

Whangarei District Council Meeting

Agenda

Date: Tuesday, 3 November, 2020
Time: 10:30 am
Location: Council Chamber
Forum North, Rust Avenue
Whangarei
Elected Members: Her Worship the Mayor Sheryl Mai
(Chairperson)
Cr Gavin Benney
Cr Vince Cocurullo
Cr Nicholas Connop
Cr Ken Couper
Cr Tricia Cutforth
Cr Shelley Deeming
Cr Jayne Golightly
Cr Phil Halse
Cr Greg Innes
Cr Greg Martin
Cr Anna Murphy
Cr Carol Peters
Cr Simon Reid

For any queries regarding this meeting please contact
the Whangarei District Council on (09) 430-4200.

1. Karakia/Prayer	
2. Declarations of Interest	
3. Apologies	
4. Decision Reports	
4.1. Private Plan Change Application PC150 Marsden City Limited Partnership – Decision to Accept, Adopt or Reject Application	1
4.2. 2022 Elections - Maori Representation	15
5. Public Excluded Business	
6. Closure of Meeting	

Recommendations contained in the Council agenda may not be the
final decision of Council.

Please refer to Council minutes for final resolution.

4.1 Private Plan Change Application PC150 Marsden City Limited Partnership – Decision to Accept, Adopt or Reject Application

Meeting: Whangarei District Council
Date of meeting: 3 November 2020
Reporting officer: Melissa McGrath, District Plan Manager

1 Purpose

To seek acceptance of the private plan change application (PC150) by Marsden City Limited Partnership and to approve the plan change for public notification.

2 Recommendations

That the Council

1. Accepts the request for a private plan change by Marsden City Limited Partnership pursuant to clause 25(2)(b) of Part 2 of the First Schedule of the Resource Management Act 1991;
2. Endorses the commencement of public notification of the private plan change under Clause 26 of Part 2 of the First Schedule of the Resource Management Act 1991;
3. Records that its decision to accept the request for a plan change for notification does not fetter its decision-making in relation to the hearing and determination of submissions of the plan change following notification;
4. Records that the applicant shall pay the full actual and reasonable cost of processing this private plan change.

3 Background

On 23 March 2020 Council received a private plan change request from Barkers and Associates on behalf of Marsden City Limited Partnership as the applicant.

A summary of the specifics of the Plan Change is detailed below.

- Application to rezone and modify planning provisions on 127 hectares of land at Marsden City.
- The purpose of the plan change is stated in the application to be “to deliver a viable and sustainable town centre in the Ruakaka/Marsden Point area, and supply additional land for housing and commercial use with a supporting network of open spaces and infrastructure.”



The key aspects of the plan change request are:

- The deletion of the Marsden Primary Centre (MPC) Chapter in the current District Plan.
- A reduction of the industrial focus currently contained within the MPC Environment towards an increased provision of residential land to support the development of a sustainable and viable town centre.
- Zones from the current Urban and Services Plan Changes are proposed as underlying zones.
- Creation of a Marsden City Precinct with provisions aimed at coordinating development with the delivery of transport infrastructure, and a street network that provides for walking and cycling.
- The creation of a Marsden Town Centre Zone that is intended to apply to the higher order town centre in the north western portion of Marsden City.
- There is also inclusion and requirement for consequential changes to other Chapters of the current WDP, such as Noise and Vibration Chapter.
- It is the applicants, vision that the Plan Change will provide a viable and sustainable town centre in the Ruakaka/Marsden Point area which integrates with surrounding commercial, mixed use and residential uses. They state the PPC has the potential to create a comprehensive urban development that provides a vibrant and quality urban realm and encourages co-location of retail, commercial and residential land.

Kelly Ryan, Senior Planner with The Property Group Whangarei, is reporting on the application on behalf of Council. Ms Ryan along with technical experts have reviewed the application.

On 21 April 2020, a comprehensive further information request was served to the applicant under Clause 23 of the RMA. Further information was received on 16 September 2020, the applicant provided an updated s32 evaluation and updated only the necessary appendices to the s32 evaluation.

4 Discussion

The private plan change application has been assessed with regard to the requirements of the Resource Management Act within the attached report prepared by Ms Ryan (Attachment 1). A copy of the plan change application is contained in separate cover Attachment 2.

The report assesses the relevant matters under Clauses 23 and 25 of Part 2 of the 1st Schedule of the Resource Management Act 1991. These clauses require consideration of the following:

- Adequacy of information provided with the application
- Whether the application should be rejected for various reasons specified in the Act
- Whether the application should be adopted by the Council as a Council-initiated plan change or remain as a private plan change
- Whether the matters contained within the plan change application would be better addressed as a resource consent.

On the basis of the findings and conclusion contained in the consultant's report attached, a recommendation to Council is provided to accept and process the proposal as a private plan change application.

5 Significance and engagement

Council's Significance and Engagement Policy has been considered in relation to this Agenda item.

The decisions or matters of this Agenda item do not trigger the significance criteria outlined in Council's Significance and Engagement Policy, and the public will be informed via Agenda publication on the website.

If accepted the private plan change application will follow full public notification under the RMA allowing for public submission and participation.

6 Attachments

1. Private Plan Change Assessment Report

Under separate cover – available on council's website or contact Senior Democracy Adviser

2. Private Plan Change Application COMBINED (Separate Cover)
 - Lodgement Letter
 - S32 Analysis
 - S32 Appendices 1-19
3. Requested Further Information COMBINED (Separate Cover)
 - S32 Analysis (updated)
 - S32 Appendix 2

- S32 Appendix 3
- S32 Appendix 4
- S32 Appendix 5
- S32 Appendix 6
- S32 Appendix 10
- S32 Appendix 11
- S32 Appendix 12
- S32 Appendix 13
- S32 Appendix 19
- S32 Appendix 20
- S32 Appendix 21

4. Proposed Environment and Zone District Plan Maps



Marsden City Limited Partnership – Request for Private Plan Change

Report prepared on behalf of Whangarei District Council to assess Clauses 23 and 25, Part 2 of the First Schedule of the Resource Management Act 1991

Purpose

To consider whether the application for a private plan change by Marsden City Limited Partnership should proceed to the next stage of the plan change process.

This report is to recommend to the Council a decision on the application within the parameters of Clause 25 of the Resource Management Act (the Act). It is relevant to note that neither 'adopt' or 'accept' implicates that the plan change is or will be approved by Council. The process of consultation through notification and hearings must be undertaken before the matter is submitted to Council for a decision to approve.

Therefore the decision that will be sought is to enable the process to either continue or to be terminated, and this is the basis for the below discussion.

Introduction

A request for a Private Plan Change has been made by Marsden City Limited Partnership ('MCLP') to Whangarei District Council ('the Council') proposing the rezoning of the subject site and to modify planning provisions that apply. The Plan Change encompasses the area currently identified as the Marsden Primary Centre Environment within the Operative Whangarei District Plan, being some 127 hectares of land at Marsden City, Ruakaka.

The application was formally received on the 20th March 2020.

A private plan change request can be made by any person, under clause 21 of Part 2 of the First Schedule of the Act. The process for private plan changes is prescribed in Part 2 of the First Schedule of the Act. The statutory process may be summarised as including the following steps:

- A request is received in writing – it must contain an explanation of the purpose and reasons for the request, a Section 32 evaluation and a description of environmental effects.
- Under clause 25 the local authority must decide if it adopts, accepts or rejects the request in full or part, or decide to deal with it as if it were a resource consent application. The grounds for rejecting a request are specifically limited by clause 25 of Part 2 of the First Schedule. [This report addresses this step in the overall process].
- If a request is accepted or adopted, a local authority must publicly notify the request within four months of agreeing to accept or adopt the request.
- The private plan change request then follows the procedures of Part 1 of the First Schedule regarding notification, submissions and hearing.
- After the hearing a local authority may decline the request, or approve with modifications.
- The local authority's decision can be appealed to the Environment Court.

This report has been prepared by The Property Group Limited to assist the Council in its assessment of the Plan Change Request ('the Request') pursuant to clause 25 of the First Schedule of the Act, i.e. its decision as to whether to adopt, accept, or reject the Request in full or in part, or to deal with it as if it were a resource consent application.

Background

The Marsden Primary Centre Environment Chapter ("MCP") of the District Plan was made operative as part of the District Plan on the 24th April 2012. Since then there have been minor consequential changes and reformatting, with a Private Plan Change by Great Northern Land Company Ltd (GNLC) becoming operative on 1 November 2017. The Plan Change request by GNLC Ltd had the main intention of rectifying what the application viewed as issues arising from the changes to the noise rules by council initiated Plan Change 110.

The current MPC provisions arose as a result of a structure planning exercise which resulted in the Marsden Point-Ruakaka Structure Plan 2008. The Marsden City Private Plan Change application explains this structure plan was completed just before the onset of the Global Financial Crisis and it *"envisaged a satellite city of 40,000 people across the peninsula encompassing Ruakaka, Marsden Point, and One Tree Point. The MPC was to some extent envisaged as the "CBD" of this new city, complete with a town centre zone, large areas of commercial and industrial zoned land, and a small residential component factored into the zoning to support the town centre"*. While most of the roading and subdivision pattern is in place there is currently little built development.

The Plan Change Request

The request was made by Barkers and Associates, on behalf of Marsden City Limited Partnership.

The key features of the Plan Change request include:

- The deletion of MPC from the Operative Whangarei District Plan;
- Rezoning land to shift away from the industrial focus of the MPC chapter, reducing the extent of commercial land and increasing the provision of residential land to support the development of a sustainable and viable town centre and to align with current and future market demand;
- Replacing the current MPC zones with zones from the Urban and Services Plan Changes – Decisions Version as underlying zones;
- The creation of a Marsden City Precinct over top of the Marsden City land with core provisions that coordinate development with the delivery of transport infrastructure, guide the development of the street network to provide for walking and cycling, incorporate bespoke development controls to reflect the unique context of Marsden City, and to manage reverse sensitivity effects;
- The creation of a new special purpose Marsden Town Centre Zone to re-establish an appropriate hierarchy of centres within the Whangarei District Plan, being secondary to the Whangarei City Centre Zone and primary to smaller, local suburban centres;
- Consequential changes to the Noise and Vibration Chapter to accommodate the revised land use pattern and to the Urban Form and Development Chapter to clarify the “fit” and “hierarchy” of the proposed Marsden Town Centre Zone.

In essence the Plan Change seeks to rezone the subject site from MPC to a mixture of residential, mixed use, and commercial zones. The proposed land use pattern will largely remove industrial land use and reduce the extent of commercial land, while increasing residential use.

The Plan Change proposed to utilise standard zones introduced through the Urban and Services Plan Changes, such as Low Density Residential Zone and Mixed Use Zone. The exception to this is that the Plan Change proposes to introduce a Special Purpose Marsden Town Centre Zone.

The zoning is proposed to comprise of:

Low Density Residential Zone – 9.89ha

General Residential Zone – 56.08ha

Medium Density Residential Zone – 3.02ha

Marsden Town Centre Zone – 8.41ha

Mixed Use Zone – 12ha

Commercial Zone – 19.07ha

The special purpose Marsden Town Centre Zone sits within the north western corner of the site and has an aim of being designed to be secondary to Whangarei City Centre Zone, and of providing vitality to the Marsden City area.

The plan change request proposes to apply precinct provisions to the subject site that will include objectives, policies and rules. Seven sub-precincts are proposed which align with the proposed underlying zoning, these are:

- Sub-Precinct A: zoned Special Purpose Town Centre Zone
- Sub-Precinct B: zoned Mixed Use Zone, provides for a higher density of residential development and a range of commercial activities.
- Sub-Precinct C: zoned Medium Density Residential Zone, provides for a medium density of residential development within easy walking distance to the town centre.
- Sub-Precinct D: zoned General Residential Zone, provides for residential development of a suburban character.
- Sub-Precinct E: zoned Low Density Residential Zone, provides for residential development on larger sites effectively with the aim of providing a buffer between Marsden City land and State Highway 15A.
- Sub-Precinct F: zoned Commercial Zone, provides for commercial development on land primarily owned by GNLC in the southern portion of the plan change area.
- Sub-Precinct G: zoned Commercial Zone in the north (adjacent to the KiwiRail rail designation), provides a buffer between residential development in the General Residential Zone and the rail designation.

The sub-precincts largely duplicate the rules from the zones within the Decisions Version of the Urban and Services plan changes. There are 38 instances where the decision version rules have been added to or deleted.

Resource Management Act 1991

Any person can make a request for a Private Plan Change to the Local Authority under clause 21 the first schedule of the Act. A Local Authority can request further information under Clause 23.

Any request for a private plan change must be considered under the First Schedule of the Act. Under the Act, any person may make a request for a change to a district plan but, under clause 25 of the First Schedule, a council may either:

- Adopt the request, or part of the request, as if it were a proposed...plan made by the local authority;
- Accept the request, in whole or in part, and proceed to notify the request;
- Decide to deal with the request as if it were an application for a resource consent;
- Reject the request in whole or in part.

Clause 23 – Sufficiency of Information

Pursuant to clause 23(1) of Part 2 of the First Schedule of the Act, a local authority may request further information to be provided.

A request for further information was sought on 21st April 2020. The matters of clarification included:

- Economic Effects and Impact: explanation regarding assumptions and statistics used, explanation of tables, assessments of yields, and clarification of benefits.
- Urban Design: assessment of master plan, how good connectivity will be preserved, analysis of amenity effects, consideration of cycle networks, specifics of the town centre.
- Parks and Recreation: specifics of open space, what status spaces will have and how these will be registered, clarification as to whether the Whangarei Active Recreation and Sport Strategy has been considered, clarification regarding pedestrian connections.
- Traffic and Transportation: clarification of statistics used, indication of how mitigation measures will be implemented, clarification around wording of proposed trigger rules, consideration of intersections.
- Planning and RMA Matters: clarification of linkages between policies, objectives and rules, comment around policy wording, consideration of soil and acid sulphate soils,

comment of consequential changes required, explanation around some rule drafting and why some rules have been omitted.

- Noise: consideration of unexercised consents, assessment of potential rail vibration effects, consideration of rule wording for noise sensitive spaces, comment around the effectiveness and maintenance of the noise bund.
- Cultural: consideration as to why some recommendations have been omitted, and why suggested provisions recommended to ensure consistency with the HEMP weren't incorporated.
- Infrastructure and Services: further assessment with most up to date modelling, consideration of drafting of a rule.
- Roading: comment in relation to vehicle crossings, consideration of road cross sections, comment about fencing provisions, clarification of triggers, consideration of cycleways.

Assessment as to Whether to Reject the Request

The grounds on which a local authority may reject a request are:

- That the request or part of the request is frivolous or vexatious; or
- Within the last 2 years the substance of the request has been considered and given effect to, or rejected, or has been given effect to by regulations; or
- The request is not in accordance with sound resource management practice; or
- The request would make the plan inconsistent with Part 5; or
- In the case of a proposed change to a plan the plan has been operative for less than 2 years.

Each of these matters is discussed below.

Clause 25(4)(a) – Frivolous or Vexatious Requests

In terms of clause 25(4)(a), the Request is not considered to be frivolous or vexatious as it addresses a valid resource management issue. As such, there are no grounds for rejecting the request under clause 25(4)(a).

Clause 25(4)(b) – Requests Considered in Last Two Years

The request seeks to replace the Marsden Primary Centre Chapter of the Plan. This Chapter has been operative since November 2017, and therefore more than 2 years ago.

Further the matters subject to the Request have not been considered and given effect to or rejected by the local authority or Environment Court within the last 2 years.

As such there are no grounds for rejecting the request under clause 25(4)(b).

Clause 25(4)(c) – The extent to which the Request is in Accordance with Sound Resource Management Practice

Clause 25(4)(c) provides that a Private Plan Change request may be rejected on the grounds that the request is not in accordance with sound resource management practice. It is noted that “sound resource management practice”, while a frequently used term, is not defined in the Act. However it is considered the term relates to the scale of effects and alignment of the plan change request to Part 2 of the RMA.

The applicant has considered the requested zones, and precincts, and believes the proposal will result in an outcome that will be positive while being consistent with the Urban and Services provisions of the District Plan. The application states “...*the plan change is considered to be in accordance with sound resource management practice as it is consistent with the strategic outcomes sought in the Whangarei District Growth Strategy: Sustainable Futures 30/50 2010, the draft Whangarei District Growth Strategy, and the Marsden Point – Ruakaka Structure Plan 2008. It is also consistent with the higher order policy framework of the Operative Whangarei District Plan and the amendments proposed through the Urban and Services Plan Changes*”.

The above statement from the applicant is agreed with.

Furthermore all necessary statutory requirements have been met by the applicant, including an evaluation in accordance with s32 of the Act.

The application is therefore considered to be in accordance with sound resource management practice.

Clause 25(4)(d) – Consistency with Part 5 of the Act

Part 5 of the Act sets out the role and purpose of planning documents created under the RMA, including that they must assist a local authority to give effect to the sustainable management purpose of the Act.

The Request will not make the District Plan inconsistent with Part 5 of the RMA. It is therefore recommended that the Council not reject the request for this reason.

Clause 25(4)(e) – Operative Plan for less than 2 years

Clause 25(4)(e) of Part 2 of Schedule 1 may apply where a District Plan has been operative for less than two years.

The Operative District Plan provisions relevant to this plan change request were made operative in 2017. The relevant provisions have therefore been operative for more than two years, and it is recommended that the Council not reject the private plan change request on the basis of this.

CONCLUSION – on Whether to Reject the Request

The grounds on which the Council may reject a request for a plan change have been considered above.

In summary:

- The request relates to valid resource management issues.
- It is not considered frivolous or vexatious.
- The substance has not been considered in the past two years.
- The request is not considered to be inconsistent with Part 5.
- There is no information outstanding under Clause 23.

Therefore there are considered to be no grounds available to Council on which to reject the request.

The Council must therefore decide whether it will accept the request and notify it as a private plan change, adopt the request and notify it as if it were a Council initiated plan change, or determine to deal with the request as if it were an application for resource consent. The discussion set out below is intended to assist the Council with the decision of the appropriate option.

Assessment as to Whether to Process Request as a Resource Consent

Clause 25(3) allows a local authority to decide to deal with the private plan change request as if it were an application for resource consent. In this instance the request seeks to rezone the site and introduce precincts to manage use and development. It is considered that the most appropriate process for achieving rezoning for this site is through a plan change process.

It is therefore recommended that the Council not decide to deal with the request as if it were an application for resource consent.

Assessment of Whether to Adopt the Request

Clause 25(2)(a) of the First Schedule enables a local authority to adopt a private plan change request, as if it were its own.

The Council is able to decide to adopt the request, and process it, as though it were a Council initiated proposed plan change. A decision to adopt triggers the process set out in Part 1 of Schedule 1, which would then require Council to consult. Following the consultation, the Council would then need to notify the proposed plan change for submissions and conduct a hearing in to submissions, if required. If adopted, all costs associated with the plan change would rest with the Council.

The applicant has not requested that the Council adopts the private plan change.

It is not considered appropriate for the Council to adopt the private plan change for the following reasons:

- The request relates to specific zonings and to land contained within the Marsden Primary Centre. It is therefore not considered that the scope of the request is not of significant benefit to the public at large;
- It is considered the changing market demand and objectives of the developer/owners within the Marsden Primary Centre is a significant driver for the request;
- By adopting the plan change, the Council would be seen as explicitly supporting the change before it had undertaken a thorough assessment of its merits and heard community opinion, and would be expected to fund part or all of the proposal. Given the discrete nature of the Request in terms of both scope and strategic importance, there is no reason for the council to explicitly support or fund the proposal.

CONCLUSIONS – on Clause 25 Assessment

The consideration undertaken above has concluded there are no grounds to reject the Plan Change Request, and that therefore the Council should not reject the Request. The issues raised within the plan change request are more appropriately addressed through the plan change process than a resource consent, and that the Council should not adopt the Request.

Therefore based on the above the recommendation is that the request be accepted by the Council under clause 25(2)(b) of Part 2 of the First Schedule for public notification.

Notification Process

Where the Council agrees with the findings of the assessment carried out in the preceding sections of this report, then clause 25(5) and clause 26 of Part 2 of the First Schedule specify the process and timeframes.

The Council would have four months of being accepted under clause 26 to notify the plan change.

Financial Considerations

Private Plan Changes are processed with the ability to recover all costs from the applicant. The costs that can be recovered are those that are the actual and reasonable processing costs until the time any appeal is lodged. Any appeal costs will be determined as per the appeal hearings.

Conclusions and Recommendations

This report has evaluated the Request made by Marsden City Limited Partnership, with a view to assisting the Council in determining whether it should adopt, accept or reject the Request in whole or part, or deal with it as if it were an application for resource consent.

Having regard to all of the matters evaluated in the preceding sections of this report, it is considered that the Request by MCLP may be accepted pursuant to clause 25(2)(b) of Part 2 of the First Schedule to the Resource Management Act 1991 and that the Council may proceed to prepare the Plan Change for public notification.

Authored:



Kelly Ryan B. Soc. Sci (REP)(Hons)

Senior Planner, The Property Group

4.2 2022 Elections – Māori Representation

Meeting: Whangarei District Council
Date of meeting: 3 November 2020
Reporting officer: Tracey Schiebli (Manager Democracy and Assurance)

1 Purpose

To consider Council's position regarding Māori representation through the establishment of a Māori ward(s).

2 Recommendations

That Council either:

takes no further action on the establishment of a Māori ward(s)

OR

approves the establishment of a Māori ward(s) for the 2022 and 2025 elections and publicly notifies the opportunity for electors to demand a poll

OR

approves the conduct of a poll of electors on the establishment of a Māori ward(s) to take effect for the 2022 elections

OR

approves the conduct of a poll of electors on the establishment of a Māori ward(s) in conjunction with the 2022 elections.

3 Background

The Local Electoral Act 2001 (LEA) allows for Council to decide on the establishment of Māori ward(s). Whangarei District Council does not currently have a Māori ward, so any decision to change the status quo, which would then take effect for the 2022 and 2025 elections, is required to be made by 23 November 2020.

On 19 August 2020, the Te Kārearea Strategic Partnership resolved that:

“Te Kārearea Strategic Partnership recommend to Council to introduce Māori Representation for the 2022 and 2025 Local Government Elections”

On 24 September 2020, Council resolved that Te Karearea become a Standing Committee of Council, with hapū mandated membership.

Council's Electoral Officer (EO) presented to a public Council Briefing on 13 October 2020 on this topic. The EO advised that it was expected that consultation with hapū would occur to determine their position regarding the establishment of Māori wards. A copy of the briefing report to Council and presentation is included as **Attachment One**.

The inaugural meeting of the Te Kārearea Strategic Partnership Standing Committee on 29 October 2020 provided the opportunity for the new committee to provide advice to Council on Māori representation. At that meeting the following resolution was made:

"That the Te Karearea Strategic Partnership Standing Committee:

- 1. Notes the process for Council to consider Māori representation through establishment of Māori ward(s), and*
- 2. Recommends that Council consider introducing Māori Representation for the 2022 and 2025 Local Government Elections through the establishment of Māori ward(s), and*
- 3. Notes that Councillors need to keep an open mind on this matter."*

The third recommendation acknowledges that Councillors supporting advice or recommendations to Council need to keep an open mind throughout Council's decision making process.

4 Options and Process

Council has four options:

Option 1 - Take no further action

It is a Council decision to introduce Māori ward(s), or to remain with the status quo. Council may decide to take no further action. In this case no public notice is required.

Option 2 – Approves the establishment of Māori ward(s)

Council **may** resolve to introduce Māori representation for the next two triennial elections (2022 and 2025). If it decides to introduce Māori representation in time for the 2022 elections, it must do so no later than 23 November 2020, unless it decides to hold a poll of electors.

If this option is chosen, Council would then publicly advertise the resolution. The advertisement would also state that a public poll of 5% of electors (3,080 electors) would be required to overturn the decision, as follows:

Electors' right to demand a poll

If Council resolves to adopt Māori representation it **must** give public notice of the right of electors to demand a poll on the matter. If Council passes a resolution under section 19Z of the LEA to introduce Māori representation, the public notice must include:

- (a) notice of the resolution; and
- (b) a statement that a poll is required to countermand (reverse) that resolution

Section 19ZB of the LEA allows 5% of the electors enrolled at the previous triennial election to demand a binding poll to be held on a proposal whether or not Māori representation is to be introduced for the next two triennial elections. The demand must be made in writing to

the Chief Executive and can be made anytime, but to be effective for the 2022 elections, it must be made by 21 February 2021.

A decision to introduce Māori ward(s) would trigger a Representation Review process, which would investigate the necessary changes to re-align ward boundaries and other detail.

Option 3 – Conduct a poll of electors on the establishment of Maori ward(s) to take effect for the 2022 elections

Council may decide to hold a poll of electors at any time (but must decide no later than 21 February 2021 to be effective for the 2022 elections).

Public notice of the poll must be given no later than 21 February 2021 and the poll itself must be completed by 21 May 2021 to be effective for the 2022 elections.

The results of the poll are binding and will determine whether Māori representation is to be introduced for at least the next two triennial elections (2022 and 2025), and subsequent elections until either a further resolution under section 19Z of the LEA taken effect or a further poll is held.

Council's Electoral Officer has indicated that the cost of a standalone poll for the Whangarei District would be approximately \$90,000. Additional expenditure for communications and advertising would also be required, estimated at \$15,000.

Option 4 – Conduct a poll of electors on the establishment of Māori ward(s) in conjunction with the 2022 elections

Council may decide to conduct a poll on the establishment of Māori ward(s), to be done at the same time as the postal vote for the 2022 elections.

The poll would be binding and if the result is for Māori ward(s) to be introduced, it would apply for the next two elections (2025 and 2028), and then continue until Council resolves otherwise.

Council's Electoral Officer has indicated that the cost of incorporating this poll with the election voting papers would be approximately \$9,000 (about 10% of a standalone poll). Expenditure for communications and advertising would be incorporated into the election material and campaign.

5 Implications

Should Māori wards be introduced, schedule 1A of the LEA has a set formula to determine the number of Māori and General Councillors.

A decision to introduce Māori ward(s) would trigger a Representation Review process, which would investigate the necessary changes to re-align ward boundaries and other detail. The formal process for a Representation Review would start on 1 March 2021 at the earliest.

A Representation Review may result in:

- changes to the numbers of Councillors in the district
- One or more Māori wards
- Electors standing for a ward (part of district) or at large (whole district)

Based on population estimates as at 30 June 2020 (which are due to be released at the end of October 2020), and assuming that the total of 13 Councillors plus a Mayor remains, 3 Councillors would be required to be elected from a Maori ward(s), and 10 Councillors from the general wards. This is based on a Māori electoral population of 18,700 and a general electoral population 77,300, which increases the number of Maori elected members to 2.53 which is rounded up to 3 under the formula.

If Council ultimately establishes a Māori ward, candidates in future elections have an option to stand for the Māori ward or in a general ward. Candidates must be registered parliamentary electors. However, Māori ward candidates do not need to be on the Māori electoral roll (provided they're on the general electoral roll) and vice versa for candidates standing in the general ward(s).

Electors on the Māori electoral roll are then eligible to vote for candidate(s) in their Māori ward. Electors on the general electoral roll are then eligible to vote for candidate(s) in their general ward. Regardless of which roll an elector is on, an elector only has one vote (either for a Māori ward or a general ward). Every five years, electors have the opportunity to change from being on the general electoral roll to the Māori electoral roll and vice versa.

All electors can vote for the Mayor.

6 Significance and engagement

The decisions or matters of this Agenda do not trigger the significance criteria outlined in Council's Significance and Engagement Policy, and the public will be informed via Agenda publication on the website.

As indicated previously in this report, Māori representation has been on the agenda at public Council meetings and briefings during August, September and October 2020.

7 Attachment

1. Council Briefing report and presentation dated 13 October 2020

1.1 2022 Elections – Māori Representation

Meeting:	Council Briefing
Date of meeting:	13 October 2020
Reporting officer:	Tracey Schiebli (Manager Democracy and Assurance)

1 Purpose

To brief elected members on the process for Council to consider Māori representation through the establishment of a Māori ward(s).

Council's Electoral Officer, Dale Ofsoske, will provide a presentation at the briefing.

2 Background

The Local Electoral Act 2001 (LEA) allows for Council to decide on the establishment of Māori ward(s). Whangarei District Council does not currently have a Māori ward, so any decision to change the status quo, which would then take effect for the 2022 and 2025 elections, is required to be made by 23 November 2020.

3 Options for considering Māori representation

The options for the consideration of Maori representation for 2022 and beyond include:

3.1 Take no further action

It is a Council decision to introduce Maori ward(s), or to remain with the status quo. Council could decide to take no further action. In this case no public notice is required.

3.2 Resolve to adopt Māori representation

Council may resolve to introduce Māori representation for the next two triennial elections (2022 and 2025). If it decides to introduce Maori representation in time for the 2022 elections, it must do so no later than 23 November 2020, unless it decides to hold a poll of electors.

If this option is chosen, Council would then publicly advertise the resolution. The advertisement would also state that a public poll of 5% of electors (3,080 electors) would be required to overturn the decision.

3.3 Electors' right to demand a poll

If Council resolves to adopt Māori representation by 23 November 2020, it must give public notice of the right of electors to demand a poll on the matter. If Council passes a resolution under section 19Z of the LEA to introduce Māori representation, the public notice must include:

- (a) notice of the resolution; and
- (b) a statement that a poll is required to countermand (reverse) that resolution

Section 19ZB of the LEA allows 5% of the electors enrolled at the previous triennial election to demand a binding poll to be held on a proposal whether or not Māori representation is to be introduced for the next two triennial elections. The demand must be made in writing to the Chief Executive and can be made anytime, but to be effective for the 2022 elections, it must be made by 21 February 2021.

3.4 Council may decide to hold a poll of electors

Council can decide to hold a poll of electors at any time (but must decide no later than 21 February 2021 to be effective for the 2022 elections).

Public notice of the poll must be given no later than 21 February 2021 and the poll itself must be completed by 21 May 2021 to be effective for the 2022 elections.

The results of the poll are binding and will determine whether Māori representation is to be introduced for at least the next two triennial elections (2022 and 2025), and subsequent elections until either a further resolution under section 19Z of the LEA taken effect or a further poll is held.

Our Electoral Officer has indicated that the cost of a standalone poll for the Whangarei District would be approximately \$90,000. Additional expenditure for communications and advertising would also be required, estimated at \$15,000.

3.5 Conduct a poll of electors on the establishment of Māori ward(s) in conjunction with the 2022 elections

Council can decide to conduct a poll on the establishment of Māori ward(s), to be done at the same time as the postal vote for the 2022 elections.

The poll would be binding and if the result is for Māori ward(s) to be introduced, it would apply for the next two elections (2022 and 2025), and then continue until Council resolves otherwise.

Our Electoral Officer has indicated that the cost of incorporating this poll with the election voting papers would be approximately \$9,000 (about 10% of a standalone poll). Expenditure for communications and advertising would be incorporated into the election material and campaign.

4 Process and implications

A decision to introduce Māori ward(s) would trigger a Representation Review process, which would investigate the necessary changes to re-align ward boundaries and other detail.

Schedule 1A of the LEA has a set formula to determine the number of Māori and General Councillors. For the Whangarei District, assuming that the total of 13 Councillors plus a Mayor remains, two Councillors would be required to be elected from a Maori ward(s), and 11 Councillors from the general wards.

5 Engagement

While the Te Kārearea Strategic Partnership has previously (at it's meeting of 19 August) recommended that Council introduce Maori Representation for the 2022 and 2025 Local Government Elections it will not be possible to formally take this matter to the newly created Standing Committee prior to the October Council meeting.

However, members of the new Committee are being informally canvassed on their views, any feedback received will be worked through at this briefing. If Council resolves to take further action at it's October meeting a communications/engagement programme will be developed in support of the preferred option.

6 Attachment

Maori Wards 2020.

Māori Wards 2020

Whangarei District Council

Briefing

1pm, 13 October 2020

Dale Ofsoke, Electoral Officer

Māori Wards 2020

- can be established anytime but specific opportunity every three-years
- establishment optional
- sit alongside general wards
- any elector can stand in a Māori ward
- only electors on the Māori electoral roll can vote in a Māori ward

Māori Wards 2020

- legal obligation
 - LGA sec 4: 'Treaty of Waitangi to maintain and improve opportunities for Māori to contribute to local government decision-making processes...'
 - LGA sec 14(d): 'a local authority should provide opportunities for Māori to contribute to decision-making.'
- LEA secs 19Z-19ZH provides opportunity and mechanisms

Māori Wards 2020

- establishment of Māori Wards socialized with Te Huinga and through Te Kārearea (recommended)
- establishment of standing committee to support Māori participation in decision making considered by Council on 25 September
- the two mechanisms complement each other:
 - the first is about *representation* through the Local Electoral Act 2001
 - the second about *participation* through the Local Government Act 2002
- other mechanisms include:
 - appoint members to committees
 - working parties
- other Councils with partnership models
 - Rotorua Lakes Council/Te Arawa Partnership
 - Gisborne District Council Joint Agreement

Māori Wards 2020

- every three-years Council can consider:
 - whether or not to establish Māori wards
 - whether or not to hold a poll on the matter
- resolution (optional) by 23 November 2020
- if establishing Māori wards, public notice by 30 November 2020
- notice provides opportunity for public to demand a poll
- resolution takes effect for minimum two triennial elections (2022, 2025)

Māori Wards 2020

- Council can resolve to hold a poll any time:
 - if no date given, poll as soon as practicable
 - if by 21 February 2021
 - poll held by 21 May 2021
 - result binding for 2022 & 2025 elections
 - if after 21 February 2021
 - poll held after 21 May 2021 e.g. poll held with 2022 elections
 - result binding for 2025 & 2028 elections

Māori Wards 2020

- electors can demand a poll any time:
 - if received by 21 February 2021
 - poll held by 21 May 2021
 - result binding for 2022 & 2025 elections
 - if received after 21 February 2021
 - poll held after 21 May 2021 e.g. poll held with 2022 elections
 - result binding for 2025 & 2028 elections
- minimum 5% electors (3,080) can demand poll
- estimated cost of poll \$100-\$110k + GST

Māori Wards 2020

- recent poll results
 - 2018 Western Bay of Plenty DC (22% for, 78% against)
 - 2018 Palmerston North CC (31% for, 69% against)
 - 2018 Whakatane DC (45% for, 55% against)
 - 2016 Wairoa DC (54% for, 46% against)
 - 2015 Far North DC (32% for, 68% against)
 - 2015 New Plymouth DC (17% for, 83% against)
 - 2013 Hauraki DC (19% for, 81% against)
 - 2012 Waikato DC (20% for, 80% against)
 - 2012 Wairoa DC (48% for, 52% against)

Māori Wards 2020

- formula in LEA
 - $nmm = \frac{mepd}{(mepd + gepd)} \times nm$
 - nmm = number Māori members
 - mepd = Māori electoral population of district
 - gepd = general electoral population of district
 - nm = total number members
- 17,397 Māori Electoral Population (19.13%)
- 73,563 General Electoral Population (80.87%)
- if 13 councillors retained:
 - 2 Māori councillors (2.49 rounded down to 2)
 - 11 general councillors
- for 3 Māori councillors, would need 14 councillors

Māori Wards 2020

- currently three local authorities have Māori representation
 - Bay of Plenty Regional Council (2001)
 - Waikato Regional Council (2013)
 - Wairoa District Council (2019)
- if established
 - must apply for at least two triennial elections
 - must undertake a representation review
- SOLGM submitted to Justice Committee that legislation for Māori wards be aligned with creation of other wards
- matter of interest to Minister of Local Government
- watch this space

Māori Wards 2020

- next steps
 - resolve by 23 November 2020 to establish Māori wards for 2022 & 2025 elections; or
 - resolve by 21 February 2021 to hold a poll on Māori wards for outcome for 2022 & 2025 elections; or
 - resolve after 21 February 2021 to hold a poll on Māori wards with 2022 election for outcome for 2025 & 2028 elections; or
 - seek feedback from iwi/hapu for Māori wards or other forms of Māori participation in decision-making; or
 - consider again in 2023

Māori Wards 2020

Whangarei District Council

Briefing

1pm, 13 October 2020

Dale Ofsoske, Electoral Officer

RESOLUTION TO EXCLUDE THE PUBLIC

That the public be excluded from the following parts of proceedings of this meeting.

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

1.	The making available of information would be likely to unreasonably prejudice the commercial position of persons who are the subject of the information. {Section 7(2)(c)}
2.	To enable the council (the committee) to carry on without prejudice or disadvantage commercial negotiations. {(Section 7(2)(i))}.
3.	To protect the privacy of natural persons. {Section 7(2)(a)}.
4.	Publicity prior to successful prosecution of the individuals named would be contrary to the laws of natural justice and may constitute contempt of court. {Section 48(1)(b)}.
5.	To protect information which is the subject to an obligation of confidence, the publication of such information would be likely to prejudice the supply of information from the same source and it is in the public interest that such information should continue to be supplied. {Section 7(2)(c)(i)}.
6.	In order to maintain legal professional privilege. {Section 2(g)}.
7.	To enable the council to carry on without prejudice or disadvantage, negotiations {Section 7(2)(i)}.

Resolution to allow members of the public to remain

If the council/committee wishes members of the public to remain during discussion of confidential items the following additional recommendation will need to be passed:

Move/Second

"That _____ be permitted to remain at this meeting, after the public has been excluded, because of his/her/their knowledge of Item _____.

This knowledge, which will be of assistance in relation to the matter to be discussed, is relevant to that matter because _____.

Note:

Every resolution to exclude the public shall be put at a time when the meeting is open to the public.