

Whangarei District Council Meeting

Agenda

Date: Thursday, 23 November, 2023

Time: 9:00 am

Location: Civic Centre, Te Iwitahi, 9 Rust Avenue

Elected Members: His Worship the Mayor Vince Cocurullo
Cr Gavin Benney
Cr Nicholas Connop
Cr Ken Couper
Cr Jayne Golightly
Cr Phil Halse
Cr Deborah Harding
Cr Patrick Holmes
Cr Scott McKenzie
Cr Marie Olsen
Cr Carol Peters
Cr Simon Reid
Cr Phoenix Ruka
Cr Paul Yovich

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

1. Karakia/Prayer	
2. Declarations of Interest / Take Whaipānga	
3. Apologies / Kore Tae Mai	
4. Public Forum / Huihuinga-a-tangata	2
5. Police Report	
5.1 Police Report November 2023	4
6. Confirmation of Minutes of Previous Meeting of the Whangarei District Council / Whakatau Meneti	
6.1 Minutes Whangarei District Council Meeting held on 26 October 2023	6
6.2 Minutes Whangarei District Council 9 November 2023	18
7. Decision Reports / Whakatau Rīpoata	
7.1 Amendments to the Community Development Committee Terms of Reference	20
7.2 Revocation of Local Purpose Reserve	26
7.3 Alcohol Control Bylaw review	40
7.4 Water Supply Bylaw 2023	64
7.5 Freedom Camping Enforcement Programme 2023-2024 Season - Variation to Regulatory Services Contract	158
7.6 IQP Transfer - Decision	162
7.7 Temporary Road Closure - Ruakaka Christmas Parade	178
7.8 Temporary Road Closure - Yule Market 2023	186
7.9 Temporary Road Closure Application - ChillTech Beach to Basin 2024	194

7.10	Fluoridation Motion to Consult - Consultation Options	204
7.11	WDC's Submission on Wai Tamaki ki te Hiku's AMP and FPP	208
8.	Information Reports / Ngā Pūrongo Kōrero	
8.1	Chief Ombudsman report - Local Council Meetings and Workshops	214
9.	Public Excluded Business / Rāhui Tangata	
9.1	Confidential Minutes Whangarei District Council Meeting held on 26 October 2023	
9.2	Infrastructure as a Service	
9.3	Land Purchase - Opouteke Road	
9.4	Update - Legal Proceedings	
9.5	Property Matter	
10.	Closure of Meeting / Te katinga o te Hui	

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

Please refer to Council minutes for final resolution.

4 Public Forum

Meeting: Whangarei District Council
Date of meeting: 23 November 2023
Reporting officer: Carolyne Brindle (Senior Democracy Advisor)

1 Purpose / Te Kaupapa

To afford members of the community an opportunity to speak to Council and to report on matters raised at public forums where appropriate.

2 Summary

Standing Orders allow for a period of up to 30 minutes to be set aside for a public forum at the commencement of each monthly council meeting.

The time allowed for each speaker is 5 minutes.

Members of the public who wish to participate should send a written application, setting out the subject matter and the names of the speakers, to the Chief Executive at least 2 clear working days before the day of the meeting.

Speakers

Speaker	Subject
Tim Hunt	Present data and concerns regarding microwave radiation emissions from the cell tower at the Onerahi Telegraph Exchange site
Kamo Community Inc	Presentation of Kamo Community In ten-year Concept Plan.
Eliana and Eugene Fayerberg	Ngunguru Road school signage and speed reduction
Isa Inui	Health, Safety & benefit for the people in the area. Formulating beneficial relationships between WDC and the people.

Response to previous speakers

Speaker	Topic
Stephen Gibson	Requesting Council consider supporting community in development of a cycle trail from One Tree Point / Marsden Bay to Ruakaka. Applicant presented several options that either are wholly within public land or a combination of public land and private land.

Council thanks the speaker for taking the time and effort to raise this issue with Council.

Response

Supporting the community to develop this route is being considered as part of the Long Term Plan development. It is noted that the proposal is to build a portion of the Southern Connection Marsden Byway route shown on the Whangarei Tourism and Recreational Network map within [Whangarei District council Walking and Cycling strategy](#).

Nora Shayeb - Northland Toxin Awareness Group

Roadside spraying and vegetation management in public places with toxic herbicides. Requesting Council consider not using Roundup as part of roadside spraying.

Council thanks the speaker for taking the time and effort to raise this issue with Council.

Response

Consideration of alternative roadside spraying is being considered as part of the Long Term Plan development.

Jackie Henare

Night shelter for the homeless in Whangarei.

Council thanks the speaker for taking the time and effort to raise this issue with Council.

Response

Council acknowledges the complexity of the issues surrounding homelessness, along with the impacts that they are having on our communities. We are committed to working alongside government agencies to find sustainable solutions to the challenges facing our community.

While the responsibility for these matters, including the provision of emergency/transitional housing or shelter solutions, sits with national agencies Council is actively engaging those agencies at a senior level and will continue to provide any support and advice (and potentially land) that could facilitate central government in its provision of these much needed services.

5.1 Police Report

Meeting: Whangarei District Council
Date of meeting: 23 November 2023
Reporting officer: Simon Weston (Chief Executive)

1 Purpose

To update council on Police activities.

2 Recommendation

That Council note the report.

3 Background

Area Commander Maria Nordstrom (New Zealand Police), will update council on Police activities over the last quarter.

4 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.

Item 6.1

Whangarei District Council Meeting Minutes

Date: Thursday, 26 October, 2023
Time: 9:00 a.m.
Location: Civic Centre, Te Iwitahi, 9 Rust Avenue

In Attendance

His Worship the Mayor Vince Cocurullo
Cr Gavin Benney
Cr Nicholas Connop
Cr Ken Couper
Cr Jayne Golightly
Cr Phil Halse
Cr Deborah Harding
Cr Patrick Holmes
Cr Scott McKenzie
Cr Marie Olsen
Cr Carol Peters
Cr Simon Reid
Cr Phoenix Ruka

Scribe

N. Pestana (Team Leader, Democracy)

1. Karakia/Prayer

His Worship the Mayor opened the meeting with a prayer.

2. Declarations of Interest / Take Whaipānga

Item 1.4 - Appointment of Council Trustee on Whangarei Art Trust Board.

3. Apologies / Kore Tae Mai

Cr Paul Yovich (absent), Cr Ken Couper and Cr Carol Peters (late arrival).

Moved By His Worship the Mayor

Seconded By Cr Marie Olsen

That the apologies be sustained.

Carried

Cr Peters joined the meeting at 9.02am.

4. Public Forum / Huihuinga-a-tangata

Stephen Gibson (Bream Bay Shared Path Steering Group) – Bream Bay Shared Path Network.

Norah Shayeb (Northland Toxin Awareness Group) – Roadside spraying and vegetation management in public places with toxic herbicides.

Jackie Henare – Night shelter for the homeless in Whangarei.

5. Confirmation of Minutes of Previous Meeting of the Whangarei District Council / Whakatau Meneti

5.1 Minutes Whangarei District Council Meeting held on 28 September 2023

Moved By His Worship the Mayor

Seconded By Cr Simon Reid

That the minutes of the Whangarei District Council meeting held on Thursday 28 September 2023, having been circulated, be taken as read and now confirmed and adopted as a true and correct record of proceedings of that meeting.

Carried

6. Decision Reports / Whakatau Rīpoata

6.1 Better Off Funding Reporting and Assurance Decision

Moved By Cr Carol Peters

Seconded By Cr Marie Olsen

That the Council

1. Notes the Better Off Funding Portfolio management mechanisms and Terms of Working Relationship have been prepared through engagement and collaboration with Te Huinga representatives.
2. Approves the governance and management mechanisms for the Māori Wellbeing Fund / Kaupapa Māori Programme contestable grants fund to enable the project to move into the implementation phase.
3. Approves bi-monthly reporting on delivery of the Māori Wellbeing Fund to Te Kārearea Strategic Partnership, and 6-monthly reporting that includes the report to Crown Infrastructure Partners to align with government reporting timeframes.

4. Notes that the Council's opposition to the government's Three Waters Reform remains unchanged.

Carried

6.2 Temporary Road Closure - InnoNative Market

Moved By Cr Carol Peters

Seconded By Cr Deborah Harding

That the Council

1. Approves the temporary closure of the following roads to ordinary traffic for the InnoNative Market on the following date in accordance with section 342 (1)(b) and Schedule 10 Clause 11 of the Local Government Act 1974.

Saturday 28 October 2023

Reyburn House Lane, from 183 Reyburn House Lane to 68 Reyburn house Lane.

2. Approves the proposal to temporarily close the side roads off the roads to be closed for up to 100 meters from the intersection for safety purposes.
3. Delegates to the Chair of the Infrastructure Committee and General Manager Infrastructure the power to give public notice of these proposed temporary closures, to consider any objections and to either approve, cancel or amend any or all of the temporary road closures if applicable.

Carried

6.3 Review - Designation for Emergency Management of Buildings

Moved By Cr Nicholas Connop

Seconded By Cr Simon Reid

That the Council resolves pursuant to s133BG (1) of the Building Act 2004 that the designation put in place on 15 February 2023 is still needed for the emergency management of affected buildings.

Carried

6.4 Aotearoa Reorua WHANGĀREI

Moved By Cr Phoenix Ruka

Seconded By Cr Carol Peters

That the Whangārei District Council;

1. Notes this report;
2. Note that the Te Kārearea Strategic Partnership Standing Committee has endorsed this initiative to be progressed to Council for Whangārei to be included in the 2023 cohort of *Aotearoa Reorua*.
3. Note that the primary outcome of this initiative is the development of a Māori language strategy between councils and their tangata whenua partners.
4. Note all costs for the development of the language strategy is resourced by Aotearoa Reorua which is led by the Department of Internal Affairs.
5. Note that the development of a Māori language strategy does not impose any compulsory short- or long-term cost implications on the Whangārei District.
6. Approve Whangārei City to be included in the 2023 cohort of *Aotearoa Reorua*.

Carried

6.5 Notice of Motion - Fluoridation

Moved By Cr Phil Halse

Seconded By Cr Gavin Benney

1. That Council considers the implication of adding Fluoridation to the Whangareei District Council's public water supplies.
2. That Councillors who represent the Whangareei District Council area seek guidance from the residents of the Whangārei district by consulting on having Fluoride added to any of Council's public water supplies in accordance with the requirements of the Local Government Act 2002.

Carried

On the motion being put Cr Connop called for a division.

Recorded	For	Against	Abstain
His Worship the Mayor	X		
Cr Gavin Benney	X		
Cr Nicholas Connop		X	
Cr Ken Couper		X	

Cr Jayne Golightly	X		
Cr Phil Halse	X		
Cr Deborah Harding		X	
Cr Patrick Holmes		X	
Cr Scott McKenzie		X	
Cr Marie Olsen	X		
Cr Carol Peters		X	
Cr Simon Reid	X		
Cr Phoenix Ruka	X		
Cr Paul Yovich			
Results	7	6	0
			Carried (7 to 6)

Cr Couper joined the meeting at 10.30am during discussion on Item 6.5.

6.6 Water Treatment Plants Fluoridation Contract Award

Moved By Cr Marie Olsen

Seconded By Cr Jayne Golightly

That Council:

1. Ceases fluoridation requirements until the result of the consultation is known.
2. Undertakes a consultation process with Whangarei District residents.
3. Writes urgently to the incoming government seeking whether they support or otherwise the directive from the Director General of Health to mandate fluoridation.

Amendment

Moved By Cr Nicholas Connop

Seconded By Cr Scott McKenzie

That Council:

1. Notes legal advice that:
 - a. Council does not have standing to seek an injunction on the basis of another parties' legal proceedings.
 - b. There does not appear to be any realistic grounds for Council to seek relief.

- c. Any attempt to pursue relief through judicial review/interim relief would be expensive and is likely to be contested by the Ministry of Health.
2. Approves the Chief Executive to authorise funding agreement.
 3. Approves amount of \$2,901,133 in addition to the \$1,600,000 budgeted amount in the 2023-24 Annual Plan making a total budgeted amount of \$4,501,133 plus GST for fluoridation, of which \$4,403,133 is funded by Ministry of Health.
 4. Approves the award of CON23011 for Water Treatment Plants Fluoridation Construction, to Bellcon Construction Limited for the sum of \$3,708,563.06 exclusive of GST.
 5. Notes the total budget of \$4,501,133 excludes the fluoridation of Poroti Water Treatment Plant.
 6. Notes that If the contract is not awarded:
 - a. Council may incur fines of up to \$200,000 if fluoridation has not been commenced by the dates directed, and further fines of \$10,000 per day during while the offence continues.
 - b. The Ministry may reduce or withdraw its \$4,403,133 funding, meaning that the costs of fluoridation could fall to ratepayers.
 - c. It is likely that the cost of the work will increase if fluoridation is implemented in the future.

Amendment

Moved By Cr Simon Reid

Seconded By Cr Jayne Golightly

That point 7 be added to the amendment:

7. Writes urgently to the incoming government seeking whether they support or otherwise the directive from the Director General of Health to mandate fluoridation.

On the amendment being put Cr Connop called for a division.

Recorded	For	Against	Abstain
His Worship the Mayor	X		
Cr Gavin Benney		X	
Cr Nicholas Connop	X		
Cr Ken Couper	X		
Cr Jayne Golightly	X		

Cr Phil Halse	X		
Cr Deborah Harding	X		
Cr Patrick Holmes	X		
Cr Scott McKenzie		X	
Cr Marie Olsen	X		
Cr Carol Peters	X		
Cr Simon Reid	X		
Cr Phoenix Ruka	X		
Cr Paul Yovich			
Results	11	2	0

The amendment was Carried (11 to 2)

Amendment

That Council:

1. Notes legal advice that:
 - a. Council does not have standing to seek an injunction on the basis of another parties' legal proceedings.
 - b. There does not appear to be any realistic grounds for Council to seek relief.
 - c. Any attempt to pursue relief through judicial review/interim relief would be expensive and is likely to be contested by the Ministry of Health.
2. Approves the Chief Executive to authorise funding agreement.
3. Approves amount of \$2,901,133 in addition to the \$1,600,000 budgeted amount in the 2023-24 Annual Plan making a total budgeted amount of \$4,501,133 plus GST for fluoridation, of which \$4,403,133 is funded by Ministry of Health.
4. Approves the award of CON23011 for Water Treatment Plants Fluoridation Construction, to Bellcon Construction Limited for the sum of \$3,708,563.06 exclusive of GST.
5. Notes the total budget of \$4,501,133 excludes the fluoridation of Poroti Water Treatment Plant.
6. Notes that If the contract is not awarded:
 - a. Council may incur fines of up to \$200,000 if fluoridation has not been commenced by the dates directed, and further fines of \$10,000 per day during while the offence continues.

b. The Ministry may reduce or withdraw its \$4,403,133 funding, meaning that the costs of fluoridation could fall to ratepayers,

c. It is likely that the cost of the work will increase if fluoridation is implemented in the future,

7. Writes urgently to the incoming government seeking whether they support or otherwise the directive from the Director General of Health to mandate fluoridation.

On the amendment being put Cr Reid called for a division.

Recorded	For	Against	Abstain
His Worship the Mayor	X		
Cr Gavin Benney		X	
Cr Nicholas Connop	X		
Cr Ken Couper	X		
Cr Jayne Golightly	X		
Cr Phil Halse	X		
Cr Deborah Harding	X		
Cr Patrick Holmes	X		
Cr Scott McKenzie	X		
Cr Marie Olsen	X		
Cr Carol Peters	X		
Cr Simon Reid	X		
Cr Phoenix Ruka	X		
Cr Paul Yovich			
Results	12	1	0

The amendment was Carried (11 to 2)

Substantive motion

That Council:

1. Notes legal advice that:
 - a. Council does not have standing to seek an injunction on the basis of another parties' legal proceedings.
 - b. There does not appear to be any realistic grounds for Council to seek relief.
 - c. Any attempt to pursue relief through judicial review/interim relief would be expensive and is likely to be contested by the Ministry of Health.

2. Approves the Chief Executive to authorise funding agreement.
3. Approves amount of \$2,901,133 in addition to the \$1,600,000 budgeted amount in the 2023-24 Annual Plan making a total budgeted amount of \$4,501,133 plus GST for fluoridation, of which \$4,403,133 is funded by Ministry of Health.
4. Approves the award of CON23011 for Water Treatment Plants Fluoridation Construction, to Bellcon Construction Limited for the sum of \$3,708,563.06 exclusive of GST.
5. Notes the total budget of \$4,501,133 excludes the fluoridation of Poroti Water Treatment Plant.
6. Notes that If the contract is not awarded:
 - a. Council may incur fines of up to \$200,000 if fluoridation has not been commenced by the dates directed, and further fines of \$10,000 per day during while the offence continues.
 - b. The Ministry may reduce or withdraw its \$4,403,133 funding, meaning that the costs of fluoridation could fall to ratepayers,
 - c. It is likely that the cost of the work will increase if fluoridation is implemented in the future,
7. Writes urgently to the incoming government seeking whether they support or otherwise the directive from the Director General of Health to mandate fluoridation.

On the substantive motion being put Cr Connop called for a division.

Recorded	For	Against	Abstain
His Worship the Mayor	X		
Cr Gavin Benney		X	
Cr Nicholas Connop	X		
Cr Ken Couper	X		
Cr Jayne Golightly	X		
Cr Phil Halse	X		
Cr Deborah Harding	X		
Cr Patrick Holmes	X		
Cr Scott McKenzie	X		
Cr Marie Olsen	X		
Cr Carol Peters	X		
Cr Simon Reid	X		

Cr Phoenix Ruka

X

Cr Paul Yovich

Results**12****1****0****The substantive motion was Carried (11 to 2)****7. Public Excluded Business / Rāhui Tangata****Moved By** Cr Simon Reid**Seconded By** Cr Marie Olsen

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:

RESOLUTION TO EXCLUDE THE PUBLIC		
Move/Second		
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:		
General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under Section 48(1) for passing this resolution
1.1 Confidential Minutes Whangarei District Council 28 September 2023	Good reason to withhold information exists under Section 7 Local Government Official Information and Meetings Act 1987	Section 48(1)(a)
1.2 Land Purchase		
1.3 Land Purchase		
1.4 Appointment of Council Trustee		
1.5 Deed of Lease Next Steps		
1.6 Reconsideration of Notice of Motion - Councillor Gavin Benney		

1.7	Notice of Motion - Councillor Gavin Benney		
-----	--	--	--

This resolution is made in reliance on Section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public, are as follows:		
Item	Grounds	Section
1.1	For the reasons stated in the open minutes	
1.2	To enable Council to carry on without prejudice or disadvantage negotiations (including commercial and industrial negotiations).	Section 7(2)(i)
1.3	To enable Council to carry on without prejudice or disadvantage negotiations (including commercial and industrial negotiations).	Section 7(2)(i)
1.4	To protect the privacy of natural persons including that of a deceased person.	Section 7(2)(a)
1.5	To enable Council to carry on without prejudice or disadvantage negotiations (including commercial and industrial negotiations).	Section 7(2)(i)
1.6	To enable Council to carry on without prejudice or disadvantage commercial activities. To enable Council to carry on without prejudice or disadvantage negotiations (including commercial and industrial negotiations).	Section 7(2)(h) Section 7(2)(i)
1.7	To enable Council to carry on without prejudice or disadvantage commercial activities. To enable Council to carry on without prejudice or disadvantage negotiations (including commercial and industrial negotiations).	Section 7(2)(h) Section 7(2)(i)

Carried

A short break was taken from 11.22am to 11.32am before the confidential section of the meeting.

8. Closure of Meeting / Te katinga o te Hui

His Worship the Mayor closed the meeting with a prayer at 12.29pm.

Confirmed this 23rd day of November 2023

His Worship the Mayor Vince Cocurullo (Chairperson)

Item 6.2

Whangarei District Council Meeting Minutes

Date: Thursday, 9 November, 2023

Time: 11:00 a.m.

Location: Civic Centre, Te Iwitahi, 9 Rust Avenue

In Attendance	<p>His Worship the Mayor Vince Cocurullo Cr Gavin Benney Cr Nicholas Connop Cr Ken Couper Cr Phil Halse Cr Patrick Holmes Cr Scott McKenzie Cr Marie Olsen Cr Carol Peters Cr Simon Reid Cr Phoenix Ruka Cr Paul Yovich (Teams)</p>
Not in Attendance	<p>Cr Jayne Golightly Cr Deborah Harding</p>
Scribe	C Brindle (Senior Democracy Adviser)

1. Karakia / Prayer

2. Declarations of Interest / Take Whaipānga

No declarations of interest were made.

3. Apologies / Kore Tae Mai

Crs Jayne Golightly and Deborah Harding (absent)

Moved By Cr Carol Peters

Seconded By Cr Simon Reid

That the apologies be sustained.

Carried

4. Decision Reports / Whakatau Rīpoata

4.1 Transfer of Powers under Building Act 2004, Hearing of Submissions

Moved By His Worship the Mayor

Seconded By Cr Patrick Holmes

That Council receive all submissions and hear the submissions of the parties who have requested to be heard.

Carried

The submitter who was heard was: Kerry Martin (on behalf of Airzone Ltd).

5. Closure of Meeting / Te katinga o te Hui

Cr Reid closed the meeting at 11.12am.

Confirmed this 23rd day of November 2023

His Worship the Mayor Vince Cocurullo (Chairperson)

7.1 Amendments to the Community Development Committee Terms of Reference

Meeting: Whangarei District Council
Date of meeting: 23 November 2023
Reporting officer: Victoria Harwood General Manager Community

1 Purpose / Te Kaupapa

To amend the Community Development Committee Terms of Reference to include all departments within the Community Group.

2 Recommendation / Whakataunga

That the Council approves the amendments to the Community Development Committee Terms of Reference.

3 Background / Horopaki

The Community Development Committee Terms of Reference set the governance parameters of the committee in relation to Community Group activities. This covers all the departments which fall within the Community Group and the Council Controlled organisations as follows:

- Venues and Events
- Libraries
- Civil Defence Emergency Management
- Community Development
- Customer Services
- CCO Whangarei Art Trust (Hundertwasser Art Centre and Whangarei Art Museum)
- CCO Northland Events Centre Trust 2021 (NECT2021).

4 Discussion / Whakawhiti kōrero

The Customer Services Department report to the Community Development Committee. It has been noted that currently the Customer Services department and its activities are not included in the Terms of Reference for the Community Development Committee.

Council approved the change of name for the Council Controlled Organisation from Hatea Arts Precinct Trust (HAPT) to the Whangarei Art Trust (WAT) in 2023.

It is proposed that the Terms of Reference are updated to include the Customer Service Department responsibilities and the change of name of the Council Controlled organisation.

4.1 Financial/budget considerations

There are no financial or budget considerations

4.2 Policy and planning implications

As the Customer Service Department and the Whangarei Art Trust are reporting to the Community Development Committee, there are no further policy or planning implications

5 Significance and engagement / Te Hira me te Arawhiti

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 this Agenda publication on the website, and through the public meeting.

6 Attachment / Ngā Tāpiritanga

Amended Community Development Committee Terms of Reference

Committees of the Whole

Community Development Committee – Terms of Reference

Membership

Chairperson Councillor Gavin Benney

Deputy Chairperson Councillor Carol Peters

Members His Worship the Mayor Vince Cocurullo
Councillors Nicholas Connop, Ken Couper, Jayne Golightly, Phil Halse, Deborah Harding, Patrick Holmes, Marie Olsen, Scott McKenzie, Simon Reid, Phoenix Ruka and Paul Yovich

Meetings Monthly

Quorum 7

Purpose

To oversee functions of Council that interact, support, and provide services for the community, including to disburse funds as determined by the Whangarei District Council Grants, Concessions and Loans Policy.

Key responsibilities

- Policy and planning for the provision of community development, culture, arts and heritage and events
- District venues and community events
- Libraries [services \(Central Library, Branch Libraries, Mobile Library services\)](#)
- [Customer Services](#)
 - [Customer Services Civic Centre and Ruakaka Service Centre](#)
 - [Contact Centre services](#)
 - [Isite services](#)
 - [National Claphams Clock Museum](#)
 - [Request System](#)
- Community services
 - Community sector liaison and support (Advisory Groups)
 - Community safety (City Safe, CCTV)
- Pensioner housing
- Property asset management
 - Pensioner housing

Formatted: Indent: Left: 0.98", Hanging: 0.2", Tab stops: Not at 1.5"

- Forum North
- Community halls
- Civil Defence Emergency Management
- Heritage, culture, arts and creative industries sector liaison
- Community development led programmes
- Operational accountability of performance including:
 - Health and Safety
 - Regular reporting on service delivery
 - Compliance
 - Sustainability
 - Finance
- Reporting on capital projects
- Procurement – general procurement relating to the areas of business of this committee, within delegations
- Shared services – investigate opportunities for shared services for recommendation to council
- To carry out the funding process in accordance with the Whangarei District Council Grants, Concessions and Loans Policy in an objective, fair and transparent way.
- Council Controlled Organisations (CCOs) – monitoring the financial and non-financial performance of CCOs whose functions would otherwise fall under the scope of this committee. Includes trading CCOs (CCTOs) and those CCOs exempted under the LGA. Responsibilities include:
 - advising on the content of annual Statement of Expectations to CCOs
 - agreement of the Statement of Intent
 - monitoring against the Statement of Intent
 - for exempted CCOs, monitoring and reporting as agreed between Council and the organisation
 - quarterly reporting on performance

CCO accountable to this committee:

- ~~Hatea Art Precinct Trust (HAPT)~~ Whangarei Art Trust (WAT)
- Hundertwasser Art Centre (HAC)
- ~~Whangarei Art Museum (WAM)~~
- Northland Events Centre Trust 2021 (NECT2021)
-

Delegations

(i) All powers necessary to perform the committee's responsibilities, including, but not limited to:

- a. approval of a submission to an external body.
- b. establishment of working parties or steering groups.
- c. adoption of strategies and policies relating to the key responsibilities of this committee (except for those that cannot be delegated by Council under Clause 32(1)(f) of Schedule 7 of the Local Government Act (LGA).
- d. the approval of expenditure of less than \$5 million plus GST.
- e. the power to adopt the Special Consultative Procedure provided for in Section 83 to 88 of the LGA in respect of matters under its jurisdiction (this allows for setting of fees and bylaw making processes up to but not including adoption).
- f. the power to delegate any of its powers to any joint committee established for any relevant purpose under clause 32, Schedule 7 of the Local Government Act 2002.

The Committee does not have:

- I. The power to establish sub-committees.
- II. The powers Council is expressly prohibited from delegating as outlined in Clause 32(1)(a)-(h) of Schedule 7 of the Local Government Act 2002; being:
 - the power to make a rate
 - the power to make a bylaw
 - the power to borrow money, or purchase or dispose of assets, other than in accordance with the long-term plan
 - the power to adopt a long-term plan, annual plan or annual report
 - the power to appoint a chief executive the power to adopt policies required to be adopted and consulted on under the Local Government 2002 in association with the long-term plan or developed for the purpose of the local governance statement
 - the power to adopt a remuneration and employment policy.

7.2 Revocation of Local Purpose (Water Supply) Reserve at Whau Valley Road

Meeting: Whāngarei District Council
Date of meeting: 23 November 2023
Reporting officer: Kate Stanton – Infrastructure Planner
 Andrew Venmore – Manager, Water Services

1 Purpose / Te Kaupapa

To seek Council's decision as the administering body of a Local Purpose (Water Supply) Reserve to initiate the process under s24(1)(b) of the Reserves Act 1977 to revoke the reservation status of Lot 1 DP 427274, in order for this land to be sold back to the previous owner.

2 Recommendation/s / Whakataunga

That the Council approves initiation of the process to revoke the reserve status of Lot 1 DP 427274, Local Purpose (Water Supply) Reserve, pursuant section 24(1)(b) of the Reserves Act 1977.

3 Background / Horopaki

Whāngarei District Council (WDC) acquired Lot 1 DP 427274, identified in image 1, after the land was subdivided in 2009. The land was acquired with the intention it would provide a strategic land parcel suitable for new water treatment facilities if needed.

However, following the acquisition of an alternative and more suitable land parcel (Section 1 SO 493018) now designated for the Whau Valley Water Treatment Plant, Lot 1 DP 427274 is no longer needed by WDC.

Under Section 40 of the Public Works Act 1981 a local authority is required to endeavour to sell the land where the land held for any public work and is;

- no longer required for that public work; and
- not required for any other public work; and
- not required for any exchange under s105

Lot 1 DP 427274 is no longer required for the management of WDC's water reticulation treatment plant, nor is it required for any other public work. As such, WDC is required to initiate the process of returning the land to the person from whom it was originally acquired from.

However, prior to any agreement to the purchase or sale of any land, the reserve status of the land needs to be revoked pursuant to s24(1)(b) of the Reserves Act 1977 and a resolution of Council is required to initiate this process.



Image 1: Lot 1 DP 427274 is no longer required

4 Discussion / Whakawhiti kōrero

Section 24 of the Reserves Act 1977 sets out the process for which a Reserve may be reclassified or revoked. Under section 24(1)(b) of the Reserves Act, a local authority may resolve to revoke the reserve status of any reserve it administers if *“it considers that for any reason, to be stated in the resolution ... that the reservation of the whole or part of the land as a reserve should be revoked”*

Lot 1 DP 427274 is currently registered on title as a Local Purpose (Water Supply) Reserve and was given this status following its amalgamation with the Whau Valley Water Supply Reserve site. The reserve status is no longer required as Lot 1 DP 427274 has no water supply purposes and is proposed to be de-amalgamated from the Whau Valley Water Supply Reserve site as part of this process.

If Council resolves that the reserve status should be revoked from Lot 1 DP 427274, WDC will need to apply to the Department of Conservation (DoC) to remove the reserve status pursuant Section 24(1)(b).

After consulting the commissioner, WDC may be required, pursuant Section 24(2)(b), to publicly notify the proposed reserve revocation. Objections will be open to those who claim to be affected by the proposal for one month following notification; the minister will consider any objections before making a final determination.

4.1 Financial/budget considerations

All costs relating to the revocation application are budgeted for within existing operational budgets.

4.2 Policy and planning implications

There are no policy or planning implications. This report ensures we are meeting the requirements of the Reserves Act 1977.

4.3 Options

Option 1 – Council resolves to initiate the process to revoke the reservation status of Lot 1 DP 427274 pursuant s24(1)(b) Reserves Act 1977. This would allow WDC to initiate the steps required to dispose of the land under Section 40 of the Public Works Act 1981.

Option 2 – Council declines to initiate the process to revoke the reservation status of Lot 1 DP 427274. WDC would not be able to offer the land back under Section 40 of the Public Works Act and the land would remain vested in Council for a purpose for which it is no longer required.

Considering the above, the current recommendation of staff is Option 1 - Council resolves to initiate the process to revoke the reservation status of Lot 1 DP 427274 pursuant s24(1)(b) Reserves Act 1977.

4.4 Risks

The Department of Conservation will assess the revocation application and determine if public notification is required. If any objections are received, these will be considered by the Minister in making a final determination.

5 Significance and engagement / Te Hira me te Arawhiti

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 the Agenda publication on the website.

6 Attachment / Ngā Tāpiritanga

Certificate of Title: Lot 1 DP 427274



**RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
FREEHOLD
Search Copy**




 R. W. Muir
 Registrar-General
 of Land

Identifier **507319**
Land Registration District **North Auckland**
Date Issued 26 July 2010

Prior References

529098 NA788/288

Estate Fee Simple
Area 66.4123 hectares more or less
Legal Description Allotment 52-53 and Allotment SE55
 Parish of Whangarei and Lot 1 Deposited
 Plan 427274
Purpose Local Purpose (Water Supply) Reserve

Registered Owners

Whangarei District Council

Interests

Subject to a right to convey electricity easement in gross over parts marked E and F on DP 427274 in favour of Northpower Limited created by Easement Instrument 6056561.6 - 25.6.2004 at 9:00 am

The easement created by Easement Instrument 6056561.6 is subject to Section 243 (a) Resource Management Act 1991

Land Covenant in Transfer 6311765.2 - 14.2.2005 at 9:00 am (affects Lot 1 DP 427274)

Fencing Covenant in Transfer 6311765.2 - 14.2.2005 at 9:00 am (affects Lot 1 DP 427274)

Land Covenant in Easement Instrument 6349763.1 - 17.3.2005 at 9:00 am (affects Lot 1 DP 427274)

Subject to the Reserves Act 1977

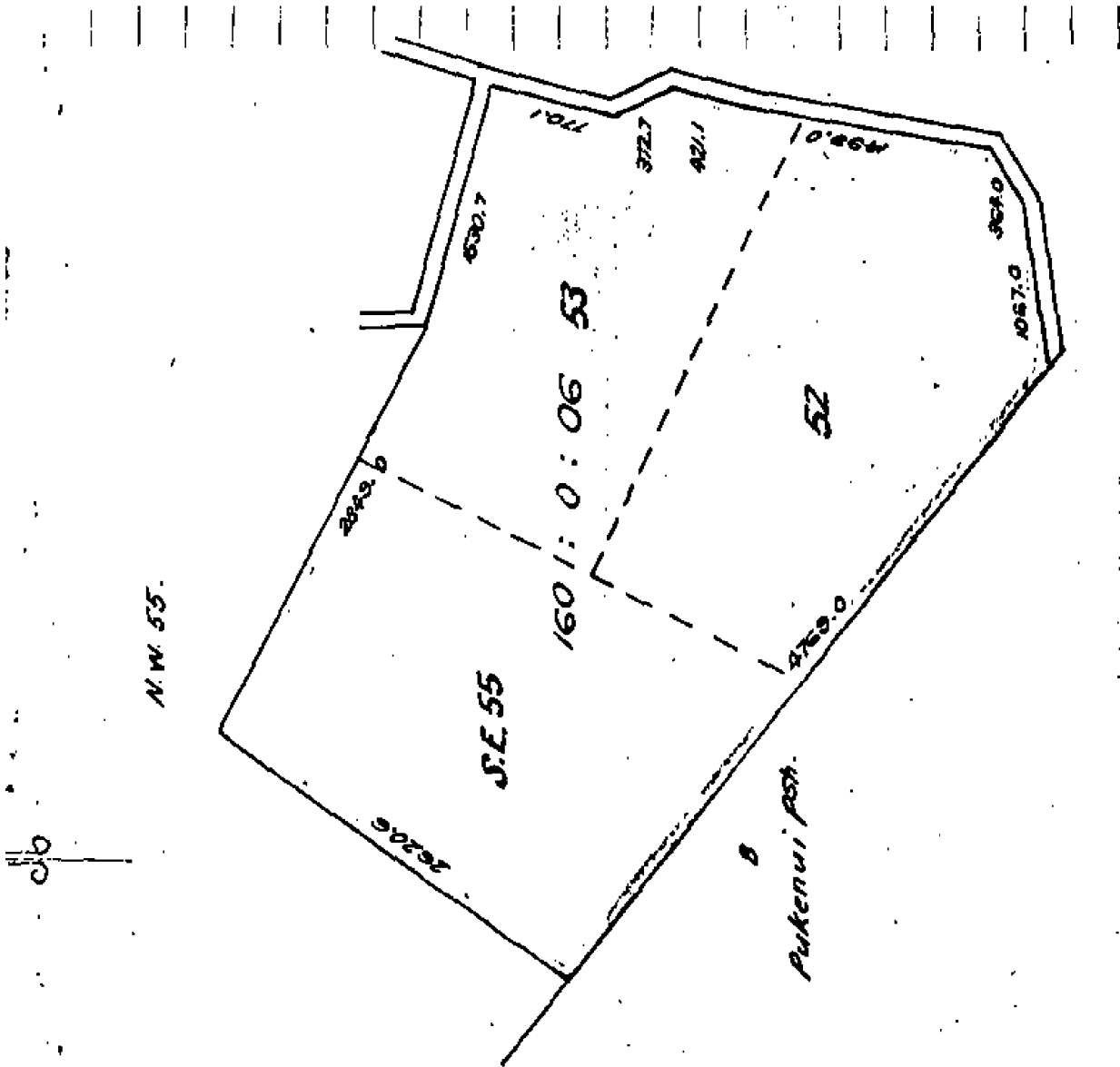
Subject to a right to convey water over part marked F & G on DP 427274 created by Easement Instrument 8551477.11 - 26.7.2010 at 2:24 pm

8551477.15 Consent Notice pursuant to Section 221 Resource Management Act 1991 - 26.7.2010 at 2:24 pm (affects Lot 1 DP 427274)

Subject to Section 241(2) Resource Management Act 1991 (affects DP 427274))

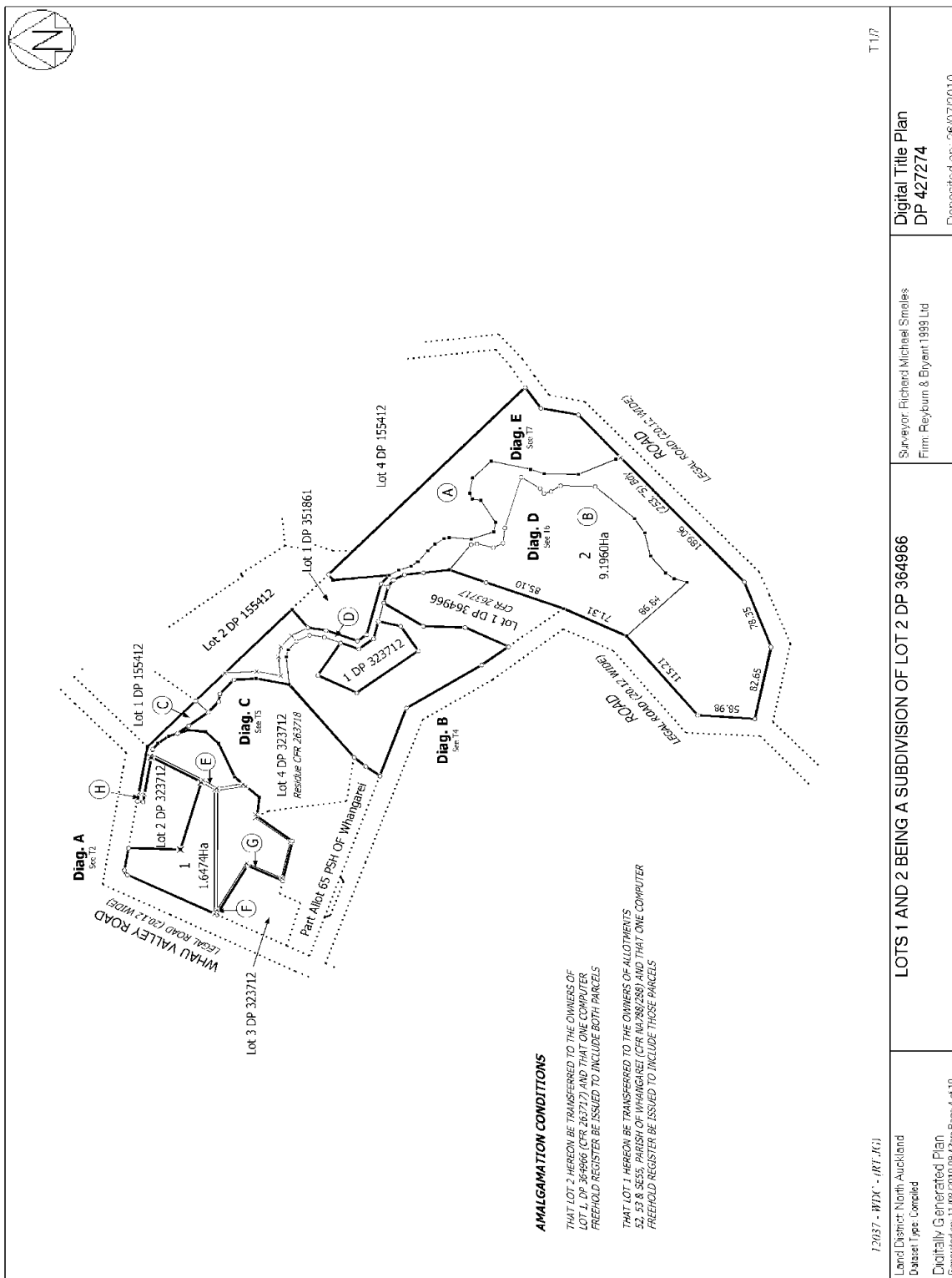
Identifier

507319



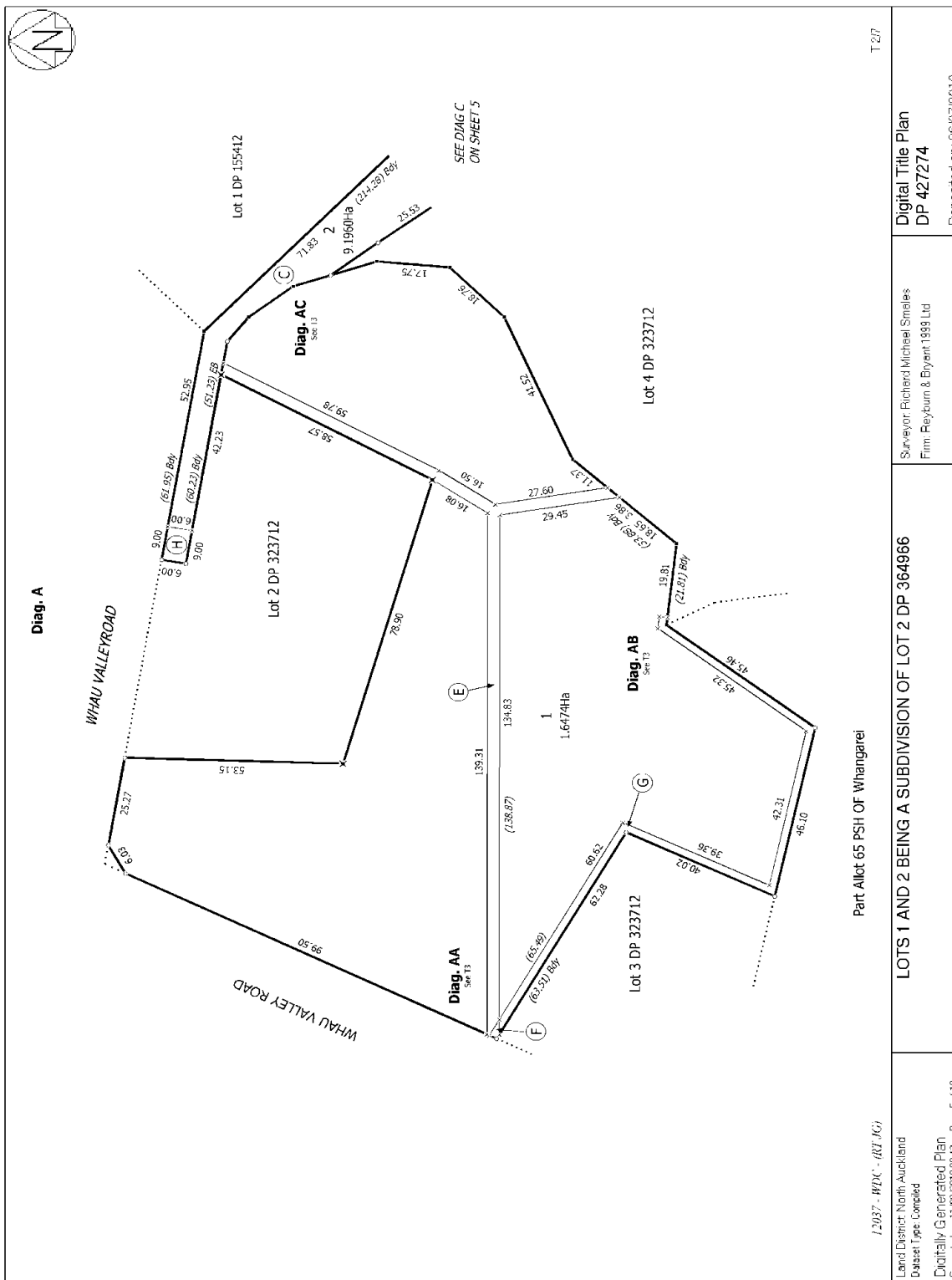
Identifier

507319



Identifier

507319

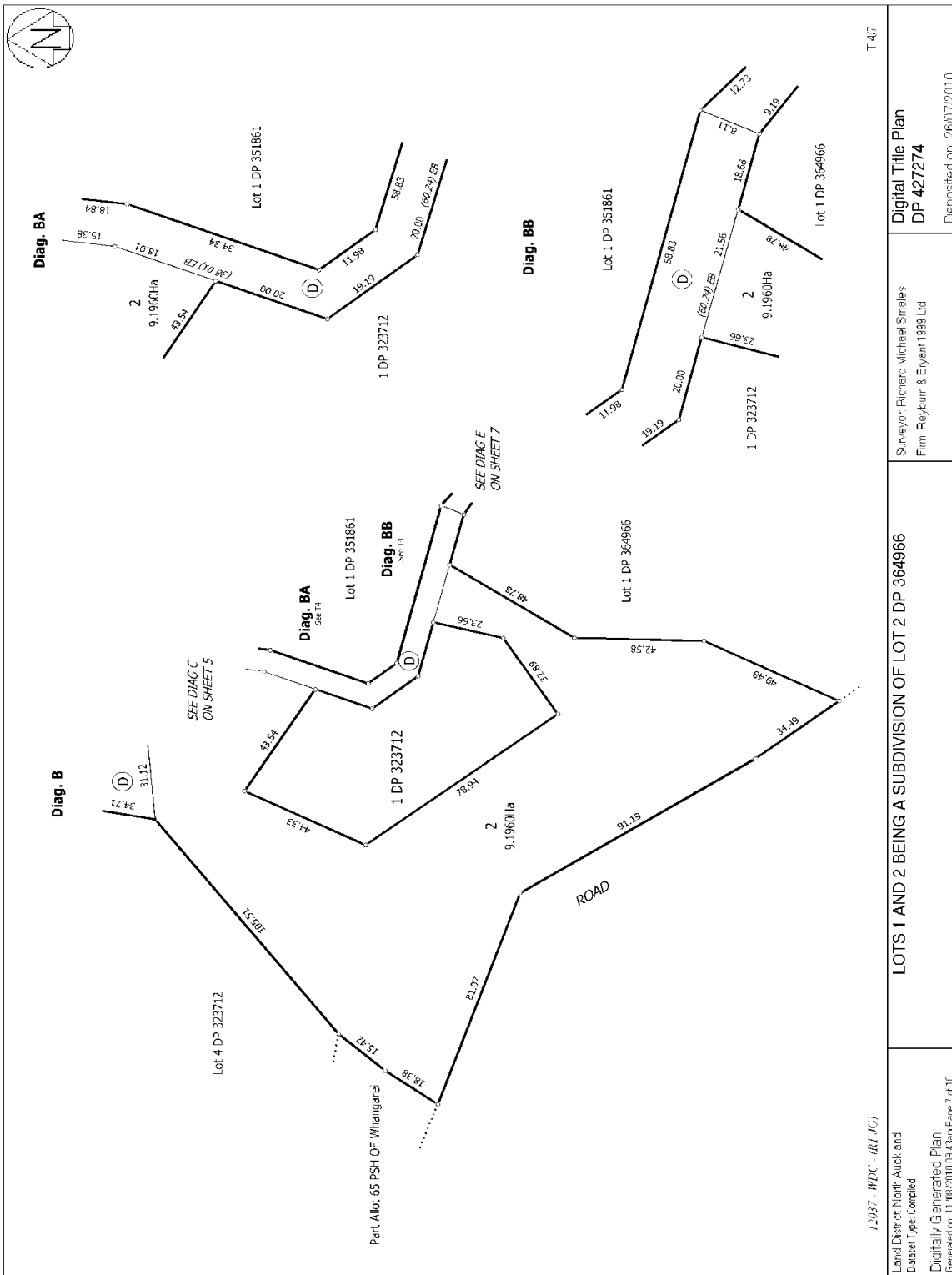


T.27

<p>12037 - RTIC - (RT JG)</p> <p>Land District: North Auckland</p> <p>Dataset Type: Completed</p> <p>Digitally Generated Plan</p> <p>Generated on: 11/08/2010 09:43am Page 5 of 10</p>	<p>Part Allot 65 PSII OF Whangarei</p> <p>LOTS 1 AND 2 BEING A SUBDIVISION OF LOT 2 DP 364966</p>	<p>Digital Title Plan</p> <p>DP 427274</p> <p>Surveyor: Richard Michael Smiles</p> <p>Firm: Reyburn & Eyerich 1998 Ltd</p> <p>Deposited on: 26/07/2010</p>
--	---	--

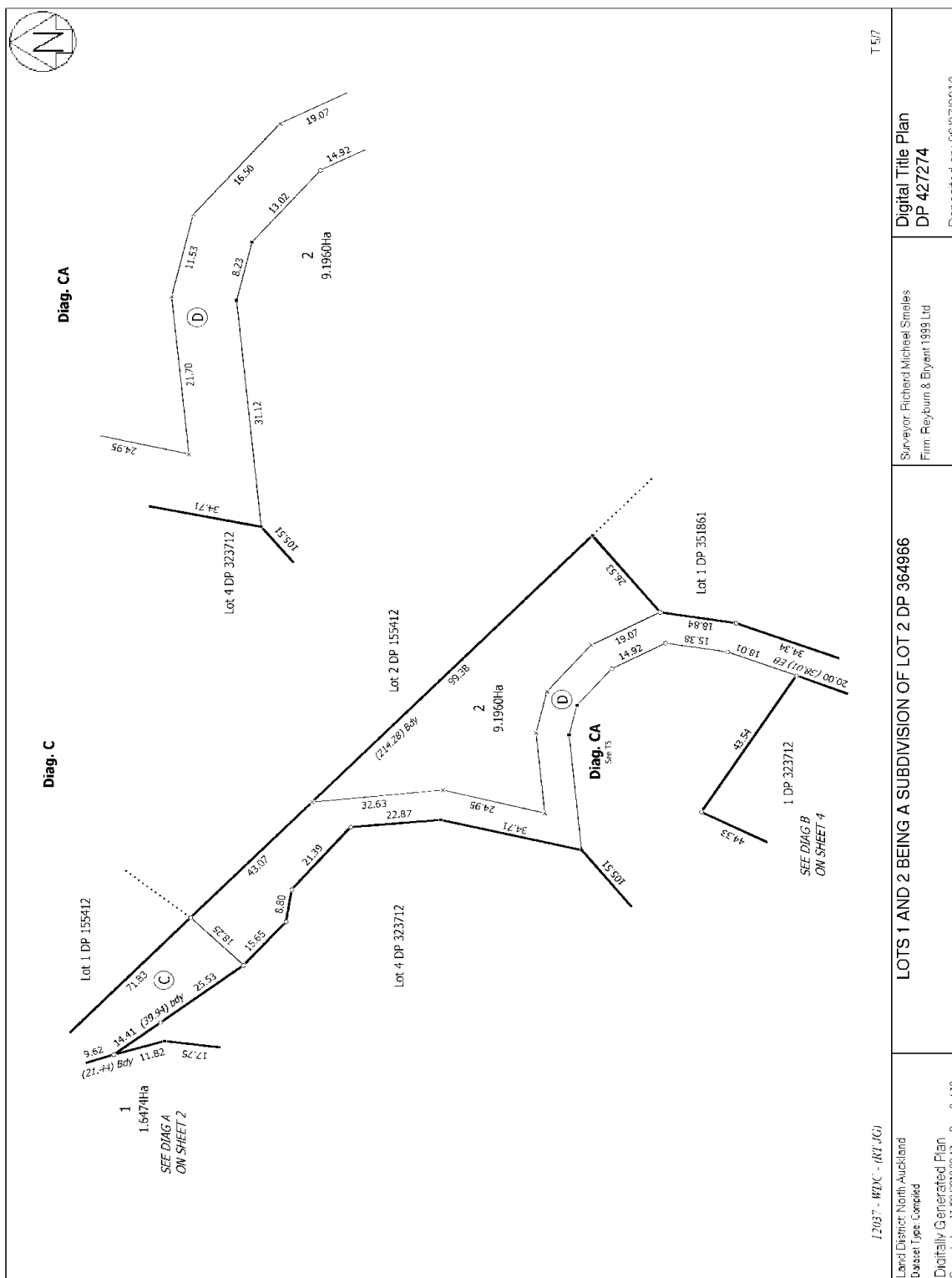
Identifier

507319



Identifier

507319

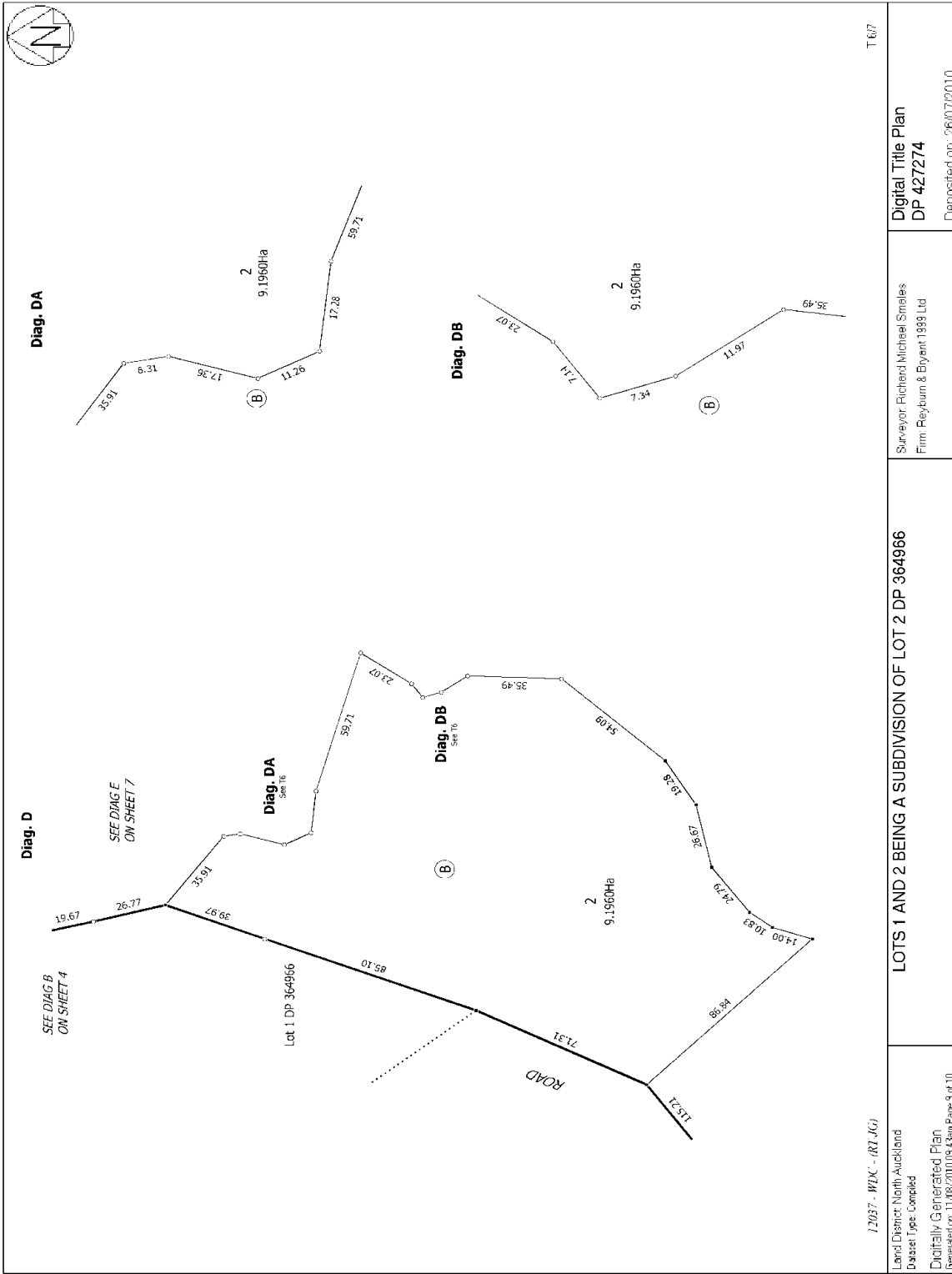


T 57

<p>1203 - WDX - (RT JG)</p>	<p>Land District: North Auckland Dataset Type: Completed Digitally Generated Plan Generated on: 11/08/2010 09:43am Page 8 of 10</p>	<p>LOTS 1 AND 2 BEING A SUBDIVISION OF LOT 2 DP 364966</p>	<p>Digital Title Plan DP 427274</p>	<p>Surveyor: Richard Michael Smales Firm: Reyburn & Eyerich 1998 Ltd Deposited on: 26/07/2010</p>
-----------------------------	---	--	---	---

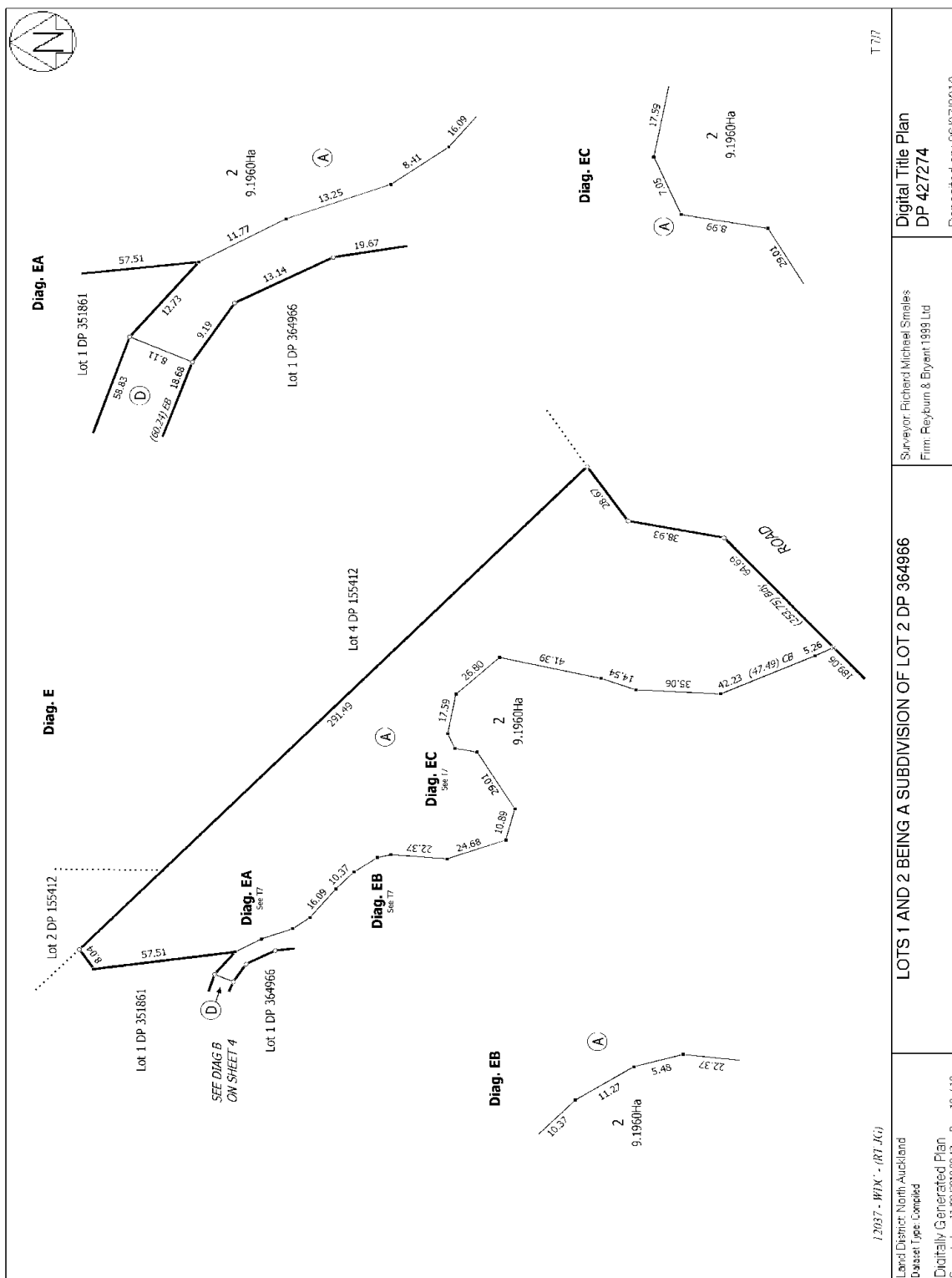
Identifier

507319



Identifier

507319



7.3 Alcohol Control Bylaw review

Meeting:	Whangarei District Council
Date of meeting:	23 November 2023
Reporting officer:	Will McNab (Strategic Planner – Bylaws)

1 Purpose / Te Kaupapa

To carry out the statutory review of Council's Alcohol Control Bylaw.

2 Recommendations / Whakataunga

That Council:

1. Determines that:

- a. a bylaw is the most appropriate tool for Council to address the problem of alcohol-related crime and disorder in public places;
- b. the draft Alcohol Control Bylaw (Attachment 1) is the most appropriate form of bylaw;
- c. the draft Alcohol Control Bylaw does not give rise to any implications under, and is not inconsistent with, the New Zealand Bill of Rights Act 1990.
- d. a high level of crime and disorder, caused or made worse by alcohol consumption, is likely to arise if the Alcohol Control Bylaw does not continue.

3 Background / Horopaki

Council's operative Alcohol Control Bylaw (the Bylaw) is due for review by 13 December 2023.

To review the Bylaw under section 160 of the Local Government Act 2002 (LGA), Council must determine that:

- a. a bylaw is the most appropriate tool for Council to address the problem of alcohol-related crime and disorder in public places; and
- b. the draft Bylaw is the most appropriate form of bylaw; and
- c. the draft Bylaw does not give rise to any implications under, and is not inconsistent with, the New Zealand Bill of Rights Act 1990.

Under section 147A of the LGA, which sets criteria specifically for making alcohol control bylaws, Council must also be satisfied that:

- d. a high level of crime or disorder (being crime or disorder caused or made worse by alcohol consumption in the area concerned) is likely to arise in the area to which the Bylaw applies if the Bylaw is not continued; and
- e. the Bylaw is appropriate and proportionate in the light of that likely crime or disorder; and
- f. the Bylaw can be justified as a reasonable limitation on people's rights and freedoms.

A findings report was presented at a Council Briefing on 25 October 2023. At that Briefing, staff also received feedback from Council to proceed with a two-step review process:

1. Meet statutory review requirements by making the necessary determinations about the Bylaw before the 13 December review date; then
2. Consult on the proposed Bylaw together with associated alcohol ban areas in the first half of 2024.

4 Discussion / Whakawhiti kōrero

This section recaps the key statutory justifications for Council to continue to regulate through the Bylaw the consumption and possession of alcohol in public places.

i. **The level of alcohol-induced crime and disorder in public places would likely be much higher without the Bylaw (a bylaw is the most appropriate tool)**

The October 2023 findings report established a strong link between litter in the form of empty alcohol bottles and cans in the city centre (an offence under the Litter Act 1979) and the incidence of antisocial behaviour reported by Council's CitySafe Officers.

It also showed that in the two years to October 2023, the Officers reported on average more than 75 breaches of the Bylaw in the city centre per month, and that this figure had tended to rise over time. This coincided with a trend increase in reported antisocial behaviour in the city centre.

The Bylaw pre-empts crime and disorder by allowing constables to ask people who breach it to either tip out or hand over their alcohol before any other offending occurs.

An aspirational policy like Council's Smokefree and Vapefree Policy would not provide a legal basis for constables to intervene pre-emptively to reduce alcohol-related crime and disorder.

ii. **The Bylaw is appropriate and proportionate in the light of likely crime and disorder (it is the most appropriate form of bylaw)**

The Bylaw leaves the matter of where it applies to be decided by separate Council resolution(s). This gives Council added flexibility to respond appropriately to any future changes in drinking habits and locations.

Accordingly, while the Bylaw itself provides an appropriate and proportionate mechanism for Council to reduce alcohol-induced crime and disorder, it should be noted that the appropriateness and proportionality of the alcohol ban areas made under the authority of the Bylaw remain to be assessed. The locations and operative times of these areas and any new areas will be assessed through the lens of section 147B of the LGA.¹

The draft Bylaw has been amended for clarity, to correct minor errors, to remove inconsistencies and to adhere to Parliamentary Counsel Office guidelines by simplifying terminology.

¹ Under section 147B, for each alcohol ban area, Council must be satisfied that—

- a. there is evidence that the area to which the bylaw applies (or will apply by virtue of the resolution) has experienced a high level of crime or disorder that can be shown to have been caused or made worse by alcohol consumption in the area; and
- b. the bylaw, as applied by the resolution,—
 - i. is appropriate and proportionate in the light of the evidence; and
 - ii. can be justified as a reasonable limitation on people's rights and freedoms.

An additional Part 6 has also been added to carry over existing exceptions issued under Part 5 as well as the existing alcohol ban areas made under previous Council resolutions, pending any future amendments.

iii. The Bylaw can be justified as a reasonable limitation on people’s rights and freedoms (it is not inconsistent with the New Zealand Bill of Rights Act 1990)

The Bylaw restricts people’s freedom to legally enjoy an alcoholic drink in the public places where it applies. Within these areas, section 169 of the LGA gives constables the power to search, without warrant, people’s possessions for the purpose of ascertaining whether alcohol is present.

These limitations are reasonably justified by the societal benefits the Bylaw procures by helping to reduce the incidence of alcohol-induced crime and disorder in public places in the District, in particular in the city centre.

The Bylaw does not restrict the free movement of people who are not in possession of alcohol or those drinking alcohol in private and/or licensed premises. Further, constables may exercise discretion whether to enforce the Bylaw.

4.1 Financial/budget considerations

The review of the Bylaw is covered by existing departmental budgets.

4.2 Policy and planning implications

Nothing in this report is inconsistent with other Council bylaws, policies, strategies or plans.

4.3 Options

The following table was presented to Council at the 25 October 2023 Briefing.

Table 1: Alcohol Control Bylaw review options matrix

Option 1	Option 2	Option 3	Option 4
Let Bylaw lapse in December 2025	Replace Bylaw with an “alcohol-free policy”	Review Bylaw by December; consult on Bylaw and controls in 2024	Await District-wide evidence before reviewing Bylaw
Saves on staff time and any legal fees	Communicates Council’s stance on alcohol-related harm	Communicates Council’s stance on alcohol-related crime and disorder	Communicates Council’s stance on alcohol-related crime and disorder
Deprives Police of a tool to pre-emptively address antisocial behaviour in public	Deprives Police of a tool to pre-emptively address antisocial behaviour in public	Reduces crime and disorder by empowering Police to pre-emptively address alcohol-driven behaviours in public	Reduces crime and disorder by empowering Police to pre-emptively address alcohol-driven behaviours in public
Does not align with key stakeholder expectations	Not enforceable	Would not need to review again until 2034	Would need to review again in 2029

Staff recommend Option 3.

4.4 Risks

If Council does not review the Bylaw by 13 December 2023, any subsequent iteration of the Bylaw would have a five-year review date instead of a 10-year one.

4.5 Next steps

The next steps of the review process are to:

1. assess the need to amend, subtract or add to the alcohol ban areas
2. adopt a Statement of Proposal; and
3. consult on the contents of the Bylaw together with the proposed alcohol ban areas.

5 Significance and engagement / Te Hira me te Arawhiti

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

6 Attachments / Ngā Tāpiritanga

Attachment 1 – Draft Alcohol Control Bylaw

Attachment 2 – Draft Alcohol Control Bylaw with track changes

Alcohol Control Bylaw 2018

(as at XX XXXX 2024)

Pursuant to the Local Government Act 2002, Whangarei District Council makes the following bylaw about alcohol control in public places

Contents

1	Title	2
2	Commencement.....	2
3	Application.....	2
4	Purpose.....	2
5	Interpretation	2
6	Alcohol ban areas.....	3
7	Permanent alcohol ban areas	3
8	Temporary alcohol ban areas.....	3
9	Matters to be considered before declaring alcohol ban areas	4
10	Enforcement.....	4
11	Bylaw breaches.....	5
12	Exceptions.....	5
13	Existing resolutions and consents	6
	Additional information to Alcohol Control Bylaw 2018.....	7

1 Title

This Bylaw is the Alcohol Control Bylaw 2018.

2 Commencement

2.1 This Bylaw comes into force on 19 December 2018.

2.2 Amendments to this Bylaw come into force on XX XXXX 2024.

3 Application

This Bylaw applies to the Whangārei District.

Part 1: Preliminary Provisions

4 Purpose

The purpose of this Bylaw is to reduce crime and disorder in public places that is caused or made worse by alcohol consumed there.

Related information:

The Act provides explicit details about what this type of bylaw can control. Generally, any transporting of alcohol in unopened containers within an alcohol ban area is permitted, subject to certain conditions. See section 147 of the Act for further details.

Alcohol ban areas do not apply to licensed premises, which can include situations where a special licence has been issued for a specific event. Licensed premises can include areas of public places such as footpaths.

Under the Act, only constables (New Zealand Police Officers) can take enforcement action under this Bylaw. Constables have powers of arrest, search and seizure under the Act and can also issue infringement notices.

5 Interpretation

5.1 Any word used in this Bylaw that is defined in sections 5, 147, 169, 169A or 243 of the Act, or section 5 of the Sale and Supply of Alcohol Act 2012, has, for the purposes of this Bylaw, the same meaning as in those sections, unless otherwise provided for in this clause.

5.2 In this Bylaw, unless the context otherwise requires—

Act means the Local Government Act 2002.

Council means the Whangarei District Council.

Whangārei District means the area within the boundaries of the Whangārei District and includes all coastal areas to the line of mean low water springs.

5.3 Any related information, attachments and links are for information purposes only and do not form part of this Bylaw.

5.4 The Interpretation Act 1999 applies to this Bylaw.

Part 2: Control of Alcohol

6 Alcohol ban areas

- 6.1 Council may, by resolution, declare alcohol ban areas in which the consumption, bringing in and possession of alcohol in public places is prohibited or controlled.
- 6.2 Any resolution made under clause 6.1 must also–
- (a) include a map of the alcohol ban area;
 - (b) specify the time(s) that any prohibition or control applies, and whether the alcohol ban area is permanent or temporary;
 - (c) if consumption, bringing in and possession of alcohol is controlled rather than prohibited, specify the nature of the control.
- 6.3. No person may consume, bring into or possess alcohol in any public place (including inside a vehicle) in an alcohol ban area in breach of a resolution made under clauses 6.1 and 6.2.
- 6.4. Clause 6.3 does not apply to a person who is acting pursuant to, and in accordance with any conditions of, a consent granted under clause 12.1.

*Related information: As at **XX XXXX 2024**, the Act defines a public place for the purposes of alcohol control as–*

“a place that is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from it; but does not include licensed premises.”

7 Permanent alcohol ban areas

- 7.1 Council may under clause 6.1 declare an area to be a permanent alcohol ban area at all times, or for specified, recurring periods of time.
- 7.2 Council will consult in accordance with section 82 of the Act on any proposal to declare, amend or revoke a permanent alcohol ban area.

Related information: All resolutions of Council declaring alcohol ban areas are contained in the Register of Resolutions included as additional information to this Bylaw.

8 Temporary alcohol ban areas

- 8.1 Council may under clause 6.1 declare an area to be a temporary alcohol ban area for a specified period not exceeding seven consecutive days.
- 8.2 Council will give public notice of a temporary alcohol ban area at least 14 days before the temporary alcohol ban area comes into force.

9 Matters to be considered before declaring alcohol ban areas

9.1 Before declaring a permanent alcohol ban area, Council–

- a. must consider views presented to Council through consultation on the proposal to declare a permanent alcohol ban area:
- b. must consider the relevant criteria in sections 147A and 147B of the Act, as applicable:
- c. may consider any other matter it considers relevant.

9.2 Before declaring a temporary alcohol ban area, Council–

- a. must consider the relevant criteria in sections 147A and 147B of the Act, as applicable;
- b. where the temporary alcohol ban area applies to an event, may consider–
 - i. the nature and type of the event:
 - ii. the history (if any) of the event:
 - iii. the number of people expected to attend the event:
 - iv. the area in which the event is to be held:
 - v. whether the Police support the proposed temporary alcohol ban area:
 - vi. whether the Police will be present at the event to enforce it; and
- c. may consider any other information it considers relevant.

Related information: Records of resolutions made for temporary alcohol bans will not be included in the Register of Resolutions, but are permanently recorded through appropriate Council records of meetings, minutes and resolutions.

Part 3: Enforcement Powers

10 Enforcement

10.1 A constable may use their powers under the Act to enforce this Bylaw.

10.2 This Bylaw authorises a constable to exercise the power of search under sections 169(2)(a) and 170(2) of the Act for temporary alcohol ban areas declared in accordance with clauses 6 and 8.

Related information: Section 170(2) of the Act provides constables with additional powers of search in relation to temporary alcohol controls that have been notified and indicated by signage in accordance with section 170(3) of the Act.

Part 4: Offences and Penalties

11 Bylaw breaches

11.1 Every person who breaches this Bylaw commits an offence.

11.2 Every person who commits an offence under this Bylaw is liable to a penalty under the Act.

Related information: As at XX XXXX 2024, the penalty for breaching an alcohol control bylaw is an infringement fee of \$250 under the Local Government (Alcohol Control Breaches) Regulations 2013.

Part 5: Exceptions

12 Exceptions

12.1 Council may issue a consent to any person, or class of persons, to allow the consumption, bringing in and possession of alcohol in a public place (including inside a vehicle) within an alcohol ban area.

12.2 In considering an application for a consent under clause 12.1, Council will consider the following matters:

- a. The purpose of the exception:
- b. The proposed duration of the exception:
- c. The area of the proposed exception:
- d. Whether the area is under the control of, or managed by, Council:
- e. Whether any other permits are required from Council for the event:
- f. Any other matter Council considers relevant.

12.3 Council may prescribe conditions for any such consent, including, but not limited to–

- a. the duration of the consent:
- b. the exact location to which the consent applies:
- c. the maximum number of people the consent applies to.

12.4 Council may by resolution made after consultation that gives effect to the requirements of section 82 of the Act–

- a. prescribe a fee for receiving and processing an application and issuing a consent:
- b. determine situations when consent fees may be remitted, refunded or waived.

12.5 Council may cancel a consent at any time.

Related information: Exceptions for events with special licences do not require consent under clause 12.1, as they are excluded from the definition of public place that applies to this Bylaw.

Part 6: Savings and Transitional Provisions

13 Existing resolutions and consents

- 13.1 Resolutions made under clause 6.1 prior to amendments in clause 2.2 coming into force continue to apply until amended, replaced or revoked by Council.
- 13.2 Consents issued under clause 12.1 prior to amendments in clause 2.2 coming into force remain valid subject to clause 12.5.

Draft

Additional information to Alcohol Control Bylaw 2018

The following sections are for information purposes only and do not form part of this Bylaw. They contain matters made pursuant to this Bylaw and information to help users to understand, use and maintain this Bylaw. These sections may be updated at any time.

Section 1: History of Bylaw

Action	Description	Date of decision	Commencement
Make	Alcohol Control Bylaw 2018	13 December 2018	19 December 2018
Review	Required by section 158 of Local Government Act 2002	23 November 2023	NA

Section 2: Related documents

Document	Description	Location	Date
<i>Reports to Council</i>			
Making of Bylaw	Council makes final Bylaw	Council meetings webpage - link	13 December 2018
Briefing	Overview of policy analysis, legislative requirements and review approach	Council meetings webpage - link	25 October 2023
Review of Bylaw	Council reviews Bylaw under section 160 of the Local Government Act 2002	Council meetings webpage - link	23 November 2023

Document	Description	Location	Date
<i>Legislation</i>			
Local Government Act 2002	Provides the functions, duties, powers and penalties to make and enforce this Bylaw.	www.legislation.govt.nz	NA
Sale and Supply of Alcohol Act 2012	Associated legislation	www.legislation.govt.nz	NA
Local Government (Alcohol Ban Breaches) Regulations 2013	Regulations that determines the infringement fee for breaching an alcohol ban	www.legislation.govt.nz	NA
Bylaws Act 1910	Provides for certain matters related to the validity of bylaws.	www.legislation.govt.nz	NA
Interpretations Act 1999	Provides for certain matters related to the interpretation of bylaws.	www.legislation.govt.nz	NA

Section 3: Delegations

Clause	Function, Duty, Power to be delegated	Delegated Authority	Delegation date	Delegation active date
All	All of its responsibilities, duties and powers under this bylaw, except– (a) the power to set fees; (b) the power to make a decision for which a Council resolution is required; (c) the power to hear and decided on any appeal process.	Chief Executive	13 December 2018	19 December 2018

Section 4: Enforcement powers

Legislative provision	Description
Sections 169 and 170 of the Local Government Act 2002	A constable has powers of arrest, search and seizure in relation to alcohol bans.

Section 5: Offences and penalties

Provision	Description of offence	Maximum fine upon conviction	Infringement fee
Clause 4*	Breach of bylaw	n/a	\$250*

*Local Government (Alcohol Ban Breaches) Regulations 2013

Section 6: Register of resolutions for permanent alcohol bans

Map #	Area	Operative times	Decision date	Commencement date
1	Whangarei CBD	24 hours a day, seven days a week	13/12/2018	19/12/2018
2	Kamo		13/12/2018	19/12/2018
3	Marsden Village		13/12/2018	19/12/2018
4	Matapouri		13/12/2018	19/12/2018
5	Oakura		13/12/2018	19/12/2018
6	Onerahi		13/12/2018	19/12/2018
7	Otaika		13/12/2018	19/12/2018
8	Otangarei		13/12/2018	19/12/2018
9	Otuhau; Whangarei Falls		13/12/2018	19/12/2018
10	Pataua North & South		13/12/2018	19/12/2018
11	Tikipunga		13/12/2018	19/12/2018
12	Waipu		13/12/2018	19/12/2018
13	Whananaki – Moureeses Bay		13/12/2018	19/12/2018
14	Whananaki		13/12/2018	19/12/2018
NA	All public places 300 metres landwards from the line of mean low water springs		13/12/2018	19/12/2018

Alcohol Control Bylaw 2018

(as at XX XXXX 2024)

Pursuant to the Local Government Act 2002, Whangarei District Council makes the following bylaw about alcohol control in public places

Contents

1	Title	<u>24</u>
2	Commencement.....	<u>24</u>
3	Application.....	<u>24</u>
4	Purpose.....	<u>24</u>
5	Interpretation	<u>2</u>
6	Alcohol ban areas.....	<u>43</u>
7	Permanent alcohol ban areas	<u>43</u>
8	Temporary alcohol ban areas.....	<u>43</u>
9	Matters to be considered before declaring alcohol ban areas	<u>54</u>
10	Enforcement.....	<u>54</u>
11	Bylaw breaches	<u>65</u>
12	Exceptions.....	<u>65</u>
13	Existing resolutions and consents	<u>76</u>
	Additional information to Alcohol Control Bylaw 2018.....	<u>87</u>

1 Title

This Bylaw is the Alcohol Control Bylaw 2018.

2 Commencement

2.1 This Bylaw comes into force on 19 December 2018.

~~2.12.2~~

amendments to this Bylaw come into force on **XX XXXX 2024**.

A

3 Application

This Bylaw applies to the Whangārei~~Whangarei~~ District.

Part 1 ~~1~~: Preliminary Provisions

4 Purpose

~~The purpose of this bylaw is to provide for prohibition and control of the consumption or possession of alcohol in public places (including vehicles in public places) to reduce alcohol related harm.~~ The purpose of this Bylaw is to reduce crime and disorder in public places that is caused or made worse by alcohol consumed there.

~~Explanatory notes~~Related information:

~~The provisions of the Act provides~~ explicit details about what this type of bylaw can control. Generally, any transporting of alcohol in unopened containers within an ~~alcohol control area~~ alcohol ban area is permitted, subject to certain conditions. - See section 147 of the Act for further details.

~~Alcohol control area~~Alcohol ban areas do not apply to licensed premises, which can include situations where a special license ~~licence~~ has been issued for a specific event. Licensed premises can include areas of public places such as footpaths.

~~Under the Act,~~ only constables (New Zealand Police Officers) can take enforcement action under this Bylaw. - Constables have powers of arrest, search and seizure under the Act and ~~they~~ can also issue infringement notices.

5 Interpretation

5.1 Any word used in this Bylaw that is defined in sections 5, 147, 169, 169A ~~and or~~ 243 of the Act, or section 5 of the Sale and Supply of Alcohol Act 2012, has, for the purposes of this Bylaw, the same meaning as in those sections, unless otherwise provided for in this clause.

5.2 In this Bylaw, unless the context otherwise requires ~~---~~

Act means the Local Government Act 2002.

Council means the Whangārei District Council.

Whangārei Whangārei District means the area within the boundaries of the Whangārei~~Whangarei~~ District and includes all coastal areas to the line of mean low water springs.

- 5.3 Any ~~explanatory notes related information and~~ attachments and links are for information purposes only and do not form part of this Bylaw.
- 5.4 The Interpretation Act 1999 applies to this Bylaw.

Part 2—: Control of ~~alcohol~~Alcohol

6 ~~Alcohol control area~~Alcohol ban areas

- 6.1 Council may, by resolution, declare ~~alcohol control area~~alcohol ban areas in which the consumption, bringing in, and possession of alcohol in public places is prohibited or controlled.
- 6.2 Any resolution made under clause 6.1 must also:—
- (a) include a map of the ~~alcohol control area~~alcohol ban area;
 - (b) specify the time(s) that any prohibition or control applies, and whether the ~~alcohol control area~~alcohol ban area is permanent or temporary;
 - (c) if consumption, bringing in, and possession of alcohol is controlled rather than prohibited, specify the nature of the control.
- 6.3. No person ~~shall~~may consume, bring into, or possess alcohol in any public place (including inside a vehicle) in an ~~alcohol control area~~alcohol ban area in ~~contravention~~breach of a resolution made under clauses 6.1 and 6.2.
- 6.4. Clause 6.3 does not apply to a person who is acting pursuant to, and in accordance with any conditions of, a consent granted under clause 12.1.

~~Explanatory note~~Related information: As at ~~01 April 2014~~XX XXXX 2024, ~~The the~~Act defines a public place for the purposes of alcohol control as:—

“a place that is open to or is being used by the public, whether free or on payment of a charge, and whether any owner or occupier of the place is lawfully entitled to exclude or eject any person from it; but does not include licensed premises.”

7 Permanent ~~alcohol control area~~alcohol ban areas

- 7.1 Council may under clause 6.1 declare an area to be a permanent ~~alcohol control area~~alcohol ban area at all times, or for specified, ~~repeated-recurring~~ periods of time.
- 7.2 Council will consult in accordance with section 82 of the Act on any proposal to declare, amend or revoke a permanent ~~alcohol control area~~alcohol ban area.

~~Explanatory note~~Related information: All resolutions of Council declaring ~~alcohol control area~~alcohol ban areas are contained ~~within in the Register of Resolutions included in the as~~ additional information to ~~this Bylaw-Alcohol Control Bylaw 2018 — Register of Resolutions, attached to this Bylaw.~~

8 Temporary ~~alcohol control area~~alcohol ban areas

- 8.1 Council may under clause 6.1 declare an area to be a temporary ~~alcohol control area~~alcohol ban area for a ~~specific~~specified period not exceeding seven consecutive days.
- 8.2 Council will give public notice of a temporary ~~alcohol control area~~alcohol ban area at least 14 days before the temporary ~~alcohol control area~~alcohol ban area comes into force.

9 Matters to be considered before declaring ~~alcohol control area~~ alcohol ban areas

- 9.1 Before declaring a permanent ~~alcohol control area~~ alcohol ban area, Council:—
- a. must consider views presented to ~~the~~ Council through consultation on the proposal to declare a permanent ~~alcohol control area~~ alcohol ban area;
 - b. must consider the relevant criteria in sections 147A and 147B of the Act, as applicable;
 - c. may consider any other matter it considers relevant.
- 9.2 Before declaring a temporary ~~alcohol control area~~ alcohol ban area, Council:—
- a. must consider the relevant criteria in sections 147A and 147B of the Act, as applicable;
 - b. where the temporary ~~alcohol control area~~ alcohol ban area applies to an event, may consider:—
 - i. the nature and type of the event;
 - ii. the history (if any) of the event;
 - iii. the number of people expected to attend the event;
 - iv. the area in which the event is to be held;
 - v. whether the Police support the proposed temporary ~~alcohol control area~~ alcohol ban area; ~~and~~
 - ~~v.~~ vi. whether the Police will be present at the event to enforce it; and
 - c. may consider any other information it considers relevant.

~~Explanatory note~~ Related information: Records of resolutions made for temporary alcohol controls ~~bans~~ will not be included in the ~~'register of resolutions'~~ Register of Resolutions, but are permanently recorded through ~~the~~ appropriate Council records of meetings, minutes and resolutions.

Part 43: Enforcement Powers

10 Enforcement

- 10.1 A constable may use their powers under the Act to enforce this Bylaw.
- 10.2 This Bylaw authorises a constable to exercise the power of search under sections 169(2)(a) and 170(2) of the Act for temporary ~~alcohol control area~~ alcohol ban areas declared in accordance with clauses 6 and 8.

Related information ~~Explanatory note~~: Section 170(2) ~~of the Act~~ provides constables with additional powers of search in relation to temporary alcohol controls that have been notified and indicated by signs-signage in accordance with section 170(3) of the Act.

Part 54: Offences and Penalties

11 Bylaw breaches

- 11.1 Every person who breaches this ~~bylaw~~ Bylaw commits an offence.
- 11.2 Every person who commits an offence under this ~~bylaw~~ Bylaw is liable to a penalty under the Act.

Related informationExplanatory note: As at ~~29 October 2013~~ XX XXXX 2024, the penalty for breaching an alcohol control bylaw is an infringement fee of \$250 under the Local Government (Alcohol Control Breaches) Regulations 2013.

Part 65: Exceptions

12 Exceptions

- 12.1 Council may issue a consent to any person, or class of persons, to allow the consumption, bringing in and possession of alcohol in a public place (including inside a vehicle) within an ~~alcohol control area~~ alcohol ban area.
- 12.2 In considering an application for a consent under clause 12.1, Council will consider the following matters:
- The purpose of the exception;
 - The proposed duration of the exception;
 - The area of the proposed exception;
 - Whether the area is under the control of, or managed by, Council;
 - Whether any other permits are required from Council for the event;
 - Any other matter Council considers relevant.
- 12.3 Council may prescribe conditions for any such consent, including, but not limited to:—
- the duration of the consent;
 - the exact location to which the consent applies;
 - the maximum number of people the consent applies to.
- 12.4 Council may by resolution made after consultation that gives effect to the requirements of section 82 of the Act:—
- prescribe a fee for receiving and processing an application and issuing a consent;
 - determine situations when consent fees may be remitted, refunded or waived.
- 12.5 ~~A Council may cancel a~~ consent ~~may be cancelled by Council~~ at any time.

Related informationExplanatory note: Exceptions for events with special licences do not require consent under clause ~~11.1~~ 12.1, as they are excluded from the definition of public places that applies to this Bylaw.

Part 6: Savings and Transitional Provisions

13 Existing resolutions and consents

13.1 Resolutions made under clause 6.1 prior to amendments in clause 2.2 coming into force continue to apply until amended, replaced or revoked by Council.

~~42-6~~13.2 _____ C
onsents issued under clause 12.1 prior to amendments in clause 2.2 coming into force remain valid subject to clause 12.5.

Additional information to Alcohol Control Bylaw 2018

~~This document is~~ The following sections are for information purposes only and ~~does~~ not form part of this Bylaw. ~~It~~ They contains matters made pursuant to this Bylaw and information to help users to understand, use and maintain this Bylaw. ~~These sections~~ document may be updated at any time.

Section 1: History of Bylaw

Action	Description	Date of decision	Commencement
<u>Expire</u>	<u>Liquor Management Bylaw 2011 expires in accordance with Local Government (Alcohol Reform) Amendment Act 2012</u>	NA	<u>18 December 2018</u>
Make	Alcohol Control Bylaw 2018	13 December 2018	19 December 2018
<u>Review</u>	<u>Required by Ssection 158 of LLocal Government Act 2002GA</u>	<u>23 November 2023</u>	<u>NA</u>

Section 2: Related documents

Document	Description	Location	Date
<i>Reports to Council/Committee/Panels</i>			
<u>Briefing</u>	<u>Overview of policy analysis, legislative requirements and consultation approach</u>	<u>Council meetings webpage – link</u>	<u>31 July 2018</u>
<u>Adoption of Statement of Proposal</u>	<u>Statement of Proposal including draft Bylaw adoption for public consultation</u>	<u>Council meetings webpage – link</u>	<u>30 August 2018</u>
<u>Hearing</u>	<u>Hearing for interested parties to share their views in-person</u>	NA – hearing cancelled	NA
<u>Deliberations</u>	<u>Deliberations on submission issues raised</u>	<u>Council meetings webpage – link</u>	<u>13 November 2018</u>
Making of Bylaw	Council makes final Bylaw	<u>Council meetings webpage - link</u>	13 December 2018
<u>Briefing</u>	<u>Overview of policy analysis, legislative requirements and review approach</u>	<u>Council meetings webpage - link</u>	<u>25 October 2023</u>
<u>Review of Bylaw</u>	<u>Council reviews Bylaw under section 160 of the Local Government Act 2002</u>	<u>Council meetings webpage - link</u>	<u>23 November 2023</u>

Document	Description	Location	Date
<i>Legislation</i>			
Local Government Act 2002	Provides the functions, duties, powers and penalties to make and enforce this Bylaw.	www.legislation.govt.nz	NA
Sale and Supply of Alcohol Act 2012	Associated legislation	www.legislation.govt.nz	NA
Local Government (Alcohol Ban Breaches) Regulations 2013	Regulations that determines the infringement fee for breaching an alcohol ban	www.legislation.govt.nz	NA
Bylaws Act 1910	Provides for certain matters related to the validity of bylaws.	www.legislation.govt.nz	NA
Interpretations Act 1999	Provides for certain matters related to the interpretation of bylaws.	www.legislation.govt.nz	NA

Section 3: Delegations

Clause	Function, Duty, Power to be delegated	Delegated Authority	Delegation date	Delegation active date
All	All of its responsibilities, duties and powers under this bylaw, except— (a) the power to set fees; (b) the power to make a decision for which a Council resolution is required; (c) the power to hear and decided on any appeal process.	Chief Executive	13 December 2018	19 December 2018

Section 4: Enforcement powers

Legislative provision	Description
Sections 169 and 170 of the Local Government Act 2002	A constable has powers of arrest, search and seizure in relation to alcohol bans.

Section 5: Offences and penalties

Provision	Description of offence	Maximum fine upon conviction	Infringement fee
e-Clause 4*	Breach of bylaw	n/a	\$250*

*Local Government (Alcohol Ban Breaches) Regulations 2013

Section 6: – Register of resolutions for permanent alcohol bans

Map #	Area	Operative times	Decision date	Commencement date
1	Whangarei CBD	24 hours a day, seven days a week	13/12/2018	19/12/2018
2	Kamo		13/12/2018	19/12/2018
3	Marsden Village		13/12/2018	19/12/2018
4	Matapouri		13/12/2018	19/12/2018
5	Oakura		13/12/2018	19/12/2018
6	Onerahi		13/12/2018	19/12/2018
7	Otaika		13/12/2018	19/12/2018
8	Otangarei		13/12/2018	19/12/2018
9	Otuhau; Whangarei Falls		13/12/2018	19/12/2018
10	Pataua North & South		13/12/2018	19/12/2018
11	Tikipunga		13/12/2018	19/12/2018
12	Waipu		13/12/2018	19/12/2018
13	Whananaki – Moureeses Bay		13/12/2018	19/12/2018
14	Whananaki		13/12/2018	19/12/2018
NA	All public places 300 metres landwards from the line of mean low water springs		13/12/2018	19/12/2018

7.4 Water Supply Bylaw 2023

Meeting:	Whangarei District Council
Date of meeting:	23 November 2023
Reporting officer:	Andrew Venmore (Manager – Water Services) Will McNab (Strategic Planner – Bylaws)

1 Purpose / Te Kaupapa

To deliberate on community feedback on Council’s proposed new Water Supply Bylaw and make the Water Supply Bylaw 2023.

2 Recommendations / Whakataunga

That Council:

1. Receives the feedback included in Attachment 1.
2. Approves the amendments to the proposed Water Supply Bylaw, in accordance with option (a) under section 4.1 of this report.

Following deliberations, that Council:

3. Determines that the Water Supply Bylaw 2023, as amended by (2) above and shown with track changes in Attachment 2:
 - a. is the most appropriate form of the Bylaw; and
 - b. does not give rise to any implications under, and is not inconsistent with, the New Zealand Bill of Rights Act 1990.
4. Revokes the Water Supply Bylaw 2012 (Attachment 4) and replaces it with the Water Supply Bylaw 2023 (Attachment 3) with effect from 7 December 2023.
5. Delegates all its responsibilities, duties and powers under this Bylaw to the Chief Executive, except for:
 - a. the power to set fees;
 - b. the power to make a decision for which a Council resolution is required;
 - c. the power to hear and decide on any appeals.
6. Authorises the Chief Executive to make any minor edits or amendments to the Water Supply Bylaw to correct any spelling or typographical errors and/or to reflect decisions made by Council at this meeting.

3 Background / Horopaki

Council consulted on the proposed Water Supply Bylaw (the Bylaw) from 6 September to 6 October. The proposal elicited three written submissions (Attachment 1). None of the submitters requested to provide their feedback orally.

Staff's proposed remedies to the matters raised in submissions are shown in markup in Attachment 2.

Before Council makes the new Bylaw, it must first be satisfied that the amended Bylaw provides an appropriate response to the matters raised in submissions.

4 Discussion / Whakawhiti kōrero

4.1 Deliberations on community feedback

Tables 1A and B below summarise the main submission points and the response recommended by staff.

Several of the points raised in submissions concern operational matters. These have been referred to the appropriate departments for consideration.

Table 1A: Summary of general feedback

Individual submitter feedback	Staff recommendations
One submitter supported the Bylaw but opposed the absence of explicit criteria to guide any Council decision to restrict public access to water catchment areas.	Council reserves the right to restrict public access to protect the public water supply from myriad potential threats. Staff do not recommend curbing the discretion of the Water Supply Authority to restrict public access to water catchment areas.
One submitter partially supported the Bylaw and opposed Council allowing itself an extra 10 working days to process applications for supply.	The proposed 20 days aligns with other Council procedures, such as statutory timeframes for Resource Consent applications. Most applications for supply are processed within 2-3 working days.

Table 1B: Summary of feedback from Fire and Emergency New Zealand (FENZ)

FENZ feedback	Staff recommendations
1. Fire protection connection terms should be amended to better ensure flow rates and sprinkler systems meet firefighting needs as per the SNZ PAS4509 Code of Practice.	Make suggested amendments to Bylaw.
2. Terminological corrections to reflect new branding.	Make suggested amendments to Bylaw.

3. Where new connections are non-compliant, Council should allow for alternative compliance solutions subject to agreement from FENZ.	It is not in Council's interest to target less than 100% compliance, nor to cede control over reticulation to an external organisation.
4. Add SNZ PAS4509 Code of Practice Firefighting Water Supply as an appendix to the Bylaw.	PAS4509 is a 75-page document better suited to being published on the Bylaw webpage for convenient download.
5. Add provisions to ensure consultation with FENZ at early stages of multi-dwelling and commercial development.	Not a bylaw matter. Request has been referred to the RMA Consents department.
6. Add provisions to enable Council to restrict supply during adverse environmental conditions.	This flexibility is already provided by clause 1.3.6.1 of the Bylaw.
7. Council should monitor flow rates and notify FENZ when they fall below required levels.	Not a bylaw matter. Request has been referred to the Water Services department.

Options

After deliberating on the community feedback on the proposed Bylaw, Council may decide to either:

- a) approve the amendments to the Bylaw, as recommended by staff and shown in track changes in Attachment 2; or
- b) make further or alternative amendments to the Bylaw in response to the community feedback.

4.2 Statutory determinations to make the new Water Supply Bylaw

To make the new Bylaw, Council must meet its requirements under section 155 of the Local Government Act 2002 (LGA) by determining that the proposed amended Bylaw:

- is the most appropriate form of the Bylaw;
- is not inconsistent with the New Zealand Bill of Rights Act 1990.

The recommended changes in response to community feedback:

- meet the purpose of the Bylaw, which is to manage the public water supply in the interests of public health and safety and protect it from damage, misuse and loss;
- improve the form of the Bylaw;
- do not give rise to any implications under and are not inconsistent with the New Zealand Bill of Rights Act 1990;
- are authorised by statute and are not repugnant with respect to other legislation;
- are consistent with other Council policies and plans, including the provisions of the District Plan.

4.3 Financial/budget considerations

The new Bylaw does not give rise to significant financial or budget implications for Council. Implementation of the Bylaw is covered by existing departmental budgets.

4.4 Policy and planning implications

In the event the incoming central government implements the previous government's Affordable Water Reforms, it is anticipated that ownership of and responsibility for implementing the new Bylaw would be transferred to the new Water Services Entity on 1 July 2024, pending the creation of a new mechanism to manage the public water supply.

Should Council retain ownership of the Bylaw, it would next be due for review in 2028.

4.5 Risks

Absent a new Water Supply Bylaw, the operative Bylaw would expire in May 2024. This would jeopardise the safe provision and management of public drinking water.

5 Significance and engagement / Te Hira me te Arawhiti

The decisions in this agenda item do not trigger the significance criteria outlined in Council's Significance and Engagement Policy. Council has consulted with the community on the Water Supply Bylaw in accordance with section 83 of the LGA.

6 Attachments / Ngā Tāpiritanga

Attachment 1 – Water Supply Bylaw submissions

Attachment 2 – Draft Water Supply Bylaw 2023 with recommended edits in track changes

Attachment 3 – Draft Water Supply Bylaw 2023

Attachment 4 – Water Supply Bylaw 2012

Water Supply Bylaw Consultation Form



Submitted on	5 October 2023, 9:05PM
Receipt number	WATER-1
Related form version	1

Your details

Name	Michael Buhr
------	--------------

I am writing this submission	As an individual
------------------------------	------------------

Organisation name

Postal address

Best contact phone number	021 237 8155
---------------------------	--------------

Email address	mic.buhr@gmail.com
---------------	--------------------

Your feedback

Do you support or oppose the proposed bylaw?	I partially support the proposed Water Supply Bylaw
--	---

Please outline the reason(s) for your views:

I support with the following changes

- updating some language to reflect modern usage
- updating the bylaw's policy and legislative framework to reflect recent developments
- correcting typographical errors.
- extending the maximum processing time for applications for supply from ten to 20 working days

However, I believe that items that grant more authority need to have limits of that authority explicitly mentioned. For instance, section 2.4.3.2 point 4, states 'Council may limit access to restricted catchment areas if it is deemed necessary'. This point should be accompanied by circumstances in which Council may restrict access. If a situation arises in which a nuanced circumstance requires Council to enact this, then it needs to outline a process through which ratepayers and affected stakeholders can have a say if the authority to restrict access is warranted.

This should apply to all items that restricts our ability to access and use OUR land and water without just cause. After all, you're there to administer our affairs, so we would like to make sure that this sentiment remains.

Water Supply Bylaw Consultation Form



Submitted on	6 October 2023, 4:49PM
Receipt number	WATER-2
Related form version	1

Your details

Name	John Keswick
I am writing this submission	As an individual
Organisation name	
Postal address	87 Mill Road
Best contact phone number	+64211184496
Email address	john.keswick@gmail.com

Your feedback

Do you support or oppose the proposed bylaw?	I partially support the proposed Water Supply Bylaw
Please outline the reason(s) for your views:	The council doesn't need an extra 10 days processing time for applications for additional flexibility

Water Supply Bylaw Submissions
Whangārei District Council
Private Bag 9023
Te Mai
Whangārei 0143

6 October 2023

Attention: Will McNab

Dear Will

Fire and Emergency New Zealand Feedback: Draft Water Supply Bylaw 2023

This feedback is made on behalf of Fire and Emergency New Zealand (Fire and Emergency) regarding the Whangārei District Council Water Supply Bylaw update.

Fire and Emergency must perform and exercise the functions, duties, and powers conferred or imposed on Fire and Emergency as a main function by or under the Fire and Emergency New Zealand Act 2017 and any other enactment; and perform any other functions conferred on Fire and Emergency as a main function by the Minister in accordance with section 112 of the Crown Entities Act 2004.

As such, Fire and Emergency has an interest in Local Government Act 2002 Council bylaws to ensure that, where necessary, appropriate consideration is given to fire safety and operational firefighting requirements. This feedback seeks to ensure that Fire and Emergency are able to carry out its requirements under the Fire and Emergency New Zealand Act 2017 more effectively in the protection of lives, property and the surrounding environment.

The primary objective of Fire and Emergency is to reduce the incidence of unwanted fire and the associated risk to life and property. To achieve this objective Fire and Emergency requires adequate water supply be available for firefighting activities.

It is critical for Fire and Emergency that water supply infrastructure is in place prior to any development commencing and that this water supply has adequate capacity and pressures available to service current and future growth. Fire appliances carry a limited amount of water; therefore, it is necessary that adequate water capacity and pressure be available to Fire and Emergency to control or extinguish a fire.

Capacity, pressure, sprinkler and other needs can be determined through the SNZ PAS4509 Code of Practice Firefighting Water Supply. The Code of Practice is a non-mandatory New Zealand Standard that sets out the minimum requirements for firefighting water and access in order for Fire and Emergency to operate effectively and efficiently in an emergency.

As such the code of practice is highly relevant to the Draft Water Supply Bylaw 2023 and Attachment A details the relief sought by Fire and Emergency to integrate these matters into the Bylaw.

Fire and Emergency would welcome the opportunity to discuss, or to provide further clarification, in relation to this feedback.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Nola Smart", enclosed within a simple oval outline.

Nola Smart

Planner

on behalf of

Fire and Emergency New Zealand

Phone Number: + 6493009278

Email: Nola.Smart@beca.com

Attachment A

Additions noted in red underline, proposed removals ~~striked through~~.

Clause/Provision	Recommended amendments	Reasoning/justification			
1.3.8.2 Supply	<u>Where required firefighting water flow rates are unable to be met, mitigation by alternative methods to be made in consultation with the WSA, Fire and Emergency New Zealand and the applicant.</u>	Where no (or inadequate) mitigation is provided the ability for Fire and Emergency to protect lives, property and the environment is greatly reduced.			
1.3.8.4 Sprinkler systems	Any fire sprinkler system shall be constructed, installed and maintained in good working order <u>to the appropriate sprinkler standard</u> and shall be..	Various approved Sprinkler Standards set out the requirements for Sprinkler systems and required water flow rates. The proposed addition provides greater certainty on what good working order means.			
1.4.7.1 Firefighting	Chief Fire Officer <u>Fire and Emergency New Zealand District Manager and Delegated Personnel</u>	Correcting terminology			
2.3.2 Fire hydrants	Fire Service <u>Fire and Emergency New Zealand Personnel</u>	Correcting terminology			
2.5.2 Detail	<p>Final row in table:</p> <table border="1"> <tr> <td>New Zealand Fire Service Fire and Emergency New Zealand</td> <td>100% compliance, <u>or as near as practicable compliance,</u> with <u>SNZ PAS4509</u> NZ Fire Service Code of Practice <u>Firefighting Water Supply</u> for all new developments and all new connections. <u>As near as practicable compliance will require consultation with Fire and Emergency New Zealand</u></td> <td>Minimum residual pressure at all hydrants should be 10 metres head for all urban and rural areas. All properties to be within 135 metres of a fire hydrant for all urban and rural connections as measured along practical access ways.</td> </tr> </table>	New Zealand Fire Service Fire and Emergency New Zealand	100% compliance, <u>or as near as practicable compliance,</u> with <u>SNZ PAS4509</u> NZ Fire Service Code of Practice <u>Firefighting Water Supply</u> for all new developments and all new connections. <u>As near as practicable compliance will require consultation with Fire and Emergency New Zealand</u>	Minimum residual pressure at all hydrants should be 10 metres head for all urban and rural areas. All properties to be within 135 metres of a fire hydrant for all urban and rural connections as measured along practical access ways.	<p>Correcting terminology.</p> <p>Allowing for alternative compliance solutions where agreement is reached with Fire and Emergency New Zealand.</p>
New Zealand Fire Service Fire and Emergency New Zealand	100% compliance, <u>or as near as practicable compliance,</u> with <u>SNZ PAS4509</u> NZ Fire Service Code of Practice <u>Firefighting Water Supply</u> for all new developments and all new connections. <u>As near as practicable compliance will require consultation with Fire and Emergency New Zealand</u>	Minimum residual pressure at all hydrants should be 10 metres head for all urban and rural areas. All properties to be within 135 metres of a fire hydrant for all urban and rural connections as measured along practical access ways.			
Other suggested additions for consideration	Add SNZ PAS4509 Code of Practice Firefighting Water Supply as an appendix with a direct link to the document as it is publicly available on the Fire and Emergency New Zealand website.	This would ensure that the Code is used to ensure compliance is met and avoid processing delays further into the development for the applicant			
	For firefighting water supply, refer to the tables in the SNZ PAS4509 Code of Practice Firefighting Water Supply to obligate required Flow Rates, Fire Water Category, Hose Run Distances, Access to Water Supply, maximum Hydrant or Water Tank Distances, Hydrant Locations and Markings, Reticulated and Non-Reticulated supply. Mitigation provided if the required supply flow rate can't be met in a reticulated area or non-reticulated area. (ie storage water tanks, installation of new hydrants).	This would ensure that all necessary criteria are met to avoid delays for developers. It also requires mitigation should any of the criteria not be met			

<p>Provided that set criteria for supply, access, and demand are met according to the SNZ PAS4509 Code of Practice Firefighting Water Supply with reticulated or non-reticulated single dwelling houses, commentary or approval from Fire and Emergency New Zealand will not be required.</p>	<p>This reduces the current need for single dwelling applicants to apply to Fire and Emergency for Water and Access approvals prior to consent documentation being lodged. Fire and Emergency will supply a checklist to the TA for inclusion in documents. This also ensures WSA is aware of activity.</p>
<p>Consultation at planning/drafting stage with Fire and Emergency New Zealand on multi-lot (more than 4 Lots) residential subdivision, with consideration to tank farming for firefighting water supply or alternative solutions especially where minimum flow rates cannot be met or in a non-reticulated area.</p>	<p>This would provide insight at early development stages for multi-lot residential subdivisions that adequate water supplies are met in a reticulated or non-reticulated environment. This gives the WSA the ability to seek mitigation from applicants early.</p>
<p>Consultation with Fire and Emergency New Zealand regarding adequate water supplies for any Commercial reticulated or non-reticulated area New Building or Change of Use renovation work.</p>	<p>This would provide adequate early-stage consultation for both the WSA and Fire and Emergency to ensure developers meet their obligations with regards to firefighting water supplies and property fire protection.</p>
<p>Ability to restrict domestic and commercial water supply usage in adverse natural environment conditions (e.g. drought, flooding), to ensure adequate flows for firefighting when required.</p>	<p>This would give the WSA the ability to restrict water usage in adverse conditions and meet obligations to ensure adequate flows for fire-fighting supply. This is for urgent situations (ie leaking pipework/main town supply tanks) and ongoing issues (drought/dry conditions)</p>
<p>WDC will monitor to ensure adequate flow rates are maintained, either internally or through data collected from private contractors, and notify Fire and Emergency New Zealand should the flow rates fall below required levels, in order for Fire and Emergency New Zealand to undertake risk mitigation processes.</p>	<p>Obliges the WSA to notify Fire and Emergency New Zealand when reticulated water flow rates fall below SNZ PAS4509 Code of Practice Firefighting Water Supply requirements. It also obligates private contractors to supply their test results to the WSA. This allows Fire and Emergency to put pre-incident mitigation strategies in place – e.g. enhanced Fire Truck Turn-out or adding water tankers.</p>

Water Supply Bylaw 2023



Draft

Contents

Water Supply Bylaw 2023	1
Explanatory notes.....	1
Title.....	1
Commencement.....	1
Repeal.....	1
Application of Bylaw.....	1
History of Bylaw.....	1
Water supply definitions	2
1 Part 1 Terms and conditions for the supply of water	4
1.1 Introduction.....	4
1.2 Acceptance and duration.....	5
1.3 Conditions of supply.....	5
1.4 Customer responsibilities.....	12
1.5 Breaches, offences and disputes.....	15
2 Part 2 General requirements	15
2.1 Introduction.....	15
2.2 Types of supply.....	15
2.3 Supply system.....	15
2.4 Protection of supply.....	16
2.5 Water supply area.....	18

Water Supply Bylaw 2023

Explanatory notes

Council is empowered by the Local Government Act 2002 to make bylaws to:

- protect public health and safety
- manage and protect the public water supply from damage, misuse or loss.

The Water Supply Bylaw 2023 aims to achieve these purposes and should be read in conjunction with the Acts, Regulations, Codes and Standards listed in the Bylaw.

This Bylaw includes explanatory text that is not part of the regulatory content of the Bylaw. The explanatory notes are contained in boxes such as this and may assist in interpreting the regulatory provisions of the Bylaw.

Title

The title of the Bylaw shall be Whangarei District Council Water Supply Bylaw 2023.

Commencement

This Bylaw comes into force on **7 December 2023**.

Repeal

As from the date this Bylaw comes into force, any previous bylaws and their amendments, or parts of a bylaw and their amendments as applicable, purporting to matters relating to water supply within the Whangarei District shall be repealed.

Application of Bylaw

This Bylaw shall apply to the area administered by Council.

History of Bylaw

Date of Council resolution	Description	Summary
4 December 1996	Water Supply Bylaw 1997	Resolution passed to make the bylaw
2 August 2000	Water Supply Bylaw 2000	Amendment Part 2 General Requirements added
14 December 2005	Water Supply Bylaw 2005	5-year review
22 February 2012	Water Supply Bylaw 2005	10-year review
31 May 2012	Water Supply Bylaw 2012	Amendment to point of supply
23 November 2023	Water Supply Bylaw 2023	Resolution passed to make new bylaw

Water supply definitions

For the purpose of this Bylaw, unless inconsistent with the context, the following definitions apply:

Air gap separation	means a minimum vertical air gap as defined by the Building Code G12 Water Supplies between the outlet of the water supply fitting which fills a storage tank, and the highest overflow water level of that storage tank.
Air valves	can be located on all watermains for the purpose of air removal from the watermain network.
Approved	means approved in writing by Council, either by resolution of Council or by any officer of Council authorised for that purpose.
Backflow	means a flow of water or other liquid through any service pipe or supply pipe in a reverse direction to the normal supply flow.
Backflow prevention device	means a testable device that prevents backflow. For the purpose of this Bylaw a backflow prevention device refers to those devices installed at the property boundary.
Bulk watermains	means the pipes which convey water from Council's water treatment plants or from service reservoirs generally 200mm to 500mm in diameter.
Check valve	means a valve designed to prevent flow in the reverse direction to normal flow.
Council and the Council	means Whangarei District Council.
Customer	means a person who has the right to use or direct the manner of use of water supplied by Council to any premises.
Detector check valve	is a check (non-return) valve, which has a positive closing pressure, and a metered bypass to measure flows typically associated with leakage or unauthorized use on a dedicated fire supply.
Distribution watermains	means the water supply pipelines which convey water through the water supply network and service customers generally 100mm to 200mm in diameter.
Double check valve	Testable backflow prevention device with two check valves and test ports.
Drinking water	is water that is used for human consumption or oral hygiene or food preparation or washing utensils that are used for food preparation.
Dual check valve	Non-testable backflow prevention device with two nonreturn-valves.
Extraordinary supply	has the meaning given by clause 1.d) of this Bylaw.
Fees and charges	means such schedule of items, terms and prices for services associated with the supply of water which are approved by Council.
Fire hydrants	are located on the distribution watermains for the purpose of firefighting.

Level of Service	means the measurable performance standards to which Council undertakes to supply water to its customers.
Meter	is a device for the purpose of measuring the volume of water consumed.
On demand supply	has the meaning given by clause 1.d) of this Bylaw.
Ordinary supply	has the meaning given by clause 1.d) of this Bylaw.
Person	includes a corporation sole and also a body of persons whether corporate or unincorporated.
Point of supply	has the meaning given by clause 1.3.2 of this Bylaw.
Premises	a property or allotment which is held under a separate certificate of title or for which a separate certificate of title may be issued and in respect to which a building consent has been or may be issued a building that has been defined as an individual unit by a cross-lease, unit title or company lease and for which a certificate of title is available land held in public ownership for a particular purpose.
Pressure reducing valves	are valves used within the reticulation system to reduce pressures from unacceptable high levels down to more reasonable levels as required due to changing elevation within the distribution system.
Publicly notified	means published on at least one occasion in one daily or weekly newspaper circulating in Council water supply area; or under emergency conditions in the most effective way to suit the particular circumstances.
Raw watermains	are watermains that convey water from the source to the treatment plant.
Reduced pressure zone Device (RPZ)	Two independent action non-return valves arranged to be force loaded to the closed position, with a relief valve positioned between the non-return valves arranged to be force-loaded to open to the atmosphere.
Restricted flow supply	has the meaning given by clause 1.3.3.2 of this Bylaw.
Restrictor	means a control device fitted to the service pipe to regulate the flow of water to a customer's premises.
Rider watermains	are small diameter watermains placed on the opposite side of the street to the distribution watermain to serve customers on that side of the street to avoid individual service pipes crossing the street, generally being 50mm in diameter.
Roading authority	means either Whangarei District Council or New Zealand Transport Agency.
Service pipe	means that section of water pipe between a water main and the point of supply, which is owned and maintained by Council.

Service valves	are located within the water distribution system for the purpose of isolating areas of the distribution system.
Storage tank	means any tank, having a free water surface under atmospheric pressure to which water is supplied across an air gap separation.
Supply pipe	means that section of pipe between the point of supply and the customer's premises through which water is conveyed to the premises, which is owned and maintained by the customer.
Targeted rate for water	means those rates set under the Local Government (Rating) Act 2002 and includes water supply and backflow charges.
Termination	means the physical cutting off of the supply to a premise.
Water carriers	means any individual drinking-water carrier or company registered with Taumata Arowai as a recognised carrier of drinking-water.
Water supply area	means an area of the District administered by Council and within which Council provides drinking water by network reticulation.
Water supply authority	and WSA is the operational unit of Council responsible for the supply of water, and includes its authorized agents.
Water unit	is the basis of measurement for a restricted flow supply with one water unit equal to a volume of 1.0m ³ .
Zone valves	or red valves are valves which are normally closed and demark the change from one pressure zone to another.

1 Part 1 Terms and conditions for the supply of water

1.1 Introduction

1. The following terms and conditions are made under the authority of the Local Government Act 2002 for the supply of water by Council to its customers.
2. The supply and sale of water by Council is subject to this Bylaw and:
 - a) the following statutory acts and regulations:
 - i) Health Act 1956
 - ii) Health (Drinking Water) Amendment Act 2019
 - iii) Local Government Act 2002
 - iv) Local Government Rating Act 2002
 - v) Building Act 2004
 - vi) Resource Management Act 1991
 - vii) The Water Services Act 2021
 - viii) Whangarei District Council Backflow Prevention Policy and Code of Practice (Policy0020) 2021
 - ix) Building Regulations 1992 Schedule 1 containing the Building Code; and
 - x) together with all statutory modifications and amendments thereof and statutes made in substitution thereof.

b) The following codes and standards:

c)

- i) Water Services (Drinking Water Standards for New Zealand) Regulations 2022
- ii) BS 5728 Part 3:1984 – Measurement of flow of cold potable water in closed conduits
- iii) OIML R49-2 Water meters intended for the metering of cold potable water and hot water
- iv) SNZ PAS 4509:2008 New Zealand Fire Service Fire Fighting Water Supplies Code of Practice
- v) Environmental Engineering Standards Whangarei District Council
- vi) Standard Specification for Construction of Water Mains Whangarei District Council
- vii) Whangarei District Council Hygiene Code and
- viii) together with all statutory modifications and amendments thereof and statutes made in substitution thereof.

1.2 Acceptance and duration

1. Any person being supplied, or who has made application to be supplied, with water by Council is deemed to accept these terms and conditions, and any subsequent amendments.
2. These terms and conditions shall come into effect on **7 December 2023**. Customers receiving a supply at that date accept that minimum flows and static pressures apply. For some customers whose point of supply is within 25 vertical metres of the normal operating level of the relevant service reservoir may not receive the Level of Service specified in Council's Water Activity Management Plan.
3. For customers receiving a supply after **7 December 2023**, these terms and conditions shall come into effect from the date of receipt of supply.
4. The terms and conditions shall remain in force until further notice.

1.3 Conditions of supply

1.3.1 Application for supply

1. Every application for a supply of water shall be made in writing in accordance with the standard Council procedure together with the payment of the prescribed fees and charges and development contribution fee if applicable. The applicant shall provide all the details required by Council.
2. Within twenty working days of the receipt of an application complying with these terms and conditions Council shall, after consideration of the matters in Clauses 1.3.4 and 1.3.5, either:
 - a) approve the application and inform the applicant of the type of supply, the size of the connection, any particular conditions the applicant shall meet, and the general terms and conditions including Level of Service under which water will be supplied
 - b) refuse the application and notify the applicant of the decision giving the reasons for refusal
 - c) put the application on hold pending further investigation. The applicant shall be informed immediately.
3. The applicant must have the authority to act on behalf of the owner of the premises for which the supply is sought, and shall produce written evidence of this if required.
4. Council may, at its discretion, approve or not to approve any application for a water supply connection.
5. A new application for supply shall be required if a customer wishes to increase the consumption of water, change the Level of Service, change the use of the water, relocate the point of supply, or alter in any way the service pipe.
6. Where Council considers that the pipe and fittings for the required water demands are inadequate or oversized, Council may specify the required pipe and fittings.
7. An approved application for supply which has not been actioned within six months of the date of application will lapse unless otherwise approved. Any refund will be at the discretion of Council.

Council will determine the sizes of all pipes, fittings and any other equipment required up to the point of supply. Following installation, Council or its appointed agents will maintain the service pipe up to the point of supply.

1.3.2 Point of supply

1. The point of supply to an individual customer is the point on the service pipe as deemed by Council, which marks the boundary of responsibility between the customer and Council.
2. Where there is a water meter or backflow prevention device then the point of supply is that point which is directly downstream of such water meter or backflow prevention device (see Figures 1-7) unless 1.3.2.2.2 applies.
3. Where there is no water meter and/or backflow prevention device installed then the point of supply is the point where the service line crosses from Council's property (being generally road reserve) into private property so as to service an individual customer.

1.3.2.1 Typical layout at point of supply

The typical layout of the fittings at a point of supply is shown in Figures 7a to 7g.

1.3.2.2 Single ownership

1. For single dwelling units the point of supply shall be located as shown in Figure 1 or as close as possible to the property boundary where fences, walls or other permanent structures make it difficult to locate it at the required position. All pipework on the customer's side of the point of supply is the responsibility of the customer.
2. In situations where the meter and/or backflow prevention device is located on private property either before or after the coming into effect of these terms and conditions, the point of supply shall be either the:
 - a) tail piece of the water meter or backflow prevention device (if installed) where the meter is within 1.0m from the Council boundary; or
 - b) Council boundary where the meter is located more than 1.0m from the Council boundary.
3. For each individual customer there shall only be one point of supply, unless otherwise approved.
4. For individual customer on joint rights of way and common access ways, the point of supply shall be located as shown in Figure 2a, 2b or 2c unless otherwise approved.

1.3.2.3 Multiple ownership

1. The point of supply for the different forms of multiple ownership of premises and/or land shall be as follows:
 - a) for Company Share/Block Scheme Body Corporate – as for single ownership
 - b) for Leasehold/Tenancy in Common Scheme Cross Lease, Strata Title, and Unit Title Body Corporate – each owner shall have an individual supply with the point of supply determined by agreement with Council generally as shown in Figures 3 and 4. In specific cases other arrangements may be acceptable subject to individual approval
 - c) for commercial properties in multiple occupation or ownership the point of supply shall be as shown in Figure 4
 - d) for commercial and industrial properties with both fire and service connections, the point of supply shall be as shown in Figures 5 and 6.
2. For a multiple ownership supply which was in existence prior to the coming into effect of these terms and conditions, the point of supply shall be as detailed above unless a documented agreement exists or as determined by agreement with Council for an individual case

1.3.3 Types of Supply

1.3.3.1 On-demand supply

An on-demand supply is a supply which is available on demand directly from the point of supply. There are two types, which are defined as follows:

1. Ordinary supply
The supply of drinking water to a customer which is used solely for domestic purposes in a dwelling unit shall be deemed to be an ordinary supply. Such purposes shall include the use of a hose for:
 - a) washing down a car, boat etc.
 - b) garden watering by hand
 - c) garden watering by a portable sprinkler subject to the provisions of 1.3.6.1.
2. Extraordinary supply
All other purposes for which water is supplied other than ordinary supply shall be deemed to be an extraordinary supply and may be subject to specific conditions and limitations. Such purposes shall include:
 - a) domestic – filling spa or swimming pool, fixed garden irrigation systems
 - b) commercial and business
 - c) industrial
 - d) fire protection systems
 - e) any customer outside a defined water supply area
 - f) temporary supply
 - g) agriculture and horticulture.

1.3.3.2 Restricted flow supply

1. A restricted flow supply is one where a small continuous flow is supplied by a flow control device across an air gap separation and storage is provided by the customer to cater for demand fluctuations. Restricted flow shall generally only be available to premises within a designated area, or under special conditions set by Council.
2. The supply shall be measured on the basis of an agreed number of water units supplied at a uniform flow rate.

1.3.4 On-demand supply

1.3.4.1 Entitlement

1. Every premises may be entitled to an ordinary supply of water, subject to:
 - a) all buildings on the premises lie within a water supply area (see 2.5.2) that can receive the minimum levels of service
 - b) exclusion of its use for garden watering and/or any other use under any restrictions made by Council under 1.3.6.1
 - c) payment of the appropriate water supply charges and development contribution fees in respect of that property
 - d) these terms and conditions
 - e) any other charges or costs associated with sub-divisional development having been met.
2. Council shall be under no obligation to provide or maintain an extraordinary supply of water.
3. For extraordinary supplies Council may choose to allocate an amount of water that is the entitlement for that connection.
4. For new extraordinary connections this entitlement may be by way of a developer agreement.

1.3.4.2 Metering

Both ordinary and extraordinary supplies of water shall normally be measured by a meter and charged for in accordance with 1.4.8, alternatively Council may levy rates in accordance with the Local Government (Rating) Act 2002.

1.3.5 Level of Service

Council shall aim to provide water in accordance with the Level of Service contained in the Water Activity Management Plan of Council. Council will make every reasonable attempt to achieve the specified values.

Council retains the right to increase or decrease pressures below normal minimum pressures within a water supply area or any part thereof if it benefits the wider network. No liability is accepted as a result of pressure alteration.

Where works of a permanent or temporary nature are planned which will substantially affect the continuity of an existing supply, Council will inform all known customers.

1.3.5.1 Continuity of supply or increased Level of Service

Wherever practical Council will make every reasonable attempt to notify affected customers of a scheduled maintenance shutdown of the supply before the work commences. Where immediate action is required and this is not practical, Council may shut down the supply without notice.

If a customer has a particular requirement for an uninterrupted or increased Level of Service flow, pressure or quality, it will be the responsibility of that customer to provide any storage, back-up facilities, or equipment necessary to the provision of that Level of Service. Examples of such requirements may include customers using water for renal dialysis, industrial or agricultural purposes or firefighting.

Council does not guarantee an uninterrupted or consistent quality supply of water, or maintenance of an existing pressure which is in excess of an agreed current Level of Service, but shall do its best to meet the continuity of supply.

1.3.6 Demand management

The customer shall comply with any water use restrictions which may be approved by Council to manage high seasonal or other demands. Such restrictions will be publicly notified.

Council encourages customers to use water efficiently and to not waste or misuse water. For water saving tips, visit <https://bewaterwise.org.nz/>.

1.3.6.1 Emergency

Natural hazards such as floods, droughts, earthquakes or volcanic activity, or accidents which result in disruptions to the supply of water shall be deemed an emergency and shall be exempted from the Level of Service requirements.

During an emergency Council may restrict or prohibit the use of water for any specified purpose, for any specified period, and for any or all of its customers. Such restrictions shall be publicly notified.

The decision to make and lift restrictions, and to enact additional penalties, shall be made by the Chief Executive Officer (ref- Extraordinary Meeting of Whangarei District Council 11 February 2020)

1.3.7 Liability

Council shall not be liable for any loss, damage or inconvenience which the customer or any person using the supply may sustain as a result of deficiencies in, or interruptions to, the water supply.

Without prejudice to the above Council may, under certain circumstances and solely at its discretion, make payments for any loss or damage sustained by the customer where it can be established to Council's satisfaction that such loss or damage was a direct result of a significant variation in the water supply. Any payment made by Council shall be in full and final settlement of any claim the customer may have against Council.

1.3.8 Fire protection connection

1.3.8.1 Connection application

Any proposed connection for fire protection shall be the subject of a separate application to Council for approval. Any such connection shall be subject to the terms and conditions specified by Council.

1.3.8.2 Supply

Council shall be under no obligation to provide a fire protection supply at any particular flow or pressure or maintain existing pressures or flows.

[Where required firefighting water flow rates are unable to be met, mitigation by alternative methods shall be made in consultation with the WSA, Fire and Emergency New Zealand and the applicant.](#)

1.3.8.3 Metering

1. In any case where the supply of water to any premises is metered, Council may allow the supply of water for the purposes of firefighting to be made in a manner which bypasses the main meter, provided however that the drawing of water will only be permitted for firefighting purposes and where a Council-approved backflow prevention device has been fitted on the live connection and the backflow preventer incorporates a detector bypass meter with backflow devices or a main line meter.
2. For a fire connection installed prior to the coming into effect of these terms and conditions which is so constructed or so located that it is likely or possible that water will be drawn from it or from any part of it by any person for purposes other than firefighting, Council may install a water meter and backflow prevention device suitable for the purpose on such a connection and recover the cost of the work from the owner.
3. Where it is discovered that a dedicated fire line is using water for purposes other than firefighting the customer shall cease using water through the fire line.

1.3.8.4 Sprinkler systems

Any fire sprinkler system shall be constructed, installed and maintained in good order [to the appropriate sprinkler standard](#) and shall be so designed and fixed that water cannot be drawn there from for any other purpose. All sprinkler systems shall have a Council-approved backflow prevention device and meter installed at the point of supply. These systems shall be designed to accommodate future reductions in network pressure and flows as a result of increased demands and network alterations.

Council recommends that all water sprinkler systems allow space for the future installation of booster pumps should they be required.

1.3.8.5 Fire hose reels

In any case where the supply of water to any premises is metered, fire hose reels shall be connected only to the metered supply, not to a fire protection connection. Any supply feeding a fire hose reel shall have a Council-approved backflow prevention device installed at the point of supply.

1.3.8.6 Charges

Water used for the purpose of extinguishing fires will be supplied free of charge. Whenever water has been used for firefighting purposes and where such supply is metered, the customer may estimate the quantity of water so used, and subject to approval, a sum based on such estimate at the appropriate charge rate shall be credited to the customer's account.

1.3.9 Backflow prevention

1. Notwithstanding the provision of clause 1.4.6:
 - a) all connections to the Council supply shall have a backflow prevention device at the point of supply
 - b) Council may require the customer to install a Council-approved testable backflow preventer on Council's side of the point of supply at the customer's expense
 - c) all fire connections shall have an approved testable backflow prevention device installed on Council's side of the point of supply as shown in Figures 7d and 7e at the customer's expense
 - d) all water connections available to shipping shall have an approved backflow prevention device installed on Council's side of the point of supply at the customer's expense
 - e) all extraordinary supplies as defined in 1.3.3.1 shall require a point of supply backflow prevention device unless agreed otherwise by Council
 - f) point of supply backflow prevention devices shall remain the property of Council, unless agreed otherwise by Council.
2. Council will charge a fee in accordance with targeted rates for water supply as noted in the Long Term Plan or Annual Plan, for the annual inspection and maintenance of such devices and shall also require the customer to maintain the device to be accessible for testing. The fee may be added to the customer's water bill.
3. Where the property owner wishes to retain ownership of a point of supply backflow prevention device, written agreement from Council is required. The property owners shall ensure all maintenance and inspection works are undertaken in compliance with Council's requirements. All costs are to be met by the property owners.
4. Any existing ordinary or extraordinary supplies which do not have backflow prevention at the point of supply, or have inadequate backflow prevention, shall install a Council-approved backflow prevention device as required by Council. All costs are to be met by the property owners.

1.3.10 Meters and flow restrictors

1.3.10.1 Installation

1. Where a customer has an unmetered supply, the customer may request that a meter be provided, and Council shall undertake this work at the customer's expense. These devices shall remain the property of Council.
2. Where a customer has an unmetered supply, Council may install a meter at Council's cost and charge the customer based on consumption. These devices shall remain the property of Council.
3. For new ordinary supply connections, meters and restrictors for restricted flow supplies shall be supplied and installed by Council or their appointed agents at the customer's expense. All new meter installations shall have dual check valve devices within the meter box on the customer side of the meter. The meters and dual check valves shall become the property of Council who shall be responsible for their ongoing maintenance.

1.3.10.2 Location

Meters and restrictors will be located in a position which is readily accessible for reading and maintenance, and if practicable immediately on Council's side of the point of supply, see Figure 1.

1.3.10.3 Accuracy

1. The accuracy of meters and restrictors shall be tested as and when required by Council to ensure performance within $\pm 4\%$ of its reading meters, or within $\pm 10\%$ of its rated capacity restrictors.
2. A customer who disputes the accuracy of a meter or restrictor may apply to Council for it to be tested provided that it is not within three months of the last test. If the test shows non-compliance with the accuracy requirement above then the customer will not be charged for the test. If the test shows compliance then the customer shall pay a fee in accordance with Council's current schedule of fees and charges.
3. Meters shall be tested by running a measured quantity of not less than 400 litres through the meter in accordance with BS 5728: Part 3 or OIML R49-2. Restrictors shall be tested by measuring the quantity that flows through the restrictor in a period not less than one hour at its normal operating pressure. A copy of independent certification of the test result will be made available to the customer on request.

1.3.10.4 Adjustment

Should any meter, after being tested, be found to register outside the $\pm 4\%$, Council shall make an adjustment in accordance with the results shown by such tests backdated for a period at the discretion of Council but not exceeding 12 months, and the customer shall pay a greater or lesser amount according to such an adjustment.

1.3.10.5 Estimating consumption

1. Should any meter be out of repair or cease to register, or be removed, Council may estimate the consumption for the billing period. Council may use previous billing information or similar properties to estimate consumption as agreed with the customer. The customer shall pay the agreed amount.
2. If metering indicates a significant increase in consumption to a premises, which is established as being caused by a previously unknown leak, providing that the customer repairs the leak with due diligence, Council may reassess the account in accordance with current Council policy on the matter.
3. Where the seal or dial of a meter is broken, Council may declare the reading void and estimate consumption as provided above.
4. Where an unauthorised connection has been made to Council's water supply system Council may estimate the consumption for the period from when the connection was made. Council may use the uniform charge for water on a pro rata basis to make the estimation. Where a meter has been installed without approval the meter reading shall be used as the basis for the estimation provided it complies with Council's standards for meters and installations. The full consumption registered on the meter shall be payable by the current owner of the property. Development contribution fees may also be payable. Estimating and charging for water will be in addition to other legal action that Council decides to take for breaches of this Bylaw or other acts and regulations. See clause 1.5.

1.3.10.6 Incorrect accounts

Where a situation occurs, other than as provided for in 1.3.10.5 **Error! Reference source not found.**, where the recorded consumption does not accurately represent the actual consumption on a property then the account shall be adjusted using the best information available to Council. Such errors include, but are not limited to, misreading of the meter, errors in data processing, meters assigned to the wrong account, and unauthorised supplies.

At the discretion of the Water Services Manager, a customer may be granted special payment terms.

1.3.10.7 Unread meters

Where a meter has remained unread for whatever reason, Council may charge for all water registered on the meter or shown since the previous reading.

1.3.11 Restriction or disconnection

The supply of water to any customer may be disconnected or have the flow restricted in some way by Council in the event of:

1. failure to pay the appropriate charges by the due date
2. failure to repair a leak, or in any way wilfully allow water to run to waste or be misused
3. provision of a non-approved connection to or interference with Council's supply system
4. the fitting of quick-closing valves, such being subject to 1.4.1
5. failure to prevent backflow in accordance with the requirements of clauses 1.3.9 and 1.4.6 of this Bylaw
6. failure to install the appropriate backflow prevention device at the point of supply
7. non-compliance with, or breach of, any other requirements of these terms and conditions as detailed in clause 1.5.1 of this Bylaw.

1.4 Customer responsibilities

1.4.1 Plumbing system

1. The customer's plumbing system shall be designed, installed and maintained, both in its component parts and its entirety, to ensure that it complies with the Building Act 2004 and the New Zealand Building Code.
2. Quick-closing valves of any kind, or any other equipment which may cause pressure surges to be transmitted, shall not be used on any piping directly connected to the service pipe, that is, in any position where they are required to close against mains pressure. In some specially approved circumstances they may be used, provided a suitable air chamber is fitted in the supply pipe as may be required in the particular case. In special circumstances non-concussive types of valve may be used as approved by Council.
3. In accordance with the New Zealand Building Code, the plumbing system shall be compatible with the water supply. It shall be the customer's responsibility to establish any peculiarities or features of the water supply from Council in order to ensure compatibility. No responsibility will be accepted by Council for failure by the customer to make the necessary enquiries.
4. It should be noted that some naturally occurring water chemistries can have a plumbosolvency effect on plumbing systems and hot water cylinders. It is the customer's responsibility to check that equipment being installed is compatible with the water supply in that area. All tapware shall comply with AS/NZS 3718:2005.

1.4.2 Change of use

Where a change in the end use of water supplied to a property occurs, and/or the supply changes from an ordinary to an extraordinary type (refer to 1.3.3) or vice versa, a Public Utility Application shall be required. It is the customer's responsibility to notify Council if backflow prevention is required or if the level of backflow prevention required changes in accordance with Whangarei District Council's Backflow Prevention Policy and Code of Practice 0020.

A change of use application will not normally incur a fee. However, if an increase in demand is required development contributions may be payable.

1.4.3 Access

1.4.3.1 Point of supply

1. The customer shall allow Council access to and about the point of supply or any meter or backflow prevention device located on private property between 7.30am and 6pm on any day for:
 - a) meter reading without notice
 - b) checking, testing and maintenance work on the meter and/or backflow prevention device with notice being given whenever possible.
2. Outside these hours, e.g. for leak detection, Council will give notice to the customer.

3. Under emergency conditions the customer shall allow Council free access to and about the point of supply at any hour.
4. Where access is not made available for any of the above and a return visit is required by Council, a fee may be charged for a return visit.

1.4.3.2 Inspection

The customer shall allow Council with or without equipment, access to any area of the premises for the purposes of determining compliance with these terms and conditions.

1.4.4 Council equipment

1.4.4.1 Care of equipment

1. The customer shall take due care to protect from damage Council equipment up to the point of supply, including pipe work, valves, meters, backflow prevention devices and restrictors.
2. Where there is no customer stopcock, or where maintenance is required between the service valve and the customer stopcock, the customer may use the valve on the service line to isolate the supply. However Council reserves the right to charge for maintenance of this valve if damaged by such customer use.

Council gives no guarantee as to the serviceability of the service valve located on the service pipe.

1.4.4.2 Maintenance of access

The customer shall maintain the area in and around the point of supply free of soil, growth, or other matter or obstruction which prevents, or is likely to prevent convenient access. No persons shall plant trees or bushes over water lines or within close proximity to a water line such that the roots may cause damage or obstruct access to the water line. Council may remove any trees obstructing or damaging water lines and recover the cost from the owners of the trees. Where a Council maintained water pipeline crosses private land or runs down a shared access way, the owner or owners shall ensure that access to the pipeline is clear and unobstructed at all times for maintenance or repair purposes. The cost of removing obstructions or reinstating extraordinary surface features shall be met by the owners.

1.4.5 Prevention of waste

1. The customer shall prevent and not intentionally allow water to run to waste from any pipe, tap or other fitting. It is an offence to let water run to waste and may result in disconnection or restriction of the supply and or prosecution.
2. The customer shall not use water or water pressure directly from the supply for driving lifts, machinery, eductors, generators, condensers or any other similar device, unless specifically approved.
3. Using water for single pass cooling or heating systems, or to dilute trade waste prior to disposal, is not permitted, unless specifically approved.

1.4.6 Backflow prevention

1. Under the Water Services Act 2021 and Building Act 2004, it is necessary to prevent water which has been drawn from Council's water supply from returning to that supply.
2. All point of supply backflow prevention devices must comply with AS/NZS 2845 and Council's Backflow Prevention Policy and Code of Practice 0020.
3. For premises covered by the Building Act 2004 customers are to ensure:
 - a) backflow prevention either by providing an adequate air gap separation or by the use of a backflow prevention device which complies with the New Zealand Building Code; and/or
 - b) the prohibition of any direct cross connection between Council's water supply and:
 - i) any other water supply potable or non-potable
 - ii) any other water source
 - iii) any storage tank

- iv) any other pipe, fixture or equipment containing chemicals, liquids, gases, or other non-potable substances.
4. Council will require customers to comply with section 27 of the Water Services Act 2021 regarding protection of potable water.
5. Compliance under the Building Act 2004 does not absolve the property owner from the requirements of the Water Services Act 2021 for point of supply backflow prevention.

1.4.7 Fire protection supply

1.4.7.1 Firefighting

Where an unmetered connection has been provided to supply water to a fire protection system (including hydrants) this shall be used for no other purpose than fire system testing or for fire brigade drills conducted under the authority of the [Fire and Emergency New Zealand District Manager and Delegated Personnel Chief Fire Officer](#) with the consent of the WSA. Council reserves the right for backflow prevention devices and water meters to be installed at the property owner's expense for new or existing connections.

1.4.7.2 Adequacy of supply

It shall be the customer's responsibility to ascertain and monitor whether the fire protection supply available is adequate for the intended purpose.

Council reserves the right to increase or decrease the pressures within the network. Council does not accept liability for fire protection systems whose effectiveness is reduced by a change in supply pressure.

1.4.8 Payment

1. The customer shall be liable to pay for the supply of water and related services in accordance with Council's current targeted rates for water and schedule of fees and charges.
2. The items included in the schedule and the terms on which they will be charged may be altered by Council from time to time by:
 - a) resolution or special order as applicable pursuant to the Local Government (Rating) Act 2002
 - b) resolution publicly notified.

1.4.9 Transfer of rights and responsibilities

1. No customer shall transfer to any other party the rights and responsibilities provided for under these terms and conditions.
2. A supply pipe shall serve only one customer and shall not extend by hose or any other pipe beyond that customer's property.
3. No customer shall on-sell water drawn from Council supply without written permission from Council.
4. In particular and not in limitation of the above, any water which a customer draws from Council supply shall not be provided to any other party without the approval of Council.

1.4.10 Change of ownership

In the event of a premises changing ownership Council will automatically record the new owner as being the customer at that premises. Where a premises is metered the outgoing customer shall give Council at least three working days' notice in writing to arrange a final reading. A fee in accordance with the special reading fee will be charged. Where a final reading has not been taken on the sale of a property, the new property owner will be liable for payment of all outstanding accounts.

1.4.11 Termination

1. A customer shall give at least three working days' notice in writing to Council of their requirement for termination of the supply. All terminations involving permanent disconnections must complete a disconnection application form.

2. Termination shall only be carried out by Council-approved contractors and all costs are to be paid for by the applicant.

1.5 Breaches, offences and disputes

1.5.1 Breach of terms and conditions

1. The following may be taken by Council as a breach of these terms and conditions to supply and receive water:
 - a) an incorrect application for supply which fundamentally affects the terms and conditions
 - b) failure by the customer to meet and comply with these terms and conditions
 - c) failure to meet any obligation placed on the customer under all current Acts and Regulations specified in 1.1.2a of this Bylaw
 - d) frustration of Council's ability to adequately and effectively carry out its obligations
 - e) an act or omission by the customer of any obligation arising out of any provision in Part 1 and Part 2 of this Bylaw such including but not being limited to any of the following:
 - i) failure to pay the appropriate charges by the due date
 - ii) failure to repair a leak, or in any way wilfully allowing water to run to waste, or to be misused
 - iii) failure to prevent backflow
 - iv) failure to comply with water use restrictions or prohibitions introduced by Council for any specified purpose
 - v) extending by hose or any other pipe a private water supply beyond that customer's property
 - vi) providing water drawn from Council's supply to any other party without approval of Council.

1.5.2 Interference with equipment

Any tampering or interfering with Council equipment, either directly or indirectly, shall constitute an offence. Without prejudice to its other rights and remedies, Council shall be entitled to estimate in accordance with clause 1.3.10.5 of this Bylaw and charge for the additional water consumption not recorded or allowed to pass where a meter or restrictor has been tampered with, and recover any costs incurred.

1.5.3 Penalties

1. Any action taken or thing done or omitted to be done in contravention of the terms of this Bylaw shall constitute an offence.
2. Council may remove or alter any work or thing that is, or has been, constructed in breach of this Bylaw and where any such removal or alteration is undertaken recover the costs of that removal or alteration from the person who committed the breach.
3. Upon conviction for any offence under this Bylaw any person so convicted will be liable to the penalties set by the Local Government Act 2002.

2 Part 2 General requirements

2.1 Introduction

Part 2 addresses those matters relating to the supply of water which require enactment by bylaw. It generally covers the overall water supply system, excluding those matters which relate to the actual supply of water to an individual customer. It also defines the parameters of supply for on-demand supplies for the purposes of the Local Government (Rating) Act 2002.

2.2 Types of supply

For the purposes of this part of the Bylaw, the types of supply shall be as defined in Part 1, Clause 1.3.3.

2.3 Supply system

2.3.1 No person to connect to system

1. No person other than the authorised agents of Council, shall without express approval, make any connection to or otherwise interfere with any part of the water supply system.

2. Any authorised persons working on the water supply must have a valid Blue Card and work in accordance with the requirements of the Water Services Hygiene Code.

2.3.2 Fire hydrants

1. The right to gain access to and draw water from fire hydrants shall be restricted to:
 - a) Council or its agents
 - b) trained [Fire and Emergency New Zealand Personnel](#)~~fire service personnel~~ for the purpose of fighting a fire or training
2. Water carriers shall only fill from designated filling points as agreed with Council's Water Services Manager.
3. Without prejudice to other remedies available, Council may remove and hold any equipment used by any unauthorised person to gain access to, or draw water from, a fire hydrant.

2.3.3 Use of coloured pipe and ducts

Only blue pipe shall be used for new water mains and service pipes. Other services and ducting for other utilities should be generally in accordance with the Guide for Safety with Underground Services issued by the Occupational Safety and Health Service, October 2002. On no account shall blue pipe be used for carrying or ducting any products other than potable water.

2.3.4 Working around buried services

Council shall keep accurate permanent as-built records of the location of its buried services. This information shall be available for inspection with copies available if required. Charges may be levied to cover the costs of making copies available.

1. Any person proposing to carry out excavation work shall view the as-built information to establish whether or not Council services are located in the vicinity. At least 2 days' notice in writing shall be given to Council of an intention to excavate in the vicinity of its services.

Where appropriate Council will mark out to within 1m on the ground the location of its services and may nominate in writing any restrictions on the work it considers necessary to protect its services. Council may charge for this service.

2. When excavating and working around buried services due care shall be taken to ensure the services are not damaged and that bedding and backfill is reinstated in accordance with the appropriate Council specification. When drilling or excavating across or close to buried services the service must be exposed by hand digging or vacuum excavation to accurately locate its position. When laying pipes or ducts near to water mains the separations, both vertical and horizontal, as specified in Council's Engineering Standards. Excavation within roadways is also subject to the permit process of the appropriate roading authority.
3. Any damage which occurs to a Council service shall be reported to Council immediately. Council reserves the right to charge for all repairs including reinstatement and all consequential costs to Council.

2.4 Protection of supply

2.4.1 Catchment classes

1. Catchment areas from which untreated water is drawn for the purposes of water supply are divided into the following classes:
 - a) controlled
 - b) restricted

c) open.

2. These may apply to both surface water and/or ground-water catchments.

2.4.2 Controlled catchments

There are no controlled catchments in any of Council's water supplies.

2.4.3 Restricted catchments

The following schedule comprises the restricted catchment areas pertaining to Council's water supplies and is limited to catchments of water supply dams.

2.4.3.1 Schedule

Wilson's Dam

239.99 ha being Part Allot M42 PSH OF Ruakaka, Lot 2 DP 126620, Part Lot 1 DP 179543, Lot 2 DP 33336, Lot 1 DP 176490, Lot 7 DP 166984, Lot 1 DP 176489, Lot 1 DP 183381, Lot 9 DP 313809, Lot 5 DP 315046 and Section 3 SO 359862.

Whau Valley Dam

911.02 ha being Allot 38 OF Pukenui , Allot 8 OF Pukenui, Allots 52, 53, 54, NW55, SE55, 56, 58,74, 75, 76 PSH OF Whangarei Pt Allots 56, 74 Whangarei Parish, Lot 2 DP 63280 and Lot 2 DP 463854

Hikurangi Dam

312.69 ha being Pts Allot NE47, Pt Allots NE49, SW49, Hikurangi Parish, Secs 6, 7 and 9, Blk XVI, Hukerenui SD and Lot 2 DP 157301.

Takahiwai Dam

166.09 ha being Lots 1 to 17 DP 208533, Secs 1 and 6 Blk VI Ruakaka SD, Pukekauri 1B1 Blk.

2.4.3.2 Entry

1. No person shall enter a restricted catchment to undertake any of the following activities unless permitted in writing by Council
 - a) camping
 - b) hunting, trapping or shooting of any animals or birds
 - c) boating
 - d) fishing
 - e) bathing or washing of anything
 - f) lighting or maintaining any fire
 - g) taking, or allowing to stray, any livestock
 - h) using any pesticide, herbicide or toxic substance for any purpose whatsoever
 - i) damaging or destroying any trees, shrubs or other existing cover or interfering with any building or structure
 - j) taking or draining water.
2. In granting any such permit Council may impose such conditions as it may consider necessary and appropriate.
3. Any person entering a restricted catchment must remain on designated walking paths.
4. Council may limit access to restricted catchment areas if it is deemed necessary.

2.4.4 Open catchments

All other water supply catchments in the District administered by Council are open catchments and no specific controls or restrictions apply. However, in the event of a spillage or other event which has released or is likely to release hazardous substances into the waters of the catchment, Council shall be advised of the details with due urgency. This requirement shall be in addition to those other notification procedures to other authorities which are required.

2.5 Water supply area

2.5.1 Definition

A water supply area is a part of the District within which a supply of water can be made available for all buildings sited within the area.

2.5.2 Detail

1. A water supply area will include an area of 135 metres from all distribution mains, as measured along roads right of ways or access paths, which can be readily serviced with the performance requirements as defined within the Water Activity Management Plan, or as agreed with Council's Water Services Manager.

The Water Supply Areas are:

- Whangarei City (including Hikurangi and Whangarei Heads)
- Bream Bay
- Mangapai
- Maungakaramea.

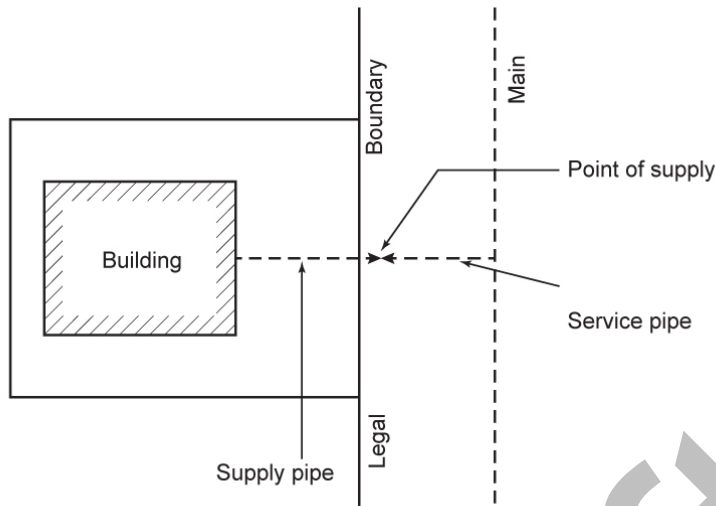
1. The following provisions apply in a water supply area:

- Reticulation system
Distribution watermains provide the firefighting capability of the network and service customers on one side of the street generally. These are usually 100mm to 200mm diameter.
- Operating water pressure and flows, [unless otherwise approved by the Water Services Manager, as per the following table:](#)

For existing connections minimum pressure at boundary	25 metres static head minimum water pressure at time of connection.	To be measured at the meter or road boundary, whichever is the lower in altitude as per the Bylaw.
For new connections minimum pressure at the building site	25 metres static head minimum water pressure at time of connection.	To be measured at the ground floor of the building envelope.
Maximum pressure at boundary	120 metres static head maximum water pressure.	To be measured at the meter or road boundary, whichever is the lower in altitude.
Minimum flow at boundary	15 litres/minute minimum flow rate of supply for existing properties 20 litres/minute minimum flow rate for all new connections.	To be measured at the boundary on the customers side of the meter.
New Zealand Fire Service Fire and Emergency New Zealand	100% compliance with NZ Fire Service SNZ PAS4509 Code of Practice Firefighting Water Supply for all new developments and all new connections.	Minimum residual pressure at all hydrants should be 10 metres head for all urban and rural areas. All properties to be within 135 metres of a fire hydrant for all urban and rural connections as measured along practical access ways.

The applicant may, similar to subdivisions, extend the distribution watermain thereby extending the water supply area to cover the property in question, and enabling a connection to be granted. To ensure this is the case all service connections are to be perpendicular to the distribution watermain or ridermain.

Figure 1. Point of supply single dwelling unit



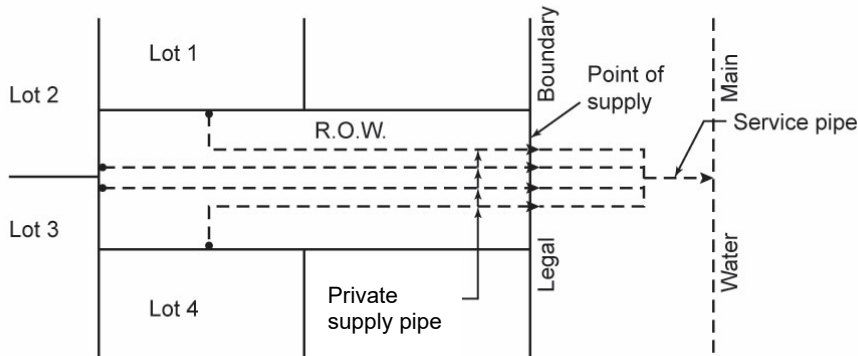
See Figure 7a, 7b or 7c for fitting detail

WDC81849

Draft

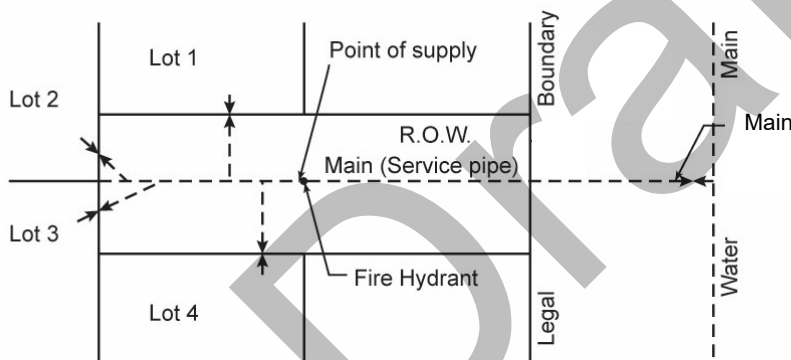
Figure 2. Point of supply multiple dwelling units

2a Private connections



Multiple connections in rights of way in joint private ownership
 See Figure 7a, 7b or 7c for fitting detail

2 b Public connections



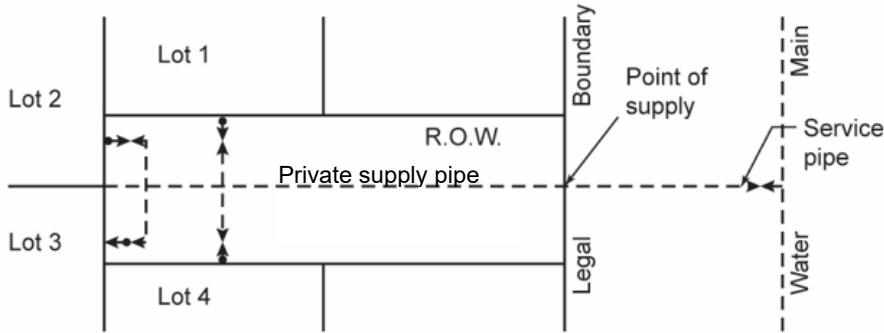
Applies only to service pipe accepted by WDC as public main (easement required). The point of supply is the last Fire Hydrant in the right of way unless otherwise approved.

See Figure 7a, 7b or 7c for fitting detail

WDC 8184-10

Figure 2. Point of supply multiple dwelling units

2c Existing mains in private ways

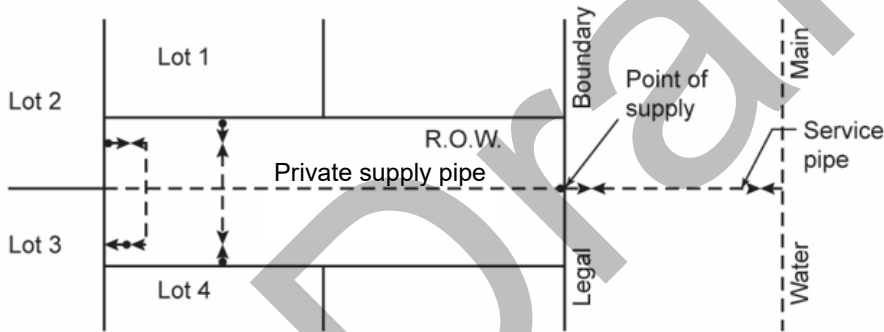


Connections in rights of ways in private ownership. Council will retain ownership and maintain the water meters. The supply pipes within the right of way are owned and maintained by property owners.

See Figure 7a, 7b or 7c for fitting detail

WDC 8184-11

2d Existing parent and child metering arrangements

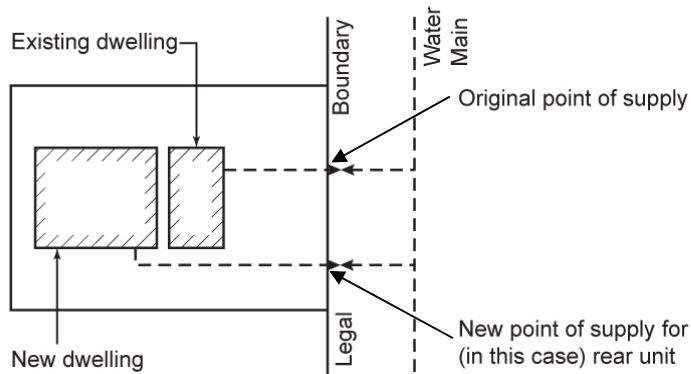


This arrangement is permitted only for existing parent and child situations. New connections shall be as per Figure 2a or 2b.

See Figure 7a, 7b or 7c for fitting detail

WDC 8184-11 |

Figure 3. Point of supply cross leases



Where additional units are being built, additional points of supply will be required in such a position as to facilitate future subdivisions.

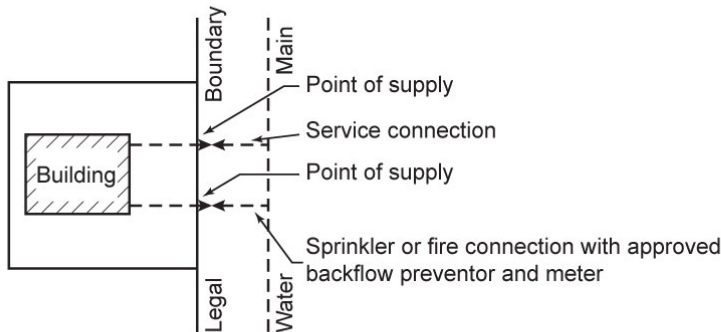
See Figure 7a, 7b or 7c for fitting detail

WDC8184-5

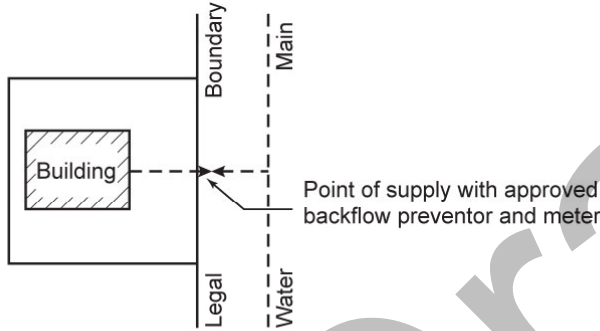
Draft

Figure 4. Point of supply commercial connections

4a Single ownership/multiple occupation (e.g. highrise or apartment block)

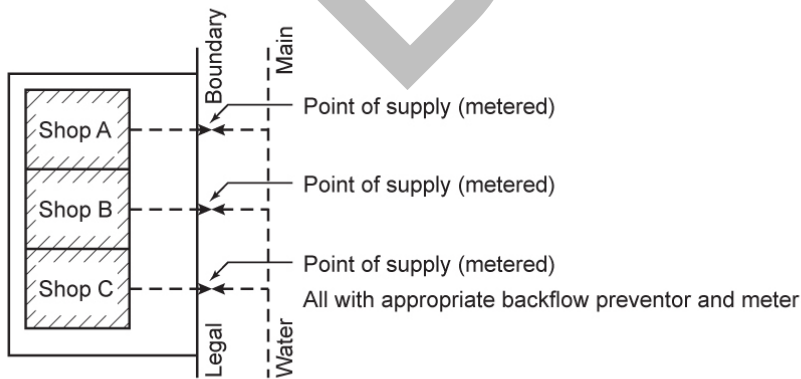


4b Commercial premises (single building)



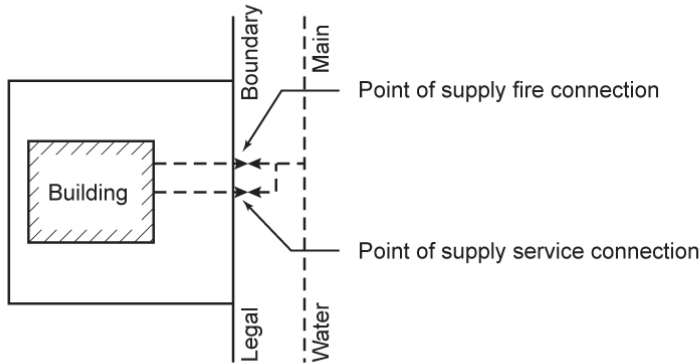
Generally one point of supply at boundary. Metered consumption charged to property owner or uniform charge levied for each shop if in a multiple ownership and not separately metered.

4c Commercial premises (multiple buildings)



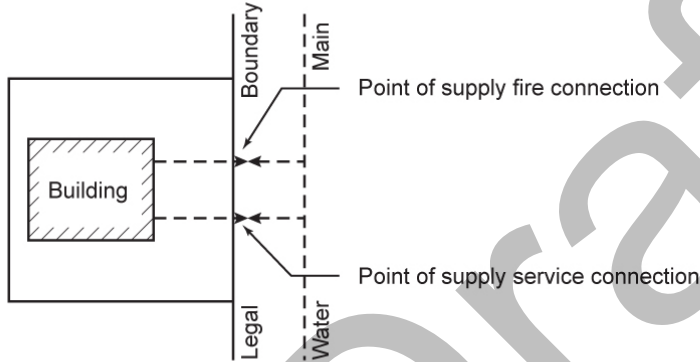
For 4a, 4b and 4c see Figure 7 for fitting detail

Figure 5. Point of supply industrial/commercial connections
5a Combined fire and service connection



See Figure 7d for fitting details

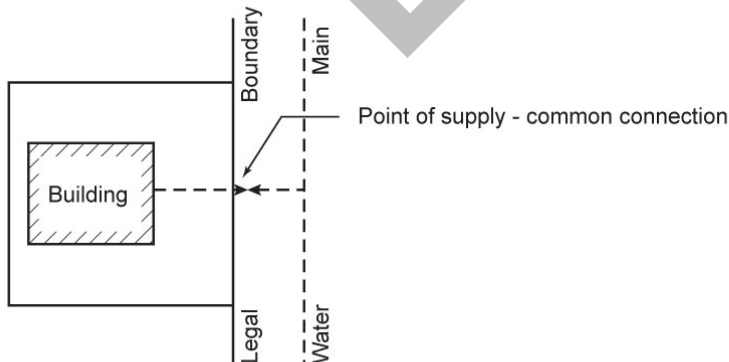
5b Separate fire and service connections



See Figure 7f and 7g for fitting details

WDC8184-1

Figure 6. Point of supply industrial/commercial connections
Common fire and service connection



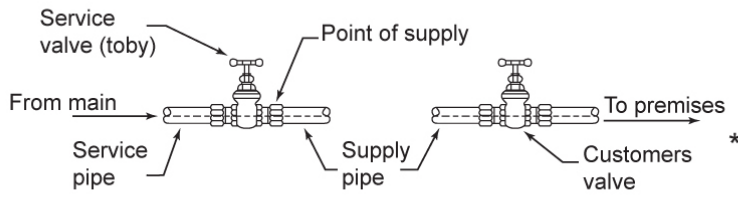
This arrangement is permitted only for existing common connections. All new connections to be as per Figure 5.

See Figure 7e for fitting details

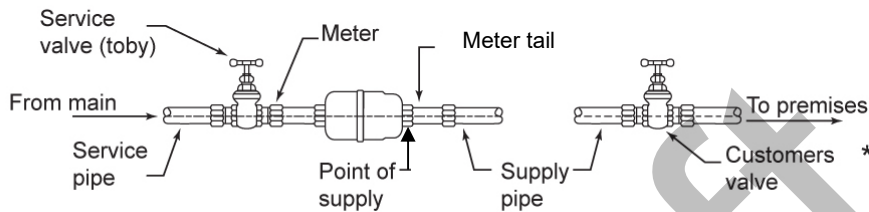
WDC8184-2

Figure 7. Examples of fitting details showing point of supply

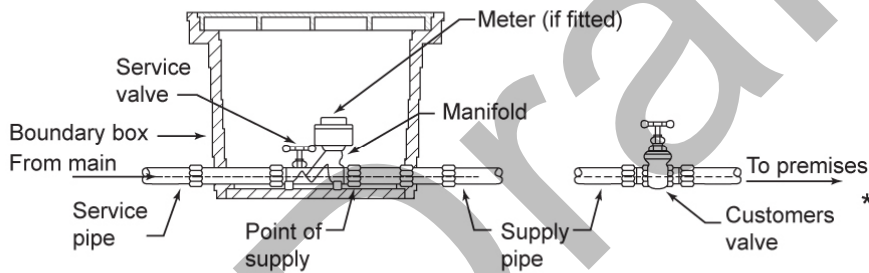
7a Domestic unmetered supply



7b Domestic metered supply



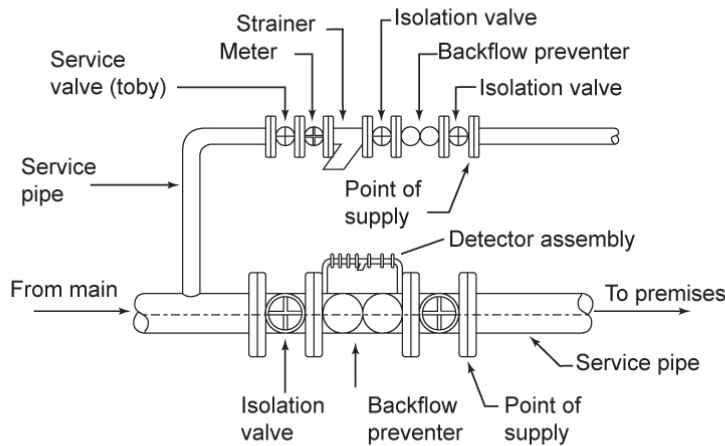
7c Manifold assembly at boundary box



* As provided for in N.Z. Building Code approved document G12/AS1

WDC8184-7

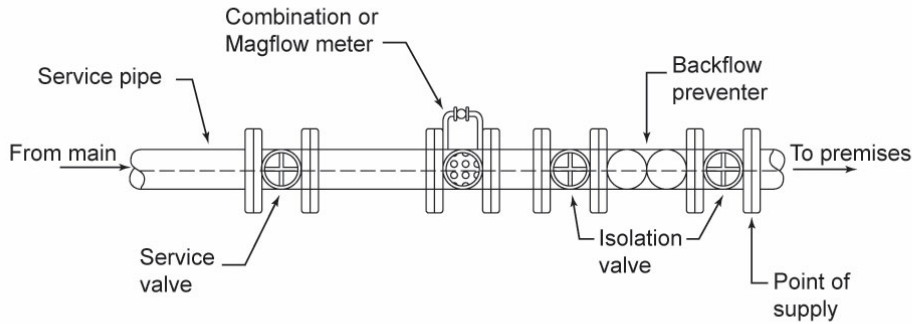
7d Separate fire and metered service connection with common line from main



WDC8184-8

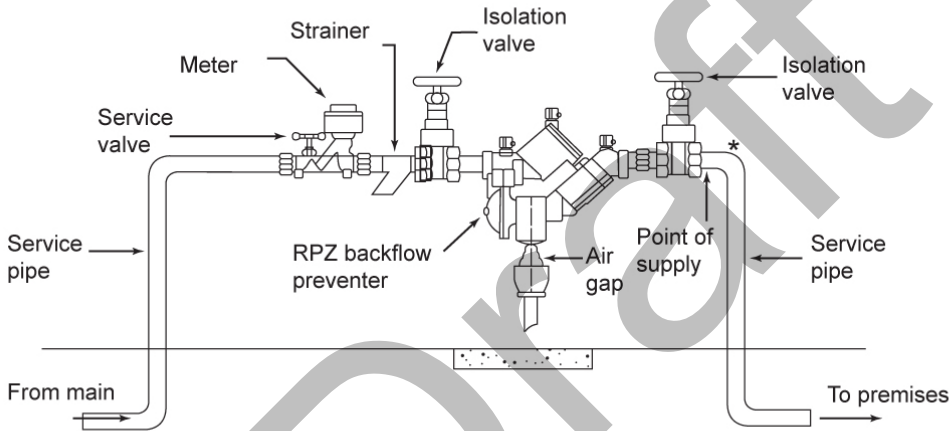
Figure 7. Examples of fitting details showing point of supply

7e Common fire and metered service connection



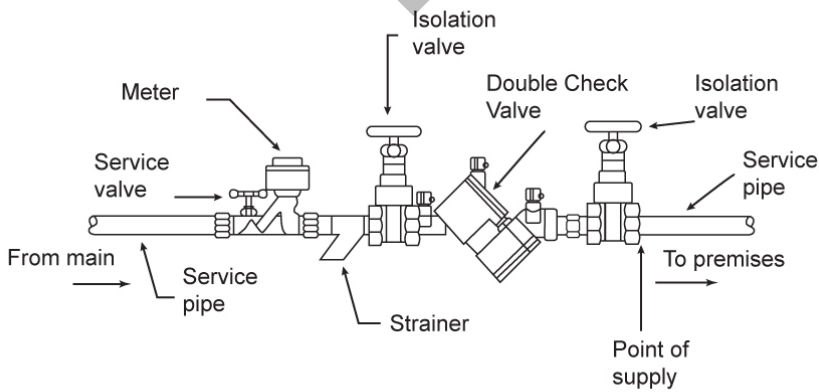
WDC8184-8

7f Metered supply with reduced pressure zone backflow preventer (RPZ)



WDC8184-3

7g Metered supply with double check valve backflow preventer



WDC8184-4



Water Supply Bylaw 2023



Draft

Contents

Water Supply Bylaw 2023	1
Explanatory notes.....	1
Title.....	1
Commencement.....	1
Repeal.....	1
Application of Bylaw.....	1
History of Bylaw.....	1
Water supply definitions	2
1 Part 1 Terms and conditions for the supply of water	4
1.1 Introduction.....	4
1.2 Acceptance and duration.....	5
1.3 Conditions of supply	5
1.4 Customer responsibilities.....	12
1.5 Breaches, offences and disputes.....	15
2 Part 2 General requirements	15
2.1 Introduction.....	15
2.2 Types of supply	15
2.3 Supply system.....	15
2.4 Protection of supply.....	16
2.5 Water supply area.....	18

Water Supply Bylaw 2023

Explanatory notes

Council is empowered by the Local Government Act 2002 to make bylaws to:

- protect public health and safety
- manage and protect the public water supply from damage, misuse or loss.

The Water Supply Bylaw 2023 aims to achieve these purposes and should be read in conjunction with the Acts, Regulations, Codes and Standards listed in the Bylaw.

This Bylaw includes explanatory text that is not part of the regulatory content of the Bylaw. The explanatory notes are contained in boxes such as this and may assist in interpreting the regulatory provisions of the Bylaw.

Title

The title of the Bylaw shall be Whangarei District Council Water Supply Bylaw 2023.

Commencement

This Bylaw comes into force on 7 December 2023.

Repeal

As from the date this Bylaw comes into force, any previous bylaws and their amendments, or parts of a bylaw and their amendments as applicable, purporting to matters relating to water supply within the Whangarei District shall be repealed.

Application of Bylaw

This Bylaw shall apply to the area administered by Council.

History of Bylaw

Date of Council resolution	Description	Summary
4 December 1996	Water Supply Bylaw 1997	Resolution passed to make the bylaw
2 August 2000	Water Supply Bylaw 2000	Amendment Part 2 General Requirements added
14 December 2005	Water Supply Bylaw 2005	5-year review
22 February 2012	Water Supply Bylaw 2005	10-year review
31 May 2012	Water Supply Bylaw 2012	Amendment to point of supply
23 November 2023	Water Supply Bylaw 2023	Resolution passed to make new bylaw

Water supply definitions

For the purpose of this Bylaw, unless inconsistent with the context, the following definitions apply:

Air gap separation	means a minimum vertical air gap as defined by the Building Code G12 Water Supplies between the outlet of the water supply fitting which fills a storage tank, and the highest overflow water level of that storage tank.
Air valves	can be located on all watermains for the purpose of air removal from the watermain network.
Approved	means approved in writing by Council, either by resolution of Council or by any officer of Council authorised for that purpose.
Backflow	means a flow of water or other liquid through any service pipe or supply pipe in a reverse direction to the normal supply flow.
Backflow prevention device	means a testable device that prevents backflow. For the purpose of this Bylaw a backflow prevention device refers to those devices installed at the property boundary.
Bulk watermains	means the pipes which convey water from Council's water treatment plants or from service reservoirs generally 200mm to 500mm in diameter.
Check valve	means a valve designed to prevent flow in the reverse direction to normal flow.
Council and the Council	means Whangarei District Council.
Customer	means a person who has the right to use or direct the manner of use of water supplied by Council to any premises.
Detector check valve	is a check (non-return) valve, which has a positive closing pressure, and a metered bypass to measure flows typically associated with leakage or unauthorized use on a dedicated fire supply.
Distribution watermains	means the water supply pipelines which convey water through the water supply network and service customers generally 100mm to 200mm in diameter.
Double check valve	Testable backflow prevention device with two check valves and test ports.
Drinking water	is water that is used for human consumption or oral hygiene or food preparation or washing utensils that are used for food preparation.
Dual check valve	Non-testable backflow prevention device with two nonreturn-valves.
Extraordinary supply	has the meaning given by clause 1.d) of this Bylaw.
Fees and charges	means such schedule of items, terms and prices for services associated with the supply of water which are approved by Council.
Fire hydrants	are located on the distribution watermains for the purpose of firefighting.

Level of Service	means the measurable performance standards to which Council undertakes to supply water to its customers.
Meter	is a device for the purpose of measuring the volume of water consumed.
On demand supply	has the meaning given by clause 1.d) of this Bylaw.
Ordinary supply	has the meaning given by clause 1.d) of this Bylaw.
Person	includes a corporation sole and also a body of persons whether corporate or unincorporated.
Point of supply	has the meaning given by clause 1.3.2 of this Bylaw.
Premises	a property or allotment which is held under a separate certificate of title or for which a separate certificate of title may be issued and in respect to which a building consent has been or may be issued a building that has been defined as an individual unit by a cross-lease, unit title or company lease and for which a certificate of title is available land held in public ownership for a particular purpose.
Pressure reducing valves	are valves used within the reticulation system to reduce pressures from unacceptable high levels down to more reasonable levels as required due to changing elevation within the distribution system.
Publicly notified	means published on at least one occasion in one daily or weekly newspaper circulating in Council water supply area; or under emergency conditions in the most effective way to suit the particular circumstances.
Raw watermains	are watermains that convey water from the source to the treatment plant.
Reduced pressure zone Device (RPZ)	Two independent action non-return valves arranged to be force loaded to the closed position, with a relief valve positioned between the non-return valves arranged to be force-loaded to open to the atmosphere.
Restricted flow supply	has the meaning given by clause 1.3.3.2 of this Bylaw.
Restrictor	means a control device fitted to the service pipe to regulate the flow of water to a customer's premises.
Rider watermains	are small diameter watermains placed on the opposite side of the street to the distribution watermain to serve customers on that side of the street to avoid individual service pipes crossing the street, generally being 50mm in diameter.
Roading authority	means either Whangarei District Council or New Zealand Transport Agency.
Service pipe	means that section of water pipe between a water main and the point of supply, which is owned and maintained by Council.

Service valves	are located within the water distribution system for the purpose of isolating areas of the distribution system.
Storage tank	means any tank, having a free water surface under atmospheric pressure to which water is supplied across an air gap separation.
Supply pipe	means that section of pipe between the point of supply and the customer's premises through which water is conveyed to the premises, which is owned and maintained by the customer.
Targeted rate for water	means those rates set under the Local Government (Rating) Act 2002 and includes water supply and backflow charges.
Termination	means the physical cutting off of the supply to a premise.
Water carriers	means any individual drinking-water carrier or company registered with Taumata Arowai as a recognised carrier of drinking-water.
Water supply area	means an area of the District administered by Council and within which Council provides drinking water by network reticulation.
Water supply authority	and WSA is the operational unit of Council responsible for the supply of water, and includes its authorized agents.
Water unit	is the basis of measurement for a restricted flow supply with one water unit equal to a volume of 1.0m ³ .
Zone valves	or red valves are valves which are normally closed and demark the change from one pressure zone to another.

1 Part 1 Terms and conditions for the supply of water

1.1 Introduction

1. The following terms and conditions are made under the authority of the Local Government Act 2002 for the supply of water by Council to its customers.
2. The supply and sale of water by Council is subject to this Bylaw and:
 - a) the following statutory acts and regulations:
 - i) Health Act 1956
 - ii) Health (Drinking Water) Amendment Act 2019
 - iii) Local Government Act 2002
 - iv) Local Government Rating Act 2002
 - v) Building Act 2004
 - vi) Resource Management Act 1991
 - vii) The Water Services Act 2021
 - viii) Whangarei District Council Backflow Prevention Policy and Code of Practice (Policy0020) 2021
 - ix) Building Regulations 1992 Schedule 1 containing the Building Code; and
 - x) together with all statutory modifications and amendments thereof and statutes made in substitution thereof.

b) The following codes and standards:

c)

- i) Water Services (Drinking Water Standards for New Zealand) Regulations 2022
- ii) BS 5728 Part 3:1984 – Measurement of flow of cold potable water in closed conduits
- iii) OIML R49-2 Water meters intended for the metering of cold potable water and hot water
- iv) SNZ PAS 4509:2008 New Zealand Fire Service Fire Fighting Water Supplies Code of Practice
- v) Environmental Engineering Standards Whangarei District Council
- vi) Standard Specification for Construction of Water Mains Whangarei District Council
- vii) Whangarei District Council Hygiene Code and
- viii) together with all statutory modifications and amendments thereof and statutes made in substitution thereof.

1.2 Acceptance and duration

1. Any person being supplied, or who has made application to be supplied, with water by Council is deemed to accept these terms and conditions, and any subsequent amendments.
2. These terms and conditions shall come into effect on 7 December 2023. Customers receiving a supply at that date accept that minimum flows and static pressures apply. For some customers whose point of supply is within 25 vertical metres of the normal operating level of the relevant service reservoir may not receive the Level of Service specified in Council's Water Activity Management Plan.
3. For customers receiving a supply after 7 December 2023, these terms and conditions shall come into effect from the date of receipt of supply.
4. The terms and conditions shall remain in force until further notice.

1.3 Conditions of supply

1.3.1 Application for supply

1. Every application for a supply of water shall be made in writing in accordance with the standard Council procedure together with the payment of the prescribed fees and charges and development contribution fee if applicable. The applicant shall provide all the details required by Council.
2. Within twenty working days of the receipt of an application complying with these terms and conditions Council shall, after consideration of the matters in Clauses 1.3.4 and 1.3.5, either:
 - a) approve the application and inform the applicant of the type of supply, the size of the connection, any particular conditions the applicant shall meet, and the general terms and conditions including Level of Service under which water will be supplied
 - b) refuse the application and notify the applicant of the decision giving the reasons for refusal
 - c) put the application on hold pending further investigation. The applicant shall be informed immediately.
3. The applicant must have the authority to act on behalf of the owner of the premises for which the supply is sought, and shall produce written evidence of this if required.
4. Council may, at its discretion, approve or not to approve any application for a water supply connection.
5. A new application for supply shall be required if a customer wishes to increase the consumption of water, change the Level of Service, change the use of the water, relocate the point of supply, or alter in any way the service pipe.
6. Where Council considers that the pipe and fittings for the required water demands are inadequate or oversized, Council may specify the required pipe and fittings.
7. An approved application for supply which has not been actioned within six months of the date of application will lapse unless otherwise approved. Any refund will be at the discretion of Council.

Council will determine the sizes of all pipes, fittings and any other equipment required up to the point of supply. Following installation, Council or its appointed agents will maintain the service pipe up to the point of supply.

1.3.2 Point of supply

1. The point of supply to an individual customer is the point on the service pipe as deemed by Council, which marks the boundary of responsibility between the customer and Council.
2. Where there is a water meter or backflow prevention device then the point of supply is that point which is directly downstream of such water meter or backflow prevention device (see Figures 1-7) unless 1.3.2.2.2 applies.
3. Where there is no water meter and/or backflow prevention device installed then the point of supply is the point where the service line crosses from Council's property (being generally road reserve) into private property so as to service an individual customer.

1.3.2.1 Typical layout at point of supply

The typical layout of the fittings at a point of supply is shown in Figures 7a to 7g.

1.3.2.2 Single ownership

1. For single dwelling units the point of supply shall be located as shown in Figure 1 or as close as possible to the property boundary where fences, walls or other permanent structures make it difficult to locate it at the required position. All pipework on the customer's side of the point of supply is the responsibility of the customer.
2. In situations where the meter and/or backflow prevention device is located on private property either before or after the coming into effect of these terms and conditions, the point of supply shall be either the:
 - a) tail piece of the water meter or backflow prevention device (if installed) where the meter is within 1.0m from the Council boundary; or
 - b) Council boundary where the meter is located more than 1.0m from the Council boundary.
3. For each individual customer there shall only be one point of supply, unless otherwise approved.
4. For individual customer on joint rights of way and common access ways, the point of supply shall be located as shown in Figure 2a, 2b or 2c unless otherwise approved.

1.3.2.3 Multiple ownership

1. The point of supply for the different forms of multiple ownership of premises and/or land shall be as follows:
 - a) for Company Share/Block Scheme Body Corporate – as for single ownership
 - b) for Leasehold/Tenancy in Common Scheme Cross Lease, Strata Title, and Unit Title Body Corporate – each owner shall have an individual supply with the point of supply determined by agreement with Council generally as shown in Figures 3 and 4. In specific cases other arrangements may be acceptable subject to individual approval
 - c) for commercial properties in multiple occupation or ownership the point of supply shall be as shown in Figure 4
 - d) for commercial and industrial properties with both fire and service connections, the point of supply shall be as shown in Figures 5 and 6.
2. For a multiple ownership supply which was in existence prior to the coming into effect of these terms and conditions, the point of supply shall be as detailed above unless a documented agreement exists or as determined by agreement with Council for an individual case

1.3.3 Types of Supply

1.3.3.1 On-demand supply

An on-demand supply is a supply which is available on demand directly from the point of supply. There are two types, which are defined as follows:

1. Ordinary supply

The supply of drinking water to a customer which is used solely for domestic purposes in a dwelling unit shall be deemed to be an ordinary supply. Such purposes shall include the use of a hose for:

- a) washing down a car, boat etc.
- b) garden watering by hand
- c) garden watering by a portable sprinkler subject to the provisions of 1.3.6.1.

2. Extraordinary supply

All other purposes for which water is supplied other than ordinary supply shall be deemed to be an extraordinary supply and may be subject to specific conditions and limitations. Such purposes shall include:

- a) domestic – filling spa or swimming pool, fixed garden irrigation systems
- b) commercial and business
- c) industrial
- d) fire protection systems
- e) any customer outside a defined water supply area
- f) temporary supply
- g) agriculture and horticulture.

1.3.3.2 Restricted flow supply

1. A restricted flow supply is one where a small continuous flow is supplied by a flow control device across an air gap separation and storage is provided by the customer to cater for demand fluctuations. Restricted flow shall generally only be available to premises within a designated area, or under special conditions set by Council.
2. The supply shall be measured on the basis of an agreed number of water units supplied at a uniform flow rate.

1.3.4 On-demand supply

1.3.4.1 Entitlement

1. Every premises may be entitled to an ordinary supply of water, subject to:

- a) all buildings on the premises lie within a water supply area (see 2.5.2) that can receive the minimum levels of service
- b) exclusion of its use for garden watering and/or any other use under any restrictions made by Council under 1.3.6.1
- c) payment of the appropriate water supply charges and development contribution fees in respect of that property
- d) these terms and conditions
- e) any other charges or costs associated with sub-divisional development having been met.

2. Council shall be under no obligation to provide or maintain an extraordinary supply of water.

3. For extraordinary supplies Council may choose to allocate an amount of water that is the entitlement for that connection.

4. For new extraordinary connections this entitlement may be by way of a developer agreement.

1.3.4.2 Metering

Both ordinary and extraordinary supplies of water shall normally be measured by a meter and charged for in accordance with 1.4.8, alternatively Council may levy rates in accordance with the Local Government (Rating) Act 2002.

1.3.5 Level of Service

Council shall aim to provide water in accordance with the Level of Service contained in the Water Activity Management Plan of Council. Council will make every reasonable attempt to achieve the specified values.

Council retains the right to increase or decrease pressures below normal minimum pressures within a water supply area or any part thereof if it benefits the wider network. No liability is accepted as a result of pressure alteration.

Where works of a permanent or temporary nature are planned which will substantially affect the continuity of an existing supply, Council will inform all known customers.

1.3.5.1 Continuity of supply or increased Level of Service

Wherever practical Council will make every reasonable attempt to notify affected customers of a scheduled maintenance shutdown of the supply before the work commences. Where immediate action is required and this is not practical, Council may shut down the supply without notice.

If a customer has a particular requirement for an uninterrupted or increased Level of Service flow, pressure or quality, it will be the responsibility of that customer to provide any storage, back-up facilities, or equipment necessary to the provision of that Level of Service. Examples of such requirements may include customers using water for renal dialysis, industrial or agricultural purposes or firefighting.

Council does not guarantee an uninterrupted or consistent quality supply of water, or maintenance of an existing pressure which is in excess of an agreed current Level of Service, but shall do its best to meet the continuity of supply.

1.3.6 Demand management

The customer shall comply with any water use restrictions which may be approved by Council to manage high seasonal or other demands. Such restrictions will be publicly notified.

Council encourages customers to use water efficiently and to not waste or misuse water. For water saving tips, visit <https://bewaterwise.org.nz/>.

1.3.6.1 Emergency

Natural hazards such as floods, droughts, earthquakes or volcanic activity, or accidents which result in disruptions to the supply of water shall be deemed an emergency and shall be exempted from the Level of Service requirements.

During an emergency Council may restrict or prohibit the use of water for any specified purpose, for any specified period, and for any or all of its customers. Such restrictions shall be publicly notified.

The decision to make and lift restrictions, and to enact additional penalties, shall be made by the Chief Executive Officer (ref- Extraordinary Meeting of Whangarei District Council 11 February 2020)

1.3.7 Liability

Council shall not be liable for any loss, damage or inconvenience which the customer or any person using the supply may sustain as a result of deficiencies in, or interruptions to, the water supply.

Without prejudice to the above Council may, under certain circumstances and solely at its discretion, make payments for any loss or damage sustained by the customer where it can be established to Council's satisfaction that such loss or damage was a direct result of a significant variation in the water supply. Any payment made by Council shall be in full and final settlement of any claim the customer may have against Council.

1.3.8 Fire protection connection

1.3.8.1 Connection application

Any proposed connection for fire protection shall be the subject of a separate application to Council for approval. Any such connection shall be subject to the terms and conditions specified by Council.

1.3.8.2 Supply

Council shall be under no obligation to provide a fire protection supply at any particular flow or pressure or maintain existing pressures or flows.

Where required firefighting water flow rates are unable to be met, mitigation by alternative methods shall be made in consultation with the WSA, Fire and Emergency New Zealand and the applicant.

1.3.8.3 Metering

1. In any case where the supply of water to any premises is metered, Council may allow the supply of water for the purposes of firefighting to be made in a manner which bypasses the main meter, provided however that the drawing of water will only be permitted for firefighting purposes and where a Council-approved backflow prevention device has been fitted on the live connection and the backflow preventer incorporates a detector bypass meter with backflow devices or a main line meter.
2. For a fire connection installed prior to the coming into effect of these terms and conditions which is so constructed or so located that it is likely or possible that water will be drawn from it or from any part of it by any person for purposes other than firefighting, Council may install a water meter and backflow prevention device suitable for the purpose on such a connection and recover the cost of the work from the owner.
3. Where it is discovered that a dedicated fire line is using water for purposes other than firefighting the customer shall cease using water through the fire line.

1.3.8.4 Sprinkler systems

Any fire sprinkler system shall be constructed, installed and maintained in good order **to the appropriate sprinkler standard** and shall be so designed and fixed that water cannot be drawn there from for any other purpose. All sprinkler systems shall have a Council-approved backflow prevention device and meter installed at the point of supply. These systems shall be designed to accommodate future reductions in network pressure and flows as a result of increased demands and network alterations.

Council recommends that all water sprinkler systems allow space for the future installation of booster pumps should they be required.

1.3.8.5 Fire hose reels

In any case where the supply of water to any premises is metered, fire hose reels shall be connected only to the metered supply, not to a fire protection connection. Any supply feeding a fire hose reel shall have a Council-approved backflow prevention device installed at the point of supply.

1.3.8.6 Charges

Water used for the purpose of extinguishing fires will be supplied free of charge. Whenever water has been used for firefighting purposes and where such supply is metered, the customer may estimate the quantity of water so used, and subject to approval, a sum based on such estimate at the appropriate charge rate shall be credited to the customer's account.

1.3.9 Backflow prevention

1. Notwithstanding the provision of clause 1.4.6:
 - a) all connections to the Council supply shall have a backflow prevention device at the point of supply
 - b) Council may require the customer to install a Council-approved testable backflow preventer on Council's side of the point of supply at the customer's expense
 - c) all fire connections shall have an approved testable backflow prevention device installed on Council's side of the point of supply as shown in Figures 7d and 7e at the customer's expense
 - d) all water connections available to shipping shall have an approved backflow prevention device installed on Council's side of the point of supply at the customer's expense
 - e) all extraordinary supplies as defined in 1.3.3.1 shall require a point of supply backflow prevention device unless agreed otherwise by Council
 - f) point of supply backflow prevention devices shall remain the property of Council, unless agreed otherwise by Council.
2. Council will charge a fee in accordance with targeted rates for water supply as noted in the Long Term Plan or Annual Plan, for the annual inspection and maintenance of such devices and shall also require the customer to maintain the device to be accessible for testing. The fee may be added to the customer's water bill.
3. Where the property owner wishes to retain ownership of a point of supply backflow prevention device, written agreement from Council is required. The property owners shall ensure all maintenance and inspection works are undertaken in compliance with Council's requirements. All costs are to be met by the property owners.
4. Any existing ordinary or extraordinary supplies which do not have backflow prevention at the point of supply, or have inadequate backflow prevention, shall install a Council-approved backflow prevention device as required by Council. All costs are to be met by the property owners.

1.3.10 Meters and flow restrictors

1.3.10.1 Installation

1. Where a customer has an unmetered supply, the customer may request that a meter be provided, and Council shall undertake this work at the customer's expense. These devices shall remain the property of Council.
2. Where a customer has an unmetered supply, Council may install a meter at Council's cost and charge the customer based on consumption. These devices shall remain the property of Council.
3. For new ordinary supply connections, meters and restrictors for restricted flow supplies shall be supplied and installed by Council or their appointed agents at the customer's expense. All new meter installations shall have dual check valve devices within the meter box on the customer side of the meter. The meters and dual check valves shall become the property of Council who shall be responsible for their ongoing maintenance.

1.3.10.2 Location

Meters and restrictors will be located in a position which is readily accessible for reading and maintenance, and if practicable immediately on Council's side of the point of supply, see Figure 1.

1.3.10.3 Accuracy

1. The accuracy of meters and restrictors shall be tested as and when required by Council to ensure performance within $\pm 4\%$ of its reading meters, or within $\pm 10\%$ of its rated capacity restrictors.
2. A customer who disputes the accuracy of a meter or restrictor may apply to Council for it to be tested provided that it is not within three months of the last test. If the test shows non-compliance with the accuracy requirement above then the customer will not be charged for the test. If the test shows compliance then the customer shall pay a fee in accordance with Council's current schedule of fees and charges.
3. Meters shall be tested by running a measured quantity of not less than 400 litres through the meter in accordance with BS 5728: Part 3 or OIML R49-2. Restrictors shall be tested by measuring the quantity that flows through the restrictor in a period not less than one hour at its normal operating pressure. A copy of independent certification of the test result will be made available to the customer on request.

1.3.10.4 Adjustment

Should any meter, after being tested, be found to register outside the $\pm 4\%$, Council shall make an adjustment in accordance with the results shown by such tests backdated for a period at the discretion of Council but not exceeding 12 months, and the customer shall pay a greater or lesser amount according to such an adjustment.

1.3.10.5 Estimating consumption

1. Should any meter be out of repair or cease to register, or be removed, Council may estimate the consumption for the billing period. Council may use previous billing information or similar properties to estimate consumption as agreed with the customer. The customer shall pay the agreed amount.
2. If metering indicates a significant increase in consumption to a premises, which is established as being caused by a previously unknown leak, providing that the customer repairs the leak with due diligence, Council may reassess the account in accordance with current Council policy on the matter.
3. Where the seal or dial of a meter is broken, Council may declare the reading void and estimate consumption as provided above.
4. Where an unauthorised connection has been made to Council's water supply system Council may estimate the consumption for the period from when the connection was made. Council may use the uniform charge for water on a pro rata basis to make the estimation. Where a meter has been installed without approval the meter reading shall be used as the basis for the estimation provided it complies with Council's standards for meters and installations. The full consumption registered on the meter shall be payable by the current owner of the property. Development contribution fees may also be payable. Estimating and charging for water will be in addition to other legal action that Council decides to take for breaches of this Bylaw or other acts and regulations. See clause 1.5.

1.3.10.6 Incorrect accounts

Where a situation occurs, other than as provided for in 1.3.10.5, where the recorded consumption does not accurately represent the actual consumption on a property then the account shall be adjusted using the best information available to Council. Such errors include, but are not limited to, misreading of the meter, errors in data processing, meters assigned to the wrong account, and unauthorised supplies.

At the discretion of the Water Services Manager, a customer may be granted special payment terms.

1.3.10.7 Unread meters

Where a meter has remained unread for whatever reason, Council may charge for all water registered on the meter or shown since the previous reading.

1.3.11 Restriction or disconnection

The supply of water to any customer may be disconnected or have the flow restricted in some way by Council in the event of:

1. failure to pay the appropriate charges by the due date
2. failure to repair a leak, or in any way wilfully allow water to run to waste or be misused
3. provision of a non-approved connection to or interference with Council's supply system
4. the fitting of quick-closing valves, such being subject to 1.4.1
5. failure to prevent backflow in accordance with the requirements of clauses 1.3.9 and 1.4.6 of this Bylaw
6. failure to install the appropriate backflow prevention device at the point of supply
7. non-compliance with, or breach of, any other requirements of these terms and conditions as detailed in clause 1.5.1 of this Bylaw.

1.4 Customer responsibilities

1.4.1 Plumbing system

1. The customer's plumbing system shall be designed, installed and maintained, both in its component parts and its entirety, to ensure that it complies with the Building Act 2004 and the New Zealand Building Code.
2. Quick-closing valves of any kind, or any other equipment which may cause pressure surges to be transmitted, shall not be used on any piping directly connected to the service pipe, that is, in any position where they are required to close against mains pressure. In some specially approved circumstances they may be used, provided a suitable air chamber is fitted in the supply pipe as may be required in the particular case. In special circumstances non-concussive types of valve may be used as approved by Council.
3. In accordance with the New Zealand Building Code, the plumbing system shall be compatible with the water supply. It shall be the customer's responsibility to establish any peculiarities or features of the water supply from Council in order to ensure compatibility. No responsibility will be accepted by Council for failure by the customer to make the necessary enquiries.
4. It should be noted that some naturally occurring water chemistries can have a plumbosolvency effect on plumbing systems and hot water cylinders. It is the customer's responsibility to check that equipment being installed is compatible with the water supply in that area. All tapware shall comply with AS/NZS 3718:2005.

1.4.2 Change of use

Where a change in the end use of water supplied to a property occurs, and/or the supply changes from an ordinary to an extraordinary type (refer to 1.3.3) or vice versa, a Public Utility Application shall be required. It is the customer's responsibility to notify Council if backflow prevention is required or if the level of backflow prevention required changes in accordance with Whangarei District Council's Backflow Prevention Policy and Code of Practice 0020.

A change of use application will not normally incur a fee. However, if an increase in demand is required development contributions may be payable.

1.4.3 Access

1.4.3.1 Point of supply

1. The customer shall allow Council access to and about the point of supply or any meter or backflow prevention device located on private property between 7.30am and 6pm on any day for:
 - a) meter reading without notice
 - b) checking, testing and maintenance work on the meter and/or backflow prevention device with notice being given whenever possible.
2. Outside these hours, e.g. for leak detection, Council will give notice to the customer.

3. Under emergency conditions the customer shall allow Council free access to and about the point of supply at any hour.
4. Where access is not made available for any of the above and a return visit is required by Council, a fee may be charged for a return visit.

1.4.3.2 Inspection

The customer shall allow Council with or without equipment, access to any area of the premises for the purposes of determining compliance with these terms and conditions.

1.4.4 Council equipment

1.4.4.1 Care of equipment

1. The customer shall take due care to protect from damage Council equipment up to the point of supply, including pipe work, valves, meters, backflow prevention devices and restrictors.
2. Where there is no customer stopcock, or where maintenance is required between the service valve and the customer stopcock, the customer may use the valve on the service line to isolate the supply. However Council reserves the right to charge for maintenance of this valve if damaged by such customer use.

Council gives no guarantee as to the serviceability of the service valve located on the service pipe.

1.4.4.2 Maintenance of access

The customer shall maintain the area in and around the point of supply free of soil, growth, or other matter or obstruction which prevents, or is likely to prevent convenient access. No persons shall plant trees or bushes over water lines or within close proximity to a water line such that the roots may cause damage or obstruct access to the water line. Council may remove any trees obstructing or damaging water lines and recover the cost from the owners of the trees. Where a Council maintained water pipeline crosses private land or runs down a shared access way, the owner or owners shall ensure that access to the pipeline is clear and unobstructed at all times for maintenance or repair purposes. The cost of removing obstructions or reinstating extraordinary surface features shall be met by the owners.

1.4.5 Prevention of waste

1. The customer shall prevent and not intentionally allow water to run to waste from any pipe, tap or other fitting. It is an offence to let water run to waste and may result in disconnection or restriction of the supply and or prosecution.
2. The customer shall not use water or water pressure directly from the supply for driving lifts, machinery, educators, generators, condensers or any other similar device, unless specifically approved.
3. Using water for single pass cooling or heating systems, or to dilute trade waste prior to disposal, is not permitted, unless specifically approved.

1.4.6 Backflow prevention

1. Under the Water Services Act 2021 and Building Act 2004, it is necessary to prevent water which has been drawn from Council's water supply from returning to that supply.
2. All point of supply backflow prevention devices must comply with AS/NZS 2845 and Council's Backflow Prevention Policy and Code of Practice 0020.
3. For premises covered by the Building Act 2004 customers are to ensure:
 - a) backflow prevention either by providing an adequate air gap separation or by the use of a backflow prevention device which complies with the New Zealand Building Code; and/or
 - b) the prohibition of any direct cross connection between Council's water supply and:
 - i) any other water supply potable or non-potable
 - ii) any other water source
 - iii) any storage tank

- iv) any other pipe, fixture or equipment containing chemicals, liquids, gases, or other non-potable substances.
- 4. Council will require customers to comply with section 27 of the Water Services Act 2021 regarding protection of potable water.
- 5. Compliance under the Building Act 2004 does not absolve the property owner from the requirements of the Water Services Act 2021 for point of supply backflow prevention.

1.4.7 Fire protection supply

1.4.7.1 Firefighting

Where an unmetered connection has been provided to supply water to a fire protection system (including hydrants) this shall be used for no other purpose than fire system testing or for fire brigade drills conducted under the authority of the Fire and Emergency New Zealand District Manager and Delegated Personnel with the consent of the WSA. Council reserves the right for backflow prevention devices and water meters to be installed at the property owner's expense for new or existing connections.

1.4.7.2 Adequacy of supply

It shall be the customer's responsibility to ascertain and monitor whether the fire protection supply available is adequate for the intended purpose.

Council reserves the right to increase or decrease the pressures within the network. Council does not accept liability for fire protection systems whose effectiveness is reduced by a change in supply pressure.

1.4.8 Payment

- 1. The customer shall be liable to pay for the supply of water and related services in accordance with Council's current targeted rates for water and schedule of fees and charges.
- 2. The items included in the schedule and the terms on which they will be charged may be altered by Council from time to time by:
 - a) resolution or special order as applicable pursuant to the Local Government (Rating) Act 2002
 - b) resolution publicly notified.

1.4.9 Transfer of rights and responsibilities

- 1. No customer shall transfer to any other party the rights and responsibilities provided for under these terms and conditions.
- 2. A supply pipe shall serve only one customer and shall not extend by hose or any other pipe beyond that customer's property.
- 3. No customer shall on-sell water drawn from Council supply without written permission from Council.
- 4. In particular and not in limitation of the above, any water which a customer draws from Council supply shall not be provided to any other party without the approval of Council.

1.4.10 Change of ownership

In the event of a premises changing ownership Council will automatically record the new owner as being the customer at that premises. Where a premises is metered the outgoing customer shall give Council at least three working days' notice in writing to arrange a final reading. A fee in accordance with the special reading fee will be charged. Where a final reading has not been taken on the sale of a property, the new property owner will be liable for payment of all outstanding accounts.

1.4.11 Termination

- 1. A customer shall give at least three working days' notice in writing to Council of their requirement for termination of the supply. All terminations involving permanent disconnections must complete a disconnection application form.

2. Termination shall only be carried out by Council-approved contractors and all costs are to be paid for by the applicant.

1.5 Breaches, offences and disputes

1.5.1 Breach of terms and conditions

1. The following may be taken by Council as a breach of these terms and conditions to supply and receive water:
 - a) an incorrect application for supply which fundamentally affects the terms and conditions
 - b) failure by the customer to meet and comply with these terms and conditions
 - c) failure to meet any obligation placed on the customer under all current Acts and Regulations specified in 1.1.2a of this Bylaw
 - d) frustration of Council's ability to adequately and effectively carry out its obligations
 - e) an act or omission by the customer of any obligation arising out of any provision in Part 1 and Part 2 of this Bylaw such including but not being limited to any of the following:
 - i) failure to pay the appropriate charges by the due date
 - ii) failure to repair a leak, or in any way wilfully allowing water to run to waste, or to be misused
 - iii) failure to prevent backflow
 - iv) failure to comply with water use restrictions or prohibitions introduced by Council for any specified purpose
 - v) extending by hose or any other pipe a private water supply beyond that customer's property
 - vi) providing water drawn from Council's supply to any other party without approval of Council.

1.5.2 Interference with equipment

Any tampering or interfering with Council equipment, either directly or indirectly, shall constitute an offence. Without prejudice to its other rights and remedies, Council shall be entitled to estimate in accordance with clause 1.3.10.5 of this Bylaw and charge for the additional water consumption not recorded or allowed to pass where a meter or restrictor has been tampered with, and recover any costs incurred.

1.5.3 Penalties

1. Any action taken or thing done or omitted to be done in contravention of the terms of this Bylaw shall constitute an offence.
2. Council may remove or alter any work or thing that is, or has been, constructed in breach of this Bylaw and where any such removal or alteration is undertaken recover the costs of that removal or alteration from the person who committed the breach.
3. Upon conviction for any offence under this Bylaw any person so convicted will be liable to the penalties set by the Local Government Act 2002.

2 Part 2 General requirements

2.1 Introduction

Part 2 addresses those matters relating to the supply of water which require enactment by bylaw. It generally covers the overall water supply system, excluding those matters which relate to the actual supply of water to an individual customer. It also defines the parameters of supply for on-demand supplies for the purposes of the Local Government (Rating) Act 2002.

2.2 Types of supply

For the purposes of this part of the Bylaw, the types of supply shall be as defined in Part 1, Clause 1.3.3.

2.3 Supply system

2.3.1 No person to connect to system

1. No person other than the authorised agents of Council, shall without express approval, make any connection to or otherwise interfere with any part of the water supply system.

2. Any authorised persons working on the water supply must have a valid Blue Card and work in accordance with the requirements of the Water Services Hygiene Code.

2.3.2 Fire hydrants

1. The right to gain access to and draw water from fire hydrants shall be restricted to:
 - a) Council or its agents
 - b) trained Fire and Emergency New Zealand Personnel for the purpose of fighting a fire or training
2. Water carriers shall only fill from designated filling points as agreed with Council's Water Services Manager.
3. Without prejudice to other remedies available, Council may remove and hold any equipment used by any unauthorised person to gain access to, or draw water from, a fire hydrant.

2.3.3 Use of coloured pipe and ducts

Only blue pipe shall be used for new water mains and service pipes. Other services and ducting for other utilities should be generally in accordance with the Guide for Safety with Underground Services issued by the Occupational Safety and Health Service, October 2002. On no account shall blue pipe be used for carrying or ducting any products other than potable water.

2.3.4 Working around buried services

Council shall keep accurate permanent as-built records of the location of its buried services. This information shall be available for inspection with copies available if required. Charges may be levied to cover the costs of making copies available.

1. Any person proposing to carry out excavation work shall view the as-built information to establish whether or not Council services are located in the vicinity. At least 2 days' notice in writing shall be given to Council of an intention to excavate in the vicinity of its services.

Where appropriate Council will mark out to within 1m on the ground the location of its services and may nominate in writing any restrictions on the work it considers necessary to protect its services. Council may charge for this service.

2. When excavating and working around buried services due care shall be taken to ensure the services are not damaged and that bedding and backfill is reinstated in accordance with the appropriate Council specification. When drilling or excavating across or close to buried services the service must be exposed by hand digging or vacuum excavation to accurately locate its position. When laying pipes or ducts near to water mains the separations, both vertical and horizontal, as specified in Council's Engineering Standards. Excavation within roadways is also subject to the permit process of the appropriate roading authority.
3. Any damage which occurs to a Council service shall be reported to Council immediately. Council reserves the right to charge for all repairs including reinstatement and all consequential costs to Council.

2.4 Protection of supply

2.4.1 Catchment classes

1. Catchment areas from which untreated water is drawn for the purposes of water supply are divided into the following classes:
 - a) controlled
 - b) restricted
 - c) open.

2. These may apply to both surface water and/or ground-water catchments.

2.4.2 Controlled catchments

There are no controlled catchments in any of Council's water supplies.

2.4.3 Restricted catchments

The following schedule comprises the restricted catchment areas pertaining to Council's water supplies and is limited to catchments of water supply dams.

2.4.3.1 Schedule

Wilson's Dam

239.99 ha being Part Allot M42 PSH OF Ruakaka, Lot 2 DP 126620, Part Lot 1 DP 179543, Lot 2 DP 33336, Lot 1 DP 176490, Lot 7 DP 166984, Lot 1 DP 176489, Lot 1 DP 183381, Lot 9 DP 313809, Lot 5 DP 315046 and Section 3 SO 359862.

Whau Valley Dam

911.02 ha being Allot 38 OF Pukenui, Allot 8 OF Pukenui, Allots 52, 53, 54, NW55, SE55, 56, 58,74, 75, 76 PSH OF Whangarei Pt Allots 56, 74 Whangarei Parish, Lot 2 DP 63280 and Lot 2 DP 463854

Hikurangi Dam

312.69 ha being Pts Allot NE47, Pt Allots NE49, SW49, Hikurangi Parish, Secs 6, 7 and 9, Blk XVI, Hukerenui SD and Lot 2 DP 157301.

Takahiwai Dam

166.09 ha being Lots 1 to 17 DP 208533, Secs 1 and 6 Blk VI Ruakaka SD, Pukekauri 1B1 Blk.

2.4.3.2 Entry

1. No person shall enter a restricted catchment to undertake any of the following activities unless permitted in writing by Council
 - a) camping
 - b) hunting, trapping or shooting of any animals or birds
 - c) boating
 - d) fishing
 - e) bathing or washing of anything
 - f) lighting or maintaining any fire
 - g) taking, or allowing to stray, any livestock
 - h) using any pesticide, herbicide or toxic substance for any purpose whatsoever
 - i) damaging or destroying any trees, shrubs or other existing cover or interfering with any building or structure
 - j) taking or draining water.
2. In granting any such permit Council may impose such conditions as it may consider necessary and appropriate.
3. Any person entering a restricted catchment must remain on designated walking paths.
4. Council may limit access to restricted catchment areas if it is deemed necessary.

2.4.4 Open catchments

All other water supply catchments in the District administered by Council are open catchments and no specific controls or restrictions apply. However, in the event of a spillage or other event which has released or is likely to release hazardous substances into the waters of the catchment, Council shall be advised of the details with due urgency. This requirement shall be in addition to those other notification procedures to other authorities which are required.

2.5 Water supply area

2.5.1 Definition

A water supply area is a part of the District within which a supply of water can be made available for all buildings sited within the area.

2.5.2 Detail

1. A water supply area will include an area of 135 metres from all distribution mains, as measured along roads right of ways or access paths, which can be readily serviced with the performance requirements as defined within the Water Activity Management Plan, or as agreed with Council's Water Services Manager.

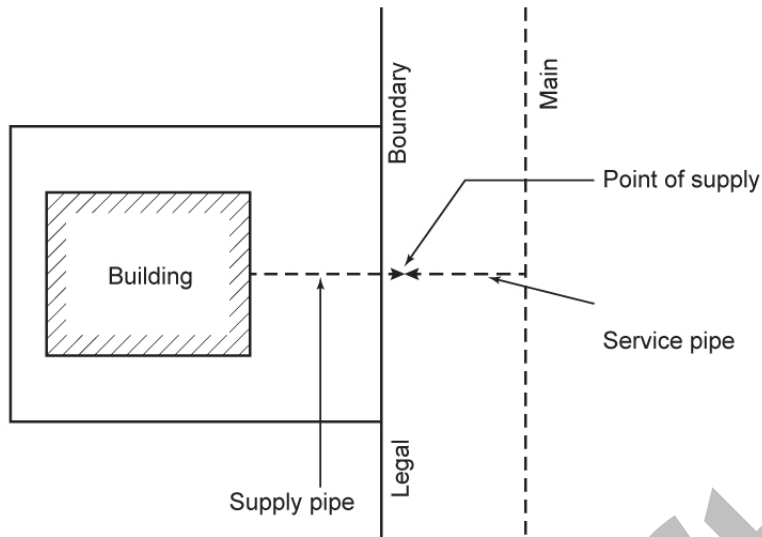
The Water Supply Areas are:

- Whangarei City (including Hikurangi and Whangarei Heads)
 - Bream Bay
 - Mangapai
 - Maungakamea.
1. The following provisions apply in a water supply area:
 - Reticulation system
Distribution watermains provide the firefighting capability of the network and service customers on one side of the street generally. These are usually 100mm to 200mm diameter.
 - Operating water pressure and flows, unless otherwise approved by the Water Services Manager, as per the following table:

For existing connections minimum pressure at boundary	25 metres static head minimum water pressure at time of connection.	To be measured at the meter or road boundary, whichever is the lower in altitude as per the Bylaw.
For new connections minimum pressure at the building site	25 metres static head minimum water pressure at time of connection.	To be measured at the ground floor of the building envelope.
Maximum pressure at boundary	120 metres static head maximum water pressure.	To be measured at the meter or road boundary, whichever is the lower in altitude.
Minimum flow at boundary	15 litres/minute minimum flow rate of supply for existing properties 20 litres/minute minimum flow rate for all new connections.	To be measured at the boundary on the customers side of the meter.
Fire and Emergency New Zealand	100% compliance with SNZ PAS4509 Code of Practice Firefighting Water Supply for all new developments and all new connections.	Minimum residual pressure at all hydrants should be 10 metres head for all urban and rural areas. All properties to be within 135 metres of a fire hydrant for all urban and rural connections as measured along practical access ways.

The applicant may, similar to subdivisions, extend the distribution watermain thereby extending the water supply area to cover the property in question, and enabling a connection to be granted. To ensure this is the case all service connections are to be perpendicular to the distribution watermain or ridermain.

Figure 1. Point of supply single dwelling unit



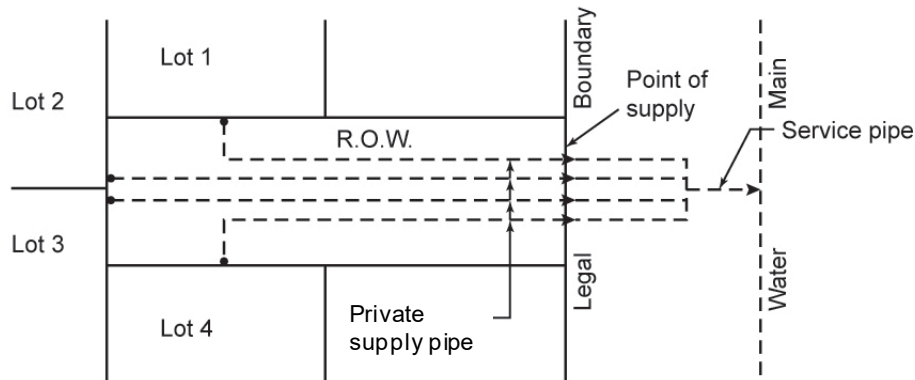
See Figure 7a, 7b or 7c for fitting detail

WDC81849

Draft

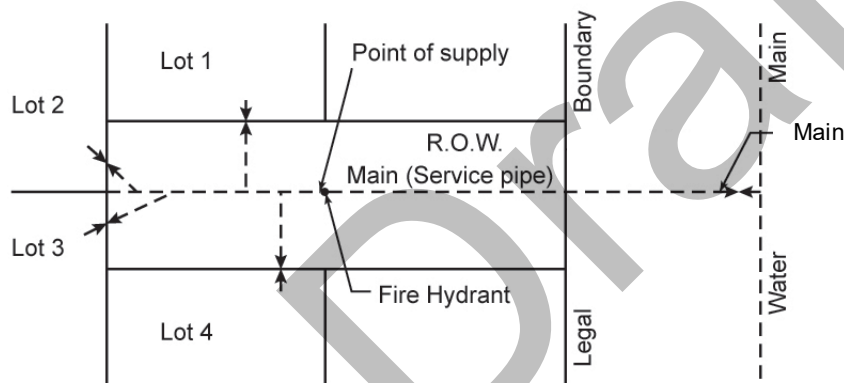
Figure 2. Point of supply multiple dwelling units

2a Private connections



Multiple connections in rights of way in joint private ownership
 See Figure 7a, 7b or 7c for fitting detail

2 b Public connections



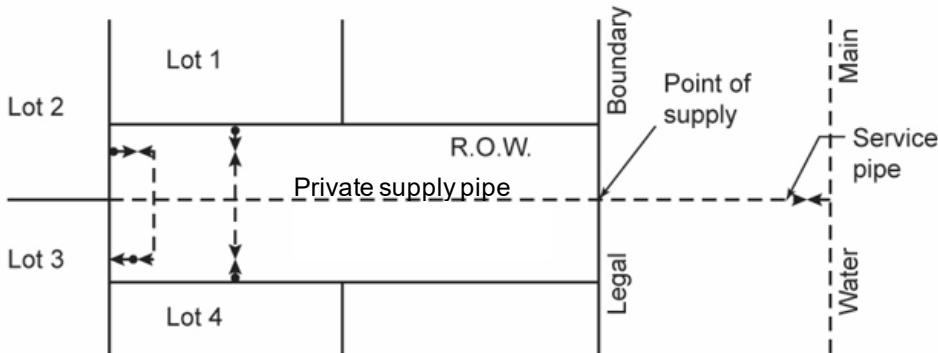
Applies only to service pipe accepted by WDC as public main (easement required). The point of supply is the last Fire Hydrant in the right of way unless otherwise approved.

See Figure 7a, 7b or 7c for fitting detail

WDC 8184-10

Figure 2. Point of supply multiple dwelling units

2c Existing mains in private ways

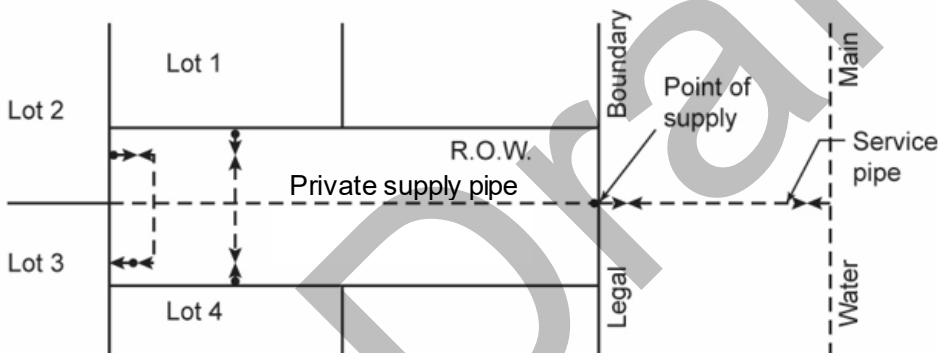


Connections in rights of ways in private ownership. Council will retain ownership and maintain the water meters. The supply pipes within the right of way are owned and maintained by property owners.

See Figure 7a, 7b or 7c for fitting detail

WDC 8184-11

2d Existing parent and child metering arrangements

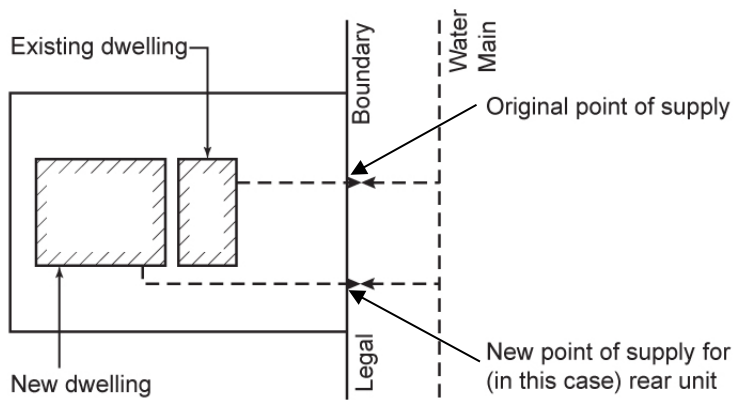


This arrangement is permitted only for existing parent and child situations. New connections shall be as per Figure 2a or 2b.

See Figure 7a, 7b or 7c for fitting detail

WDC 8184-11 |

Figure 3. Point of supply cross leases



Where additional units are being built, additional points of supply will be required in such a position as to facilitate future subdivisions.

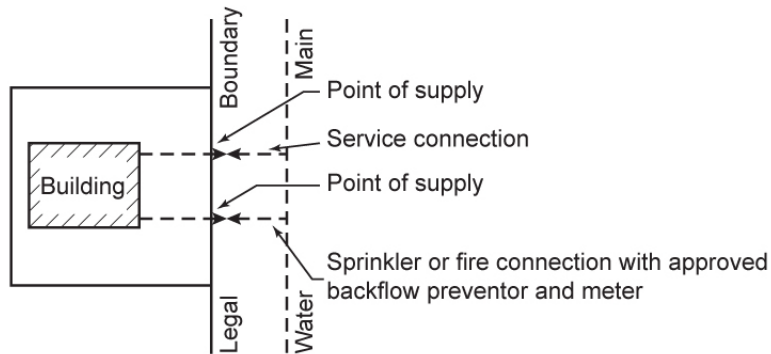
See Figure 7a, 7b or 7c for fitting detail

WDC8184-5

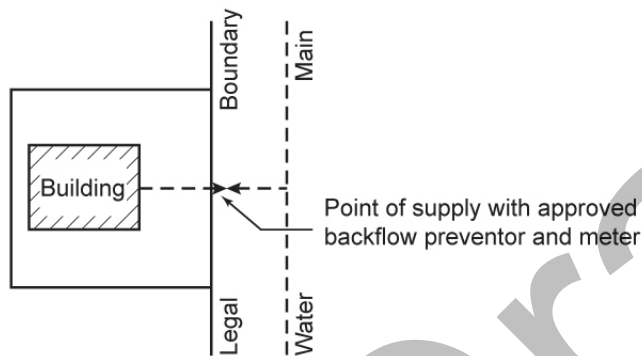
Draft

Figure 4. Point of supply commercial connections

4a Single ownership/multiple occupation (e.g. highrise or apartment block)

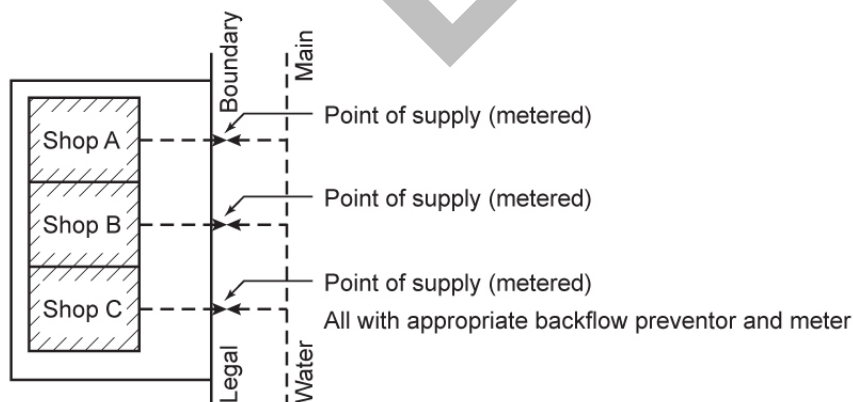


4b Commercial premises (single building)



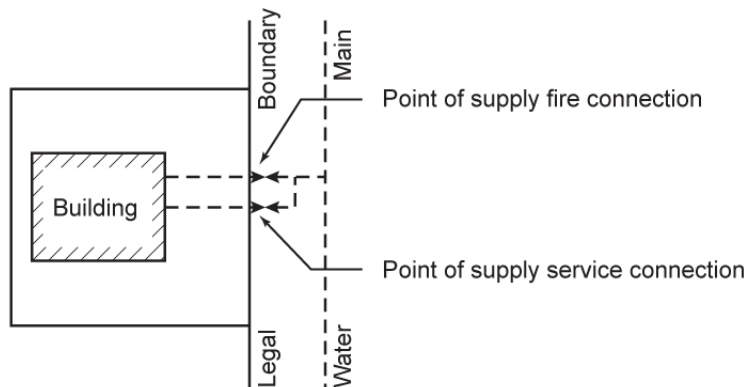
Generally one point of supply at boundary. Metered consumption charged to property owner or uniform charge levied for each shop if in a multiple ownership and not separately metered.

4c Commercial premises (multiple buildings)



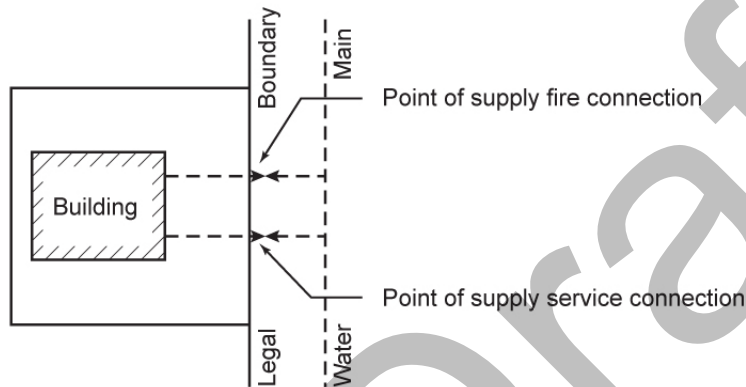
For 4a, 4b and 4c see Figure 7 for fitting detail

Figure 5. Point of supply industrial/commercial connections
5a Combined fire and service connection



See Figure 7d for fitting details

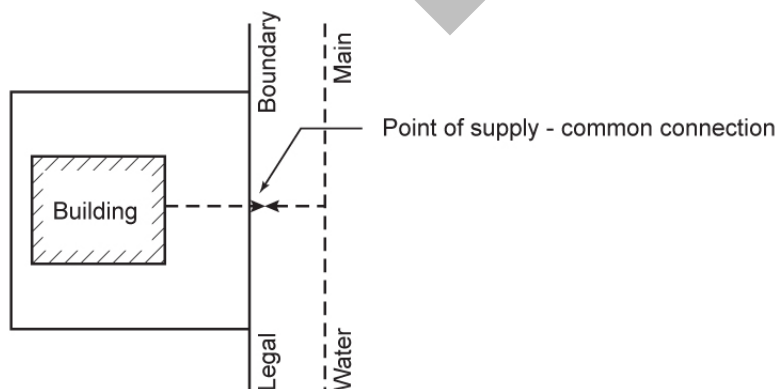
5b Separate fire and service connections



See Figure 7f and 7g for fitting details

WDC8184-1

Figure 6. Point of supply industrial/commercial connections
Common fire and service connection



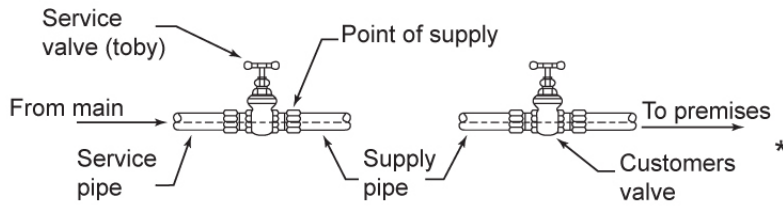
This arrangement is permitted only for existing common connections. All new connections to be as per Figure 5.

See Figure 7e for fitting details

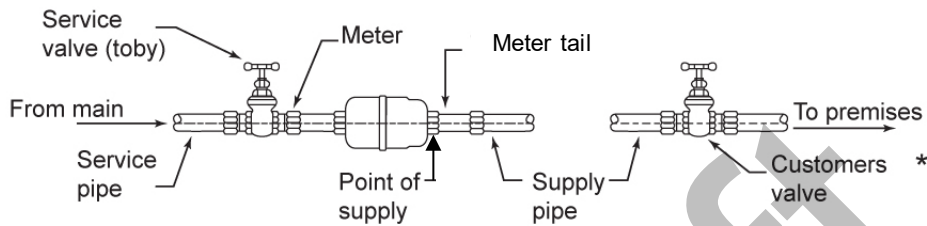
WDC8184-2

Figure 7. Examples of fitting details showing point of supply

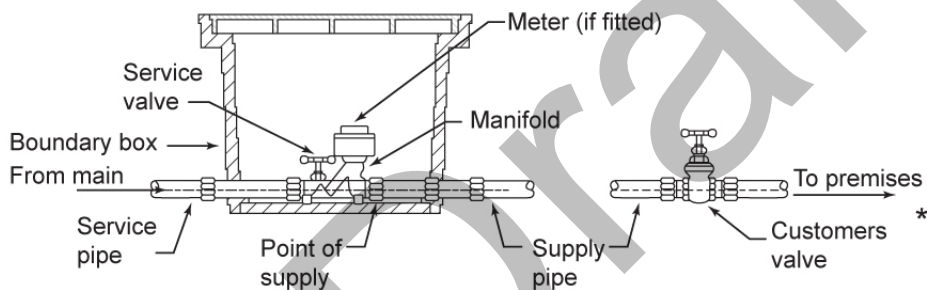
7a Domestic unmetered supply



7b Domestic metered supply



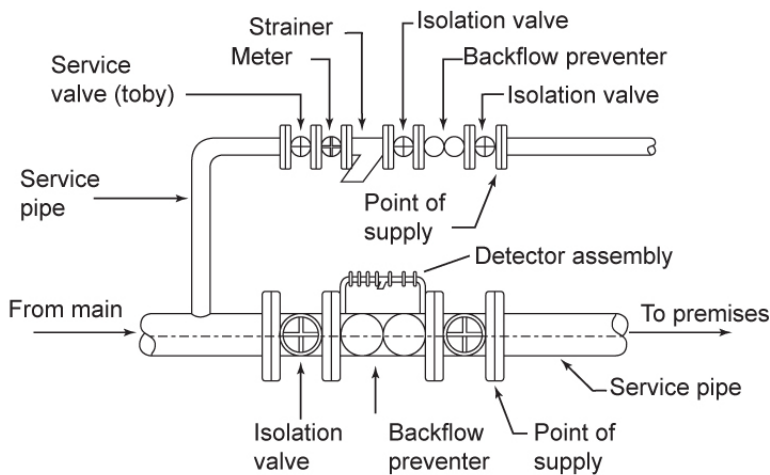
7c Manifold assembly at boundary box



* As provided for in N.Z. Building Code approved document G12/AS1

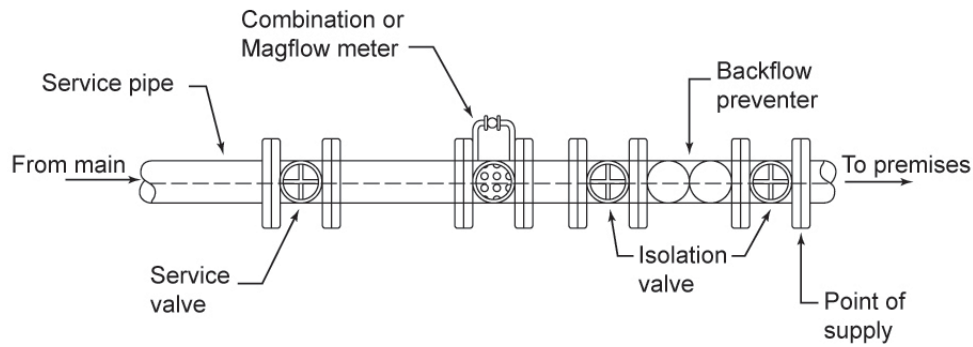
WDC8184-7

7d Separate fire and metered service connection with common line from main



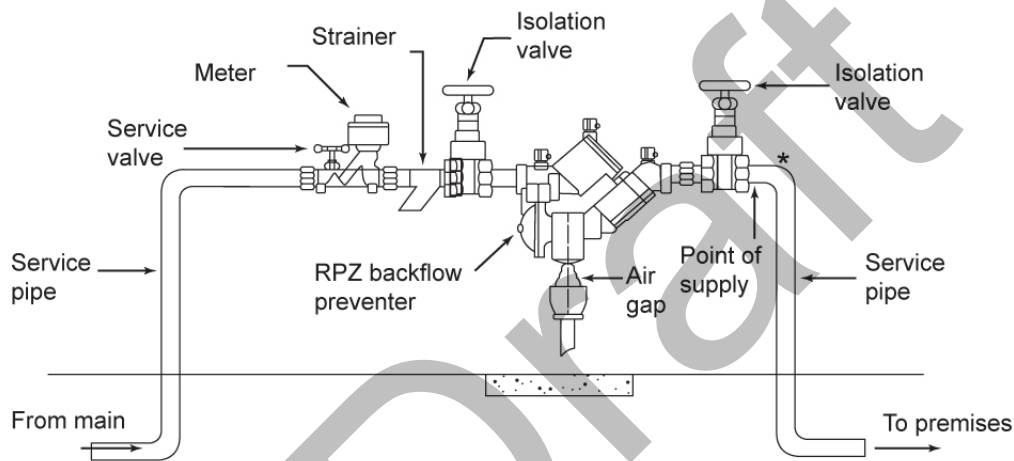
WDC8184-8

Figure 7. Examples of fitting details showing point of supply
7e Common fire and metered service connection



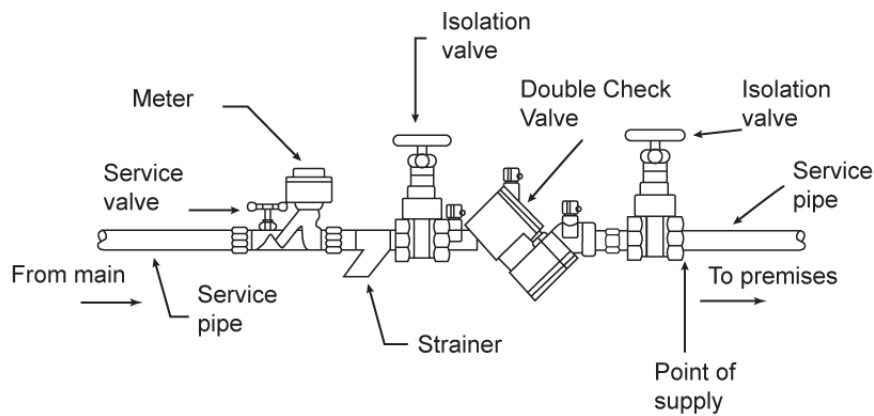
WDC8184-8

7f Metered supply with reduced pressure zone backflow preventer (RPZ)



WDC8184-3

7g Metered supply with double check valve backflow preventer



WDC8184-4

Water Supply Bylaw

From 8 June 2012

Table of contents

Water Supply Bylaw 2012.....	3
Explanatory notes	3
Title.....	3
Commencement.....	3
Repeal.....	3
Application of bylaw	3
Schedule of reviews and amendments	3
Water supply definitions.....	4
1. Part 1 Terms and conditions for the supply of water	6
1.1 Introduction.....	6
1.2 Acceptance and duration	7
1.3 Conditions of supply	7
1.4 Customer responsibilities	13
1.5 Breaches, offences and disputes	16
2. Part 2 General requirements	17
2.1 Introduction.....	17
2.2 Types of supply	17
2.3 Supply system	17
2.4 Protection of supply.....	18
2.5 Water supply area	19

Water Supply Bylaw 2012

Explanatory notes

Council is empowered by the Local Government Act 2002 to make bylaws to:

- protect public health and the security of the public water supply
- detail the responsibilities of both Council and the consumer with respect to the public water supply
- detail different types of water supply
- detail mechanisms for the recovery of costs of water supply
- prevent the wastage of water
- provide a mechanism for demand management
- detail breaches and offences and provide a disputes procedure.

The Water Supply Bylaw 2012 aims to achieve these purposes and should be read in conjunction with the Acts, Regulations, Codes and Standards listed in the bylaw.

This bylaw includes explanatory text that is not part of the regulatory content of the bylaw. The explanatory notes are contained in boxes such as this and may assist in interpreting the regulatory provisions of the bylaw.

Title

The title of the bylaw shall be Whangarei District Council Water Supply Bylaw 2012.

Commencement

This bylaw comes into force on 8 June 2012.

Repeal

As from the date this bylaw comes into force, any previous bylaws and their amendments, or parts of a bylaw and their amendments as applicable, purporting to matters relating to water supply within the Whangarei District shall be repealed.

Application of bylaw

This bylaw shall apply to the area administered by Council.

Schedule of reviews and amendments

Date of Council resolution	Description	Summary
4 December 1996	Water Supply Bylaw 1997	Resolution passed to make the bylaw
2 August 2000	Water Supply Bylaw 2000	Amendment Part 2 General Requirements added
14 December 2005	Water Supply Bylaw 2005	5 year review
22 February 2012	Water Supply Bylaw 2005	10 year review
30 May 2012	Water Supply Bylaw 2012	Amendment to point of supply

Water supply definitions

For the purpose of this bylaw, unless inconsistent with the context, the following definitions apply:

Air gap separation	means a minimum vertical air gap as defined by the Building Code G12 Water Supplies between the outlet of the water supply fitting which fills a storage tank, and the highest overflow water level of that storage tank.
Approved	means approved in writing by Council, either by resolution of Council or by any officer of Council authorised for that purpose.
Backflow	means a flow of water or other liquid through any service pipe or supply pipe in a reverse direction to the normal supply flow.
Backflow prevention device	means a testable device that prevents backflow. For the purpose of this bylaw a backflow prevention device refers to those devices installed at the property boundary.
Check valve	means a valve designed to prevent flow in the reverse direction to normal flow.
Council and the Council	means Whangarei District Council.
Customer	means a person who has the right to use or direct the manner of use of water supplied by Council to any premises.
Detector check valve	is a check (non-return) valve, which has a positive closing pressure, and a metered bypass to measure flows typically associated with leakage or unauthorized use on a dedicated fire supply.
Extraordinary supply	has the meaning given by clause 1.3.3 of this bylaw.
Level of Service	means the measurable performance standards to which Council undertakes to supply water to its customers.
Meter	is a device for the purpose of measuring the volume of water consumed.
On demand supply	has the meaning given by clause 1.3.3 of this bylaw.
Ordinary supply	has the meaning given by clause 1.3.3 of this bylaw.
Person	includes a corporation sole and also a body of persons whether corporate or unincorporated.
Point of supply	has the meaning given by clause 1.3.2 of this bylaw.
Potable	means water which complies with the health criteria of the Drinking Water Standards for New Zealand 2005 (revised 2008) and all subsequent updates of such standard.

Bulk watermains	means the pipes which convey water from Council's water treatment plants or from service reservoirs generally 200mm to 500mm in diameter.
Distribution watermains	means the water supply pipelines which convey water through the water supply network and service customers generally 100mm to 200mm in diameter.
Rider watermains	are small diameter watermains placed on the opposite side of the street to the distribution watermain to serve customers on that side of the street to avoid individual service pipes crossing the street, generally being 50mm in diameter.
Raw watermains	are watermains that convey water from the source to the treatment plant.
Service valves	are located within the water distribution system for the purpose of isolating areas of the distribution system.
Zone valves	or red valves are valves which are normally closed and demark the change from one pressure zone to another.
Pressure reducing valves	are valves used within the reticulation system to reduce pressures from unacceptable high levels down to more reasonable levels as required due to changing elevation within the distribution system.
Fire hydrants	are located on the distribution watermains for the purpose of fire fighting.
Air valves	can be located on all watermains for the purpose of air removal from the watermain network.
Premises	<p>a property or allotment which is held under a separate certificate of title or for which a separate certificate of title may be issued and in respect to which a building consent has been or may be issued</p> <p>a building that has been defined as an individual unit by a cross-lease, unit title or company lease and for which a certificate of title is available</p> <p>land held in public ownership for a particular purpose.</p>
Publicly notified	means published on at least one occasion in one daily or weekly newspaper circulating in Council water supply area; or under emergency conditions in the most effective way to suit the particular circumstances.
Restricted flow supply	has the meaning given by clause 1.3.3.2 of this bylaw.
Restrictor	means a control device fitted to the service pipe to regulate the flow of water to a customer's premises.
Roading authority	means either Whangarei District Council or New Zealand Transport Agency.
Fees and charges	means such schedule of items, terms and prices for services associated with the supply of water which are approved by Council.

Service pipe	means that section of water pipe between a water main and the point of supply, which is owned and maintained by Council.
Storage tank	means any tank, having a free water surface under atmospheric pressure to which water is supplied across an air gap separation.
Supply pipe	means that section of pipe between the point of supply and the customer's premises through which water is conveyed to the premises, which is owned and maintained by the customer.
Targeted rate for water	means those rates set under the Local Government (Rating) Act 2002 and includes water supply and backflow charges.
Termination	means the physical cutting off of the supply to a premise.
Water supply area	means an area of the District administered by Council and within which Council provides drinking water by network reticulation.
Water supply authority	and WSA is the operational unit of Council responsible for the supply of water, and includes its authorized agents.
Water unit	is the basis of measurement for a restricted flow supply with one water unit equal to a volume of 1.0m ³ .

1. Part 1 Terms and conditions for the supply of water

1.1 Introduction

1. The following terms and conditions are made under the authority of the Local Government Act 2002 for the supply of water to its customers by Council.
2. The supply and sale of water by Council is subject to this bylaw and:
 - a) the following statutory acts and regulations:
 - i) Health Act 1956
 - ii) Health (Drinking Water) Amendment Act 2007
 - iii) Local Government Act 2002
 - iv) Local Government Rating Act 2002
 - v) Building Act 2004
 - vi) Resource Management Act 1991
 - vii) Building Regulations 1992 Schedule 1 containing the Building Code; and
 - viii) together with all statutory modification and amendments thereof and statues made in substitution thereof.
 - b) The following codes and standards:
 - i) Drinking Water Standards for New Zealand 2005 (*revised 2008*) Ministry of Health
 - ii) BS 5728 Part 3:1984 – Measurement of flow of cold potable water in closed conduits
 - iii) OIML R49-2 Water meters intended for the metering of cold potable water and hot water
 - iv) SNZ PAS 4509:2008 New Zealand Fire Service Fire Fighting Water Supplies Code of Practice
 - v) Environmental Engineering Standards Whangarei District Council
 - vi) Standard Specification for Construction of Water Mains Whangarei District Council
 - vii) Whangarei District Council Hygiene Code and

viii) together with all statutory modification and amendments thereof and statues made in substitution thereof.

1.2 Acceptance and duration

1. Any person being supplied, or who has made application to be supplied, with water by Council is deemed to accept these terms and conditions, and any subsequent amendments.
2. These terms and conditions shall come into effect on 8 June 2012 customers receiving a supply at that date accept that minimum flows and static pressures apply. For some customers whose point of supply are within 25 vertical metres of the normal operating level of the relevant service reservoir may not receive the Level of Service specified in Council's Water Activity Management Plan.
3. For customers receiving a supply after 8 June 2012, these terms and conditions shall come into effect from the date of receipt of supply.
4. The terms and conditions shall remain in force until further notice.

1.3 Conditions of supply

1.3.1 Application for supply

1. Every application for a supply of water shall be made in writing in accordance with the standard Council procedure together with the payment of the prescribed fees and charges and development contribution fee if applicable. The applicant shall provide all the details required by Council.
2. Within ten working days of the receipt of an application complying with these terms and conditions Council shall, after consideration of the matters in Clauses 1.3.4 and 1.3.5, either:
 - a) approve the application and inform the applicant of the type of supply, the size of the connection, any particular conditions the applicant shall meet, and the general terms and conditions including Level of Service under which water will be supplied
 - b) refuse the application and notify the applicant of the decision giving the reasons for refusal
 - c) put application on hold pending further investigation. The applicant shall be informed immediately.
3. The applicant must have the authority to act on behalf of the owner of the premises for which the supply is sought, and shall produce written evidence of this if required.
4. Council has the discretion to approve or not to approve any application for a water supply connection.
5. A new application for supply shall be required if a customer wishes to increase the consumption of water, change the Level of Service, change the use of the water, relocate the point of supply, or alter in any way the service pipe.
6. An approved application for supply which has not been actioned within six months of the date of application will lapse unless otherwise approved. Any refund will be at the discretion of Council.

Council will confirm or determine the existing sizes of all pipes, fittings and any other equipment, up to the Point of supply. Council or its appointed agents will maintain the service pipe up to the point of supply.

1.3.2 Point of supply

1. The point of supply to an individual customer is the point on the service pipe as deemed by Council, which marks the boundary of responsibility between the customer and Council.
2. Where there is a water meter and/or backflow prevention device then the point of supply is that point which is directly downstream of such water meter and/or backflow prevention device.
3. Where there is no water meter and/or backflow prevention device installed then the point of supply is the point where the service line crosses from Council's property (being generally road reserve) into private property so as to service an individual customer.

1.3.2.1 Typical layout at point of supply

The typical layout of the fittings at a point of supply is shown in Figure 7a to 7g.

1.3.2.2 Single ownership

1. For single dwelling units the point of supply shall be located as shown in Figure 1 or as close as possible to the property boundary where fences, walls or other permanent structures make it difficult to locate it at the required position. All pipework on the customer's side of the point of supply is the responsibility of the customer.
2. In situations where the meter and/or backflow prevention device is located on private property either before or after the coming into effect of these terms and conditions, the point of supply shall be either the:
 - a) tail piece of the water meter or backflow prevention device (if installed) where the meter is within 1.0m from the property boundary; or
 - b) property boundary where the meter is located more than 1.0m from the property boundary.
3. For each individual customer there shall only be one point of supply, unless otherwise approved.
4. For individual customers on joint rights of way and common access ways, the point of supply shall be located as shown in Figure 2a, 2b or 2c unless otherwise approved.

1.3.2.3 Multiple ownership

1. The Point of supply for the different forms of multiple ownership of premises and/or land shall be as follows:
 - a) for Company Share/Block Scheme Body Corporate – as for single ownership
 - b) for Leasehold/Tenancy in Common Scheme Cross Lease, Strata Title, and Unit Title Body Corporate – each owner shall have an individual supply with the point of supply determined by agreement with Council generally as shown in Figures 3 and 4. In specific cases other arrangements may be acceptable subject to individual approval
 - c) for commercial properties in multiple occupation or ownership the point of supply shall be as shown in Figure 4
 - d) for commercial and industrial properties with both fire and service connections, the point of supply shall be as shown in Figures 5 and 6.
2. For a multiple ownership supply which was in existence prior to the coming into effect of these terms and conditions, the point of supply shall be the arrangement existing at that time, or as determined by agreement with Council for an individual case.

1.3.3 Types of supply

1.3.3.1 On demand supply

An on demand supply is a supply which is available on demand directly from the point of supply subject to the agreed Level of Service. There are two types, which are defined as follows:

1. Ordinary supply
The supply of water to a customer which is used solely for domestic purposes in a dwelling unit shall be deemed to be an ordinary supply. Such purposes shall include the use of a hose for:
 - a) washing down a car, boat etc.
 - b) garden watering by hand
 - c) garden watering by a portable sprinkler subject to the provisions of 1.3.6.2.
2. Extraordinary supply
All other purposes for which water is supplied other than ordinary supply shall be deemed to be an extraordinary supply and may be subject to specific conditions and limitations. Such purposes shall include:
 - a) domestic – filling spa or swimming pool, fixed garden irrigation systems
 - b) commercial and business
 - c) industrial
 - d) fire protection systems
 - e) any customer outside a defined water supply area
 - f) temporary supply
 - g) agriculture and horticulture.

1.3.3.2 Restricted flow supply

1. A restricted flow supply is as one where a small continuous flow is supplied by a flow control device across an air gap separation and storage is provided by the customer to cater for demand fluctuations. Restricted flow shall generally only be available to premises within a designated area, or under special conditions set by Council.
2. The supply shall be measured on the basis of an agreed number of water units supplied at a uniform flow rate.

1.3.4 On demand supply

1.3.4.1 Entitlement

1. Every premises may be entitled to an ordinary supply of water, subject to:
 - a) all buildings on the premises lie within a water supply area see 2.5.2 that can receive the minimum levels of service
 - b) exclusion of its use for garden watering and/or any other use under any restrictions made by Council under 1.3.6.2
 - c) payment of the appropriate water supply charges and development contribution fees in respect of that property
 - d) these terms and conditions
 - e) any other charges or costs associated with sub-divisional development having been met.
2. Council shall be under no obligation to provide or maintain an extraordinary supply of water.
3. For extraordinary supplies Council may choose to allocate an amount of water that is the entitlement for that connection.
4. For new extraordinary connections this entitlement may be by way of a developer agreement.

1.3.4.2 Metering

Both ordinary and extraordinary supplies of water shall normally be metered by a meter and charged for in accordance with 1.4.8, alternatively Council may levy rates in accordance with the Local Government (Rating) Act 2002.

1.3.5 Level of Service

Council shall aim to provide water in accordance with the Level of Service contained in the Water Activity Management Plan of Council. For those periods where the Level of Service allows non-compliance with the specified values, Council will make every reasonable attempt to achieve the specified values.

Council retains the right to increase or decrease pressures within a water supply area or any part thereof. No liability is accepted as a result of pressure alteration.

Where works of a permanent or temporary nature are planned which will substantially affect the continuity of an existing supply, Council will consult with all known customers.

1.3.5.1 Continuity of supply or increased Level of Service

Wherever practical Council will make every reasonable attempt to notify affected customers of a scheduled maintenance shutdown of the supply before the work commences. Where immediate action is required and this is not practical, Council may shutdown the supply without notice.

If a customer has a particular requirement for an uninterrupted or increased Level of Service flow, pressure or quality, it will be the responsibility of that customer to provide any storage, back up facilities, or equipment necessary to the provision of that Level of Service. Examples of such requirements may include customers using water for renal dialysis, or for certain industrial or agricultural purposes.

Council does not guarantee an uninterrupted or consistent quality supply of water, or maintenance of an existing pressure which is in excess of agreed current Level of Service, but shall do its best to meet the continuity of supply.

1.3.6 Demand management

The customer shall comply with any water use restrictions which may be approved by Council to manage high seasonal or other demands. Such restrictions will be publicly notified.

Council encourages customers to use water efficiently and to not waste or misuse water. For water saving tips etc visit Council's website. www.wdc.govt.nz/waterandwaste/water

1.3.6.1 Emergency

Natural hazards such as floods, droughts, earthquakes or volcanic activity, or accidents which result in disruptions to the supply of water shall be deemed an emergency and shall be exempted from the Level of Service requirements.

During an emergency Council may restrict or prohibit the use of water for any specified purpose, for any specified period, and for any or all of its customers. Such restrictions shall be publicly notified.

The decision to make and lift restrictions, and to enact additional penalties, shall be made by Council, or where immediate action is required by the Chief Executive Officer subject to subsequent Council ratification.

1.3.7 Liability

Council shall not be liable for any loss, damage or inconvenience which the customer or any person using the supply may sustain as a result of deficiencies in, or interruptions to, the water supply.

Without prejudice to the above Council may, under certain circumstances and solely at its discretion, make payments for any loss or damage sustained by the customer where it can be established to Council's satisfaction that such loss or damage was a direct result of a significant variation in the water supply. Any payment made by Council shall be in full and final settlement of any claim the customer may have against Council.

1.3.8 Fire protection connection

1.3.8.1 Connection application

Any proposed connection for fire protection shall be the subject of a separate application to Council for approval. Any such connection shall be subject to the terms and conditions specified by Council.

1.3.8.2 Supply

Council shall be under no obligation to provide a fire protection supply at any particular flow or pressure or maintain existing pressures or flows.

1.3.8.3 Metering

1. In any case where the supply of water to any premises is metered, Council may allow the supply of water for the purposes of fire fighting to be made in a manner which bypasses the main meter, provided however that the drawing of water will only be permitted for fire fighting purposes and where a Council approved backflow prevention device has been fitted on the live connection and the backflow preventer incorporates a detector bypass meter with backflow devices or a main line meter.
2. For a fire connection installed prior to the coming into effect of these terms and conditions which is so constructed or so located that it is likely or possible that water will be drawn from it or from any part of it by any person for purposes other than fire fighting, Council may install a water meter and backflow prevention device suitable for the purpose on such a connection and recover the cost of the work from the owner.
3. Where it is discovered that a dedicated fire line is using water for purposes other than fire fighting the customer shall cease using water through the fire line.

1.3.8.4 Sprinkler systems

Any fire sprinkler system shall be constructed, installed and maintained in good order, and shall be so designed and fixed that water cannot be drawn there from for any other purpose. All sprinkler systems shall have a Council approved backflow prevention device and meter installed at the point of supply. These systems shall be designed to operate at the minimum levels of service detailed in 1.3.5.

1.3.8.5 Fire hose reels

In any case where the supply of water to any premises is metered, fire hose reels shall be connected only to the metered supply, not to a fire protection connection. Any supply feeding a fire hose reel shall have a Council approved backflow prevention device installed at the point of supply.

1.3.8.6 Charges

Water used for the purpose of extinguishing fires will be supplied free of charge. Whenever water has been used for fire fighting purposes and where such supply is metered, the customer may estimate the quantity of water so used, and subject to approval, a sum based on such estimate at the appropriate charge rate shall be credited to the customer's account.

1.3.9 Backflow prevention

1. Notwithstanding the provision of clause 1.4.6:
 - a) Council may require the customer to install a Council approved backflow prevention device on Council side of the point of supply at the customer's expense
 - b) all fire connections shall have an approved backflow prevention device installed on Council side of the point of supply as shown in Figures 7d and 7e at the customer's expense
 - c) all water connections available to shipping shall have an approved backflow prevention device installed on Council side of the point of supply at the customer's expense
 - d) all extraordinary supplies as defined in 1.3.3.1 shall require a point of supply backflow prevention device unless agreed otherwise by Council
 - e) point of supply backflow prevention device shall remain the property of Council, unless agreed otherwise by Council.
2. Council will charge a fee in accordance with targeted rates for water supply as noted in the Long Term Plan or Annual Plan, for the annual inspection and maintenance of such devices and shall also require

the customer to maintain the device to be accessible for testing. The fee may be added to the customers' water bill.

3. Where the property owner wishes to retain ownership of a point of supply backflow prevention device written agreement from Council is required. The property owners shall ensure all maintenance and inspection works are undertaken in compliance with Council's requirements. All costs are to be met by the property owners.
4. Any existing ordinary or extraordinary supplies which do not have backflow prevention at the point of supply, or have inadequate backflow prevention shall install a Council approved backflow prevention device as required by Council. All costs are to be met by the property owners.

1.3.10 Meters and flow restrictors

1.3.10.1 Installation

1. For existing connections meters for on demand supplies, and restrictors for restricted flow supplies, shall be supplied installed and maintained by Council. These devices shall remain the property of Council.
2. For new ordinary supply connections, meters for on demand supplies, and restrictors for restricted flow supplies, shall be supplied and installed by Council or their appointed agents at the customer's expense. All new meter installations shall have dual check valve devices within the meter box on the customer side of the meter. The meters and dual check valves shall remain the property of Council who shall be responsible for their ongoing maintenance.

1.3.10.2 Location

Meters and restrictors will be located in a position which is readily accessible for reading and maintenance, and if practicable immediately on Council side of the point of supply, see Figure 1.

1.3.10.3 Accuracy

1. The accuracy of meters and restrictors shall be tested as and when required by Council to ensure performance within $\pm 4\%$ of its reading meters, or with $\pm 10\%$ of its rated capacity restrictors.
2. A customer who disputes the accuracy of a meter or restrictor may apply to Council for it to be tested provided that it is not within three months of the last test. If the test shows non-compliance with the accuracy requirement above then the customer will not be charged for the test. If the test shows compliance then the customer shall pay a fee in accordance with Council's current schedule of fees and charges.
3. Meters shall be tested by running a measured quantity of not less than 400 litres through the meter in accordance with BS 5728: Part 3 or OIML R49-2. Restrictors shall be tested by measuring the quantity that flows through the restrictor in a period not less than one hour at its normal operating pressure. A copy of independent certification of the test result will be made available to the customer on request.

1.3.10.4 Adjustment

Should any meter, after being tested be found to register outside the $\pm 4\%$, have a greater or lesser consumption than the quantity of water actually passed through such a meter Council shall make an adjustment in accordance with the results shown by such tests backdated for a period at the discretion of Council but not exceeding 12 months, and the customer shall pay a greater or lesser amount according to such an adjustment.

1.3.10.5 Estimating consumption

1. Should any meter be out of repair or cease to register, or be removed, Council shall estimate the consumption for the period since the last similar billing period or if not available the last billing period or based on the number of people within the property or previous reading of such meter, based on the average of the previous four billing periods charged to the customer and the customer shall pay according to such an estimate. Provided that when by reason of a large variation of consumption due to seasonal or other causes, the average of the previous four billing periods would be an unreasonable estimate of the consumption Council may take into consideration other evidence for the purpose of arriving at a reasonable estimate, and the customer shall pay according to such an estimate.
2. If metering indicates a significant increase in consumption to a premises, which is established as being caused by a previously unknown leak, providing that the customer repairs the leak with due diligence, Council may reassess the account in accordance with current Council policy on the matter.

3. Where the seal or dial of a meter is broken, Council may declare the reading void and estimate consumption as provided above.
4. Where an unauthorised connection has been made to Council's water supply system Council may estimate the consumption for the period from when the connection was made. Council may use the uniform charge for water on a pro rata basis to make the estimation. Where a meter has been installed without approval the meter reading shall be used as the basis for the estimation provided it complies with Council's standards for meters and installations. The full consumption registered on the meter shall be payable by the current owner of the property. Development contribution fees may also be payable. Estimating and charging for water will be in addition to other legal action that Council decides to take for breaches of this bylaw or other acts and regulations. See clause 1.5.

1.3.10.6 Incorrect Accounts

Where a situation occurs, other than as provided for in 1.3.10.5, where the recorded consumption does not accurately represent the actual consumption on a property then the account shall be adjusted using the best information available to Council. Such errors include, but are not limited to, misreading of the meter, errors in data processing, meters assigned to the wrong account, and unauthorized supplies.

Provided that where an adjustment is required, in favour of Council or the customer, this shall not be backdated more than 12 months from the date the error was detected.

At the discretion of the Water Services Manager a customer maybe granted special payment terms.

1.3.10.7 Unread meters

Where a meter has remained unread for whatever reason, Council may charge for all water registered on the meter or shown since the previous reading.

1.3.11 Restriction or disconnection

The supply of water to any customer may be disconnected or have the flow restricted in some way by Council in the event of:

1. failure to pay the appropriate charges by the due date
2. failure to repair a leak, or in any way wilfully allow water to run to waste or be misused
3. provision of a non approved connection to, or interference with Council supply system
4. the fitting of quick-closing valves such being subject to 1.4.1
5. failure to prevent backflow in accordance with the requirements of clauses 1.3.9 and 1.4.6 of this bylaw
6. failure to install the appropriate backflow prevention device at the point of supply
7. non-compliance with, or breach of, any other requirements of these terms and conditions as detailed in clause 1.5.1 of this bylaw.

1.4 Customer responsibilities

1.4.1 Plumbing system

1. The customer's plumbing system shall be designed, installed and maintained, both in its component parts and its entirety, to ensure that it complies with the Building Act 2004 and the New Zealand Building Code.
2. Quick-closing valves of any kind, or any other equipment which may cause pressure surges to be transmitted, shall not be used on any piping directly connected to the service pipe, that is, in any position where they are required to close against mains pressure. In some specially approved circumstances they may be used, provided a suitable air chamber is fitted in the supply pipe as may be required in the particular case. In special circumstances non-concussive types of valve may be used as approved by Council.
3. In accordance with the New Zealand Building Code the plumbing system shall be compatible with the water supply. It shall be the customer's responsibility to establish any peculiarities or features of the

water supply from Council in order to ensure compatibility. No responsibility will be accepted by Council for failure by the customer to make the necessary enquiries.

4. It should be noted that some naturally occurring water chemistries can have a plumbosolvency effect on plumbing systems and hot water cylinders. It is the customer's responsibility to check that equipment being installed is compatible with the water supply in that area. All tap ware shall comply with AS/NZS 3718.

1.4.2 Change of use

Where a change in the end use of water supplied to a property occurs, and/or the supply changes from an ordinary to an extraordinary type refer to 1.3.3 or vice versa, a new application for supply shall be required. It is the customers' responsibility to notify Council if backflow prevention is required or if the level of backflow prevention required changes.

A change of use application will not normally incur a fee. However, if an increase in demand is required development contributions may be payable.

1.4.3 Access

1.4.3.1 Point of supply

1. The customer shall allow Council access to and about the point of supply or any meter or backflow prevention device located on private property between 7.30am and 6pm on any day for:
 - a) meter reading without notice
 - b) checking, testing and maintenance work on the meter and/or backflow prevention device with notice being given whenever possible.
2. Outside these hours e.g. for leak detection Council will give notice to the customer.
3. Under emergency conditions the customer shall allow Council free access to and about the point of supply at any hour.
4. Where access is not made available for any of the above and a return visit is required by Council, a fee may be charged for a return visit.

1.4.3.2 Inspection

The customer shall allow Council with or without equipment, access to any area of the premises for the purposes of determining compliance with these terms and conditions.

1.4.4 Council equipment

1.4.4.1 Care of equipment

1. The customer shall take due care to protect from damage Council equipment up to the point of supply, including pipe work, valves, meters, backflow prevention devices and restrictors.
2. Where there is no customer stopcock, or where maintenance is required between the service valve and the customer stopcock, the customer may use the valve on the service line to isolate the supply. However Council reserves the right to charge for maintenance of this valve if damaged by such customer use.

Council gives no guarantee as to the serviceability of the service valve located on the service pipe.

1.4.4.2 Maintenance of access

The customer shall maintain the area in and around the point of supply free of soil, growth, or other matter or obstruction which prevents, or is likely to prevent convenient access. No persons shall plant trees or bushes over water lines or within close proximity to a water line such that the roots may cause damage or obstruct

access to the water line. Council may remove any trees obstructing or damaging water lines and recover the cost from the owners of the trees. Where a Council maintained water pipeline crosses private land or runs down a shared access way, the owner or owners shall ensure that access to the pipeline is clear and unobstructed at all times for maintenance or repair purposes. The cost of removing obstructions or reinstating extraordinary surface features shall be met by the owners.

1.4.5 Prevention of waste

1. The customer shall prevent and not intentionally allow water to run to waste from any pipe, tap or other fitting. It is an offence to let water run to waste and may result in disconnection or restriction of the supply and or prosecution.
2. The customer shall not use water or water pressure directly from the supply for driving lifts, machinery, eductors, generators, condensers or any other similar device; unless specifically approved.
3. Using water for single pass cooling or heating systems, or to dilute trade waste prior to disposal, unless specifically approved.

1.4.6 Backflow prevention

1. It is the customer's responsibility under the Health (Drinking Water) Amendment Act 2007 and Building Act 2004, to take all necessary measures on the customer's side of the point of supply to prevent water which has been drawn from Council's water supply from returning to that supply.
2. In installing point of supply Council owned backflow prevention device such must comply with AS/NZS 2845 and Council's Backflow Prevention Policy and Code of Practice.
3. For premises covered by the Building Act 2004 to ensure backflow prevention customers are to ensure:
 - a) backflow prevention either by providing an adequate air gap separation or by the use of a backflow prevention device which complies with the New Zealand Building Code; and/or
 - b) the prohibition of any direct cross connection between Council water supply and:
 - i) any other water supply potable or non-potable
 - ii) any other water source
 - iii) any storage tank
 - iv) any other pipe, fixture or equipment containing chemicals, liquids, gases, or other non-potable substances.
4. Customers with supplies serving agricultural or horticultural needs shall comply with the relevant sections of the Health (Drinking Water) Amendment Act 2007 regarding protection of potable water.
5. Compliance under the Building Act 2004 does not absolve the property owner from the requirements of the Health (Drinking Water) Amendment Act 2007 for point of supply backflow prevention.

1.4.7 Fire protection supply

1.4.7.1 Fire fighting

Where an unmetered connection has been provided to supply water to a fire protection system (including hydrants) this shall be used for no other purpose than fire system testing or for fire brigade drills conducted under the authority of the Chief Fire Officer with the consent of the WSA. Council reserves the right for backflow prevention devices and water meters to be installed at the property owners' expense for new or existing connections.

1.4.7.2 Adequacy of Supply

It shall be the customer's responsibility to ascertain and monitor whether the fire protection supply available is adequate for the intended purpose.

Council reserves the right to increase or decrease the pressures within the network. Council does not accept liability for fire protection systems whose effectiveness is reduced by a change in supply pressure.

1.4.8 Payment

1. The customer shall be liable to pay for the supply of water and related services in accordance with Council current targeted rates for water and schedule of fees and charges.
2. The items included in the schedule, and the terms on which they will be charged may be altered by Council from time to time by:
 - a) by resolution or special order as applicable pursuant to the Local Government Rating Act 2002
 - b) by resolution publicly notified.

1.4.9 Transfer of rights and responsibilities

1. No customer shall transfer to any other party the rights and responsibilities provided for under these terms and conditions.
2. A supply pipe shall serve only one customer, and shall not extend by hose or any other pipe beyond that customer's property.
3. No customer shall on-sell water drawn from Council supply without a permit.
4. In particular and not in limitation of the above, any water which a customer draws from Council supply shall not be provided to any other party without the approval of Council.

1.4.10 Change of ownership

In the event of a premise changing ownership Council will automatically record the new owner as being the customer at that premises. Where a premise is metered the outgoing customer shall give Council at least three working days notice in writing to arrange a final reading. A rate in accordance with the special reading fee will be charged. Where a final reading has not been taken on the sale of a property, the new property owner will be liable for payment of all outstanding accounts.

1.4.11 Termination

1. A customer shall give at least three working days notice in writing to Council of their requirement for termination of the supply. All terminations involving permanent disconnections must complete a disconnection application form.
2. Termination shall only be carried out by Council approved contractor and all costs are to be paid for by the applicant.

1.5 Breaches, offences and disputes

1.5.1 Breach of terms and conditions

1. The following may be taken by Council as a breach of these terms and conditions to supply and receive water:
 - a) an incorrect application for supply which fundamentally affects the terms and conditions
 - b) failure by the customer to meet and comply with these terms and conditions
 - c) failure to meet any obligation placed on the customer under all current Acts and Regulations specified in 11.2a of this bylaw
 - d) frustration of Council's ability to adequately and effectively carry out its obligations
 - e) an act or omission by the customer of any obligation arising out of any provision in Part 1 and Part 2 of this bylaw such including but not being limited to any of the following:
 - i) failure to pay the appropriate charges by the due date
 - ii) failure to repair a leak, or in any way wilfully allowing water to run to waste, or to be misused
 - iii) failure to prevent backflow
 - iv) failure to comply with water use restrictions or prohibitions introduced by Council for any specified purpose
 - v) extending by hose or any other pipe a private water supply beyond that customer's property
 - vi) providing water drawn from Council's supply to any other party without approval of Council.

1.5.2 Interference with equipment

Any tampering or interfering with Council equipment, either directly or indirectly, shall constitute an offence. Without prejudice to its other rights and remedies, Council shall be entitled to estimate in accordance with

clause 1.3.10.5 of this bylaw and charge for the additional water consumption not recorded or allowed to pass where a meter or restrictor has been tampered with, and recover any costs incurred.

1.5.3 Penalties

1. Any action taken or thing done or omitted to be done in contravention of the terms of this bylaw shall constitute an offence.
2. Council may remove or alter any work or thing that is, or has been, constructed in breach of this bylaw and where any such removal or alteration is undertaken recover the costs of that removal or alteration from the person who committed the breach.
3. Upon conviction for any offence under this bylaw any person so convicted will be liable to the penalties set by the Local Government Act 2002.

2. Part 2 General requirements

2.1 Introduction

Part 2 addresses those matters relating to the supply of water which require enactment by bylaw. It generally covers the overall water supply system, excluding those matters which relate to the actual supply of water to an individual customer. It also defines the parameters of supply for on demand supplies for the purposes of the Local Government Rating Act 2002.

2.2 Types of supply

For the purposes of this part of the bylaw, the types of supply shall be as defined in Part 1, Clause 1.3.3.

2.3 Supply system

2.3.1 No person to connect to system

1. No person other than the authorised agents of Council, shall without express approval, make any connection to or otherwise interfere with any part of the water supply system.
2. Any authorised persons working on the water supply must have a valid Blue Card and work in accordance to the requirements of the Water Services Hygiene Code.

2.3.2 Fire hydrants

1. The right to gain access to and draw water from fire hydrants shall be restricted to:
 - a) Council or its agents
 - b) trained fire service personnel
 - c) fire hydrant permit holders using Council metered stand pipes during the period for which the permit has been issued
 - d) water carriers shall only fill from designated filling points as agreed with Council's Water Services Manager.
2. Without prejudice to other remedies available, Council may remove and hold any equipment used by any unauthorised person to gain access to, or draw water from, a fire hydrant.

2.3.3 Use of coloured pipe and ducts

Only blue pipe shall be used for new water mains and serviced pipes. Other services and ducting for other utilities should be generally in accordance with the Guide for Safety with Underground Services issued by the Occupational Safety and Health Service, October 2002. On no account shall blue pipe be used for carrying or ducting any products other than potable water.

2.3.4 Working around Buried Services

Council shall keep accurate permanent records as built of the location of its buried services. This information shall be available for inspection with copies available if required. Charges may be levied to cover the costs of making copies available.

1. Any person proposing to carry out excavation work shall view the as-built information to establish whether or not Council services are located in the vicinity. At least 2 days notice in writing shall be given to Council of an intention to excavate in the vicinity of its services.

Where appropriate Council will mark out to within 1m on the ground the location of its services and may nominate in writing any restrictions on the work it considers necessary to protect its services. Council may charge for this service.

2. When excavating and working around buried services due care shall be taken to ensure the services are not damaged and that bedding and backfill is reinstated in accordance with the appropriate Council specification. When drilling or excavating across or close to buried services the service must be exposed by hand digging to accurately locate its position. When laying pipes or ducts near to water mains the separations, both vertical and horizontal, as specified in NZS 4404:2004. Excavation within roadways is also subject to the permit process of the appropriate roading authority.
3. Any damage which occurs to a Council service shall be reported to Council immediately with Council reserving the right to charge for all repair costs incurred.

2.4 Protection of supply

2.4.1 Catchment classes

1. Catchment areas from which untreated water is drawn for the purposes of water supply are divided into the following classes:
 - a) controlled
 - b) restricted
 - c) open.
2. These may apply to both surface water and/or ground-water catchments.

2.4.2 Controlled catchments

There are no controlled catchments in any of Council's water supplies.

2.4.3 Restricted catchments

The following schedule comprises the restricted catchment areas pertaining to Council's water supplies, and is limited to catchments of water supply dams.

2.4.3.1 Schedule

Wilson's Dam

225.34 ha being Pt Allot M42, Lot 2 DP 126620, Lot 1 DP 179543, Lot 2 DP 33336, Lot 1 DP 176490, Lot 7 DP 166984, Lot 1 DP 176489, Lot 1 DP 183381, Lot 3 DP 315046 and Lot 9 DP 313809.

Whau Valley Dam

863.20 ha being Allot 38 Kaipara Parish, Allot 8 Pukenui Parish, Allots 52, 53, 54, NW55, SE55, 58, 75, 76, Pt Allots 56, 74 Whangarei Parish, Lot 2 DP 63280 and Lot 4 DP 209963.

Hikurangi Dam

312.69 ha being Pts Allot NE47, Pt Allots NE49, SW49, Hikurangi Parish, Secs 6, 7 and 9, Blk XVI, Hukerenui SD and Lot 2 DP 157301.

Takahiwai Dam

166.09 ha being Lots 1 to 17 DP 208533, Secs 1 and 6 Blk VI Ruakaka SD, Pukekauri 1B1 Blk.

2.4.3.2 Entry

1. No person shall enter a restricted catchment to undertake any of the following activities unless permitted in writing by Council:
 - a) camping

- b) hunting, trapping or shooting of any animals or birds
 - c) boating
 - d) fishing
 - e) bathing or washing of anything
 - f) lighting or maintaining any fire
 - g) taking or allowing to stray, any livestock
 - h) using any pesticide, herbicide or toxic substance for any purpose whatsoever
 - i) damaging or destroying any trees, shrubs or other existing cover or interfering with any building or structure
 - j) draining water unauthorised.
2. In granting any such permit Council may impose such conditions as it may consider necessary and appropriate.

2.4.4 Open catchments

All other water supply catchments in the District administered by Council are open catchments and no specific controls or restrictions apply. However, in the event of a spillage or other event which has released or is likely to release hazardous substances into the waters of the catchment, Council shall be advised of the details with due urgency. This requirement shall be in addition to those other notification procedures to other authorities which are required.

2.5 Water supply area

2.5.1 Definition

A water supply area is a part of the District within which a supply of water can be made available for all buildings sited within the area.

2.5.2 Detail

1. A water supply area will include an area of 135 metres from all distribution mains, as measured along roads right of ways or access paths, which can be readily serviced with the performance requirements as defined within the Water Activity Management Plan, or as agreed with Council's Water Services Manager.

The Water Supply Areas are:

- Whangarei City (including Hikurangi and Whangarei Heads)
- Bream Bay
- Mangapai
- Maungakaramea.

1. The following provisions apply in a water supply area:

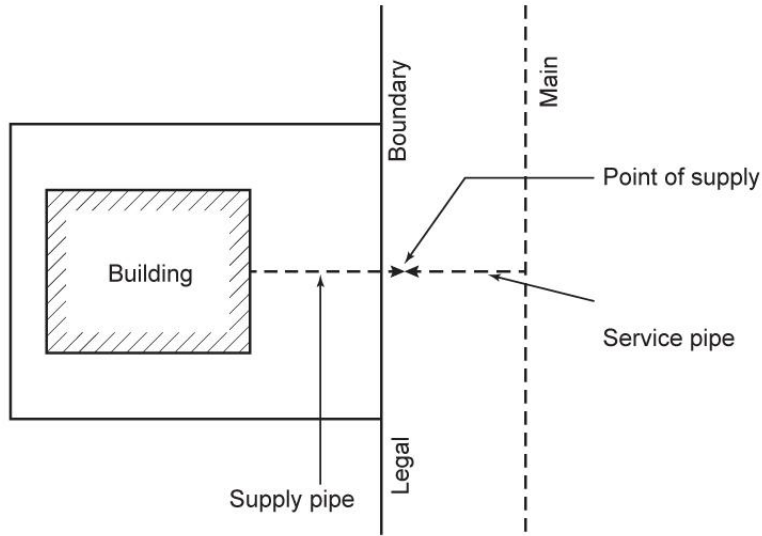
- Reticulation system
Distribution watermains provide the fire fighting capability of the network and service customers on one side of the street generally. These are usually 100mm to 200mm diameter.
- Operating water pressure and flows

Minimum pressure at boundary	25 metres static head minimum water pressure at time of connection.	To be measured at the meter or road boundary, whichever is the lower in altitude as per the bylaw.
Minimum pressure at the building for new connections	25 metres static head minimum water pressure at time of connection.	To be measured at the ground floor of the building envelope.
Maximum pressure	120 metres static head maximum	To be measured at the meter or road

at boundary	water pressure.	boundary, whichever is the lower in altitude.
Minimum flow at boundary	15 litres/minute minimum flow rate of supply for existing properties 20 litres/minute minimum flow rate for all new connections.	To be measured at the boundary on the customers side of the meter.
New Zealand Fire Service	100% compliance with NZ Fire Service Code of Practice for all new developments and all new connections.	Minimum residual pressure at all hydrants should be 10 metres head for all urban and rural areas. All properties to be within 135 metres of a fire hydrant for all urban and rural connections as measured along practical access ways.

The applicant may, similar to subdivisions, extend the distribution watermain thereby extending the water supply area to cover the property in question, and enabling a connection to be granted. To ensure this is the case all service connections are to be perpendicular to the distribution watermain or ridermain.

Figure 1. Point of supply single dwelling unit

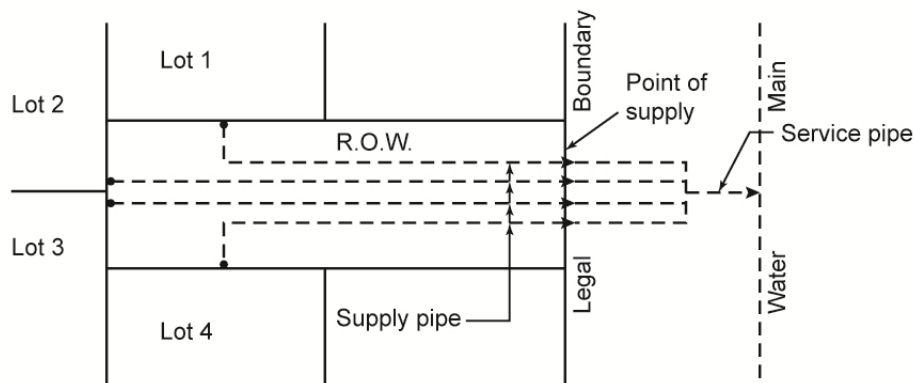


See Figure 7a, 7b or 7c for fitting detail

WDC81849

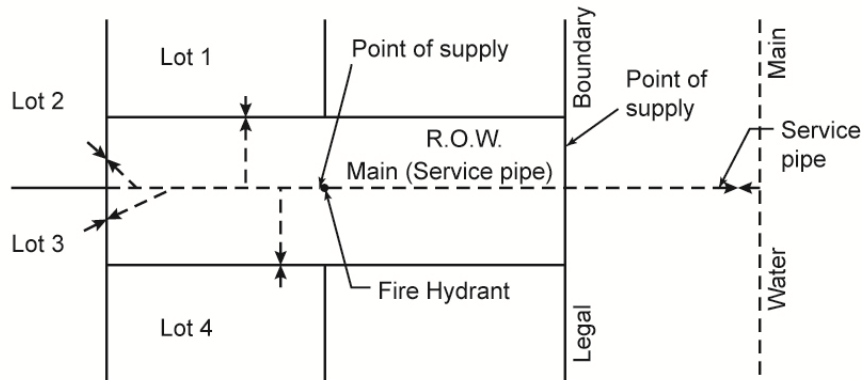
Figure 2. Point of supply multiple dwelling units

2a Private connections



Multiple connections in rights of way in joint private ownership
 See Figure 7a, 7b or 7c for fitting detail

2a Public mains



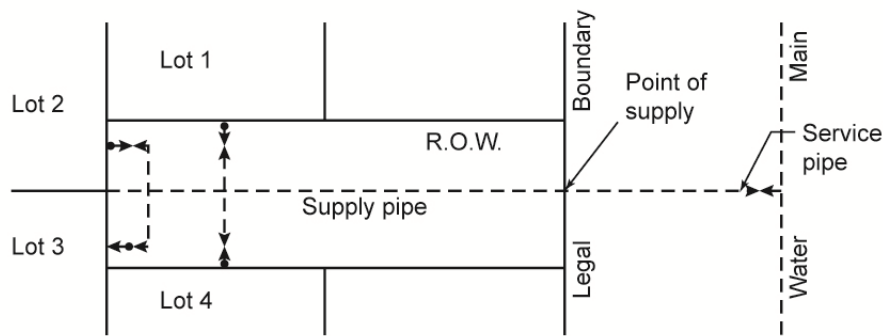
Applies only to service pipe accepted by WDC as public main (easement required). The point of supply is the last Fire Hydrant in the right of way unless otherwise approved.

See Figure 7a, 7b or 7c for fitting detail

WDC 8184-10

Figure 2. Point of supply multiple dwelling units

2c Existing mains in private ways

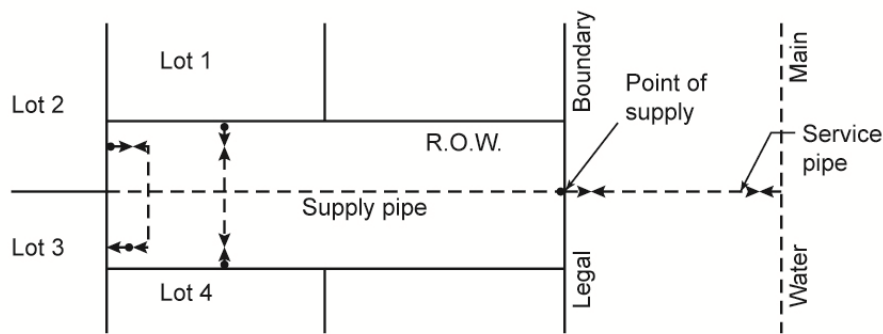


Connections in rights of ways in private ownership. Council will retain ownership and maintain the water meters. The supply pipes within the right of way are owned and maintained by property owners.

See Figure 7a, 7b or 7c for fitting detail

WDC 8184-11

2d Existing master and slave metering arrangements

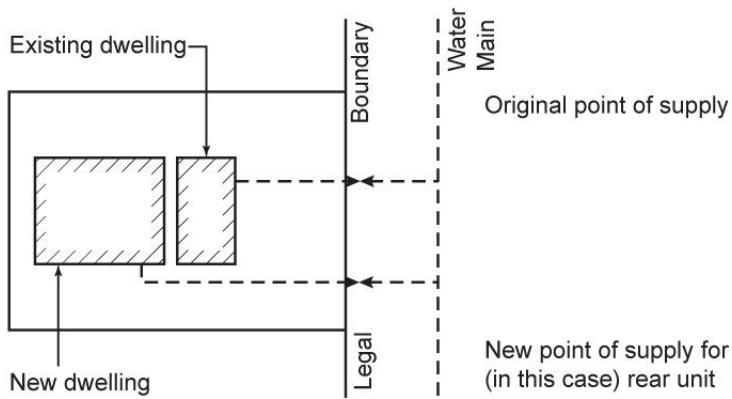


This arrangement is permitted only for existing master and slave situations. New connections shall be as per Figure 2a or 2b.

See Figure 7a, 7b or 7c for fitting detail

WDC 8184-11

Figure 3. Point of supply cross leases



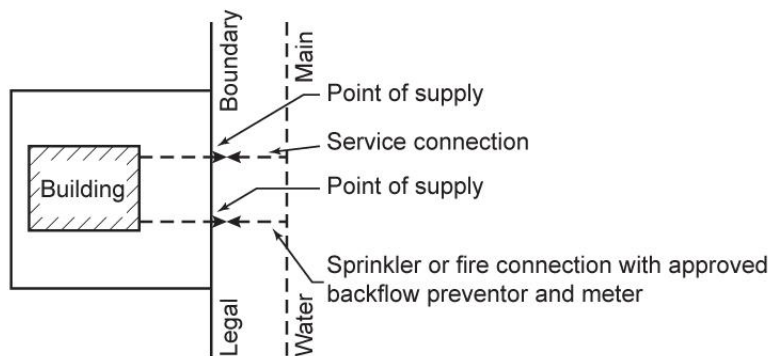
Where additional units are being built, additional points of supply will be required in such a position as to facilitate future subdivisions.

See Figure 7a, 7b or 7c for fitting detail

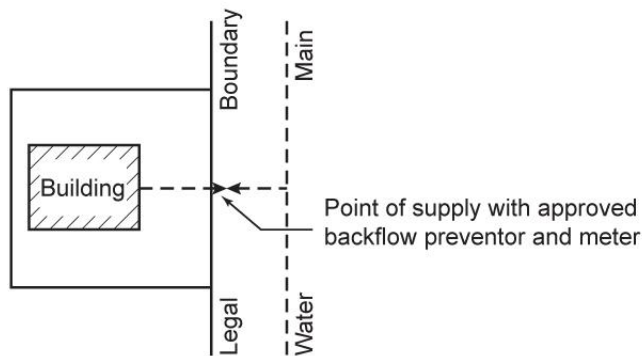
WDC8184-5

Figure 4. Point of supply commercial connections

4a Single ownership/multiple occupation (e.g. highrise or apartment block)

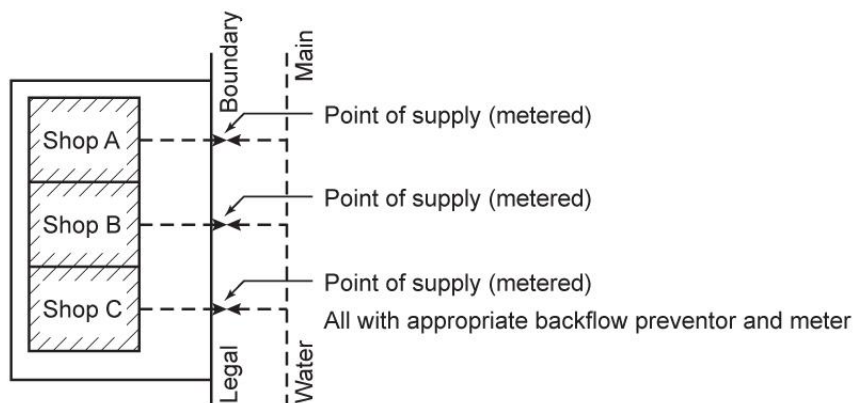


4b Commercial premises (single building)



Generally one point of supply at boundary. Metered consumption charged to property owner or uniform charge levied for each shop if in a multiple ownership and not separately metered.

4c Commercial premises (multiple buildings)

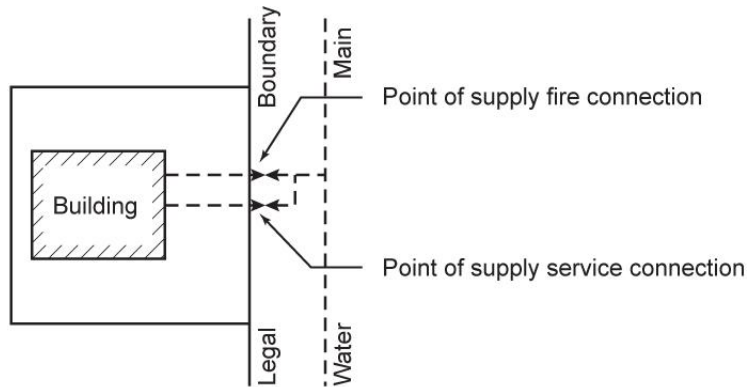


For 4a, 4b and 4c see Figure 7 for fitting detail

WDC8184-6

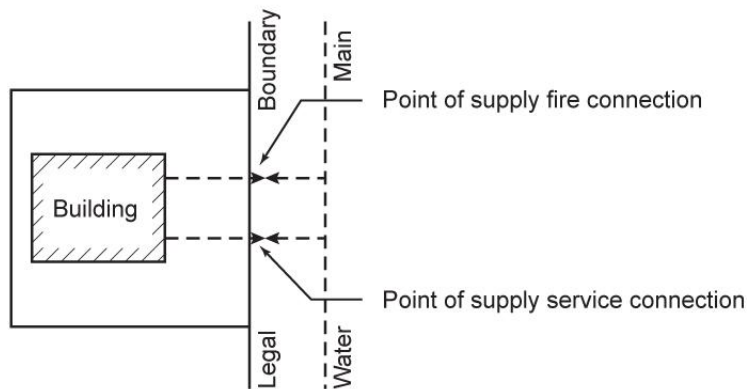
Figure 5. Point of supply industrial/commercial connections

5a Combined fire and service connection



See Figure 7d for fitting details

5b Separate fire and service connections

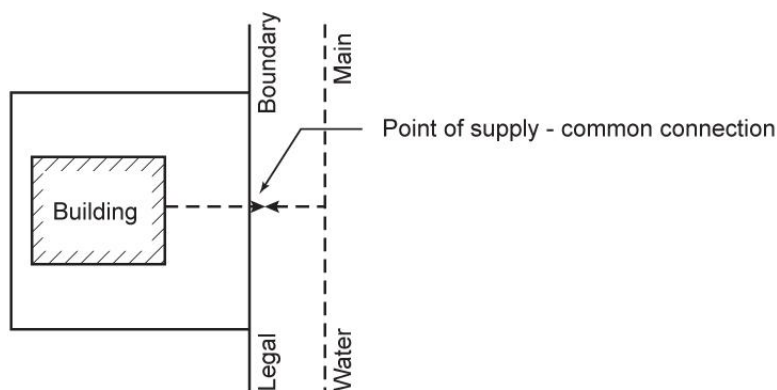


See Figure 7f and 7g for fitting details

WDC8184-1

Figure 6. Point of supply industrial/commercial connections

Common fire and service connection



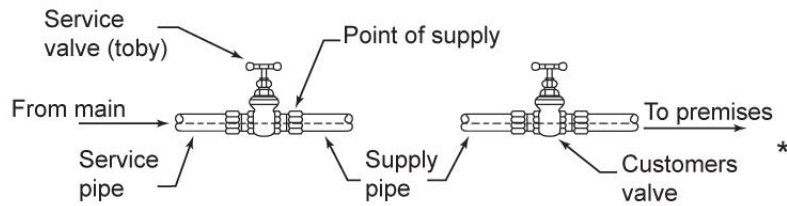
This arrangement is permitted only for existing common connections. All new connections to be as per Figure 5.

See Figure 7e for fitting details

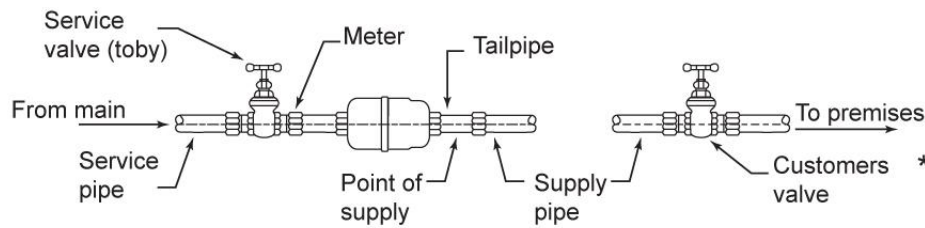
WDC8184-2

Figure 7. Examples of fitting details showing point of supply

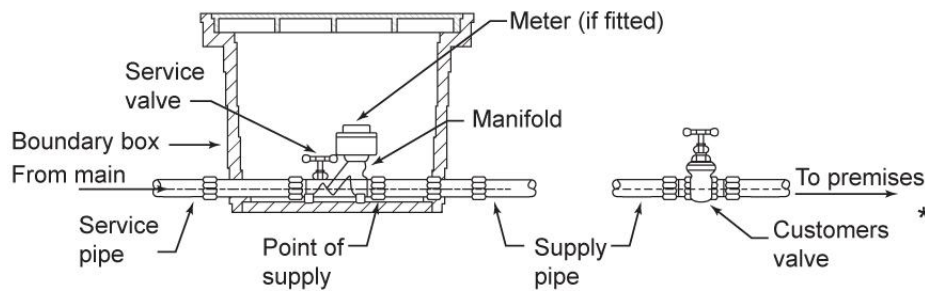
7a Domestic unmetered supply



7b Domestic metered supply



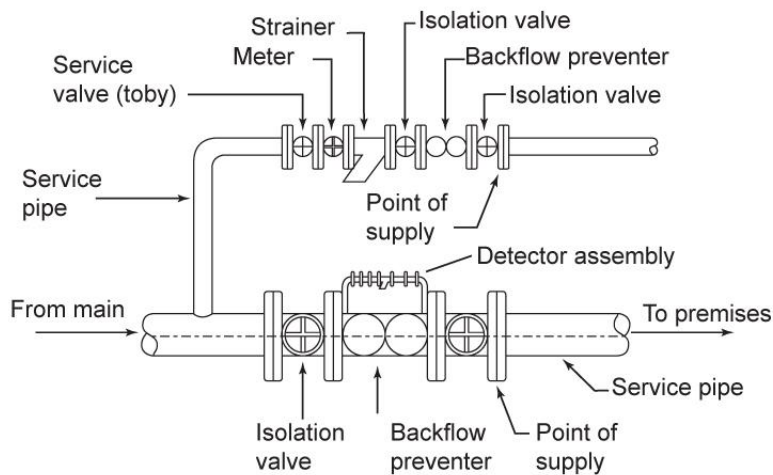
7c Manifold assembly at boundary box



* As provided for in N.Z. Building Code approved document G12/AS1

WDC8184-7

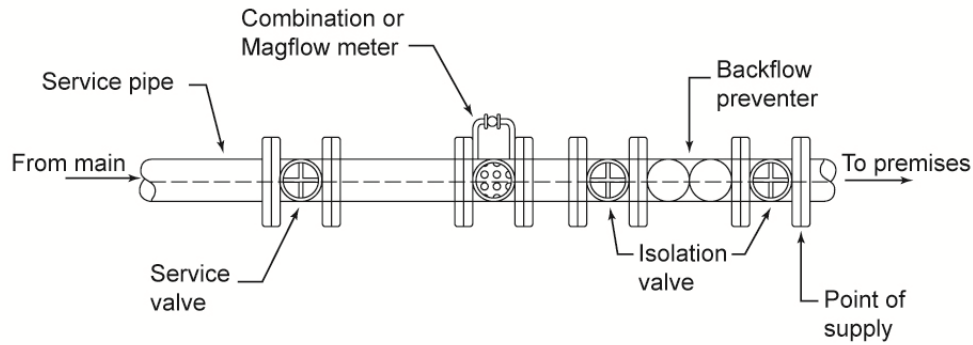
7d Separate fire and metered service connection with common line from main



WDC8184-8

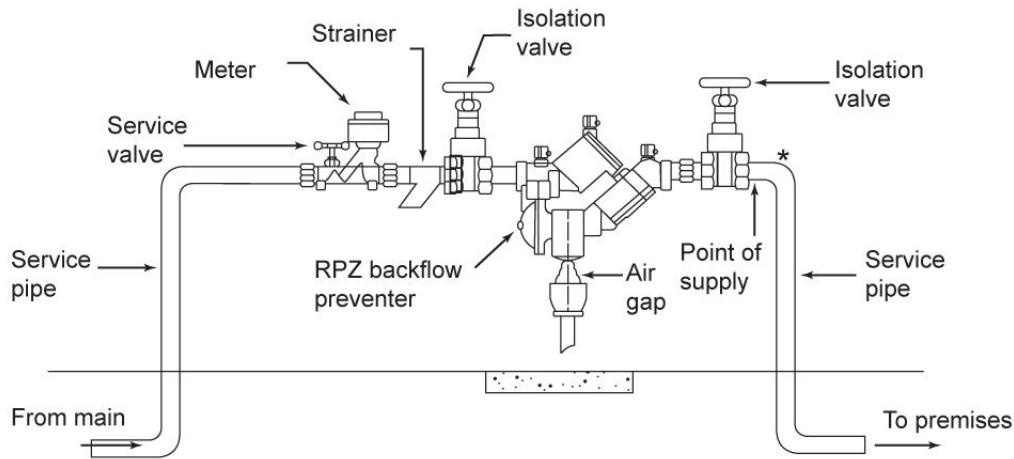
Figure 7. Examples of fitting details showing point of supply

7e Common fire and metered service connection



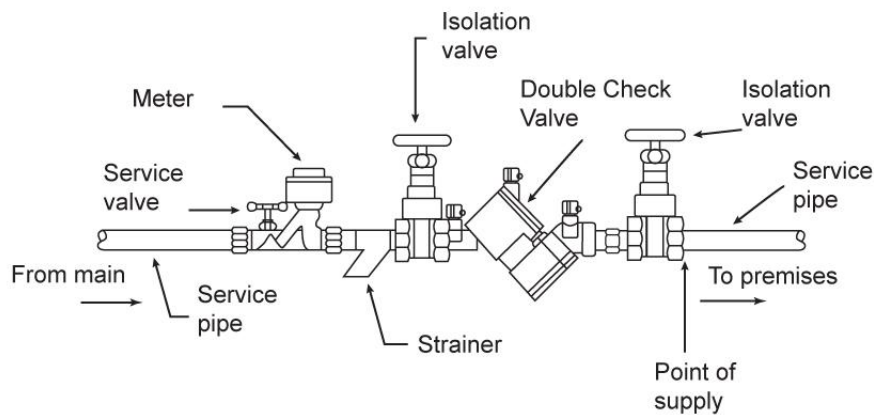
WDC8184-8

7f Metered supply with reduced pressure zone backflow preventer (RPZ)



WDC8184-3

7g Metered supply with double check valve backflow preventer



WDC8184-4

7.5 Freedom Camping Enforcement Programme 2023/24 – Variation to Regulatory Services Contract

Meeting: Whangarei District Council
Date of meeting: 23 November 2023
Reporting officer: Reiner Mussle (Manager Health & Bylaws)

1 Purpose / Te Kaupapa

To consider granting a variation to Council's Regulatory Services contract to provide for the delivery of a Ministry of Business, Innovation and Employment funded freedom camping monitoring and enforcement programme for the current 2023/24 summer season.

2 Recommendations / Whakataunga

That the Council:

1. Notes that Council has successfully obtained \$200,000 of freedom camping grant funding from the Ministry of Business, Innovation and Employment (MBIE), up to \$142k of which relates to the provision of education, monitoring and enforcement of freedom camping through Council's Regulatory Services contractor, Armourguard.
2. Notes that in the absence of MBIE funding, Council has not funded freedom camping monitoring and enforcement through its Regulatory Services contract, both through the 2023/24 season and beyond.
3. Approves a MBIE funded Freedom Camping Education, Monitoring and Enforcement Programme for the 2023/24 season through the Regulatory Services contract to the value of up to \$141,684, as quoted and thus extending the current (five-year) contract value from \$12,494,879.45 to \$12,636,563.45, plus any future escalation provided for under the approved contract.
4. Notes that contestable MBIE funding for Freedom Camping Education, Monitoring and Enforcement Programme is unlikely to be available in future seasons, with funding for delivery of this service in future years to be consulted on through the Long Term Plan.
5. Delegates the Chief Executive to execute on behalf of Council the required variation to contract.

3 Background / Horopaki

Council has traditionally sought and obtained external funding (via MBIE) for the provision of education, enforcement, and monitoring of freedom camping.

Council has again been successful in obtaining \$200k of freedom camping grant funding from MBIE, up to \$142k of which relates to the provision of education, monitoring and enforcement through Council's Regulatory Services contract. However, MBIE have signalled that this year is the last year that such funding will be made available.

A variation to contract is sought to deliver this component within the current financial year.

4 Discussion / Whakawhiti kōrero

MBIE's late October 2023 release of \$200k worth of freedom camping funding has allowed staff to develop and negotiate for a comprehensive, externally funded, education, enforcement and monitoring programme of up to \$142k through the Regulatory Services contract. The remainder of the funding has been allocated to repeat earlier Ambassador programmes and to support additional educational brochures and freedom camping signage.

4.1 Options

Council has the following options:

- (a) To approve a variation to the Regulatory Services contract to incorporate a one-off, up to \$142k freedom camping programme, fully funding by MBIE's \$200k grant; or
- (b) Not approve a variation to the Regulatory Services contract, which will result in Armourguard having to cease the provision of these services and will reduce the amount of funding Council can claim from MBIE by up to \$142k (as that funding is subject to the provision of proof of related financial expenditure); or
- (c) Go to market to seek another contractor/contract to provide this service, however given that we are already at the end of November, with the main summer season upon us, and with Armourguard having provided this program during previous year and for the current year since the start of Labour weekend, that option would result in Council having to abandon this year's programme as there is not enough time to go through those processes, and to find and train new contractor/staff. Given that the Freedom Camping Season is already underway, Armourguard has experience in successfully undertaking this programme, the challenges in finding an alternative contractor in the timeframe available, the low value of the works and the risk of losing MBIE funding, if not utilised – this option (c) is not recommended.

Option (a) has the advantage of enabling the delivery of freedom camping education, monitoring and enforcement in the current financial year at no cost to Council/the ratepayer. No significant disadvantages have been identified in relation to this option. While option (c) would have the advantage of allowing Council to test the market the timeframe required to do that would result in these services not being provided this financial year, resulting in a likely loss of \$142k of MBIE funding. Similarly option (b) would result in services not being delivered this financial year and a loss of funding. The community has highlighted the need for education, monitoring and enforcement relating to freedom camping.

Option (a) is recommended

5 Significance and engagement / Te Hira me te Arawhiti

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.

7.6 IQP Transfer of Powers - Decision

Meeting:	Whangārei District Council
Date of meeting:	23 November 2023
Reporting officer:	Murray McDonald – Manager, Building Compliance, Planning & Development

1 Purpose / Te Kaupapa

The purpose of the report is to provide staff comment on submissions received to assist in the deliberations and decision making following the consultation process undertaken for the proposed Transfer of Powers in relation to the approval of Independently Qualified Persons (IQPs) under the Building Act 2004.

2 Recommendations / Whakataunga

That the Council:

1. Considers and deliberates on submissions received.

Following deliberations.

That the Council:

1. Resolves to approve the transfer of powers to approve Independently Qualified Persons and to set fees under the Building Act 2004 to Auckland Council; and
2. Delegates to the General Manager, Planning and Development the authority to enter into a legal agreement with Auckland Council in relation to the transfer.

3 Background / Horopaki

At its meeting of 3 August 2023 Council resolved to adopt the Statement of Proposal for transferring some powers to Auckland Council in relation to approval of IQPs under the Building Act 2004. It also resolved to seek public submissions in accordance with the Special Consultative Process.

4 Discussion / Whakawhiti kōrero

5 submissions were received, 2 in support and 3 in opposition. A summary of submission points is provided below, along with staff analysis/response to aid councillors in deliberations and decision making.

4.1 Assessment of Submissions

Reasons for supporting the transfer include:

- *the benefits of working across several Councils with one registration due to cost savings; create a consistent approach and increase the expectations of a good IQP.*
In summary submissions in support were based on the advantages of being able to work across several Council, the resulting consistency of approach and potential cost-savings. These factors were considered in the Statement of Proposal for the transfer of the IQP register (Attachment 1).

Those in opposition challenge the proposed transfer for several reasons as outlined with comments below:

- *The transfer is unnecessary as WDC is doing a good job.*
While this feedback is appreciated Council's current processes have been identified as not adequately addressing potential risks associated with the IQP register (both from IQPs within Whangarei District and those within Kaipara and Far North Districts).

It is considered that our existing approval process is lacking as we have not got clearly documented/formal approval processes, nor do we have a complaints process or any necessity for annual renewals to ensure that existing IQPs are up to date with industry developments through continuing professional development. As well the Council website is clearly substandard in providing information to Building Owners about IQPs and the extent of their approvals. The current register is a simple list with no search function to assist those looking to engage an IQP.

If Council decided to keep the IQP register more robust processes and systems would need to be developed, potentially duplicating those already in place in Auckland.
- *Other responsibilities may follow this transfer.*
The SOP is only for the approval of IQPs and their on-going registration. There are no plans to transfer other powers such as audits. If there was such a proposal, this would require a repeat of the consultative process before any transfer could occur, as has been the case with the proposed transfer of the IQP register.
- *Concerns over future charges by Auckland Council.*
The Building Act provides for a Territorial Authority (TA) to set fees and charges for duties it is required to undertake. These are required to be non-profit based and fair and reasonable, no matter which TA is setting the fees. This would apply to any future review of fees by Auckland. As outlined within the Statement of Proposal Auckland's regime currently provides potential cost savings to applicants (in addition to the proposal better managing risk, providing and enabling IQPs to be registered over a greater area).
- *IQPs can register separately if they wish to work in Auckland.*
It is correct that IQPs can register separately if they wish to work in the Auckland region. However, this is not the primary driver for this proposal and does not address the key reasons for the proposed transfer (i.e., technical ability, efficiencies and the management of risk).
- *Unfair to have to go through an approval process if already approved by WDC.*
This is an understandable concern but an important part of the reason for the proposed transfer is to reduce risk to the public through the IQP regime. It is considered appropriate and timely that IQPs would go through a reapproval process to ensure that these risks are adequately considered.

Ultimately Auckland Council will determine what the approval process will be. Should the transfer not occur, it is recommended that the WDC approval/reapproval process be improved with emphasis on a demonstration of continual professional development. As outlined within the Statement of Proposal there would be a cost in reviewing WDCs processes and implementing new systems.

- *Cost Savings can be made by changing to 3 yearly registrations.*

It is acknowledged that there would be cost savings to IQPs if the registration process was changed to 3-yearly rather than annually. The registration process is actually the reapproval of IQPs, so it is an important decision for a TA.

At present our system is not robust, so merely changing it to 3-yearly approvals would not address the key issue of risk. Should the transfer not take place, and if systems and processes were updated to the equivalent of the existing Auckland system, then it may well be appropriate to extend the expiration period of the approvals.

- *What happens if KDC & FNDC don't transfer their powers?*

KDC has already resolved to transfer their powers to Auckland Council. While FNDC has indicated that they are looking to transfer powers, it is understood their Council has not made any formal resolution to do so. Staff have sought an update from FNDC on this matter which, if available, can be spoken to in the meeting.

Should FNDC not transfer their powers, they would need to manage the approval process for IQPs working within their district when current approvals expire at the end of April 2024.

- *What are safeguards to ensure local businesses can influence new standards for IQPs?*

The Building Act 2004 provides no assurance that local businesses can influence decisions made in relation to IQP approvals as the decision to accept or reject IQPs is made by the TA that has that responsibility. This is the same situation whether the decision maker is WDC or Auckland Council.

- *Additional concern raised during the hearing of submissions over potential impact on the ability to work with WDC staff over issues such as concerns over buildings that may not meet BWoF requirements.*

The transfer of power relates solely to the approval of IQPs. It does not change the way staff operate in relation to specified systems, with WDC staff/technical expertise remaining unchanged for customers as a result of this proposal.

It is considered that the transfer of powers to Auckland Council will achieve both technical and efficiency savings. Whilst there is likely to be the need for existing IQPs to be approved through the Auckland Council process, this is considered to be beneficial in reducing risk as the current process lacks robustness. The transfer will also result in a consistent standard across a significant part of the North Island and make the approval process simpler for those IQPs who operate outside of Northland while providing greater options for building owners when selecting IQPs.

The alternative is not to transfer the approval process. However, this would necessitate an upgrade to our website (at a cost of approximately \$50k) plus establishing a system that properly assesses IQP suitability on an on-going basis. This will result in additional costs that will either be borne by the ratepayer or recouped through IQP charges going forward.

5 Significance and engagement / Te Hira me te Arawhiti

This decision is the final part of the process in relation to the transfer of powers under the Building Act 2004 and has followed the special consultative process. It is not considered significant, with the decision being notified to submitters, and made available on Council's website.

6 Attachments / Ngā Tāpiritanga

Attachment 1 - Statement of Proposal

Attachment 2 - Submissions

Statement of Proposal

Transfer of Powers under the Building Act 2004

August 2023

Table of contents

1	Overview.....	1
2	What is the Transfer of Powers?.....	1
3	Why is the Transfer of Powers being Considered?.....	1
4	Efficiencies Assessment	2
5	Technical Capabilities	3
6	Summary	3
7	Having Your Say.....	3
8	Key dates for providing your views are:.....	3
9	Making a Submission.....	4
10	Being heard.....	4
11	Where can I get more information?	4

1 Overview

Council is calling for submissions on a proposal to transfer some its powers to Auckland Council under the Building Act 2004 in relation to the approval of Independently Qualified Persons.

Independently Qualified Persons are those parties accepted by Council as being qualified to carry out responsibilities in relation to building warrants of fitness.

The proposed transfer only relates to the approval of Independently Qualified Persons, the maintenance of the register of Independently Qualified Persons and the setting of fees for such approval and on-going registration.

The responsibilities of ensuring that buildings have current building warrants of fitness, and their auditing will remain with Whangarei District Council.

It is considered that there are a number of positive outcomes to be gained through the transfer, including:

- cost savings,
- greater opportunities for Northland based Independently Qualified Persons to work within the Auckland region,
- a better experience for Independently Qualified Persons and building owners through the modern Auckland web-based system, whilst reducing potential risk through a robust assessment of Independently Qualified Persons.

It is acknowledged that some parties may see such a transfer as a loss of local autonomy. A joint regional approach such as the Waikato (see below) example was considered but would not give any advantages (efficiencies or technical) that can be gained through the simpler transfer as proposed.

Section 233 of the Building Act 2004 provides for a Territorial Authority to transfer its functions, duties or powers to another Territorial Authorities subject to the use of the special consultative procedure in section 83 of the Local Government Act 2002.

We are calling for submissions on this proposal.

Consultation on the policy will open on 16 August 2023 and close on 18 September 2023.

Anyone who is interested can find all the information about it on our website, or they can call or come in to see us, however actual submissions shall be in writing.

2 What is the Transfer of Powers?

The Building Act 2004, require Territorial Authorities to accept Independently Qualified Persons as being *qualified to carry out or supervise all or some of the inspection, maintenance, and reporting procedures required for a specified system stated in a compliance schedule and to certify that those procedures have been fully complied with.*

In simple terms the Independently Qualified Persons certify the safety systems (known as specified systems) for commercial buildings through the annual Building Warrant of Fitness regime. As such it is critical that parties undertaking such responsibilities are qualified to do so to ensure that certifications are accurate and therefore reduces risk to building users.

3 Why is the Transfer of Powers being Considered?

At present Whangarei District Council maintain the resister of Independently Qualified Persons for all 3 of Northland's district councils.

This arrangement has been in place for approximately 20 years and means that Independently Qualified Persons who are on the register can undertake work throughout Northland rather having to be accepted by 3 different Councils.

There is an increasing trend throughout the country for Territorial Authorities to work together in relation to the registering of Independently Qualified Persons.

For example, the South Island operates under one register administered by Timaru District Council and there is a joint group that administers the register for Hamilton City Council, Hauraki District Council, Matamata Piako District Council, Otorohanga District Council, Thames Coromandel District Council, Waikato District Council, Waipa District Council and Waitomo District Council.

There are 2 main reasons why the transfer of power is being considered, being efficiencies and technical capability. These considerations are outlined in the procedures for transfer under the Local Government Act 2002.

The technical capability is important as robust assessment of Independently Qualified Persons will result in reduced risk going forward.

4 Efficiencies Assessment

At present the maintenance of the register is a very manual process with letters being emailed to and from Independently Qualified Persons. Whilst this approach does work it is not an efficient use of resources and falls short of a modern website-based portal approach (as per Auckland).

Currently the register includes approximately 160 Independently Qualified Persons, so the staff time involved in the maintenance of the register is not insignificant. Income from the fees associated with the register is approximately \$27k per annum.

It should be noted that should the transfer not take place there will be additional costs in implementing a modern web portal-based system to meet customer expectations in the near future.

Estimates of the costs of such a system are around the \$50,000 (although these costs are indicative only).

The transfer of the register and the approval process to Auckland would allow Independently Qualified Persons to practice under one registration for all of the Auckland and Northland regions.

Whilst allowing Northland based Independently Qualified Persons to operate in Auckland, Northland building owners will also have a larger pool of Independently Qualified Persons potentially available to undertake work within the Northland region.

Costs of joining the Auckland register do need to be considered.

- Those Independently Qualified Persons who are currently are on both registers will have a cost saving of \$182 per annum (being our current renewal fee).
- Those who require acceptance through the Auckland process will be charged \$400 for the initial application which includes 3 years of registration.
- The renewal process at Auckland is \$250 for a three-year period.

So overall Independently Qualified Persons will be paying less as 3 years' worth of renewals under our current fees schedule will cost \$546 compared to Auckland's \$250.

Independently Qualified Persons will be required to go through the Auckland on-line assessment process so will need to demonstrate their suitability to be accepted. This will be a positive check to reduce risk to the public.

A summary table of efficiencies is produced below:

	Advantages	Disadvantages
Transfer to Auckland	Cost savings for Independently Qualified Persons; Ability for Independently Qualified Persons to work from Pukekohe to North Cape; Better web-based process for register;	Loss of 27k annual income (costs of staff hours and upgrade of systems required would exceed this income. The upgrade costs).

	Advantages	Disadvantages
	frees up staff to do other productive Territorial Authorities.	
Maintain Status Quo	Whangārei based Independently Qualified Persons & building owners will deal with local Council	Investment will be needed to build a fit for purpose web based system

5 Technical Capabilities

Due to the number of Independently Qualified Persons within the Auckland area and the number of buildings subject to the Building warrants of fitness process, Auckland Council has developed a system for the registration of Independently Qualified Persons including a panel of experts who meet fortnightly to consider new applications.

This is a more robust approach than is currently undertaken within Northland.

This will help limit risk going forward as it is considered that there is less chance of inappropriate people being accepted as Independently Qualified Persons which will lessen the potential for Building warrants of fitness to be issued erroneously.

This is a significant advantage with transferring the power to Auckland Council. Should the transfer not occur it is likely that current processes for assessing suitability would require review and allocation of additional resources.

A summary table of technical capabilities is produced below:

	Advantages	Disadvantages
Transfer to Auckland	The transfer will allow Northland Councils to piggyback off the established Auckland regime therefore reducing risk from poor assessments.	Whangarei District Council responsible for decisions made by Auckland.
Maintain Status Quo		The current assessment regime is considered inferior to Auckland's

6 Summary

There are two options under consideration, either continue with the status quo or transfer the power to Auckland.

There are a range of factors in favour of the transfer of powers including a more technological advanced system for Independently Qualified Persons and building owners through the Auckland Council website, additional opportunities for working outside Northland, a reduction in compliance costs and a potential reduction in risk from an improved assessment regime.

Should the transfer not occur it is likely that our current processes will require review and likely amendment which will create additional costs.

7 Having Your Say

We are seeking community feedback in accordance with the Local Government Act 2002 (Section 83) Special Consultative Procedure.

As part of this procedure, we provide you with the opportunity to present your views to Council on the proposed transfer of powers.

8 Key dates for providing your views are:

Submissions on the proposed transfer open at 9:00am on 16 August 2023 and close at 5:00pm on 18 September 2023.

Information is available on the website at www.wdc.govt.nz/HaveYourSay

Proposed dates and location for hearing submissions by Council will be advised following receipt of submissions.

9 Making a Submission

Any person or organisation can make a submission on the Proposed Transfer of Powers under the Building Act 2004.

Submissions can be made, either electronically online, by email or on paper. Your submission should state:

- What your views are and the reasons for them
- Whether you wish to be heard in support of your submission.

All submissions must be received by 5:00pm on 18 September 2023.

Online: You can make a submission online at: www.wdc.govt.nz/HaveYourSay or

By email: email your submission to: BuildingConsent@wdc.govt.nz

By post: post your submission to:

Proposed Transfer of Powers under the Building Act 2004
 Whangarei District Council
 Private Bag 9023
 Te Mai
 Whangārei 0143

In person: submissions can also be hand delivered to one of our Customer Services Centres at:

- Te Iwitihi, 9 Rust Avenue, Whangārei
- Ruakākā Service Centre, Takutai Place, Ruakākā

10 Being heard

Any person who makes a submission will have the opportunity to be heard by Council; but must make that request in their written submission. No anonymous submissions will be accepted.

The Council is legally required to make all written or electronic submissions available to the public and to Councilors, including the name and address of the submitter. The submissions, including all contact details provided, will be available to the public.

Information will be available to the public subject to the provisions of the Local Government Official Information and Meetings Act 1987.

Submitters who have asked to be heard will be advised of the hearing dates available.

11 Where can I get more information?

Copies of this Statement of Proposal can be viewed on Whangarei District Councils website at: www.wdc.govt.nz/HaveYourSay.

Alternatively, copies of the Statement of Proposal can be viewed at our Customer Service Centres at:

- Te Iwitihi, 9 Rust Avenue, Whangarei
- Ruakākā Service Centre, Takutai Place, Ruakākā

Alternatively, call Council on 09 430 4200 or 0800 932 462 (free phone) or email BuildingConsult@wdc.govt.nz

Administration of Independently Qualified Persons Register submission

Receipt number: IQP-REG-CONSULT-1

Name of Submitter: Silala Warmsense

Submission received: 17/08/2023 11:52 AM

My submission

I am writing this submission: As an individual

Do you wish to attend the hearing? No

Do you support or oppose the proposal? I support the proposed transfer of powers

Please outline the reason(s) for your views: Hi,
I support the transfer of power to enable Auckland Council to take on the responsibility of the IQP register.
Not just cost effective, it will mean consistency across regions, which is what a lot of the country is missing, particularly as many are close next door neighbours. I think this is a good opportunity to increase the expectation of a good IQP.
Great idea.

Administration of Independently Qualified Persons Register submission

Receipt number: IQP-REG-CONSULT-2

Name of Submitter: Allan Kerrisk

Submission received: 19/08/2023 02:10 PM

My submission

I am writing this submission: As an individual

Do you wish to attend the hearing? No

Do you support or oppose the proposal? I support the proposed transfer of powers

Please outline the reason(s) for your views:

If as suggested it makes economic sense for WDC and existing IQP, allows IQP's to work across two or more councils with a single registration I support the proposal.

I respectfully suggest that any existing IQP who will be financially disadvantaged by fees in the first year of the process (if approved) be reimbursed by WDC. Any such costs will be able to be met by the savings it is suggested will be generated by the change. A cost neutral position.

Administration of Independently Qualified Persons Register submission

Receipt number: IQP-REG-CONSULT-3

Name of Submitter: Martin Davidson

Submission received: 11/09/2023 11:14 AM

My submission

I am writing this submission: As an individual

Do you wish to attend the hearing? No

Do you support or oppose the proposal? I oppose the proposed transfer of powers

Please outline the reason(s) for your views:

I feel the Whangarei District council does not need to have the Auckland council administer I.Q.P registrations or renewals ,as the Whangarei council has done this job Well and successfully since the start of the statement of fitness through to the Building Warrants, And I.Q.P applications ,approvals and continuing registrations. I was personally one that did the Majority of inspections for all the territorial authorities in the Far north,Kaipara and Whangarei,Districts for the issue of the Statement of Fitness,Then Building Warrants. Why change something that has worked well for many years?

If the Council changes this ,then what is to say in the future the councils next move is to hands over the Audit inspections for compliance as well. Another concern is what will happen with Application charges and renewal charges, Will these start the same or become inflated to Auckland prices.

To me its on the same lines as 3 waters,Not needed,Bureaucratic bullshit, and trying to take over the Whangarei district councils Authority and control,and have Auckland controlling the first part,and will it stop their?

Any changes that keep happening just increase the paperwork and costs,which at some time have to be passed on ,and who gets this? the building owners,customers.And for what advantage,an I.Q.P being able to register in Auckland.If they want to do this they can anyway.Yes its another cost ,but if you choose to work their then thats what it takes.Another fee,another cost,Thank you customer.

Administration of Independently Qualified Persons Register submission

Receipt number: IQP-REG-CONSULT-4

Name of Submitter: Kelvin Petrie

Submission received: 15/09/2023 07:56 AM

My submission

I am writing this submission: As an individual

Do you wish to attend the hearing? Yes

Do you support or oppose the proposal? I oppose the proposed transfer of powers

Please outline the reason(s) for your views:

The proposal states that existing WDC IQPs will need to reapply to stay on the register.

This is unfairly penalizing existing IQPs who have already been assessed as qualified, by making them go through an application process. Which will take time and the associated costs, plus presumably, application fees

Existing WDC IQPs should be transferred automatically to the new listing. Even if that means that they are restricted to the current boundaries of WDC, FNDC, KDC

It is usually accepted that when qualifying rules, criteria, etc are changed that existing holders are grandfathered in.

I recommend that existing WDC IQPs be automatically transferred to any new system and/or listing, with or without restrictions as mentioned above.

If this happens I would withdraw my opposition

Administration of Independently Qualified Persons Register submission

Receipt number: IQP-REG-CONSULT-5

Name of Submitter: Cameron Peterson on b/h Airzone Ltd

Submission received: 13/09/2023 10:13AM

My submission

I am writing this submission: On behalf of an organisation

Do you wish to attend the hearing? Yes

Do you support or oppose the proposal? I oppose the proposed transfer of powers

Please outline the reason(s) for your views: If we (IQPs and council) are going to save money through 3 yearly renewals, then why doesn't the WDC simply change to 3 yearly as well. The proposed saving is not exclusive to relocating the service to Auckland and can be done through WDC, negating any benefit stated.

The statement that it is a cost saving to any Whangarei based IQP persons is inaccurate, in that there is a reasonable cost for people to complete the reapplication and submit required evidence and associated correspondence for approval.

If it must happen for some other meaningful reason, then WDC should negotiate for existing WDC IQPs to be cross credited to the Auckland register, just as Auckland registered persons will be able to do under this current proposal without reapplying in Whangarei. Is it guaranteed that people will be accepted in Auckland as IQPs in their respective existing registrations? What safeguards is the council putting in place so that Whangarei businesses have continuity of their registration should this occur.

It mentions that the Far North and Kaipara District Council may follow WDC's lead. If they don't, will Whangarei IQPs then have to register in two territorial authorities' registrations? How will this save IQPs money?

What are the safeguards and controls to protect the interests of the local businesses impacted by this and how are they able to have influence in charges made by the Auckland council and any new standards or determinations Auckland makes as it relates to IQPs.?

7.7 Temporary Road Closure – Ruakaka Christmas Parade

Meeting: Whangarei District Council
Date of meeting: 23 November 2023
Reporting officer: Katherine Tasker (Marketing and Ticketing Administrator)
 Bea Mossop (V&E Manager)

1 Purpose / Te Kaupapa

To seek approval of the proposal to temporarily close roads, to allow the Marsden Lions Club to hold the Ruakaka Christmas Parade on 9 December 2023.

2 Recommendation/s / Whakataunga

That Whangarei District Council,

1. Approves the temporary closure of the following roads to ordinary traffic for the Ruakaka Christmas Parade on the following date in accordance with section 342 (1)(b) and Schedule 10 Clause 11 of the Local Government Act 1974.

Saturday 9 December 2023

Peter Snell Road, from Tiki Place to Takutai Place

Takutai Place, from Peter Snell Road to Sime Road

Period of Closure: 9.30am to 11.30am

2. Approves the temporary closure of the side roads off the roads to be closed for up to 100 meters from the intersection for safety purposes.
3. Delegates to the Chair of the Infrastructure Committee and General Manager Infrastructure the power to give public notices of these temporary road closures.

3 Background / Horopaki

Lions Club of Marsden is a group of community volunteers who aim to repeat the success of previous year's events with the running of the Ruakaka Christmas Parade in 2023. This event brings the local community together and has been proven to contribute to the wellbeing of whanau and families.

4 Discussion / Whakawhiti kōrero

The Whangarei District Council Venues and Events team has reached out to the event organiser once they were made aware of the event and consulted with the NTA who advised a temporary road closure would be required.

The organisers will consult with all affected businesses in the areas well in advance. The marketing and promotion of the event will also ensure the public and the wider community are aware of the event and the associated road closures.

The organisers will engage with a Traffic Management provider to submit a traffic management plan to council prior to the event and the implement traffic management on the day.

4.1 Risks

The temporary road closures eliminate the traffic associated risks and ensure the event can be managed safely.

Event personnel and traffic controllers are located along the parade route and will be on hand throughout the parade to ensure safety of participants and spectators.

The route has been planned in such a way where the public can safely observe the parade and it will limit the impact on owners and occupiers within the route.

5 Significance and engagement / Te Hira me te Arawhiti

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, Council News, Facebook and marketing by the event organisers.

6 Attachments / Ngā Tāpiritanga

1. Application letter
2. Public Liability Insurance Certificate
3. Route Map

45 One Tree Point Road

One Tree Point

Whangarei 0118

4 November 2023

Lana van Bergenhenegouwen
Community Events Co-ordinator
Whangarei District Council
Private Bag 9023
Whangarei 0148

Dear Lana

On behalf of Marsden Lions Club I wish to apply for a temporary road closure for approximately one hour on Saturday 9 December for our Christmas parade.

The roads affected are a short section of Peter Snell Road, Ruakaka and an even shorter section of Sime Road, Ruakaka.

Attached is a map of the affected area.

I realise this is late notice but would appreciate it if you could get back to me as soon as possible.

Many thanks

Liz Hedley
Secretary
Marsden Lions

Certificate of Currency

To Whom It May Concern

This certificate hereby certifies that cover has been granted subject to the exceptions, terms and conditions and definitions of the Policy (as amended from time to time, including after the date of this Certificate of Currency).



Details of Insurance

Issuing Office:	New Zealand	
Insured:	Lions Multiple District 202 NZ	
Class:	Public & Products Liability	
Policy Period:	From:	30 June 2023 at 4.00pm
	To:	30 June 2024 at 4.00pm
Policy Territory:	New Zealand	
Policy Number:	NZCASA00837	
Limit of Liability:	NZD 10,000,000 any one Occurrence and in the aggregate in respect of the Products Hazard.	

Please refer to your agent, broker or the relevant Chubb office for further information or a copy of the Policy.

Chubb Insurance New Zealand Limited has an “AA-” insurer financial strength rating given by S&P Global Ratings.

Signed at Auckland on behalf of Chubb Insurance New Zealand Limited:



Authorised Representative
Chubb Insurance New Zealand Limited

30 June 2023
Date of Issue



Latest in the area

- Explore
- Go
- Saved
- Contribute
- Updates

7.8 Temporary Road Closure – Yule Market 2023 (with Movies in the Park)

Meeting: Whangarei District Council
Date of meeting: 23 November 2023
Reporting officer: Katherine Tasker (Marketing and Ticketing Administrator)
 Bea Mossop (Venues and Events Manager)

1 Purpose / Te Kaupapa

To seek approval of the proposal to temporarily close roads, to allow the Yule Market 2023 in conjunction with Movies in the Park to be held on 8 December 2023.

2 Recommendation/s / Whakataunga

That Whangarei District Council,

1. Approves the temporary closure of the following roads to ordinary traffic for the Yule Market 2023 (with Movies in the Park) on the following date in accordance with section 342 (1)(b) and Schedule 10 Clause 11 of the Local Government Act 1974.

Friday 8 December 2023

Pohe Island Road, from Riverside Drive to the yellow barrier arm on Pohe Island Road.

Period of Closure: 3pm to 9.30pm

2. Approves the temporary closure of the side roads off the roads to be closed for up to 100 meters from the intersection for safety purposes.
3. Delegates to the Chair of the Infrastructure Committee and General Manager Infrastructure the power to give public notices of these temporary road closures.

3 Background / Horopaki

The Yule Christmas Market is an annual event run by the Yule pop-up shop owners and is a boutique craft market that aims to offer unique and artisan local products to shoppers during the festive season. This year the Whangarei District Council Venues and Events team have approached the Yule Market to collaborate and join their WDC Movies in the Park event with the Yule Market.

4 Discussion / Whakawhiti kōrero

The Northland Transportation Alliance team have advised the WDC Venues and Events team to close this section of road to ensure public safety for this event. This will allow for the vendors to pack in and pack out more efficiently and safely.

Closing this section also avoids moving vehicles near the park which will mitigate additional risk for children and families attending the event. Council public liability insurance will be used for this temporary road closure application, as discussed with Democracy and Assurance department staff.

5 Significance and engagement / Te Hira me te Arawhiti

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, Council News, Facebook and marketing by the event organisers.

6 Attachments / Ngā Tāpiritanga

1. Application Letter
2. Road Closure Map
3. Public Liability Insurance

31/10/2023

To Whom It May Concern

Forum North, Private Bag 9023
Whangarei 0148, New Zealand
P +64 9 430 4200
E mailroom@wdc.govt.nz
www.wdc.govt.nz

Tēnā koutou

Yule Christmas Market with Movies in the Park – 8th December 2023

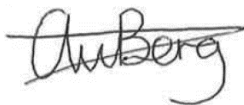
Yule Christmas Market with Movies in the Park is being held on Friday 8th December 2023 at William Fraser Park, Riverside Drive, Whangārei.

In order to assist us with the delivery of the event, we would like to request a temporary road closure of the following street from 3pm – 9:30pm on Friday 8th December 2023:

Pohe Island Road – From Riverside Drive (enternace to William Fraser Park parking area) to yellow barrier. Refer to attached map.

Thank you for your time and consideration.

Ngā Mihi,



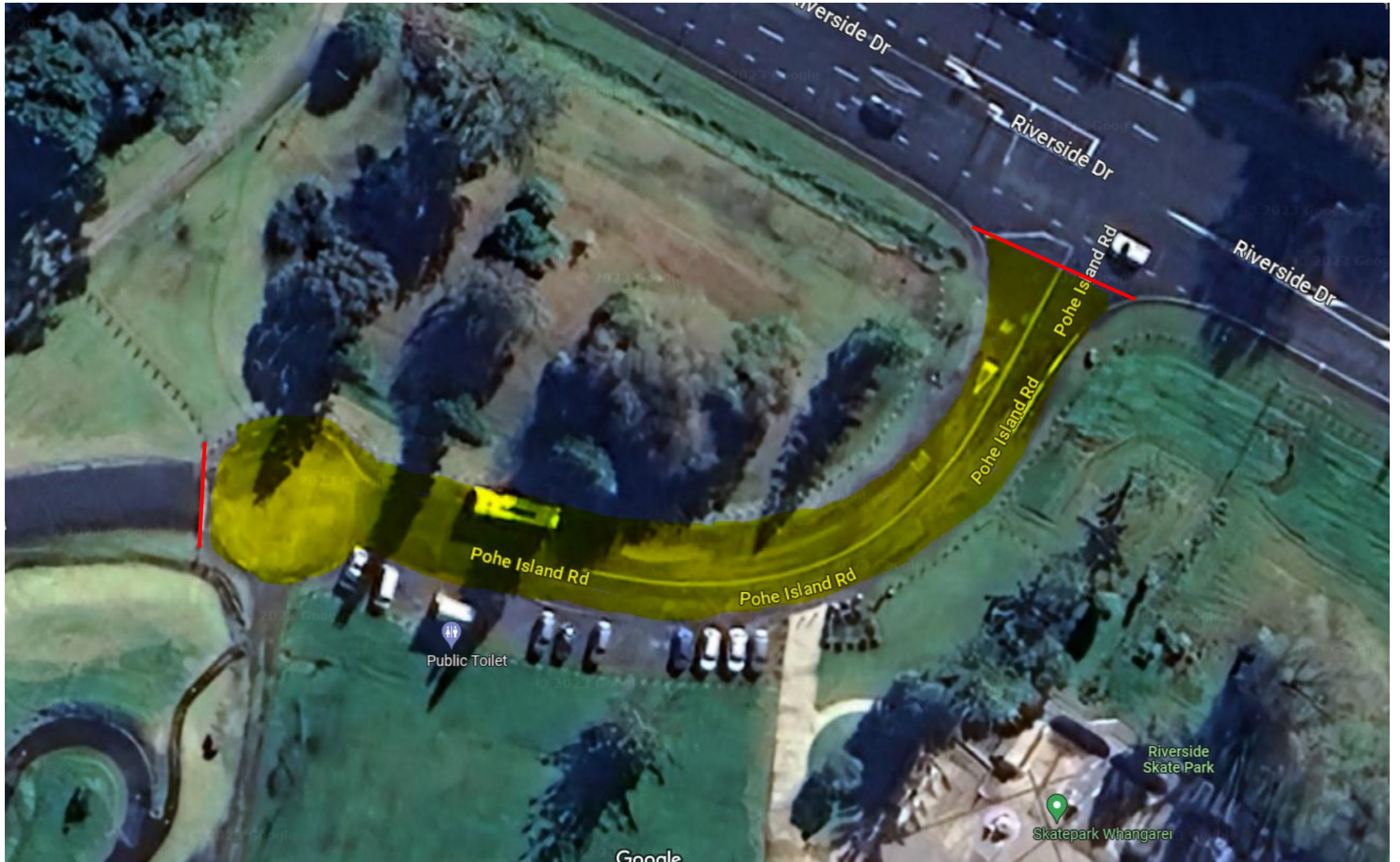
Lana van Bergenhengouwen (she/her)

Community Events Co-ordinator | Venues & Events Department

Whangārei District Council | Forum North | Private Bag 9023, Whangārei 0148 | www.wdc.govt.nz

P 09 430 4200 | DDI 09 470 3073 | M 021 240 6096 | E lane.vanbergenhengouwen@wdc.govt.nz

[Like us on Facebook](#)



15 August 2023

CERTIFICATE OF CURRENCY

In our capacity as Insurance Brokers to Whangarei District Council, we hereby confirm the insurance detailed below.

This certificate serves to confirm that the undermentioned Insurance Contract is current as at the above date. This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage afforded by the policy below. The limits of liability shown below may be subject to sublimits. Please refer to the policy for the full extent of the cover provided, including sub-limits, conditions and exclusions.

INSURED:	Whangarei District Council	
CLASS OF BUSINESS:	Public Liability	
INSURER:	QBE UK Limited as lead	
PERIOD OF INSURANCE:	From: 4:00pm on 30 June 2023	
	To: 4:00pm on 30 June 2024	
LIMIT OF INDEMNITY:	Per Occurrence and in the aggregate for Products	AU \$300,000,000
EXCESS:	Each Occurrence	\$5,000
EXTENSIONS:	Property in Care, Custody or Control	\$1,000,000
	Punitive & Exemplary Damages	\$1,000,000
	Unmanned Aerial Vehicles (Drones)	\$1,000,000

Should the above mentioned contract of insurance be cancelled, assigned, or changed during the above policy period in such a manner to affect this document, no obligation to inform the holder of this document is accepted by Marsh Limited.

7.9 Temporary Road Closure – ChillTech Beach to Basin 2024

Meeting: Whangarei District Council
Date of meeting: 23 November 2023
Reporting officer: Katherine Tasker (Marketing and Ticketing Coordinator)
 Bea Mossop (V&E Manager)

1 Purpose / Te Kaupapa

To seek approval of the proposal to temporarily close roads, to allow Sport Northland to hold the ChillTech Beach to Basin on Sunday 3 March 2024.

2 Recommendations / Whakataunga

That Whangarei District Council,

1. Approves the proposal to temporarily close the following roads to ordinary traffic for the ChillTech Beach to Basin on the following date in accordance with the Transport (Vehicular Traffic Road Closure) Regulations 1965.

Sunday 3 March 2024

Beach Road, from Pah Road roundabout to Cliff Street/Beach Road boat ramp.

Period of Closure: 8am – 9am.

2. Approves the proposal to temporarily close the side roads off the roads to be closed for up to 100 meters from the intersection for safety purposes.
3. Delegates to the Chair of the Infrastructure Committee and General Manager Infrastructure the power to give public notice of these proposed temporary closures, to consider any objections and to either approve, cancel, or amend any or all of the temporary road closures if applicable.

3 Background

The Beach to Basin was started by the local Athletics Club and has been around since 1978. Fast forward to 2023 and the ChillTech Beach to Basin is now organised (still owned by the Athletics Club) by Sport Northland and has now become the most popular fun run in Northland attracting thousands of participants young and old.

4 Discussion

The organisers will consult with all affected residents and businesses in this area on Beach Road well in advance. The marketing and promotion of the event will also ensure the public and the wider community are aware of the event and the associated road closure.

The Organisers will work closely with Whangarei District Council Roading and Venues & Events departments to ensure the event is well planned.

The organisers are working with Traffic Management New Zealand (TMNZ) to submit a traffic management plan to council prior to the event and the implement traffic management on the day.

The organisers have years of experience planning and running the Beach to Basin and will bring their knowledge and experience to the planning and implementation of this event.

5 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, Council News, Facebook and marketing by the event organisers.

6 Attachments

1. Application Letter
2. Temp Road Closure Map
3. Public Liability Insurance Certificate



Enriching lives through play,
active recreation and sport



20 October 2023



Chill Technology Ltd
Conbrio
Dudley & Dennis Signs
Educare
Fireco
Fullers Great Sights
Jennian Homes
More FM
NorthCloud
Pacific Motor Group
Ray White
ThermaTech
Top Energy Ltd

Dargaville Veterinary Centre
Hot Printz
JOP
Pak'nSave
Silver Fern Farms
Sutherland Security
Tailored Legal Solutions
The Northern Advocate
Whangarei Aquatic Centre

Foundation North
Oxford Sports Trust
Lion Foundation
Pub Charity
The Southern Trust
Far North District Council
Kaipara District Council
Whangarei District Council
ACC
Ministry of Social Development
Northland DHB
Northland Foundation
Northland Regional Council
Northland Secondary Schools
Water Safety NZ

Katherine Tasker
Whangarei District Council
Venues & Events Department
Private Bag 9023

Dear Katherine

Chilltech Beach to Basin Run/Walk – Sunday 3rd March 2024

I am writing to you in regard to requesting a temporary road closure on Beach Road, Onerahi on Sunday 3rd March 2024.

The road closure would be in place from 8.30am-9.00am, 25 meters before the boat ramp on Beach Road to Pah Road Roundabout (approx. 200m) to ensure the safety of participants.

Traffic controllers will monitor the traffic flow that needs to enter this closed area.

If you require any further information or have any queries relating to this request, please contact me on 022 519 6095 or by email carlm@sportnorth.co.nz

Kind Regards

Carl Mansell
EVENTS COORDINATOR



Certificate of Insurance

Policy Number is P000340043AON



QBE Insurance (Australia) Limited
ABN 78 003 191 035 - Incorporated in Australia

Policy Information

Policy Number P000340043AON

Period of Insurance

From 30/09/2023 at 4pm
To 30/09/2024 at 4pm

Insured

Sport Northland

General Liability**Cover Details****Wording**

VTXGL1021 : Aon Vertex NZ General Liability

	Policy Territory	Limit of Indemnity	Excess	Currency
Public Liability	New Zealand	5,000,000	any one Occurrence 500	any one Occurrence NZD
Product Liability	New Zealand	5,000,000	in the aggregate any one Period of Insurance 500	any one Occurrence NZD

For full details of the Limit of Indemnity please review the wording in full.

Summary

Cover is subject to the terms and conditions of the policy as issued. For a full description of the coverage please refer to the policy document.

Issued and signed by QBE's authorised representative

Dated: 27 October 2023



Certificate of Insurance

Policy Number is P000340043AON



QBE Insurance (Australia) Limited
 ABN 78 003 191 035 - Incorporated in Australia

Policy Information

Policy Number P000340043AON

Period of Insurance

From 30/09/2023 at 4pm
To 30/09/2024 at 4pm

Insured

Sport Northland

Statutory Liability**Cover Details****Wording**

VTXSL1021 : Aon Vertex NZ Statutory Liability

Limit of Indemnity

NZD 1,000,000 any one Event and in the aggregate any one Period of Insurance

Summary

Cover is subject to the terms and conditions of the policy as issued. For a full description of the coverage please refer to the policy document.

Issued and signed by QBE's authorised representative

Dated: 27 October 2023



Certificate of Insurance

Policy Number is P000340043AON



QBE Insurance (Australia) Limited
 ABN 78 003 191 035 - Incorporated in Australia

Policy Information

Policy Number P000340043AON

Period of Insurance

From 30/09/2023 at 4pm
To 30/09/2024 at 4pm

Insured

Sport Northland

Employers Liability**Cover Details****Wording**

VTXEL1021 : Aon Vertex NZ Employers Liability

Limit of Indemnity

NZD 1,000,000 any one Claim and in the aggregate any one Period of Insurance

Summary

Cover is subject to the terms and conditions of the policy as issued. For a full description of the coverage please refer to the policy document.

Issued and signed by QBE's authorised representative

Dated: 27 October 2023



7.10 Fluoridation Motion to Consult - Consultation Options

Meeting:	Whangarei District Council
Date of meeting:	23 November 2023
Reporting officer:	Jim Sephton (General Manager Infrastructure) Andrew Venmore (Water Services Manager) Shona Morgan (Community Engagement Adviser)

1 Purpose / Te Kaupapa

To seek approval from Council to undertake consultation with the community on the fluoridation of water following a Notice of Motion approved at the October Council Meeting.

2 Recommendation/s / Whakataunga

That the Council

1. Notes that under the Health Act 1956 and Local Government Act 2002, there is no requirement for local authorities to consult with the community on this matter as it is a directive from the Ministry of Health.
2. Notes that the results of the consultation with the community on their view on fluoridation will be provided to the Ministry of Health for their consideration.
3. Supports option 2 – a short online survey on the fluoridation of water.

3 Background / Horopaki

At the October 2023 Whangarei District Council meeting, a resolution was carried to ‘*seek guidance from the residents of Whangarei District by consulting on having fluoride added to any of Council’s public water supplies*’

4 Discussion / Whakawhiti korero

Requirements to engage

Consultation requirements under sections 78-83 of the Local Government Act 2002 do not apply to whether or not to fluoridate because Council cannot consult on decisions that it is legally unable to make. There is also provision within the Health Act that the local authority is not required to consult on any matter relating to the Director-General’s direction. However,

Council is able to gauge the feeling within the community and any results can be passed to the Director General of Health for their consideration.

The results of any community engagement will not influence the current contract to upgrade the treatment plants as the contract has already been awarded and a funding agreement in place with the Ministry of Health. However, if the direction from the Director General was to change then Council may be in a position to cease the fluoridation process.

Officers have considered options for consultation that allows the public to express how they feel on fluoride being added to the water supplies, while acknowledging that, by law council must comply with the legislation and will continue working towards meeting the fluoride directive requirements by the 2024 deadline.

4.1 Financial/budget considerations

It is noted that there is no approved budget to carry out any consultation.

4.2 Options

Four options are outlined below:

Option 1 – Do not undertake consultation but enable direct contact with the Ministry of Health. This option would not incur any additional costs (actual and staff time). We would provide our community with an email address to send their concerns directly to the Director General of Health. The benefits of this option would be that the Ministry of Health would hear directly from the community and would not be setting expectations with our community that Council could change the outcome.

Option 2 – Run a short online survey, the results of which will be sent to the Ministry of Health for consideration. This option has the potential to reach widely throughout our communities and is relatively easy to administer. The risk here is that other participants from outside the Whangarei district could respond to the survey or individuals could complete the survey more than once, which could make the results more difficult to interpret. There is no cost associated with Option 2 other than a small amount of staff time, approximately 10-15 hours.

Suggested questions for the short online survey:

- Do you live in Whangarei District? Y | N
- How do you feel about the Ministry of Health directive that fluoride be added to the Whangarei and Bream Bay drinking water supplies to fight tooth decay? (5 options for reply: Strongly disagree, disagree, neutral, agree, strongly agree)

Option 3 – Carry out a phone survey. The estimated costs of this would be around \$25,000 for a small survey. Questions listed above in Option 2 could be used in the survey. This option would eliminate people from outside the district participating.

Option 4 - Hold a full referendum at a cost of approximately \$180,000. This option would not necessarily be more accurate than option 3. When the last fluoridation survey of residents was undertaken in 2002 only 38% of over 40,000 papers were returned.

Staff recommend Option 2 as there is minimal cost (staff time only) and it meets the objective of the notice of motion.

4.4 Financial implications

There is no budget available to conduct a survey using external resources. Options 1 and 2 can be undertaken using only staff time.

5 Significance and engagement / Te Hira me te Arawhiti

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.

This report discusses engagement with the community, and this will be undertaken in accordance with the approved recommendation.

7.11 Submission on Wai Tamaki ki Te Hiku's Asset Management Plan and Funding and Pricing Plan

Meeting: Whangarei District Council
Date of meeting: 23 November 2023
Reporting officer: Jessica Crawford (Team Leader – Asset Management)

1 Purpose / Te Kaupapa

To approve its submission on Wai Tamaki ki Te Hiku's draft Asset Management and Funding and Pricing Plans.

2 Recommendation/s / Whakataunga

That the Council approve its submission on Wai Tamaki ki Te Hiku's draft Asset Management and Funding and Pricing Plans and authorise the Chief Executive to make any minor changes required and to lodge the submission with the Department of Internal Affairs on its behalf.

3 Background / Horopaki

The Department of Internal Affairs, through the National Transition Unit (NTU) is creating a single asset management plan (AMP) combining water, wastewater, and stormwater activities across all of the Wai Tamaki ki Te Hiku parties (Far North District Council, Healthy Waters, Kaipara District Council, Watercare and Whangarei District Council). The NTU has also created a proposed funding and pricing plan (FPP) to show how the AMP is going to be paid for and the fees customers can expect to pay.

These two documents have been shared with the Councils, key stakeholders and iwi/hapu, for comment. Staff have prepared this submission using Councillors' comments from the 8 November 2023 workshop.

4 Discussion / Whakawhiti kōrero

The submission is attached for consideration and approval.

5 Significance and engagement / Te Hira me te Arawhiti

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 the Agenda publication on the website.

6 Attachments / Ngā Tāpiritanga

1. Submission Cover Letter
2. Submission



X November 2023

Via e-mail to: DraftInitialAMPandFPP@dia.govt.nz

Rust Avenue, Whangārei
Private Bag 9023, Te Mai,
Whangārei 0143, New Zealand
P +64 9 430 4200
E mailroom@wdc.govt.nz
www.wdc.govt.nz/ContactUs

Submission on the draft Wai Tamaki ki Te Hiku Asset Management Plan and draft Funding and Pricing Plan

Thank you for the opportunity to provide feedback on the draft Wai Tamaki ki Te Hiku Asset Management Plan (AMP) and draft Funding and Pricing Plan (FPP).

On behalf of its community, the Whangarei District Council continues to be opposed to the 'Affordable Waters' Three Waters Reform in its current form. As expressed in the C4LD submission, WDC supports reform of the sector, however Council's opposition is centred on its approach to asset reconfiguration and governance structure.

Despite this opposition, WDC has provided the attached submission on the AMP and FPP.

Should you have any questions regarding this submission please contact Andrew Venmore - Water Services Manager (andrew.venmore@wdc.govt.nz).

Yours faithfully

Simon Weston
Chief Executive Officer

#	Area	Support /Oppose	Position	Relief sought
1.	Asset Management Plan	Support	WDC generally supports the provisions of the AMP particular the large key projects eg the Ocean Outfall at Ruakaka and the Poroti Water Treatment Plant. Also support the focus on mains renewals. WDC agrees that AC and cast-iron mains should be targeted but notes that health risks of AC relate to repairing or removing rather than being in service. Note that priorities can change quickly, and flexibility is needed when programming capital work.	That WTKTH establish a framework for working with WDC to prioritise capital delivery programmes and a forward-works programme, particularly synchronising work with the Rooding department.
2.	WICs charges	Oppose	WDC have concerns that the proposed charges will stifle development in some areas of the District.	Provide ability for Councils to derive appropriate WICs charges to enable development in required areas
3.	WICs charges	Oppose	The proposed charges would prohibit new areas being provided with 3 waters services, particularly rural and less affluent coastal communities eg Pipiwai	Consider how 3 water services can be provided affordably for existing communities or growing rural communities and Papakaiaanga.
4.	FPP Funding of Water Sources and Infrastructure Sources of funding	Clarify	WDC has concerns about the funding model, in particular the amount of debt that WTKTH will raise. The Water Industry Commission Scotland modelling was challenged through the Castalia report. The modelling seemed overly optimistic and WDC is concerned that this FPP charging model is also overly optimistic and changes will need to increase over and above the modelled increases due to the unrealistic efficiency savings.	Clarify debt per customer ratio for Whangarei Residents and where liabilities for debt ultimately lie. Clarify the long term pricing and investment Plan including debt funding component.
5.	FPP – Stormwater catchments and funding		WDC has concerns that the proposed stormwater funding model will be unwieldy and may be contentious and problematic to administer especially for properties that do not have a water or wastewater connection.	A simplified charging regime to ensure that there are fairer outcomes. Public good needs to be considered.
6.	Appendix A Schedule of Water Services Charges for 2024/25	Support	The cubic metre rate for water will be beneficial for Whangarei Residents. Albeit we are sceptical about the modelled rates.	

7.	Appendix A Schedule of Water Services Charges for 2024/25	Oppose	WDC have concerns about the method of charging for Wastewater. Charges based on water consumption will see significant increase in cost for larger water users	Consider phasing in or allowing existing customer to retaining current pricing regimes where they are significantly disadvantaged.
8.	Appendix B Schedule of Fees and Charges	Oppose	Where fees and charges are standardised across the WTKTH area, then Northland appears to see an increases from current levels ie professional fees, connection charges, meter testing.	Where services can be delivered cheaper within local areas these lower fees and charges should be retained.
9.	Appendix B Schedule of Fees and Charges	Oppose	Backflow charges are not applicable for WDC model of Backflow management where we own the Boundary backflows	Have fees for backflow testing, maintenance and renewal similar to current WDC arrangement

8.1 Chief Ombudsman Report – Local Council Meetings and Workshops

Meeting: Whangarei District Council
Date of meeting: 23 November 2023
Reporting officer: Emily Thompson (Manager - Democracy and Assurance)

1 Purpose / Te Kaupapa

To present the report from the Chief Ombudsman on his investigation into local council meetings and workshops for awareness and discussion.

2 Recommendation / Whakataunga

That the Council notes the report.

3 Background / Horopaki

Council conducts the business of Council under the requirements of The Local Government Official Information and Meetings Act 1987 (LGOIMA). This is a key tool and safeguard of New Zealand's democracy.

The LGOIMA, along with the Official Information Act 1982 (OIA) updated New Zealand's freedom of information legislation to introduce the principle of availability—that official information should be available to the public unless there is good reason to withhold it.

In August 2022, the Chief Ombudsman, Peter Boshier, initiated an investigation to test concerns that councils were using workshops and other informal meetings to make decision.

His investigation considered if councils were using workshops to make decisions and also looked at council practices around excluding public from meetings that are regulated by LGOIMA.

His report is presented to Council here.

NOTE: the report 'Open for business' references meetings for all formal meetings held in chambers (Council and Committee meetings) and uses the term 'workshops' for all other meetings held in chambers. Within Whangarei District Council we split the terminology 'Workshop' and use the following terms:

- *Briefing for public workshops*
- *Workshop for public excluded workshops*

4 Discussion / Whakawhiti kōrero

The Open for business report is the Chief Ombudsman's investigation into local council meetings and workshops. This was released in October 2023.

The findings and recommendations in the report provide interesting reading and staff would like to ensure that elected members have awareness of the expectations of the ombudsman on these matters.

Staff have reviewed the report and note that there is a difference in terminology between the report and our Council. This doesn't detract from the messages that are presented for consideration by Council.

The recommendations from the report can be summarised as:

- Meetings should be held in Open as default
- Items or meetings that are closed to the public need to have clear reason why they are closed to the public
- Information about dates and general topics of all Council meetings, Briefings and workshops should be included in our public notices
- Formalise a process for considering release of information for closed workshops.
- Consider adding a message (to our website and public notices) that complaints about workshops can be made to the ombudsman

5 Significance and engagement / Te Hira me te Arawhiti

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.

6 Attachment / Ngā Tāpiritanga

Open for Business October 2023. pdf

A report on the Chief Ombudsman's
investigation into local council
meetings and workshops

Open for business

Te Kaitiaki Mana Tangata Aotearoa
The Ombudsman New Zealand

October 2023



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

ISBN: ONLINE 978-1-99-117608-0 PRINT 978-1-99-117608-0

"The unique aspects of the PĪTAU-A-MANAIA and PANEL Logo have been carefully carved by digital whakairo at Ariki Creative in Ōtautahi, Taane Flanagan, for the exclusive use for the Office of the Ombudsman. All copyright and trade mark rights in the PĪTAU-A-MANAIA and PANEL Logo are owned by the Chief Ombudsman and authorised for use by the Office of the Ombudsman".

All text and images copyright © Office of the Ombudsman 2023.

All rights reserved. This work is licensed under the Creative Commons Attribution 4.0 International License. To view a copy of this license, visit <https://creativecommons.org>

Contents

Introduction	4
Summary: What councils should do now	9
Terminology	11
Legislative context	12
Leadership and Culture	15
My expectations	15
My conclusions	16
Interactions between councils' operational and governance arms	16
Internal perceptions of openness	16
Public perceptions of openness	18
Website content	19
What councils should do now	22
Meetings	23
My expectations	23
My conclusions	26
Pre-meeting	26
During the meeting - excluding the public	27
Post-meeting	33
What councils should do now	34
Workshops	35
My expectations	35
My conclusions	37
Terminology around workshops	37
Councils' use of workshops	38
Open by default	40
Publicising upcoming workshops	41
Records of workshops	42
What councils should do now	43
Accessibility	44
My expectations	44
My conclusions	45
What councils should do now	46
Organisation structure, staffing and capability	47
My expectations	47
My conclusions	48
What councils should do now	50
Appendix 1. Relevant legislation	51
Appendix 2. Legislative history of key terms	53



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 Zealand¹

1 Link to [section 4](#) LGOIMA

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 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.

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.

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

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 councils⁶ 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.

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.

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. 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.

9 Link to [section 14](#) LGA

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 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.

What councils should do now

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

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:

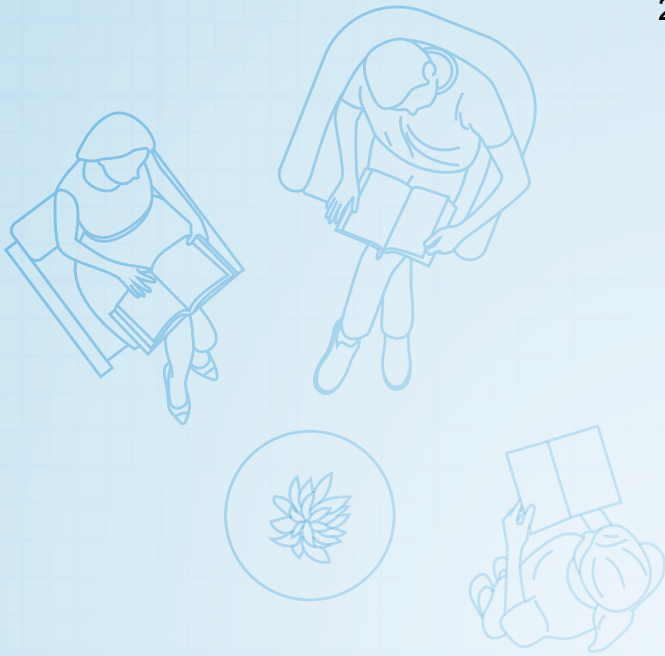
- the LGA, which requires a local authority to *'conduct its business in an open, transparent, and democratically accountable manner'*. This obligation complements the requirements in the LGOIMA to conduct decision making meetings in public; and
- the requirement that anything taking place or provided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

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

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

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%

¹² Percentages are rounded to the nearest whole number.

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.

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.

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.

Councils are required under Part 7 of the LGOIMA to notify the public of the occurrence of meetings¹⁶ 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.

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	'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.

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

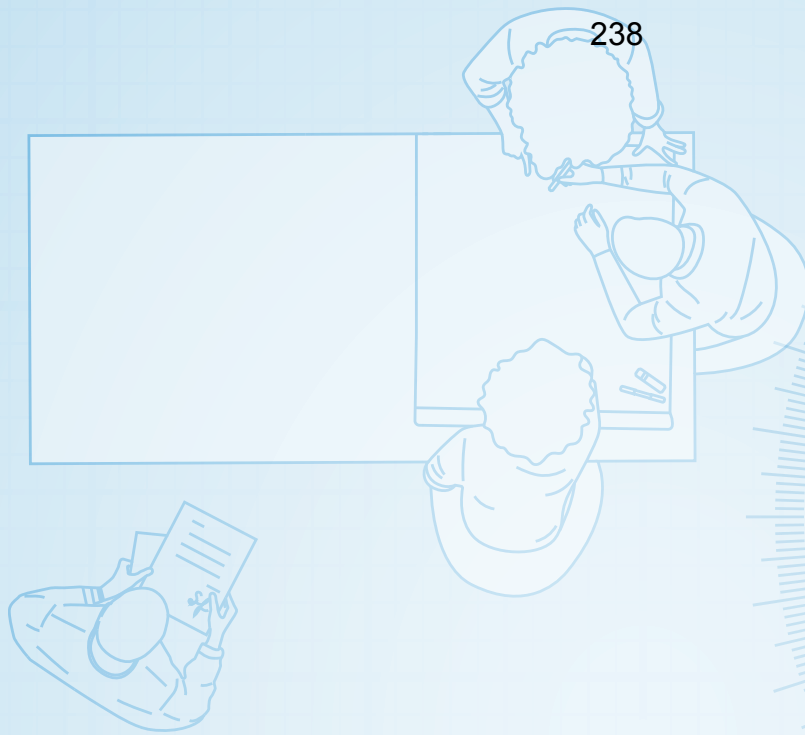
17 Link to [section 51](#) of the LGOIMA

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

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

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

- 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 (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.

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

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.

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
- 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.

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

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
- 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.

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

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

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

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

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*.

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

- 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 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.

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.

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

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

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

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

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

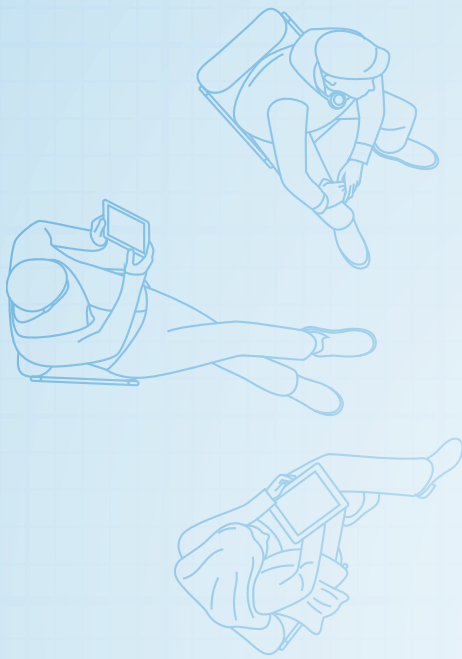
A powerful way to increase the public's trust in Councils and to improve transparency is to establish a consistent practice of reconsidering public excluded information for release at a point when the reason for withholding information no longer applies. Mutual trust between the public and their representatives 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.

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

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 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

44 Link to [section 14](#) of the LGA

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.

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.

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

47 Link to [section 13](#) of the OA

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

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

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.*

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.

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

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 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.

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

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.
- 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.

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

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.

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](#),

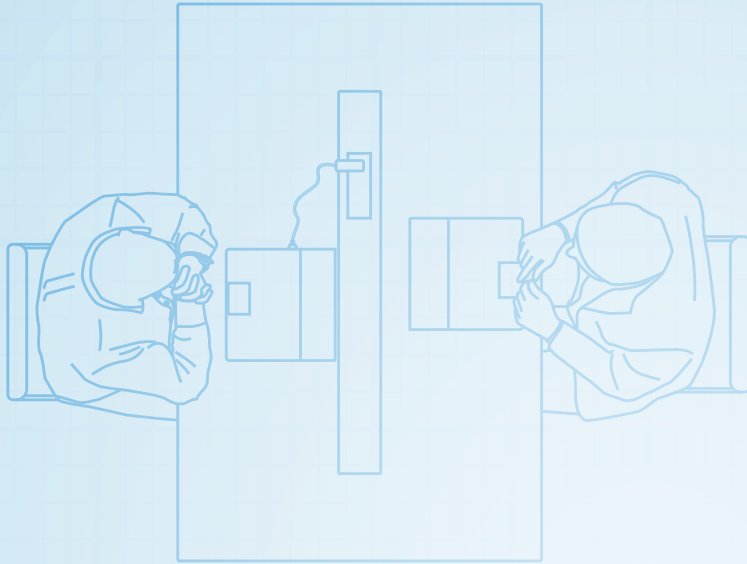
councils should make sure that the links to meetings are in a prominent place on their websites' home pages. I have suggested a number of councils consider additional ways of making meeting dates and times more visible to the public.

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.

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.

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 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.

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):

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

60 From the Explanatory Note to the Bill.

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

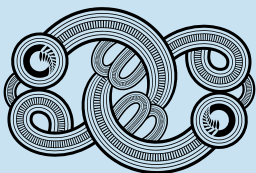
[section 45(2)] ... is not new, but rather a clarification of an existing provision. The previous definition of meeting was ambiguous and it was felt that it was unfair to expect councils to comply with the provision when they were not clear on what they were complying with. Meetings at which no resolutions 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

62 Undated letter to G Liddell.

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



Ombudsman
Tuia kia օrite • Fairness for all

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:

General subject of each matter to be considered		Reason for passing this resolution in relation to each matter	Ground(s) under Section 48(1) for passing this resolution
1.1	Confidential Minutes Whangarei District Council 26 October 2023	Good reason to withhold information exists under Section 7 Local Government Official Information and Meetings Act 1987	Section 48(1)(a)
1.2	Infrastructure as a Service		
1.3	Land Purchase – Opouteke Road		
1.4	Update – Legal Proceedings		
1.5	Property Matter		

This resolution is made in reliance on Section 48(1)(a) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Section 6 or Section 7 of that Act which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public, are as follows:

Item	Grounds	Section
1.1	For the reasons as stated in the open minutes	
1.2	To enable the Council to carry on without prejudice or disadvantage negotiations	Section 7(2)(i)
1.3	To enable Council to carry on without prejudice or disadvantage negotiations (including commercial and industrial negotiations)	Section 7(2)(i)
1.4	To maintain legal professional privilege.	Section 7(2)(g)
	To enable Council to carry on without prejudice or disadvantage negotiations (including commercial and industrial negotiations).	Section 7(2)(i)
1.5	To enable Council to carry on without prejudice or disadvantage commercial activities.	Section 7(2)(h)
	To enable Council to carry on without prejudice or disadvantage negotiations (including commercial and industrial 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.