We've recently updated our **Guide to the LGNZ Standing Orders Template**. The updates provide councils with guidance on how to amend their standing orders to incorporate changes to the definition of a quorum (for those joining by audio visual means). They also provide guidance on the Ombudsman's recent report on public access to workshops.
- // We're working with the Taituarā Democracy and Participation Working Group to fine tune our **Standing Orders Template**, with a focus on readability. The updated version will be available to councils in early 2025, giving plenty of time to be prepared ahead of the 2025 local body elections. The new template will also reflect legislative changes made since mid-2022 when the current template was drafted.



Moata Carbon Portal

The Moata carbon portal is a tool that allows embedded (capital) carbon to be measured and monitored across any capital works programme. It enables councils to account for and reduce carbon emissions generated from water, transport and infrastructure (vertical and horizontal) projects. We have also been in planning mode for Mott MacDonald to attend the first Zone meeting of the year to provide an overview of the carbon portal as well as some findings from the carbon baseline completed on Queenstown Lakes LTP in 2023.

The findings from this baseline were that water projects accounted for 55% of QLDC's total capital carbon, with transport accounting for 24% and built environment 21%. Over the course of their LTP, their highest carbon peaks were predicted for 2023 and 2030, with recommendations provided on integrating carbon assessments into their approval and delivery processes.

Our subscribers now include Auckland Water Care, Tauranga, Napier, Wellington Water and Queenstown Lakes. We are also having conversations with New Plymouth and Nelson councils.

We also held New Zealand's first Carbon Crunch event this year with then-Minister James Shaw the keynote speaker. The event included presentations from Auckland Council, Transpower and Wellington Water on how they are tracking on their decarbonisation journey. [A white paper](#) from this event has been developed.

Libraries partnership

Our Libraries Advisor will be with LGNZ until the end of June 2024, when the project funding comes to an end (this was a Covid-19 recovery initiative). The work programme agreed to with DIA and the New Zealand Libraries Partnership Programme has included sharing findings from research to identify the value of public libraries as vehicles for service delivery. At the end of 2023, the Advisor met with council leaders and library staff in the Far North and Whangārei, and in early 2024 is visiting councils in Horowhenua, Palmerston North, Rangitikei, Taupō, Waipā and South Waikato. The conclusion of this project will include a report that will outline all the key trends identified and findings made across the three years.



Appendix 1: complete list of Ākona learning and development assets

Courses

There are now 17 courses available on Ākona.

- // Designing and Delivering Great Speeches
- // Chairing Meetings
- // Health & Safety and Good Governance
- // Engaging with Media
- // Engaging with Māori
- // LGOIMA
- // Funding & Finance
- // Asset Management
- // Engaging with your Community
- // Governance
- // What is Local Government?
- // Remuneration and Tax for elected members
- // LTP
- // Council Membership
- // Financial Governance
- // Navigating Local Government Meetings
- // Conflicts of Interest



All courses feature

Emodules

Interactive, immersive learning activities that break down complex topics for easy understanding and immediate application.

Resources

Templates, case studies, videos, websites and/or extra reading that support sustained learning practise.

Ako Hours

Live discussion groups, led by experts, focused on expansion and contextualisation of new knowledge.

Kōrero Corner

Social learning with peers and experts.

Added value

Partnership

Subscribed councils are welcome to request learning topics; most of our courses came about this way. Many courses were also built with council input – either the sharing of process, content, stories and/or case studies. This keeps our courses as fit for purpose as they can be. Note also that every course is reviewed by sector experts.

Elected member capability framework

For the first time, a framework that sets out capabilities needed to successfully fulfil the role of elected member has been developed. Mapped across 6 capability groups and 4 levels of capability (including pre-elected), the framework provides a clear view of what high performance looks like and the pathway to getting there.

An online self-assessment tool is currently being designed ready to be built into Ākona. Soon Elected Members will be able to plot their strengths and opportunities across 6 capability areas that are unique to their role.

Advisory Services

The Ākona tīma have a vast amount of experience working in complex learning environments, creating learning cultures and supporting others to do the same.

Whether you need support to identify training needs, develop learning specifically to your council needs or engaging your folk in learning, the tīma are here for you.



Digital platform – creating your own learning pathways and induction experiences

The new Ākona platform offers councils the opportunity to create their own learning pathway, create a place only accessible by their elected members to use for specific learning needs, induction etc.

All trackable, reportable and accessible at anytime from anywhere.