

Supplementary agenda for a meeting of the Waikato District Council to be held via Audio Visual Conference on **MONDAY, 11 APRIL 2022** commencing at **9.30am**.

*Information and recommendations are included in the reports to assist the Council in the decision-making process and may not constitute Council's decision or policy until considered.*

*\*\*The attached reports and additional information were indicated within the open agenda distributed on 5 April 2022 as being late and would be included this supplementary agenda as the matters need to be resolved at this meeting due to a number of critical timeframes. \*\**

## **7. REPORTS**

- |           |   |           |
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| 7.1       | <i>Zero Harm Update</i>   | 4         |
| 7.2       | <i>Dog Control Policy &amp; Bylaw – Memorandum re changes to recommendations and legal advice (PEX Item 3.4 refers – with memo to be released into open section at the meeting)</i> |           |
| 7.6       | <i>Local Government Commission Determination - Waikato District Council Representation Arrangements 2022</i>  | 12        |
| 7.7       | <i>Development Contribution Policy on Tiny Residential Units and consideration of wider policy review</i>   | 36        |
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| <b>9.</b> | <b><u>EXCLUSION OF THE PUBLIC</u></b>   | <b>54</b> |

GJ Ion  
**CHIEF EXECUTIVE**

## TERMS OF REFERENCE AND DELEGATION

<b>Chairperson:</b>	His Worship the Mayor
<b>Deputy Chairperson:</b>	Deputy Mayor
<b>Membership:</b>	The Mayor and all Councillors
<b>Meeting frequency:</b>	Six weekly – or as required
<b>Quorum:</b>	Half of the members (including vacancies)

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### Purpose

1. To provide leadership to, and advocacy on behalf of, the people of the Waikato District.
2. To define and represent the total communities' interests, ensuring ongoing community and economic development, the effective stewardship of existing assets, sustainable management of the environment, and the prudent management of the communities' financial resources.

### Terms of Reference

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

1. The power to make a rate.
2. The power to make a bylaw.
3. The power to borrow money, or purchase or dispose of assets, other than in accordance with the Long-Term Plan.
4. The power to adopt a Long-Term Plan, Annual Plan, or Annual Report.
5. The power to appoint a Chief Executive.
6. The power to adopt policies required to be adopted and consulted on under the Local Government Act 2002 in association with the Long-term Plan or developed for the purpose of the local governance statement, including the Council's Infrastructure Strategy.
7. The power to adopt a remuneration and employment policy.
8. The power to approve or amend the Council's Standing Orders.
9. The power to approve or amend the Code of Conduct for elected members, and consider any recommendations made in relation to a complaint lodged under the Code.
10. The power to appoint and discharge:
  - a. members (including chairpersons) of Council committees and subordinate decision-making bodies, subject to the Mayor's powers under section 41A Local Government Act 2002; and
  - b. elected member representatives on external organisations.
11. The power to establish a joint committee with another local authority or other public body, and appoint elected members as representatives on such committees or bodies.

12. The power to make the final decision on a recommendation from the Ombudsman where it is proposed that Council not accept the Ombudsman's recommendation.
13. The power to approve or change the District Plan, or any part of that Plan, in accordance with the Resource Management Act 1991.
14. The power to amend or replace the delegations in Council's Delegations Register (except where expressly permitted in the Delegations Register).

To exercise the following powers and responsibilities of Council, which the Council chooses to retain:

1. To approve a proposed policy statement or plan under the Resource Management Act 1991.
2. To approve changes to boundaries of the District under the Resource Management Act 1991 or any other legislation.
3. In respect of District Plan decisions:
  - a. To appoint independent commissioners to a panel for hearings of a Proposed District Plan;
  - b. To approve the recommendation of hearings commissioners on a proposed plan, plan change or variation (including private plan change); and
  - c. To approve a proposed plan or a change to a district plan under Clause 17, Schedule 1 of the Resource Management Act 1991.
4. To adopt governance level strategies, plans and policies which advance Council's vision and strategic goals (e.g. Hamilton to Auckland rail), other than where expressly delegated to a committee.
5. To approve Council's recommendation to the Remuneration Authority for the remuneration of elected members.
6. To approve the Triennial Agreement.
7. To approve resolutions required to be made by a local authority under the Local Electoral Act 2001, including the appointment of an electoral officer and reviewing representation arrangements.
8. To approve any changes to the nature and delegations of any Council committees or subordinate-decision making bodies.
9. To approve the Local Governance Statement.
10. To approve any additional funding decisions required for the Watercare Services contract.
11. To receive six-monthly reports from each Community Board on its activities and projects.

**To** | **Waikato District Council**  
**Report title** | **Zero Harm Update**

## **1. Purpose of the report**

### **Te Take moo te puurongo**

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To provide an update on current health and safety performance. Council recognises that compliance is essential, but it aspires to achieve a sustainable zero harm culture, where everyone works safely and goes home safe every day.

## **2. Executive summary**

### **Whakaraapopotanga matua**

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- Over the last three months there has been a decrease in ‘Personal Wellbeing’ conversations and an increase in conversations related to either ‘Work-related Health’ or ‘Work-related Safety’ topics.
- A focus on safety culture and safety leadership has been included in the Zero Harm Refresher Induction for 2022.
- The FY21/22 plan contains 91 actions. To date 24 are completed, 27 are underway, 21 are overdue and 19 are phased for completion in the next quarter.
- Since implementing the revised Zero Harm induction programme, the changed process has resulted in a time saving of approximately 45% (from 41 hrs to 22.5hrs) for the Zero Harm team.
- Risk reviews for Asbestos and Workplace Violence critical risks are scheduled to be completed in April and May respectively.

## **3. Staff recommendations**

### **Tuutohu-aa-kaimahi**

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**That the Waikato District Council receives the Zero Harm update for March 2022.**

## **4. Background**

### **Koorero whaimaarama**

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Councils’ zero harm culture is supported by a health and safety management system of policies, standards and procedures that are designed to support the elimination or management of risk and enable best practice.

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## 5. Discussion Matapaki

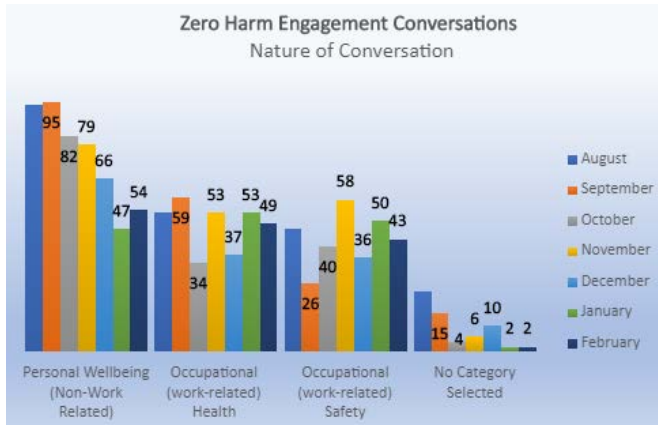
### People and Organisational Safety Culture

#### ***Zero Harm Engagement Conversations***

It has now been seven months since the revised Zero Harm Engagement Conversation process was implemented. The data being captured in BWare continues to be reported on weekly to the Executive Leadership Team (ELT) and analysed monthly.

The Zero Harm team has noticed a decrease in support request from People Leaders in relation to the new process. New and seconded People Leaders are provided training on the process as part of the Zero Harm People Leader Induction module.

A total of 200, 149, 153 and 148 Zero Harm Engagement Conversations were recorded in BWare for November, December, January, and February respectively.



The top three topics of each Zero Harm Engagement Conversation type from the last four months are detailed in the table below

Personal Wellbeing (Non-work related)	Occupational (Work-related) Health	Occupational (Work-related) Safety
- Personal health	- Work stress	- Hazard/Risk management
- Personal stress	- Mental wellbeing	- On road driving
- Relationships/family	- Covid-19	- Contractor management

#### ***Safety Leadership Training***

As discussed previously, the additional health and safety workload created by the Covid-19 pandemic and the temporary loss of resource in the Zero Harm team due to the resignation of a Zero Harm Advisor has impacted completion of activities in relation to safety leadership training. Therefore, to raise awareness of this important component of our health and safety management system a focus on safety culture and safety leadership has been included in the Zero Harm Refresher Induction for 2022.

### Disciplined Management Systems

#### ***Strategic Improvement Planning***

A quarterly review has once again been completed on progress made to deliver the improvement activities detailed in the FY21/22 Zero Harm Strategic Plan. The FY21/22 plan contains 91 actions. To date 24 are completed, 27 are underway, 21 are overdue and 19 are phased for completion in the next quarter.

Overdue actions are related to the following activities:

- Safety Leadership survey
- Safety Leadership training programme for People Leaders
- Wellbeing Collective strategy
- Zero Harm Assurance Calendar
- Contractor H&S Management training
- Community Hall Committees/Community Boards H&S needs analysis
- Critical Risk Bowtie for Working on or Near Roadways
- Emergency Management Standard and emergency response procedures

Completion of some activities in the plan have been impacted by the resignation of a Zero Harm Advisor. Recruitment was successfully completed in February and a new advisor joined the team in March. Priorities have been reviewed and the team is now focused on completing activities to get the plan up to date.

During the recent internal ISO45001 Zero Harm Safety Management System (ZHSMS) audit, a major non-conformance was identified in relation to the Zero Harm Commitment (Policy) and strategic objectives.

To address this non-conformance, both topics were included in the Zero Harm Refresher Induction and its associated assessment.



## Performance Reporting

The Zero Harm team has again completed a review of our zero-harm performance across several health and safety metrics for the period July 2021 to February 2022. The results are shown in the table below along with the results for the period July 2020 to June 2021.

Measures	July 20 to June 21	July 21 to Feb 22 (annualised)
Events reported in BWare Safety Manager (Lead)	203	106 (159)
Total Recordable Injuries (TRIs) e.g., Lost Time Injury, Restricted Work Injury or Medical Treatment Injury (Lag)	4	2 (3)
WorkSafe NZ Notifiable Events (Lag)	1	1(1)
First Aid Injury events (Lag)	19	13 (20)
Serious Near Miss events (Lead)	4	0
Near Miss events (Lead)	107	53 (80)
New Uncontrolled Hazards (Lead)	17	116 (174)
Safety Engagement Conversations (Lead)	2872	1380 (2070)

## Event Investigation

A total of two personal injury events were recorded in BWare Safety Manager for February 2022. Both were First Aid (Severity 6) events. There were seven minor Near Miss (Severity 7) events also reported in February. Analysis of the Near Miss event reports was undertaken to identify what hazards these events related to and if any additional risk management opportunities exist. The findings are summarised in the following table.

Associated Critical Risk	Task being undertaken	Number of Near Miss event reports	Additional risk management controls
<i>Workplace violence</i>	Animal Control duties - dealing with aggressive customers	2	Event shared at Team Meeting and discussion had regarding additional de-escalation techniques that could be used
	Customer Delivery duties - Dealing with aggressive customers	4	One event escalated to Police and Trespass notice issued
<i>Working with Dangerous Animals</i>	Animal Control duties - dog seizure	1	None identified

In November 2021, a notifiable event (Severity 2) occurred at the Raglan Holiday Park. The event was reported to WorkSafe, and an investigation was undertaken using the Incident Causation Analysis Method (ICAM). The findings and recommendations from the event were shared with the Holiday Park Manager and Raglan Holiday Park Board.

One of the recommendations is the completion of an independent gap analysis (audit) of the camp's health and safety systems and their alignment with Council's ZHSMS. An external consultant has been engaged to undertake this and they completed a site visit in March.

The attached Zero Harm Dashboard illustrates safety performance for February 2022.

### ***Worker Information, Training, Instruction and Supervision***

Since implementing the revised Zero Harm induction programme, 88 new or transferring workers have completed the new process. The changed process has resulted in a time saving of approximately 45% (from 41 hrs to 22.5hrs) for the Zero Harm team.

### ***External Training and Competency***

As previously reported the Covid-19 pandemic has significantly impacted the delivery of scheduled and proposed health and safety training for FY21/22. The Zero Harm team has been focused on using other alternatives to progress planned training including on-line and self-paced learning.

Recently delivered or planned health and safety training is summarised in the following table:

Training delivered or planned	Number of workers required to complete training	Number of workers trained
Asbestos Awareness Training (Self-paced online course delivered by Safety N Action)	11	9 out of 11 have completed to date. Another 13 new staff have been identified to complete this training also.
H&S Representative Stage 1 (2-day online training)	8	5 out of 8 scheduled to complete training
H&S Representative Stage 2 (2-day online training)	9	Training currently being booked
Mental Health First Aid Training (1 day training delivered by St Johns)	14 (Animal Control Officers, Pound Keepers, AC Team Leader)	3 have completed training, 9 scheduled, 2 to be booked

## **Critical Safety Risk Management**

### ***Critical Risks***

The management of critical health and safety risks has again been a key component of this year's Work Safe, Home Safe Event. This year the induction refresher programme has included information on controls for managing the following critical risks.

- Working on or Near the Roadway
  - Mental Wellbeing at Work
-



A risk review was completed in February for the critical risk of Hazardous Substances. Risk reviews are also scheduled for Asbestos and Workplace Violence in April and May respectively.

### ***Covid-19 Risk Management***

The Zero Harm team has continued to support the Incident Management Team's response to the Covid-19 Omicron outbreak. Primary focus has been strengthening existing risk controls in particular mask use. The Zero Harm team has been able to source consistent supplies of both medical-grade facemasks and P2 respirators manufactured to Australian/New Zealand Standards.

Through a Waikato Local Authority Shared Services (WLASS) arranged Council was also able to purchase Rapid Antigen Tests (RATs). These have been used to undertake twice weekly surveillance testing for staff in roles with a high level of in-person customer interaction. Staff are also able to access RATs on a more ad-hoc basis, where their role requires them to attend a large gathering, such as a large community meeting, engagement event or consultation event. The results of the testing are being reviewed by the Zero Harm team on a weekly basis and actions following any positive result are being managed by the IMT.

## **6. Attachments**

### **Ngaa taapirihanga**

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Attachment 1 – Zero Harm Dashboard – February 2022

Date:	11 <sup>th</sup> April 2022
Report Author:	Lynn Shirley, Zero Harm Manager
Authorised by:	Gavin Ion Chief Executive

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# Zero Harm Performance Dashboard - February 2022



## Contractor Safety Management

## Key Take Outs

### Contractor Safety Management Activity Undertaken by the Zero Harm Team and Contract Managers

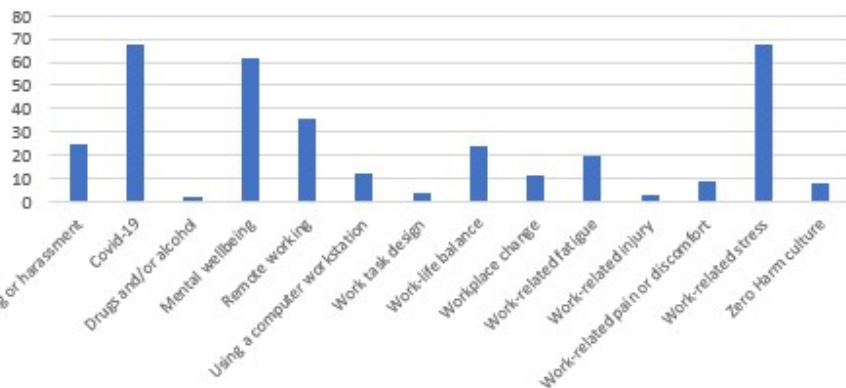
	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
Contracted Work H&S Risk Assessment		3	2	3						4		1		2	2	
Contract Manager H&S Advice and Support			3	3	3	2				1	4	4	2		4	
Contractor Site Visit or Inspection	1	2		4	15	15	3	1			2	2	4		1	
Contractor Pre-Start or Tool Box Meeting					2	1	1			1	2				1	
Contractor H&S Meeting	2	1	2		3		3		1	3	2				1	
Contractor Task or JSA Review and Approval		3	3	3	1		2	1		1		1	1			
Contractor Task or JSA Field Audit					1	1				1						
Contracted Work Safety Plan Review and Approval	2	3	2	2	4	1	2	1		2	3		1	1	1	
Contracted Work Safety Plan (SSSP) Field Audit				1	2	1	1					1	1			
Contracted Work End of Project H&S Review								1								

### A summary of key insights from February's Zero Harm Performance

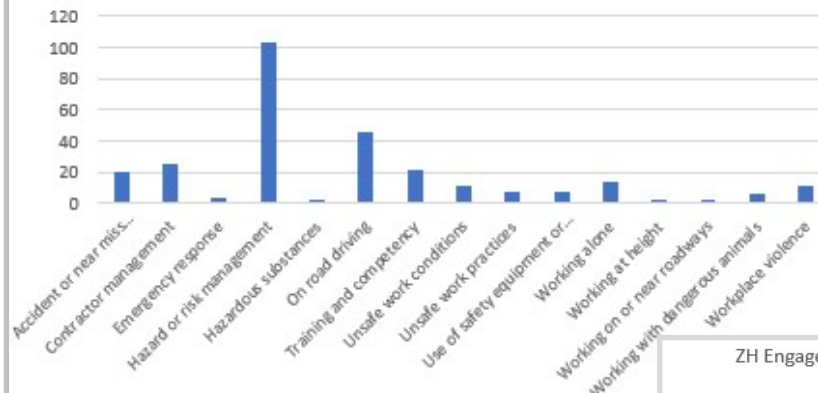
- High level of event reporting continues in the Customer Support Business Unit
- Two First Aid (Severity 6) injury events and 7 near miss (Severity 7) events were reported. The two first aid events resulted in minor lacerations/bruising to hands. No uncontrolled hazard trends were identified from these events. A review of the near miss events reported shows that 6 out of the 7 were associated with the risk of dealing with aggressive customers.
- High levels of hazard reporting have continued in the Customer Support Business Unit again this month. A total of 27 hazards were reported. 11 of these were related to vaccine passes and 10 were related to facemask use. One trip hazard and one electrical safety hazard were also identified by our Facilities maintenance contractors.

## Zero Harm Engagement Conversations (Safety Leadership) - Deep Dive on Year to Date (YTD) Data

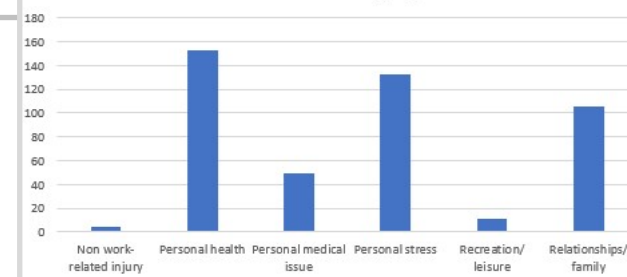
ZH Engagement Conversations YTD - Work-related Health Topics



ZH Engagement Conversations YTD - Work-related Safety Topics



ZH Engagement Conversations YTD - Non-work related Personal Wellbeing Topics



### Summary of Insights from Zero Harm Engagement Conversation Data Analysis

- A total of 1359 conversations recorded in BWare since August 2021. This consists of 572 Personal Wellbeing conversations, 392 Work-related health conversations and 332 Work-related safety conversations.
- The topic of Covid-19 was added in November to capture conversations related to the management of this risk.
- Further analysis of the Work-related Safety topic of Hazard and Risk Management showed that there were a number of conversations related to trip hazards, Council's vaccination policy and the Raglan Airfield safety upgrade.

<b>To</b>	<b>Waikato District Council</b>
<b>Report title</b>	<b>Local Government Commission Determination – Waikato District Council 2022 Representation Arrangements</b>

## **1. Purpose of the report**

### **Te Take moo te puurongo**

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To inform Council of the determination from the Local Government Commission (LGC) on representation arrangements for the 2022 Local Government Elections.

## **2. Executive summary**

### **Whakaraapopotanga matua**

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Council adopted an Initial Proposal for the Representation Review consultation on 7 July 2021 and subsequently received 240 submissions. Having considered the submissions and noting that they were significantly opposed to the Initial Proposal, Council requested staff to revisit options for ward boundaries and community boards.

A significantly revised Final Proposal was adopted by Council on 28 September 2021 and advertised on 1 October 2021, for which they received six (6) appeals and 21 objections on the following topics:

1. Number of councillors elected from Māori wards
  2. Names of Māori wards
  3. The splitting of several communities across ward boundaries and/or community board subdivisions
  4. Opposition to the Tamahere-Woodlands General Ward
  5. Names of general wards and community boards
  6. Raglan Community Board area
  7. Over-representation of the Western Districts General Ward (-17.7%) and the Raglan Rural subdivision of Raglan Community Board (-11.6%)
-

Due to the number of objections/appeals the LGC held a hearing for those appellants who wished to be heard on 27 January 2022 and provided Council with the opportunity to respond to issues raised, along with other questions from the Commissioners. However, their general feedback was that Council had undertaken a very good and robust review that had been requested at the time of the previous review.

The LGC have made additional queries to staff since then, for which information was provided to assist with their deliberations. On 5 April 2022 we received the final determination from the LGC which was circulated to the Mayor and Councillors that day and is attached to this report.

In summary, the main changes identified are as follows:

1. The names of the district's two Māori wards have been changed to Tai Raro Takiwaa Maaori Ward and Tai Runga Takiwaa Maaori Ward. This was part of Te Whakakitenga o Waikato's appeal, supported by Council.
2. The boundary between the Tuakau-Pōkeno and the Awaroa-Maramarua General Wards has been moved to include the Mercer airfield in the Tuakau-Pōkeno General Ward.
3. The name of the Waerenga-Hukanui General Ward has been changed to the Waerenga-Whitikahu General Ward.
4. The Raglan Community Board area has been extended to cover Te Uku and Te Mata communities and will not be subdivided into a rural/urban split.

The LGC believed the issue of the number of Maaori ward councillors in the proposal could not be increased at this stage as it was too significant to be changed without further consultation and encouraged Council to engage with Iwi early in the next review as they will also then have the feedback from the new Maaori ward councillors.

The issue of the under representation within the Western Districts General Ward was upheld as the LGC were satisfied that the ward contained sufficiently isolated communities to justify the proposed level of representation.

The LGC also acknowledged the concerns raised by the Onewhero/Pukekawa residents about their communities being split to enable the Awaroa-Maramarua General Ward to be contiguous. However, both communities are included in their entirety within the proposed new Rural-Port Waikato Community Board area. From an effective representation point of view, this provides the communities with access to the two councillors appointed to the community board from the Western Districts General Ward and the Tai Raro Takiwaa Maaori Ward.

The maps for the revised boundaries will be provided by an external provider engaged by the LGC in the next few weeks and provided for Council to update on the 2022 Elections page on the Council website.

The Electoral Officer has been provided a copy of the determination which enables Independent Election Services to continue with preparations for the 2022 local body elections for Waikato District Council.

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### 3. Staff recommendations Tuutohu-aa-kaimahi

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That the Waikato District Council notes the determination from the Local Government Commission on the 2022 Waikato District Council representation arrangements.

### 4. Attachments Ngaa taapirihanga

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Attachment 1 – LGC Determination : Issued 5 April 2022

Date:	11 April 2022
Report Author:	Gaylene Kanawa, Democracy Team Leader
Authorised by:	Tony Whittaker, Chief Operating Officer and Gavin Ion, Chief Executive

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**Local Government Commission**  
**Mana Kāwanatanga ā Rohe**

## Determination

of representation arrangements to apply for the election of the  
Waikato District Council to be held on 8 October 2022

### Background

1. All territorial authorities are required under sections 19H and 19J of the Local Electoral Act 2001 (the Act) to review their representation arrangements at least every six years. Representation reviews are to determine the number of councillors to be elected, the basis of election for councillors and, if this includes wards, the boundaries and names of those wards. Reviews also include whether there are to be community boards and, if so, arrangements for those boards. Representation arrangements are to be determined so as to provide fair and effective representation for individuals and communities.
2. The Waikato District Council (the council) last reviewed its representation arrangements prior to the 2019 local elections. In May 2021 it resolved to establish Māori wards. Accordingly, it was required to undertake a review prior to the next elections in October 2022.
3. The Commission last made a determination in relation to Waikato District Council's representation in 2019. The council's current representation arrangements have been in place since 2013 with some small boundary changes endorsed by the Commission in 2019. Consequently, for the 2019 elections, the council comprised a mayor and 13 councillors elected as follows:

Ward	Population*	Number of councillors per ward	Population per councillor	Deviation from district average population per councillor	% deviation from district average population per councillor
Awaroa ki Tuakau	12,769	2	6,385	+720	+12.71
Onewhero-Te Akau	5,400	1	5,400	-265	-4.68
Whangamarino	6,058	1	6,058	+393	+6.94
Hukanui-Waerenga	5,953	1	5,953	+288	+5.08
Huntly	10,300	2	5,150	-515	-9.09
Ngāruawāhia	10,400	2	5,200	-465	-8.21
Newcastle	5,720	1	5,720	+55	+0.97
Raglan	5,790	1	5,790	+125	+2.21
Eureka	5,600	1	5,600	-65	-1.15
Tamahere	5,650	1	5,650	-15	-0.26
<b>Total</b>	<b>73,640</b>	<b>13</b>	<b>5,665</b>		

\*Based on Stats NZ 2017 population estimates however proposed boundary alterations are shown using 2013 meshblock populations

4. The current arrangements include five community boards: Huntly, Ngāruawāhia, Onewhero-Tuakau, Raglan, and Taupiri.

## Current review: Council process and proposal

### *Preliminary consultation*

5. The Council undertook preliminary consultation with the community to identify the district's communities of interest and community preferences for a representation structure. Engagement included a community survey, focus groups with the community and stakeholders, and discussions with Waikato Tainui. Council officers summarised the community feedback as follows:

*The preliminary community engagement identified that a number of people felt connected to more than one community of interest. Indeed for some there were multiple communities of interest including some outside of the district (particularly those communities neighbouring Hamilton or in the northern part of the district).*

*The online survey indicated the following were key factors in determining communities of interest in the district:*

- a) *Land use (rural/urban/residential etc);*
  - b) *Activities and shared community services – in particular, sports/recreational and community facilities;*
  - c) *Geography/landscape;*
  - d) *Business and retail services*
  - e) *Social connection with immediate neighbours.*
6. Council officers summarised the key findings from focus groups as:
    - *Problems or obstacles shared by a community, and shared dependence on water resources were factors identifying communities of interest (in addition to those already mentioned).*
    - *Preferred number of councillors was between 14 and 16.*
    - *Preferred number of wards was between 6 and 8.*
    - *Community boards remain popular as a form of local representation.*
    - *Consideration should be given to establishing rural community boards, separate from neighbouring urban towns.*

### *The Council's initial proposal*

7. On 7 July 2021 the council resolved as its initial representation proposal a council comprising 13 members elected from eight wards, plus the mayor. The Council also resolved to retain five community boards, being:



- a. Huntly Community Board (six elected members and two appointed member)
- b. Ngāruawāhia Community Board (six elected members and two appointed members)
- c. Tuakau Community Board (six elected members and two appointed members)
- d. Raglan Community Board (six elected members and two appointed members)
- e. Taupiri Community Board (four elected members and two appointed members)

8. The initial proposed ward arrangements were as follows:

Ward	Population*	Number of councillors per ward	Population per councillor	Deviation from district average population per councillor	% deviation from district average population per councillor
Central General	12,400	2	6,200	31	+0.50
Pōkeno-Hunua General	6,510	1	6,510	341	+5.53
Port Waikato General	6,520	1	6,520	351	+5.69
Tamahere-Newcastle General	17,150	3	5,717	-452	-7.33
Tuakau General	6,420	1	6,420	-190	+4.07
Waerenga-Hukanui General	12,250	2	6,125	-44	-0.71
Whaingaroa General	6,610	1	6,610	441	+7.15
<b>Total General wards</b>	<b>67,860</b>	<b>11</b>	<b>6,169</b>		
Te Takiwaa Maaori	15,150	2	7550		
<b>Total District</b>	<b>82,850</b>	<b>13</b>	<b>6373</b>		

\*Based on Tatauranga Aotearoa Stats NZ 2020 electoral population estimates. Totals may not sum exactly due to rounding

9. The Council notified its proposal on 14 July 2021 and received 228 submissions by the deadline of 30 August 2021. A further 12 submissions were received after the deadline. These were accepted on the basis that there had been significant postal delays under the COVID-19 Public Health Response alert level 4 restrictions in force at the time. Thirty seven submitters were heard by the Council on 9, 10 and 14 September 2021.
10. Of the 240 submissions, 52 supported or were neutral on the Council's initial proposal, 175 did not support all aspects of the proposal, and 13 did not answer this question.
11. Key themes in the submissions were:
  - a. Calls for at least two Māori wards and five supported increasing the number of Māori ward councillors to three (17 submissions)
  - b. Too many councillors for the proposed Tamahere-Newcastle General Ward and/or the ward grouped incompatible communities (14 submissions).

- c. Some general wards would be too large for effective representation:
    - Waerenga-Hukanui (23 submissions), including that the boundaries do not reflect current communities of interest;
    - Central (29 submissions), including that smaller towns may be overlooked;
    - Port Waikato (18 submissions), including that the boundaries divide existing communities.
  - d. Te Akau was split across wards (43 submissions).
  - e. Both Te Akau and Glen Massey would be better placed in the Port Waikato General Ward as they have no relationship to Raglan.
  - f. The proposed boundaries do not keep communities of interest together and therefore weakened their voice and representation (57 submissions)
  - g. Opposing the proposal to split the Onewhero-Tuakau Community Board into an expanded Tuakau Community Board and an Onewhero Community Committee (112 submissions)
  - h. Calls to expand the Raglan Community Board area (13 submissions).
12. On 14 September 2021 the Council deliberated on submissions and discussed the following alterations to the initial proposal:
- a. Dividing the proposed Te Takiwaa Maaori Ward into two wards.
  - b. Dividing the proposed Tamahere-Newcastle General Ward into two separate wards, Tamahere-Woodlands and Newcastle-Ngāruawāhia.
  - c. Reducing the size of the Waerenga-Hukanui General Ward.
  - d. Reducing the Central Ward to Huntly communities of interest and renaming it Huntly General Ward.
  - e. Moving the boundaries of the proposed Port Waikato General Ward to the Waikato River and the Tawatahi River and renaming it Western Districts General Ward.
  - f. Expanding the proposed Tuakau General Ward to incorporate part of the proposed Pōkeno General Ward.
  - g. Combining the remaining sections of the proposed Pōkeno and Port Waikato General Wards into one general ward joined via a corridor running south of Tuakau-Pōkeno.
  - h. Establishing a sixth community board encompassing the northern part of the Western Districts General Ward and the Onewhero section of the existing Onewhero-Tuakau Community Board, with north and south subdivisions.
  - i. Expanding the Raglan Community Board area and creating rural and urban subdivisions.
13. The initial proposal for the Council to comprise the mayor plus 13 members, being 11 elected by general wards and two by Māori wards, was retained.

### *The Council's final proposal*

14. At a meeting on 28 September 2021, the Council amended its initial proposal to the following final proposal for the 2022 local elections:

Ward	2020 general electoral population estimate*	Number of councillors	Population per councillor	Deviation from district average population per councillor	% deviation from district average population per councillor
Awaroa-Maramarua General	5,750	1	5,750	-412	-6.68
Huntly General	6,210	1	6,210	48	+0.78
Newcastle-Ngāruawāhia General	13,450	2	6,725	563	+9.14
Tamahere-Woodlands General	13,350	2	6,675	513	+8.33
Tuakau-Pōkeno General	11,750	2	5,875	-287	-4.65
Waerenga-Hukanui General	6,500	1	6,500	338	+5.49
Western Districts General	5,070	1	5,070	-1,092	-17.72
Whaingaroa General	5,700	1	5,700	-462	-7.49
<b>Total General wards</b>	<b>67,780</b>	<b>11</b>	<b>6,162</b>		
Te Raki o te Takiwaa Maaori	7,980	1	7,980	405	+5.35
Te Tonga o te Takiwaa Maaori	7,170	1	7,170	-405	-5.35
<b>Total Māori wards</b>	<b>15,150</b>	<b>2</b>	<b>7,575</b>		
<b>Total District</b>	<b>82,850</b>	<b>13</b>	<b>6373</b>		

\* Based on Stats NZ Tatauranga Aotearoa 2020 population estimates. Totals may not sum exactly due to rounding.

15. The Council also resolved to retain the existing five community boards with some alterations to communities, membership and names, and to establish the Rural-Port Waikato Community Board, with the Rural-Port Waikato and Raglan Communities being subdivided for electoral purposes.
16. The Council publicly notified its final proposal on 1 October 2021, including advice that the Western Districts General Ward and the Raglan Community Board Rural Subdivision did not comply with the fair representation criteria.
17. Given the non-compliance of the proposed ward and community board subdivision, the Council was required under section 19V(4) of the Act to refer its proposal to the Commission for determination. In addition, seven appeals and 21 objections against the proposal were received.

### **Appeals/objections against the council's final proposal**

18. Six appeals and 21 objections received on the Council's final proposal were considered valid or partially valid and covered the following matters:
- Number of councillors elected from Māori wards

- b. Names of Māori wards
  - c. The splitting of several communities across ward boundaries and/or community board subdivisions
  - d. Opposition to the Tamahere-Woodlands General Ward
  - e. Names of general wards and community boards
  - f. Raglan Community Board area
  - g. Over-representation of the Western Districts General Ward (-17.7%) and the Raglan Rural subdivision of Raglan Community Board (-11.6%)
19. The Council referred the appeals and objections to the Commission, in accordance with section 19Q of the Act.

### Hearing

20. The Commission met with the Council and the eight appellants and objectors who wished to be heard at a hearing held online on Thursday 27 January 2022. The Council was represented at the hearing by Mayor Allan Sanson.
21. The following appellants and objectors appeared at the hearing:
- a. John Burns
  - b. Onewhero Residents & Ratepayers Group represented by John Burns
  - c. John Bridgman
  - d. Mercer Community Committee represented by Liam McGrath, Committee Chair
  - e. Rosemary Costar
  - f. Federated Farmers represented by Bruce Cameron and Hilary Walker, Policy Advisor
  - g. Tamahere Community Committee represented by Charles Fletcher, Leo Koppens, and Sue Robertson
  - h. John Lawson
  - i. Raglan Community Board represented by Chris Rayner

### *Matters raised at the hearing*

22. Mayor Allan Sanson, supported by Council Chief Executive Gavin Ions explained the process the Council had followed in carrying out its representation review and reaching its final proposal. They emphasised the following points:
- a. The Council considered it important to protect the rural voice in the representation arrangements.
  - b. The Council had undertaken a “ground up” review bearing in mind the Commission’s 2019 recommendation to create multi-councillor wards wherever possible.
  - c. The proposed Awaroa-Maramarua General Ward was originally suggested by staff as a non-contiguous ward of two sections two the east and west of the

Tuakau-Pōkeno General ward. However the Council decided to include a connecting corridor to the south of Tuakau-Pōkeno General Ward to ensure contiguity.

- d. The Council considered the initial proposal as the vehicle to consult with iwi on the preferred structure of Māori wards. The Council supported the appeal proposing name changes for both Māori wards.
  - e. The Council's proposal extends the existing Raglan Community Board area and establishes a rural subdivision to protect the rural voice. Extending the boundary further would create confusion for the rural community around who do deal with, given that rural people connect to the Council rather than community boards for services, and would have a cost impact in the form of a targeted rate.
  - f. The existing Onewhero-Tuakau Community Board extends into a large area to the south of the Waikato river. The community supported removing the rural portion as they felt dominated by the rural voice, and on the basis that a new rural community board be established for the rural area south of the Waikato River. This is reflected in the proposed new Rural-Port Waikato Community Board.
23. The appellants and objectors appearing at the hearing emphasised the following points in opposition to the Council's proposal:
- a. The two Māori ward councillors have an unfair representation burden, given the large geographic size of the two proposed Māori wards.
  - b. The Onewhero and Pukekawa communities are split between the Western Districts and Awaroa-Maramarua General Wards.
  - c. A non-contiguous Awaroa-Maramarua General Ward would group Auckland facing rural communities of interest together more appropriately.
  - d. The proposed Tuakau-Pōkeno General Ward splits the Mercer community from the Mercer airfield.
  - e. The Waikato River serves as a natural boundary between the northern wards.
  - f. The Tamahere community of interest is more residential than the rural communities it has been combined.
  - g. The area formerly known as Hukanui (now Gordonton), and the Hukanui Marae are both located outside of the proposed Waerenga-Hukanui General Ward.
  - h. Council and community boards serve different but complementary functions and opportunities for rural people to engage.
  - i. The proposed Raglan Community Board area does not fulfil community requests and splits the communities of Te Uku and Te Mata.
  - j. The Raglan community itself does not perceive a clear rural/urban split and subdivisions are therefore unnecessary.
  - k. Community board subdivisions ensure rural representation at community level.

## Matters for determination by the Commission

24. Section 19R of the Act makes it clear that the Commission, in addition to consideration of the appeals and objections against a council's final representation proposal, is required to determine, in the case of a territorial authority, all the matters set out in sections 19H and 19J which relate to the representation arrangements for territorial authorities. This interpretation was reinforced by a 2004 High Court decision which found that the Commission's role is not merely supervisory of a local authority's representation arrangements decision. The Commission is required to form its own view on all the matters which are in scope of the review.
25. The matters in the scope of the review are:
- whether the council is to be elected from wards, the district as a whole, or a mixture of the two
  - the number of councillors
  - if there are to be wards, the area and boundaries of wards and the number of members to be elected from each ward
  - whether there are to be community boards
  - if there are to be community boards, the area and boundaries of their communities, and the membership arrangements for each board.

## Key considerations

26. Based on the legislative requirements, the Commission's *Guidelines for local authorities undertaking representation reviews* (the Guidelines) identify the following three key factors when considering representation proposals:
- communities of interest
  - effective representation of communities of interest
  - fair representation for electors.

## Communities of interest

27. Many of the appeals/objections relate to the way the Council's final proposal combines or splits communities of interest.
28. The Guidelines identify three dimensions for recognising communities of interest:
- *perceptual*: a sense of identity and belonging to a defined area or locality as a result of factors such as distinctive geographical features, local history, demographics, economic and social activities
  - *functional*: ability of the area to meet the needs of communities for services such as local schools, shopping areas, community and recreational facilities, employment, transport and communication links
  - *political*: ability to represent the interests of local communities which includes non-council structures such as for local iwi and hapū, residents and ratepayer associations and the range of special interest groups.

29. We note that in many cases councils, communities and individuals tend to focus on the 'perceptual' dimension of communities of interest. That is, they focus on what intuitively they 'feel' are existing communities of interest. While this is a legitimate view, more evidence may be required to back this up. It needs to be appreciated that the other dimensions, particularly the 'functional' one, are important and that they can also reinforce the 'sense' of identity with an area. In other words, all three dimensions are important but should not be seen as independent of each other.
30. In addition to demonstrating existing communities of interest, evidence also needs to be provided of *differences* between neighbouring communities, i.e. that they may have "few commonalities". This could include the demographic characteristics of an area (e.g. age, ethnicity, deprivation profiles) and how these differ between areas, and evidence of how different communities rely on different services and facilities.
31. At the hearing, the Mayor described Waikato as a high growth district, designated Tier 1 under the national policy statement on urban development, with a population growing at double the national rate. The district includes the larger townships of Huntly, Ngāruawāhia, Pōkeno, Raglan, and Tuakau, and a proliferation of small villages but remains 65-70% rural.
32. In its 2019 determination for Waikato District Council, the Commission repeated, with increased emphasis, its 2013 recommendation that the council undertake a more comprehensive investigation of communities of interest in the district as part of its next representation review. This recommendation was made in light of recent uneven population growth in the district and the resulting impact on the evenness of representation across the district in terms of both wards and community boards/committees.
33. The Council has done this work for the current review in relation to its general wards, undertaking extensive preliminary engagement with the community. The results indicated that many people in the district connect to more than one community of interest, particularly the Auckland-facing communities in the north, and those neighbouring Hamilton. Focus group participants were asked to group localities together keeping communities of interest in mind and the results were mapped to show the strongest connections. These groupings were largely reflected in the Council's initial proposal and amended to reflect submissions in the final proposal.

### **Effective representation of communities of interest**

34. Section 19T of the Act requires the Commission to ensure that:
  - the election of members of the council, in one of the ways specified in section 19H (i.e. at large, wards, or a combination of both) will provide effective representation of communities of interest within the district
  - ward boundaries coincide with the boundaries of the current statistical meshblock areas determined by Statistics New Zealand and used for parliamentary electoral purposes
  - so far as is practicable, ward boundaries coincide with community boundaries (where they exist).

35. 'Effective representation' is not defined in the Act, but the Commission sees this as requiring consideration of factors including an appropriate number of elected members and an appropriate basis of election of members for the district concerned (at large, wards, or a mix of both).
36. The Commission's Guidelines note that what constitutes effective representation will be specific to each local authority but that the following factors should be considered:
- avoiding arrangements that may create barriers to participation, such as at elections by not recognising residents' familiarity and identity with an area
  - not splitting recognised communities of interest between electoral subdivisions
  - not grouping together two or more communities of interest that share few commonalities of interest
  - accessibility, size and configuration of an area including access to elected members and vice versa.
37. Within the scope of a representation review, councils can achieve effective representation of communities of interest by having members elected by wards, at large, a mixture of wards and at large. As the Waikato District Council has resolved to establish Māori wards, it must also establish at least one general ward.
38. While not a prescribed statutory requirement, the Guidelines suggest that local authorities consider the total number of members, or a range in the number of members, necessary to provide effective representation for the district as a whole. In other words, the total number of members should not be arrived at solely as the product of the number of members per ward, if there are to be wards.
39. Section 19A of the Act provides that a territorial authority shall consist of between 5 and 29 members, excluding the mayor. As a result of its 2013 review, the Waikato District Council reduced the number of councillors from 14 to 13 and this number of councillors remains today. The district was divided into eleven wards at its constitution in 1989. This number was retained through until the 2013 elections when it was reduced to ten wards, which was retained for the 2019 elections. All wards have been either single-member or two-member wards throughout this period.
40. The Commission commented in its 2019 determination that there had been periodic calls for fewer and/or multi-member wards as an appropriate way to balance rural and urban interests and to address concerns about uncontested elections. The Council's preliminary engagement also showed a majority (64%) preference for fewer wards. The Council attempted to reflect this in the current review, initially proposing to reduce the number of general wards to seven, three of which were multi-member wards (compared to three of 10 under the current arrangements). The Council commented at the hearing that submissions to the initial proposal included strong opposition to multi-member wards, although we note three of the seven general wards in the final proposal are two-member wards.



## Fair representation for electors

41. For the purpose of achieving fair representation for the electors of a district, section 19V(1) of the Act requires that the population of each ward divided by the number of members to be elected by that ward must produce a figure no more than 10 per cent greater or smaller than the population of the district divided by the total number of members (the '+/-10% rule').
42. However, section 19V(3)(a) permits non-compliance with the '+/-10% rule' for territorial authorities in some circumstances. Those circumstances are where:
  - non-compliance is required for effective representation of communities of interest within island communities or isolated communities
  - compliance would limit effective representation of communities of interest by dividing a community of interest
  - compliance would limit effective representation of communities of interest by uniting two or more communities of interest with few commonalities.
43. The appeals and objections raise concerns on a number of matters related to the effective representation of specific communities of interest.

## Number of councillors elected from Māori wards

44. The 2020 Tatauranga Aotearoa Stats NZ (Stats NZ) population estimates for Waikato District are a total population of 82,850 of which the Māori electoral population comprises 15,150 or 18.29%.
45. The Council is proposing two members elected from two Māori wards, one covering the north of the district and one covering the south.
46. Two appellants, John Lawson and the Mercer Community Committee asked that the number of members elected from the proposed Māori wards be increased. They argue that under the Council's proposal, the two Māori ward councillors will be required to cover the entire district and sit on three community boards each. The appellants propose increasing the total number of councillors to provide for, variously, three Māori ward councillors in total, or two councillors per Māori ward.
47. According to the formula for calculating the number of Māori ward members (LEA, Schedule 1A, clause 2), increasing the number of Māori ward councillors to three would require a total membership of 14 councillors plus a mayor. Increasing the number of Māori ward councillors to four would require a total membership of 20 councillors plus a mayor.
48. In addition to the appeals, five submissions to the Council's initial proposal for a single district-wide Māori ward supported increasing the number of Māori ward councillors to three, to ensure the responsibility and representation of such a geographically large ward was manageable. To address this, the Council amended its final proposal to establish two Māori wards, reducing the area each councillor would represent. The proposed ward boundaries are similar to the informal demarcation proposed by Waikato Tainui – Te Whakakitenga o Waikato in its submission to the initial proposal as a way of mitigating the onerous representation requirements for two councillors over such a large geographic area.

49. We consider that the proposal to increase the number of Māori ward councillors has merit given the challenges inherent in ensuring effective representation of communities of interest by just two Māori ward councillors under the Council's proposal. However, it would be a significant change for the Commission to make at this stage in the review process. It is also a change that would be difficult to justify without discussion with Māori on how, and how many, additional Māori ward councillors would most effectively represent communities of interest within the rohe. We strongly recommend that the Council starts these conversations early in the next review.
50. The Commission does not consider it appropriate to alter the Council's proposal for two Māori ward councillors.

### **Names of Māori wards**

51. One appellant, Te Whakakitenga o Waikato objects to the names of the proposed Māori wards, Te Raki o te Takiwaa Maaori Ward, and Te Tonga o te Takiwaa Maaori Ward. Te Whakakitenga o Waikato is the post-settlement governance entity (PSGE) for Waikato Tainui, one of four principal iwi in the Waikato Tainui confederation. It can be considered to represent a number of hapū, marae and individuals.
52. The PSGE proposes the alternative names Tai Raro Takiwaa Maaori (Northern Boundary) and Tai Runga Takiwaa Maaori (Southern Boundary) respectively. At the hearing, the Council explained that initial feedback from engagement with iwi, marae, and hapū focussed on ward boundaries rather than names. The Council supported changing the names of the Māori wards as proposed by the appellant.
53. It is noted that Stats NZ has specifically requested that Councils include the categorisations 'General Ward' or 'Māori Ward' in any ward names, to assist with distinguishing the populations represented.
54. Accordingly, the Commission supports the appellants proposed names for the district's two Māori wards, excluding the bracketed portion, being Tai Raro Takiwaa Maaori Ward and Tai Runga Takiwaa Maaori Ward.

### **Community of Mercer**

55. One appellant, the Mercer Community Committee opposes the boundary between Tuakau-Pōkeno and Awaroa-Maramarua General Wards, arguing that it splits part of the community of Mercer, including the Mercer Airport, from the northern communities it identifies with.
56. In its 2019 determination the Commission addressed a similar proposal by the Council, altering the ward boundary to ensure the Mercer airport and its surrounding rural area was not split across the ward boundary from the Mercer community. The Commission commented that this better reflected the wider Mercer community of interest and noted the Council's comments that Mercer's communities of interest were to the north (in Awaroa ki Tuakau Ward) in particular the village of Pōkeno and the town of Tuakau. The Council's preliminary engagement suggests that this remains the case. The meshblock in question has a Stats NZ 2020 estimated population of 90. Moving the Mercer airfield into Tuakau-Pōkeno from Awaroa-Maramarua has the following effect:

Ward	2020 general electoral population estimate*	Number of councillors	Population per councillor	Deviation from district average population per councillor	% deviation from district average population per councillor
Awaroa-Maramarua General	5,660	1	5,660	-502	-8.14
Tuakau-Pōkeno General	11,850	2	5,925	-237	-3.84

57. We endorse a minor change to the proposed boundary of the Tuakau-Pōkeno General Ward to include the meshblock incorporating Mercer airfield as sought by Mercer Community Committee.

### Communities of Onewhero and Pukekawa

58. Seventeen objections oppose the boundary between the proposed Awaroa-Maramarua and the Western Districts General Wards. They argue that it divides the communities of Onewhero and Pukekawa between the two wards, splitting residents from their schools, reserves, early childcare, fire brigades and other services, and splits residential areas from each other. Objectors also argued that these communities are more strongly affiliated with communities in the Western Districts General Ward and, though rural, they do not share common interests such as transport links with the north-facing Awaroa-Maramarua General Ward.
59. We note that the Council's proposed arrangement for wards on the district's northern border responded to submissions to the initial proposal asking the Council to group together communities that have communities of interest across other local authority boundaries. Auckland-facing urban communities form the Tuakau-Pōkeno General Ward, while Auckland-facing rural communities form the Awaroa-Maramarua General Ward. This also ensures ward-based representation for the rural communities, a key principle for the Council in this review.
60. At the hearing, the Council explained that it had endeavoured to maintain a contiguous boundary for Awaroa-Maramarua by encompassing meshblocks to the south of Tuakau-Pōkeno and the Waikato River (the bottom of the 'U'). The Council acknowledged in deciding its final proposal that the inclusion of these meshblocks would split the Onewhero and Pukekawa communities however overall, the final proposal reduced the number of communities that were split in the initial proposal.
61. A number of objectors proposed alternative arrangements based on extending the Western Districts General Ward boundary to the Waikato River, thereby creating a non-contiguous Awaroa-Maramarua General Ward. A non-contiguous ward is unusual but not unprecedented and can be considered where it provides for more effective representation of communities of interest. This must of course be weighed against the requirement for fair representation for electors.
62. There are two options open to the Commission for creating a non-contiguous Awaroa-Maramarua General Ward by extending the Western Districts General Ward to the Waikato River. These either include or exclude the two meshblocks south of the Waikato River (Mercer Ferry Road to Mercer Bridge) located in the Tuakau-Pōkeno General Ward in the Council's proposal. Both of these options result in a

non-compliance with the '+/-10% rule' for the Awaroa-Maramarua General Ward that exceeds -24%. This is a significantly larger non-compliance than that for the Western Districts General Ward which is -17.63% in the Council's proposal.

63. In our view this is a significant deviation from the '+/-10% rule' that is difficult to justify for an Awaroa-Maramarua General Ward that does not contain particularly isolated communities, taking under 40 minutes to access Tuakau or Pōkeno from most points in the district.
64. This leaves us to consider the alternative means of representation available to the Onewhero and Pukekawa communities. Both communities are included in their entirety within the proposed new Rural-Port Waikato Community Board area. From an effective representation point of view, this provides the communities with access to the two councillors appointed to the community board from the Western Districts General Ward and the Tai Raro Takiwaa Maaori Ward.
65. The Mayor explained at the hearing his view that people deal directly with the Council rather than community boards for services. However, community boards also have a role in advocating at for services and as such, we consider this offers a channel for representation of community needs and issues at the council level.
66. We acknowledge the concerns of the Onewhero and Pukekawa communities but we do not consider the alternatives to the Council's proposal to provide a more reasonable balance of the principles of fair and effective representation.

### **Tamahere-Woodlands General Ward**

67. Two appeals and one objection oppose the two-member Tamahere-Woodlands General Ward arguing that the Tamahere community is a distinct community that needs dedicated representation by a single ward councillor.
68. The proposed Tamahere-Woodlands General Ward is a two-member ward in the southeast of the district that incorporates the current Tamahere Ward and most of the current Eureka Ward. The Council's preliminary engagement suggests strong linkages between communities in the proposed new ward, including from Tamahere northwards to Eureka and Gordonton. The feedback also indicated majority support (64%) for fewer wards in the district.
69. At the hearing, objectors speaking on behalf of the Tamahere Community Committee highlighted the residential "country living" nature of the Tamahere area and an associated focus on roading and community projects. The Council in turn noted that while Tamahere was some five years ahead of its neighbouring areas in terms of intensity, there was a trend towards increased country living in other parts of the proposed ward.
70. Given the Commission's 2019 recommendation of more multi-member wards and the projected growth for the district, we consider it appropriate for representation arrangements to reflect emerging similarities between communities. Accordingly, we endorse the Council's proposal for a two-member Tamahere-Woodlands General Ward.

## Names of general wards and community boards

### *Tamahere-Woodlands General Ward*

71. One appeal and two objections propose alternative names for the Tamahere-Woodlands General Ward. They propose instead *Tamahere-Hukanui General Ward* on the basis that the ward incorporates the Hukanui Marae and the locality of Gordonton, formerly known as Hukanui. Alternatively, *Tamahere Woodlands Eureka General Ward* is proposed to reflect that the ward also encompasses the current Eureka Ward.
72. The New Zealand Geographic Board describes Gordonton as an informal name for a locality which largely aligns to the north-western part of the Tamahere-Woodlands General Ward. According to *Place Names of New Zealand (2010)*, the name Gordonton was given to honour John Gordon of the New Zealand Land Association who “did much for the district, then known as Hukanui, and when a post office was established and a name change was needed to avoid confusion with Hukanui in Wellington, local residents (both Maori and Pakeha) agreed to preserve his memory.”<sup>1</sup>
73. The Council has conferred with local marae on the matter of general ward names, and they have not indicated any preferred alternatives or opposition to the Council’s proposal.
74. We observe that *Tamahere-Woodlands* recognises the Woodlands Road boundary, and the Woodlands area comprises a significant portion of the farmland in this ward. We also note that the nearby Hukanui Primary School (Hamilton City) and Hukanui Golf Course (Waerenga-Hukanui General Ward) are not located in the Tamahere-Woodlands General Ward. Given this, and the fact that a current ward name also incorporates *Hukanui* there is considerable potential for confusion if we were to determine a name change at this point.
75. We are satisfied that name *Tamahere-Woodlands General Ward* is appropriate.

### *Waerenga-Hukanui General Ward*

76. Appellants and objectors also argue that *Hukanui* is not relevant for the Waerenga-Hukanui General Ward for the reasons outlined above. The alternative *Waerenga-Woodlands General Ward* is proposed as recognition of the Woodlands Homestead/Estate situated within the ward, or *Waerenga-Whitikahu General Ward* as reflecting the geographic extent of the ward.
77. Under the Council’s initial proposal a much larger Waerenga-Hukanui General Ward encompassed Gordonton/Hukanui. The final proposal transferred it to Tamahere-Woodlands but the name remained. Given the location and significance of *Hukanui*, we do not consider it an appropriate name for this ward. *Waerenga-Whitikahu* does reflect the names of two localities in the southern and northern parts of the ward.

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<sup>1</sup> Reed, A.W. & Peter Dowling, *Place Names of New Zealand*, 2010. Sourced from New Zealand Geographic Board, <https://gazetteer.linz.govt.nz/place/21601>

On balance, we think this name better reflects the ward while also avoiding confusion with the locality still informally known as Hukanui.

### ***Non-compliance - Western Districts General Ward***

78. The Council's proposal, with a small boundary alteration to include Mercer Airfield in the Tuakau-Pōkeno General Ward, results in the Western Districts General ward not complying with the '+/-10% rule'. One objector opposes the proposed over-representation of -17.63% for the ward arguing that this shows a bias in favour of rural areas.
79. The Act provides for flexibility in balancing fair and effective representation. This means that where the Commission deems it appropriate, under certain prescribed conditions, it may determine ward and subdivision boundaries that do not comply with the +/-10% rule. This includes where non-compliance is necessary to provide effective representation for an isolated community.
80. The Western Districts General Ward is characterised by large farms and sparse population towards the south. Submissions to the initial proposal highlighted that residents in parts of the area often travel over an hour to access the nearest purchasing facilities. We also note that the Council initially proposed a larger ward that was compliant. Submitters opposed this ward primarily because its geographic size made it too large for one councillor to represent effectively.
81. We are satisfied that the Western Districts General Ward contains sufficiently isolated communities to justify the proposed level of representation.

### **Communities and community boards**

82. Section 19J of the Act requires every territorial authority, as part of its review of representation arrangements, to determine whether there should be community boards in the district and, if so, the nature of those communities and the structure of the community boards. The territorial authority must make this determination in light of the principle in section 4 of the Act relating to fair and effective representation for individuals and communities.
83. The particular matters the territorial authority, and where appropriate the Commission, must determine include the number of boards to be constituted, their names and boundaries, the number of elected and appointed members, and whether the boards are to be subdivided for electoral purposes. Section 19W also requires regard to be given to such of the criteria as apply to reorganisation proposals under the Local Government Act 2002 as is considered appropriate. The Commission sees two of these criteria as particularly relevant for the consideration of proposals relating to community boards as part of a representation review:
  - Will a community board have an area that is appropriate for the efficient and effective performance of its role?
  - Will the community contain a sufficiently distinct community or communities of interest?

84. In the current review, the council has proposed to retain the existing five community boards with some alterations to communities, membership and names, and to establish the Rural-Port Waikato Community. Under the proposal, members will be elected as follows:

Community	Subdivisions	Number of elected board members	Number of appointed board members	Subdivision population	Subdivision population per member	% deviation from subdivision average population per member
Huntly	--	6	2	--	--	--
Ngāruawāhia	--	6	2	--	--	--
Rural-Port Waikato	North	2		2,460	1,230	+8.13%
	South	2		2,090	1,045	-8.13%
	<b>Total</b>	4	2		Avg 1,032	
Raglan	Urban	4		3,780	945	+5.82%
	Rural	2		1,580	790	-11.53%
	<b>Total</b>	6	2		Avg 893	
Taupiri	--	4	2	--	--	--
Tuakau	--	6	2	--	--	--

85. The Council's preliminary consultation showed 71.8% of those engaged with supported community boards as a form of local representation while 42.3% believed community boards should cover smaller, more focussed areas than they currently do.

#### *Rural-Port Waikato Community Board subdivisions*

86. One appellant argues that the boundary between the Rural-Port Waikato North and South subdivisions splits Onewhero across the two subdivisions.
87. The Community encompasses most of the Western Districts General Ward and extends north and east to the Waikato River. It also includes part of the Tuakau-Pōkeno and Awaroa-Maramarua General Wards lying south of the River.
88. We observe that while Onewhero and Pukekawa are each in different subdivisions, the subdivision boundary runs to the east of Onewhero's residential and community facilities, grouping them together within the North subdivision. We do not consider it necessary to alter the subdivision boundary.

#### *Raglan Community area*

89. Two appeals and one objection oppose the Raglan Community Board area and the proposal to subdivide the community, arguing that the Council's proposal does not reflect community preferences. One appeal also opposes the non-compliance of the Rural subdivision (-11.53%).
90. The current Raglan Community area is restricted to the predominantly urban area of Raglan township. Thirteen submitters to the initial proposal, including the Community Board, requested that the Community be expanded to include six meshblocks comprising rural land and the localities of Te Mata, Te Uku, and Okete.



In its final proposal, the Council added three of the requested meshblocks and created the Urban and Rural subdivisions as a means of protecting a rural voice on the Community Board.

91. The appeals and objections argue that adding just three of requested six meshblocks does not reflect the wider community's calls for inclusion in the Community area and splits the communities of Te Uku and Te Mata. At the hearing we heard that Raglan rural and urban residents move between rural and urban areas for education, work, sports, and shopping, and have the strongest connection to Raglan as a whole rather than to rural or urban areas within Raglan.
92. In response to questions, the Council acknowledged that there was some value in expanding the Raglan Community but it was mindful of the associated impact on targeted rates for residents. The reasons for not including the additional three meshblocks were that residents of the meshblock on the west coast (Ruapuke) were more strongly linked to Hamilton for education, work, and goods and services, and residents in the two meshblocks relating to Te Mata and Te Uku were considered too distant from Raglan at around 20 kilometres. The Council also explained that it had proposed the subdivision to reflect the desire to maintain a rural voice.
93. Having heard the views of the Council and appellants and objectors, including the Raglan Community Board, we consider that there is little reason to exclude the additional three requested meshblocks from the Raglan Community area given that they all have strong connections with Raglan while sharing in common access to a different level of services in Hamilton. In this respect they are appropriately grouped as a community of interest.
94. We also observe that the Community area has a relatively small footprint. Given this and the crossover of interests between rural and urban residents, we do not consider there are sufficiently distinct sub-communities within Raglan, nor a sufficiently large geographic area, to justify the Council's proposal to subdivide the Community at this time.

### **Commission's determination<sup>2</sup>**

95. Under section 19R of the Local Electoral Act 2001, the Commission determines that for the general election of the Waikato District Council to be held on 8 October 2022, the following representation arrangements will apply:
  - a. Waikato District, as delineated on Plan LG-013-2022-W-1, will be divided into ten wards.
  - b. Those ten wards will be:
    - (i) the Awaroa-Maramarua General Ward, comprising the area delineated on Plan LG-013-2022-W-2
    - (ii) the Tuakau-Pōkeno General Ward, comprising the area delineated on Plan LG-013-2022-W-3

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<sup>2</sup> All plans referred to in this determination are deposited with the Local Government Commission



- (iii) the Western Districts General Ward, comprising the area delineated on Plan LG-013-2022-W-4
  - (iv) the Waerenga-Whitikahu General Ward, comprising the area delineated on Plan LG-013-2022-W-5
  - (v) the Huntly General Ward, comprising the area delineated on Plan LG-013-2022-W-6
  - (vi) the Newcastle-Ngāruawāhia General Ward, comprising the area delineated on Plan LG-013-2022-W-7
  - (vii) the Tamahere-Woodlands General Ward, comprising the area delineated on Plan LG-013-2022-W-8
  - (viii) the Whaingaroa General Ward, comprising the area delineated on Plan LG-013-2022-W-9
  - (ix) the Tai Raro Takiwaa Maaori Ward, comprising the area delineated on Plan LG-013-2022-W-10
  - (x) the Tai Runga Takiwaa Maaori Ward, comprising the area delineated on Plan LG-013-2022-W-11
- c. The Council will comprise the mayor and 13 councillors elected as follows:
- (i) 1 councillor elected by the electors of the Awaroa-Maramarua General Ward
  - (ii) 2 councillors elected by the electors of the Tuakau-Pōkeno General Ward
  - (iii) 1 councillor elected by the electors of the Western Districts General Ward
  - (iv) 1 councillor elected by the electors of the Waerenga-Whitikahu General Ward
  - (v) 1 councillor elected by the electors of the Huntly General Ward
  - (vi) 2 councillors elected by the electors of the Newcastle-Ngāruawāhia General Ward
  - (vii) 2 councillors elected by the electors of the Tamahere-Woodlands General Ward
  - (viii) 1 councillor elected by the electors of the Whaingaroa General Ward
  - (ix) 1 councillor elected by the electors of the Tai Raro Takiwaa Maaori Ward
  - (x) 1 councillor elected by the electors of the Tai Runga Takiwaa Maaori Ward
- d. There will be six communities as follows:
- (i) Tuakau Community, comprising the area delineated on Plan LG-013-2022-Com-1
  - (ii) Rural-Port Waikato Community, comprising the area delineated on Plan LG-013-2022-Com-2

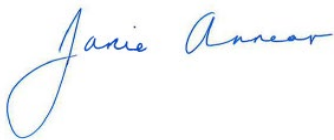
- (iii) Huntly Community, comprising the area delineated on Plan LG-013-2022-Com-3
  - (iv) Taupiri Community, comprising the area delineated on Plan LG-013-2013-Com-3
  - (v) Ngāruawāhia Community, comprising the area delineated on Plan LG-013-2022-Com-4
  - (vi) Raglan Community, comprising the area delineated on Plan LG-013-2022-Com-5
- e. The Rural-Port Waikato Community will be subdivided into two for electoral purposes. Those two subdivisions will be:
- (i) North Subdivision, comprising the area delineated on Plan LG-013-2022-S-1
  - (ii) South Subdivision, comprising the area delineated on Plan LG-013-2022-S-2
- f. The membership of each community board will be as follows:
- (i) Tuakau Community Board will comprise 6 elected members and 2 members appointed to the Community Board by the Council being one representing Tuakau-Pōkeno General Ward and one representing Tai Raro Takiwaa Maaori Ward
  - (ii) Rural-Port Waikato Community Board will comprise 2 members elected by the electors of the North subdivision, 2 members elected by the electors of the South subdivision, and 2 members appointed to the Community Board by the Council being one representing Western Districts General Ward and one representing Tai Raro Takiwaa Maaori Ward
  - (iii) Huntly Community Board will comprise 6 elected members and 2 members appointed to the Community Board by the Council being one representing Huntly General Ward and one representing Tai Raro Takiwaa Maaori Ward
  - (iv) Taupiri Community Board will comprise 4 elected members and 2 members appointed to the Community Board by the Council being one representing Newcastle-Ngāruawāhia General Ward and one representing Tai Runga Takiwaa Maaori Ward
  - (v) Ngāruawāhia Community Board will comprise 6 elected members and 2 members appointed to the Community Board by the Council being one representing Newcastle-Ngāruawāhia General Ward and one representing Tai Runga Takiwaa Maaori Ward
  - (vi) Raglan Community Board will comprise 6 elected members and 2 members appointed to the Community Board by the Council being one representing Whaaingaroa General Ward and one representing Tai Runga Takiwaa Maaori Ward

96. As required by section 19T(b) of the Local Electoral Act 2001, the boundaries of the above wards coincide with the boundaries of current statistical meshblock areas determined by Statistics New Zealand and used for Parliamentary electoral purposes.

**Local Government Commission**



Commissioner Brendan Duffy (Chair)



Commissioner Janie Annear



Commissioner Bonita Bigham



Commissioner Sue Piper

28 March 2022

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<b>To</b>	<b>Waikato District Council</b>
<b>Report title</b>	<b>Development Contribution Policy on Tiny Residential Units and consideration of wider policy review</b>

## **1. Purpose of the report**

### **Te Take moo te puurongo**

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To:

- inform and provide background to Council on a specific implementation aspect of the Development Contributions Policy in regard to ancillary dwellings with limited capacity for occupants
- seek approval from Council to make a small change to the implementation of the Development Contributions Policy
- inform Council that staff intend to engage with Council on options for review of the Development Contributions Policy.

## **2. Executive summary**

### **Whakaraapopototanga matua**

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Through the development of the [2021 Development Contributions Policy](#), Council resolved to keep special provisions for “Tiny Residential Units”. It is understood that this was to acknowledge the lesser impact that small dwellings, with limited potential occupancy, have on council infrastructure. Tiny Residential Units are defined in the policy as being less than 30m<sup>2</sup> and they are charged half the usual development contributions (DCs).

The 2021 DC Policy removed a previous Minor Residential Unit category (30-70m<sup>2</sup>) and also removed a service connection waiver for ancillary dwellings.

The changes made in the 2021 DC Policy have resulted in some significant increases in the DCs being charged for ancillary dwellings. It is understood that this was the intention for Minor Residential Units, however was not anticipated that these changes would impact other smaller units in such a significant way. As such, staff are recommending that a change be made to the implementation of the DC policy.

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### 3. Staff recommendations Tuutohu-aa-kaimahi

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#### That the Waikato District Council:

- a. **approves staff to assess Development Contributions for residential units with a Gross Floor Area of 30.01m<sup>2</sup> to 45.00m<sup>2</sup> as one half of a Household Equivalent Unit.**
- b. **notes the intention of staff to engage with Council on options for review of the Development Contributions Policy.**

### 4. Background Koorero whaimaarama

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The methodology of the current DC Policy enables the funding of growth-related capital works by charging a levy for one household equivalent unit (HEU) per additional residential unit created.

The approach taken to identify a long-term infrastructure programme and the required expenditure is based upon averaging the likely demand from anticipated development, acknowledging that some development will create a higher level of demand, and some will be lower.

The DC levies are calculated using a mathematical model which uses a number of averaging assumptions. One input into the model is the household forecast which is established using an average household occupancy of about 2.7 occupants.

The 2021 DC Policy makes special allowance (a half charge) for very small ancillary dwellings. Under the 2021 Development Contributions Policy:

*“Tiny Residential Units with a GFA of up to 30.00m<sup>2</sup> that are ancillary to a main dwelling, not on their own record of title, shall be charged as a 0.5 HEU. A Tiny Residential Unit that is the main dwelling on its own record of title shall be charged one HEU.”*

As part of the three-yearly review of the DC Policy, Council made some changes to the policy in 2021, including:

- the abovementioned exception for Tiny units was kept (though the HEU levy was increased from 0.25 to 0.5 HEU).
- the category of Minor Residential Unit was removed (this was a 0.5 HEU charge for 30 to 70m<sup>2</sup> ancillary units).
- the waiver for services was removed (in the previous policy, if an ancillary dwelling was connecting to the same service connections as the main dwelling (water, wastewater, stormwater) there were no DCs charged for those services).

The changes made in the 2021 DC Policy have resulted in some significant increases in the DCs being charged for ancillary dwellings. It is understood that this was the intention for Minor Residential Units, however was not anticipated that these changes would impact other smaller units in such a significant way.

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The DC Policy has been subject to review and minor amendments every three years alongside the Long Term Plan. Apart from the minor amendments and adjusting to legislative change, it is understood that it has not been subject to a comprehensive, first-principles policy review.

## 5. Discussion and analysis

### Taataritanga me ngaa tohutohu

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The changes made in the 2021 DC policy have had the intended impact and increased the number of full HEU development levies that staff charge.

The impact of the removal of Minor Residential Units and the service connection waiver, discussed in Background, above, means that any ancillary unit over 30m<sup>2</sup> results in full (1 HEU) development contributions and are charged DCs for all services connected.

The difference in DCs chargeable, although now double what it was under the prior policy, is not dramatic for applications for ancillary dwellings received in the rural or country living zones which are not serviced. Under the 2021 policy, the un-serviced 1 HEU DC is \$6,291.

For applications in the residential zones that are serviced, the difference in DCs chargeable is significant. In the district's main towns a 1 HEU DC is between \$27,038 and \$52,523.

Refer to the table below for the total DCs in some of the district's main towns – comparing this to what was charged for a Minor Residential Unit under the 2018 Policy - full list on the [website](#)).

The scale of increase is due to the full 1 HEU being charged for not only the district-wide DCs, but also for each service (due to the removal of the service connection waiver).

Catchment	2021 DC	2018 DC for Minor Unit*
Horotiu	\$33,572	\$2,772
Huntly	\$13,519	\$2,772
Meremere	\$21,056	\$2,772
Ngaruawahia	\$20,389	\$2,772
Pokeno	\$29,221	\$2,772
Raglan	\$25,833	\$2,772
Te Kauwhata	\$52,523	\$2,772
Tuakau	\$24,160	\$2,772
Un-serviced (district wide DCs)	\$6,291	\$2,772

*\*2021 PPI-adjusted Minor Residential Unit charge under 2018 DC Policy, applying a 0.5 HEU and waiving service connection DCs.*

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Under the 2021 DC Policy, there have not been any consent applications received yet for Tiny Residential Units of 30m<sup>2</sup> or less. Under the three years of implementing the 2018 DC Policy, there were two consent applications received for Tiny Residential Units of 30m<sup>2</sup> or less. This indicates that almost all permanent ancillary units are over 30m<sup>2</sup> and, as such, the Tiny Residential Units provisions of the DC Policy are seldom utilised (perhaps due to mobile tiny houses (on wheels) not requiring a building consent).

Staff have undertaken a review of single bedroom units, studios, and tiny homes on wheels, commonly available on the market. It is noted that free standing single bedroom units or studios are typically greater than 30m<sup>2</sup>. Tiny homes on wheels are typically less than 30m<sup>2</sup>. Indicative prices range from \$50,000 up to \$200,000.

The DC model, levies and policy all work on an averaging approach however a specific pathway exists in the DC Policy for tiny units. This acknowledges their limited capacity and the limited potential demand (impact) on council infrastructure.

The focus of this report, and the options considered, are in regard to ancillary units which are greater than 30m<sup>2</sup> but, by design, have limited capacity to house occupants (eg they are a studio-unit or 1 bedroom space).

Council has recently released the decisions on its Proposed District Plan which alters the zoning and density in some parts of the district. Added to this are the recent legislative changes made by central government to drive medium density housing. In response to these factors, and the continuing high growth forecast for the Waikato District, it is suggested that a more comprehensive review of the DC Policy may be warranted. This will consider whether it continues to be fit for purpose.

## **5.1 Options**

### **Ngaa koowhiringa**

Staff have assessed that there are three reasonable and viable options for the Council to consider. This assessment reflects the level of significance (see paragraph 6.1). The options are set out below.

1. DC Policy implemented as it currently stands - 1 HEU for any ancillary dwelling over 30.01m<sup>2</sup>;
2. A 0.5 HEU is applied for studio and one-bedroom ancillary dwellings over 30.01m<sup>2</sup> but less than 45.00m<sup>2</sup>;
3. Reconsider the service connection waiver for studio and one-bedroom ancillary dwellings less than 45.00m<sup>2</sup>.

Staff recommend option 2 as a short-term solution coupled with further consideration towards a more comprehensive review of the DC Policy.

Option 2 is recommended on the basis of assuming the potential demand created by these smaller units (studio and one-bedroom ancillary dwellings less than 45m<sup>2</sup>) is limited to only one to two people; an average perhaps of 1.5 people. As a percentage of 2.7, 1.5 is approximately 50%. This could be considered in a more in-depth way as part of a wider review.

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## **5.2 Financial considerations**

### **Whaiwhakaaro puutea**

There are no material financial considerations associated with the recommendations of this report.

Changing this approach to these limited capacity units is expected to have a minimal impact on council revenue. This is due to the relatively small number of these – 10 in the last six months – but, more so, due to the DC model including an assumption that not all development will pay DCs and also working by averaging capital projects over a wide catchment and spreading them over a continuously-moving 20-year period. It is understood that no changes were made to the DC model when the 2021 DC policy removed the 0.5 HEU for Minor Residential Units.

As they are ancillary dwellings, it is hard to estimate how many of them will be received going forward. Most ancillary dwellings being received are at least 2 bedroom. Changes included in the proposed district plan decisions to allow ancillary dwellings as permitted activities and the changes requiring more medium density housing may mean more of these applications will be received going forward.

If option 2 or 3 is proceeded with, staff would complete a retrospective review on those notices already issued, as this would be fair and equitable. There are less than ten to apply retrospectively and it would be a simple exercise.

## **5.3 Legal considerations**

### **Whaiwhakaaro-aa-ture**

Staff confirm that the preferred option complies with the Council's legal and policy requirements.

When considering the status quo (Option 1), it is useful to consider what would happen if a formal Objection were received (these are heard by independent commissioners). It may be difficult for Council to justify its position.

Further, the preferred option is a short-term solution while further consideration is given to a more comprehensive review of the DC Policy.

## **5.4 Strategy and policy considerations**

### **Whaiwhakaaro whakamaaherehere kaupapa here**

The report and recommendations are consistent with the Council's policies, plans and prior decisions.

## **5.5 Maaori and cultural considerations**

### **Whaiwhakaaro Maaori me oona tikanga**

The matters in this report have no known impact on Maaori and cultural values.

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## 5.6 Climate response and resilience considerations

### Whaiwhakaaro-aa-taiao

The matters in this report have no known impact on climate change or resilience for the Council.

## 5.7 Risks

### Tuuraru

The proposed option is considered to be low risk. Any risks arising from the recommended option are reduced by it being a short-term solution.

The recommended option reduces potential reputational risk to Council, especially where the DC charges could substantially increase the costs of the proposed development, in some cases being 50% or more of the building cost.

Risk can be considered more forensically as part of a comprehensive review of the DC Policy.

## 6. Significance and engagement assessment

### Aromatawai paahekoheko

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### 6.1 Significance

#### Te Hiranga

The decisions and matters of this specific report are assessed as of low significance in accordance with the Council's [Significance and Engagement Policy](#). However, this report is part of a broader project or process that is, or may be in future, assessed as of moderate/high significance. That future work being the consideration of a wider DC Policy review.

### 6.2 Engagement

#### Te Whakatuutakitaki

No community engagement has been undertaken or is planned in regard to this matter. Engagement would be a large component of a comprehensive review of the DC Policy.

## 7. Next steps

### Ahu whakamua

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If the recommended option is adopted, staff will apply a 0.5 HEU for studio and one-bedroom ancillary dwellings over 30m<sup>2</sup> but less than 45m<sup>2</sup>. Staff will retrospectively apply this to the handful of applications that fall within these criteria that have been received since 1 July 2021.

Further, prior to engaging with Council on options for review of the DC Policy, staff within the Growth and Analytics team will prepare and discuss policy review options with the Executive Leadership Team.

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## 8. Confirmation of statutory compliance Te Whakatuuturutanga aa-ture

As required by the Local Government Act 2002, staff confirm the following:

The report fits with Council's role and Terms of Reference and Delegations.	Confirmed
The report contains sufficient information about all reasonably practicable options identified and assessed in terms of their advantages and disadvantages ( <i>Section 5.1</i> ).	Confirmed
Staff assessment of the level of significance of the issues in the report after consideration of the Council's Significance and Engagement Policy ( <i>Section 6.1</i> ).	Low
The report contains adequate consideration of the views and preferences of affected and interested persons taking account of any proposed or previous community engagement and assessed level of significance ( <i>Section 6.2</i> ).	Confirmed
The report considers impact on Maaori ( <i>Section 5.5</i> ).	Not applicable
The report and recommendations are consistent with Council's plans and policies ( <i>Section 5.4</i> ).	Confirmed
The report and recommendations comply with Council's legal duties and responsibilities ( <i>Section 5.3</i> ).	Confirmed

## 9. Attachments Ngaa taapirihanga

There are no attachments for this report.

Date:	11 April 2022
Report Author:	Will Gauntlett, Growth and Analytics Manager
Authorised by:	Clive Morgan, General Manager Community Growth

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<b>To</b>	<b>Waikato District Council</b>
<b>Report title</b>	<b>Council Facilities Vaccination Certificate Policy under Government's Covid-19 Protection Framework</b>

## **1. Purpose of the report**

### **Te Take moo te puurongo**

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To inform the Council of the current landscape against which the review of the policy restricting public access to Council facilities to unvaccinated persons, needs to be formally made. This report therefore ratifies the out-of-committee decision (under delegation conferred on 13 December 2021) which elected members have made to remove the requirement for the public to produce vaccine passes at Council facilities with effect from 4 April 2022.

## **2. Executive summary**

### **Whakaraapopotanga matua**

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On 23 March 2022 central government announced the most significant changes to the Covid Protection Framework since its introduction in late 2021.

Whilst this report is to the best of staff knowledge consistent with the changes released by central government on changes to the Covid Protection Framework, it is acknowledged that the COVID-19 landscape, and risks associated with transmission of the COVID-19 virus will need to be monitored and reviewed on a regular basis.

The environment and understanding of the COVID-19 pandemic in late November 2021, including the prevalence of the Delta variant and emergence of the Omicron variant, has changed significantly in the four months since the 13 December 2021 report to Council on the use of the My Vaccine Pass for entry to Council facilities.

The wider legislative context, including tensions between legislation to enact the COVID-19 Protection framework, the rights of individuals (for example under the New Zealand Bill of Rights Act 1990), health and safety and employment law, and the nature of Council's role in providing services to the community under the Local Government Act 2002 and other legislation remain.

Vaccine passes are no longer required at all Waikato District Council offices, libraries, and facilities. This excludes the community halls which are run by volunteer committees who will make their own decision on this.

This means that the public is no longer required to produce a pass to enter:

- Our libraries
- Our offices
- Huntly Aquatic Centre (our outdoor pools are closed for the winter)
- Lake Hakanoa Motor Caravan Park
- Council Managed Community Halls in Tuakau and Ngaruawahia
- Raglan Museum
- Pukekohe and Ngaruawahia Dog Pounds
- Raglan Holiday Park Papahua.

The public is however still required to wear a mask when entering the above facilities.

It is within the above changed context that staff have assessed that there are three options for the Council to formally consider in relation to its facilities:

- i. Complete removal of the vaccine mandate for any Council facility.
- ii. Retain the vaccine mandate all Council facilities not prohibited under the COVID-19 Protection Framework.
- iii. Apply the vaccine mandate on certain Council facilities as determined by the Council.

With Council already making an out-of-committee decision to remove the requirement for the public to produce vaccine passes at its facilities with effect from 4<sup>th</sup> April 2022, this report is requesting that Council formalise the decision.

Staff consider the matters in this report to have a high significance and that the recommendations comply with the Council's legal requirements.

### 3. Staff recommendations Tuutohu-aa-kaimahi

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**That the Waikato District Council:**

- a. **in considering the changed COVID-19 Protection Framework formally ratifies that, effective from 4 April 2022, the revocation of the requirement for the public to produce a valid My Vaccine Pass for entry to any Council owned and operated facility passed in its resolution of 13 December 2021; and**
  - b. **effective from 4 April 2022, revokes the policy for a My Vaccine Pass to be produced for all 'in-person' participants at formal Council and Committee meetings, hearings and official Council workshops as adopted in its resolution of 13 December 2021; and**
  - c. **notes that in removing the requirement for the public to produce a valid My Vaccine Pass for entry to any Council owned and operated facility from 4 April 2022 this would exclude community halls which are managed by volunteer committees - who will make their own decision on this.**
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## 4. Background

### Koorero whaimaarama

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On 13 December 2021 Council received a report from the Chief Executive which:

1. Informed the Elected Members of the legislative framework within which decisions regarding restricting public access to Council facilities to vaccinated persons will be considered and,
2. Decide on the requirement for COVID-19 Vaccination Certificates for entry into Council owned and operated facilities based on a risk assessment.

It was acknowledged at that time that the COVID-19 landscape, and the risks associated with transmission of the COVID-19 virus, will need to be monitored and reviewed on a regular basis as the situation could change rapidly. At that time the transmissibility of the Omicron variant and effectiveness of currently available vaccines against this variant was not very well known.

In October 2021, the government announced the shift away from its elimination strategy under the then Alert Level System to a suppression strategy under a COVID-19 Protection Framework. This shift was aimed to provide greater freedoms to those who are fully vaccinated.

New Zealand moved into the COVID-19 Protection Framework (also known as the 'traffic light' system) with effect from 11.59pm Thursday 2 December 2021. The entire Waikato district moved to the 'Orange' setting under this traffic light system. Subsequently (and because of the spread of the Omicron variant) Government then decided that the whole of New Zealand will move into the 'Red' setting at 11.59pm on Sunday 23 January 2022. At 'Red', we need to take action to protect our vulnerable communities and our health system from COVID-19 whilst acknowledging that the vaccine remains New Zealand's key defence against all variants of COVID-19, including Omicron (Ministry of Health: 2022).

The 13 December 2021 Council report recommended that entry into all Council venues and offices only be allowed to those with a valid My Vaccine Pass. Subsequently, Council resolved the following:

- a) *The production of a valid My Vaccine Pass is required for entry by the public to the following Council facilities:*
    - i. *Swimming pools and associated gyms and cafes*
    - ii. *Raglan Holiday Park (Papahua) and Lake Hakanoa Motor Caravan Park*
    - iii. *All Council offices (including front office / Customer Service, Council Chambers and Committee Rooms)*
    - iv. *Dog pounds*
    - v. *Libraries*
    - vi. *Community facilities and council run halls*
    - vii. *Waikato Coal Fields Museum and Civic Centre*
  - b) *That all other community hall committees consider implementing a policy in line with the Council policy.*
  - c) *That the requirement for the public to produce a valid My Vaccine Pass for entry into Council facilities comes into effect on 20 December 2021.*
-

- d) *The requirement for the public to produce a valid My Vaccine Pass for the Raglan Holiday Park (Papahua) and Lake Hakanoa Motor Caravan Park comes into effect on 20 December 2021.*
- e) *The requirement to provide a valid My Vaccine Pass applies to all community boards hosting meetings in Council facilities.*
- f) *Council notes that applications for outdoor community events taking place on Council land (parks and reserves) will be subject to assessment under the Covid protection framework as part of the health and safety approval process conducted by Council's Zero Harm team. However, the onus is on the organisers of such events, and not Council, to ensure that appropriate COVID-mitigation measures are in place.*
- g) *Council adopts a policy (the Governance COVID-19 Vaccination Policy) for all 'in-person' participants at formal Council and Committee meetings, hearings and official Council workshops requiring that participants be fully vaccinated whilst allowing those who are not vaccinated to attend such meetings, hearings and workshops via live audio and visual link.*
- h) *the Governance Covid-19 Vaccination Policy for all 'in-person' participants at Council and Committee meetings, hearings and official Council workshops shall apply from 20 December 2021. Participants will otherwise comply with Council Vaccination Policy for entering Council facilities.*
- i) *the Council notes the process the Chief Executive is taking regarding a proposed policy for Covid 19 vaccinations for staff.*
- j) *the Chief Executive, in consultation with the Mayor and Chair of the Infrastructure Committee, be delegated authority to make further decisions on restricting entry to all Council facilities should this be considered necessary for the safety of staff and the community.*

It was noted that these requirements for entering Council facilities would be reviewed at least every 6 months, noting that the above delegated authority will be reviewed as required in line with any changes to the COVID traffic light settings.

The 13 December 2022 report to Council was consistent with the suite of guidance released by central government on Friday 26 November 2021. Omicron had just been identified as a 'variant of concern' by the World Health Organisation. Delta was at that time, the main variant and considered more likely to result in serious illness than previous variants or, subsequently, Omicron. New Zealand's vaccination drive was underway, with 90% of the eligible population receiving two doses of the vaccine by mid-December.

In addition, the country was shifting from the 'lockdown' framework to the Covid Protection Framework, with legislation passing through parliament late in November 2021.

### **January - March 2022**

On 30 January 2022 the Ministry of Health ceased separating Omicron case numbers in the daily update on the basis that Omicron had become the dominant variant. On 23 March central government announced the most significant changes to the Covid Protection Framework since its introduction four months prior. In announcing these changes, the government noted that:

- i. Now was the right time to review the restrictions it had put in place, with the Omicron outbreak nearing its peak.
  - ii. Several tools that it had developed to fight COVID-19 were designed to protect an unvaccinated population from earlier variants of the virus rather than the newer Omicron variant.
-

The Government further announced that all New Zealand would move to a 'Red' setting and that the next review of the settings would be on 4 April 2022.

### **Changes to the Covid Protection Framework**

#### At the Red setting:

- i. There are no limits for outdoor activities, such as gatherings and events, and food and drink businesses. My Vaccine Passes must be used until 11:59pm on 4 April 2022.
- ii. There is a 200-person limit for indoor gatherings and events — My Vaccine Passes must be used until 11:59pm on 4 April 2022. If My Vaccine Passes are not used, the gathering limits remain unchanged.
- iii. There is no need to wear a face mask outdoors.
- iv. Other face mask rules remain unchanged — face masks are still required in most indoor settings.

#### At the Orange setting:

- i. There is no limit for outdoor gatherings.
- ii. There is no limit for indoor gatherings.
- iii. There is no need to wear a face mask outdoors.
- iv. Other face mask rules remain unchanged.

#### At the Green setting there are no restrictions.

From 11:59pm on 4 April 2022, there is no requirement to use My Vaccine Pass. Businesses will still be able to use the system if they would like to. Some government vaccine mandates for workers will be removed from this date. Workers that will still be covered by a government vaccine mandate include:

- i. health and disability sector workers,
- ii. prison staff; and
- iii. border and managed isolation and quarantine (MIQ) workers.

Vaccine mandates remain in place for these sectors because workers in these areas have a high level of contact with people at risk of developing serious illness from COVID.

For border workers, there is a high risk of exposure to new variants. Businesses will be able to voluntarily introduce workforce vaccination requirements if appropriate to the workforce.

Under the changes to the COVID-19 Protection Framework, wearing of face masks will no longer be required at any outdoor settings during the 'Red' and 'Orange' settings but they will be required at indoor locations like restaurants, shops, and other premises. Face masks will continue to be required by workers at indoor events, hospitality venues and gatherings in the 'Red' setting and this requirement has been extended to include the 'Orange' setting. In the 'Green' setting, face masks will be recommended but not required.

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## 5. Discussion Matapaki

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### Risk

Decisions on requiring a vaccination certificate for entry to Council facilities have followed a risk-based approach. Risk assessments were used to help determine the effectiveness of control mechanisms, including vaccination, to reduce the potential risk to a level deemed acceptable, or as low as reasonably practicable. The environment has changed considerably since the first risk assessment was undertaken in December 2021.

It was, and is reasonably foreseeable, that if a person was exposed to Covid-19 without any controls in place then there was a high probability of infection and therefore risk of transference to others.

We were not able to control the level of consequence. Council concluded that any level of 'higher risk' was not acceptable and the best way to reduce the risk of Covid-19 was to apply all controls available at the time, including vaccination, to reduce the likelihood of infection, severe illness, and transmission

As of 17 March 2022, 93.5% of all ethnicities of the eligible population in the Waikato District Health Board (DHB) regional jurisdiction aged 12 and over were considered fully vaccinated and 68.3% of those eligible for a booster had received it (Ministry of Health: 2022). In contrast, around the time when Council's policy was introduced, these percentages were much lower.

The COVID vaccination became available for children aged five to 11 from 17 January 2022 meaning that there is now a portion of the previously ineligible population who are now at least partially vaccinated (53.5% of five – 11-year-olds as of 17 March 2022).

Emerging research suggests that people who have received two doses of the Pfizer COVID vaccine have around 65-70% protection from symptomatic disease, dropping down to just 10% protection by 25 weeks after the second dose. Protection is restored to around 60 – 75% after a booster, which reduces to between 25-40% after 15 weeks. This is compared to 40 – 60% and 90 – 95% protection from two and three doses respectively against symptomatic disease from Delta ([www.covid19.govt.nz](http://www.covid19.govt.nz))

There is also emerging evidence that Omicron infection provides some level of natural immunity for a period after infection (*COVID-19 vaccine surveillance reporting (publishing.service.gov.uk)*). This theory is reflected in the changes to isolation requirements made on 16 March 2022.

The 'Omicron wave' has had an impact on the Waikato. Advice from the Waikato DHB indicates that Waikato case numbers may have peaked, with potentially peak cases at the hospital as well. Health care services remain under pressure and may continue to be under pressure for some time depending on how long the 'tail' of the Omicron wave is. It is expected that pressure on health care services will also continue as winter approaches, with seasonal viruses such as 'flu, whooping cough, and respiratory syncytial virus (RSV) increasing during this time. Exposure to Omicron continues to be a source of concern for those in the community who are vulnerable (e.g., those who are elderly or immunocompromised).

Rapid antigen tests (RATs) are also now more widely available than at the start of the Omicron spread.

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## **Wider legislative context**

The decisions made within the COVID-19 and health and safety legislative frameworks do not sit in a vacuum. There are tensions between legislation to enact the COVID-19 Protection framework, the rights of individuals (for example under the New Zealand Bill of Rights Act 1990), health and safety and employment law, and the nature of Council's role in providing services to the community under the Local Government Act 2002 and other legislation. The fundamentals of this context have not changed.

## **Health and Safety at Work Act 2015**

Similarly, Council's fundamental obligations the Health and Safety at Work Act 2015 ("the Act") have not changed. That is:

- i. the health and safety of workers while they are carrying out their work for or as directed by the Person Conducting a Business or Undertaking (PCBU).
- ii. that the health and safety of other persons is not put at risk from work carried out as part of the conduct of the business or undertaking.
- iii. the provision of a work environment that is without risks to health and safety; and
- iv. the provision and maintenance of safe systems of work; and
- v. the provision of any information, training, instruction, or supervision that is necessary to protect all persons from risks to their health and safety arising from work carried out as part of the conduct of the business or undertaking.

A PCBU who manages or controls a workplace, has a duty under the Act to ensure, so far as is reasonably practicable, that the workplace, the means of entering and exiting the workplace and anything arising from the workplace are without risks to the health and safety of any person (public and workers included).

A duty imposed on a person under the Act requires that person to eliminate risks to health and safety so far as is reasonably practicable, and when it is not reasonably practicable to eliminate the risk, to minimise the risk so far as is reasonably practicable.

What has changed since the decision was taken in November 2021, is as outlined above in this report: the rapid emergence of Omicron as the dominant variant; rates of immunisation and immunity in the population; access to rapid antigen testing (RATs); and recently the government's shift to relax restrictions around isolation for infected people, contacts and people entering the country from overseas.

## **New Zealand Bill of Rights Act 1990 and Human Rights Act 1993**

Businesses that wish to continue to use My Vaccine Passes as a condition of entry for customers can, but they will need to be able to justify doing so, considering updated public health advice. Generally, businesses can restrict entry based on vaccination status, unless:

- i. The traffic light system prohibits My Vaccine Passes from being requested at these locations e.g., supermarkets or pharmacies.
  - ii. Asking for My Vaccine Passes is prevented by contractual provisions, for example, requirements of a landlord or under a franchise agreement.
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- iii. Asking for My Vaccine Passes is contrary to legislative provisions, for example, prohibitions on discrimination under the Human Rights Act 1993.

### **Options for Council decision on facilities**

Staff have assessed that there are three options for the Council to consider in relation to its facilities.

- i. No vaccine mandate for any Council facilities (as per the out-of-committee decision taken by elected members for this requirement to be dropped with effect from 4 April 2022); or
- ii. The vaccine mandate for all Council facilities not prohibited under the COVID-19 Protection Framework to be retained/re-introduced; or
- iii. Vaccine mandate retained/re-introduced at some Council facilities or for events as determined by the Council.

It will be for the Council to decide on access requirements and any restrictions to be imposed to Council owned and operated facilities/services. Council will also need to consider when any decisions will take effect and the way that they will be implemented and enforced.

## **6. Financial Considerations**

### **Whaiwhakaaro Puutea**

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There will be financial considerations in relation to Council deciding to restrict access to all or some of its facilities. Where the decision is to restrict entry/services to individuals who present proof of vaccination or an exemption the key financial considerations will be:

- i. Costs of compliance, such as the additional staffing resource to manage entry and requisite technology.
- ii. Costs in facilitating alternative ways of delivering the service (where possible and to the extent possible).
- iii. The impact on revenue from unvaccinated patrons being excluded.
- iv. Staff-related financial considerations e.g., increased cost of staff physical and mental ill health and absenteeism related to potential exposure and/or exposure to Covid19; plus, wellbeing issues for staff related to any public dissatisfaction with Council's decision to require vaccine passes at public facilities.

## **7. Legal and Policy Considerations**

### **Whaiwhakaaro-aa-ture**

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This report complies with Council's legal and policy requirements. The recommendations contained herein are in accordance with government policy directives on COVID-19 and relevant legislation as outlined in this report.

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## 8. Wellbeing Considerations

### Whaiwhakaaro-aa-oranga tonutanga

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The purpose of Local Government changed on the 14 May 2019 to include promotion of the social, economic, environmental, and cultural well-being of communities in the present and for the future (‘the four well-beings’).

The subject matter of this report has been evaluated in terms of the four well-beings. The recommendations set out in this report are consistent with that purpose.

#### **Social**

The decision with respect to facilities has the capacity to affect social wellbeing of communities. Any restrictions on entry/access to services will have a direct impact on the members of communities who will no longer be able to enter those facilities or access those services.

These decisions will have an impact for vulnerable/immunocompromised members of the community as they will be able to access these facilities and use these services with greater confidence as to their safety.

Social wellbeing continues to be prioritised through Council’s management of the risks and opportunities arising from the risks outlined in this report.

#### **Economic**

Any economic impact is likely to be minor (except for those high-risk areas in which the decision has already been made by central government).

#### **Environmental**

Any decision in accordance with the subject matter is not anticipated to effect environmental wellbeing.

#### **Cultural**

Decisions may have an adverse effect on cultural wellbeing if cultural events or gatherings in Council facilities are unable to go ahead because of key people being unvaccinated or if some members of the community are unable to attend those events due to being unvaccinated. At the same time, these decisions may mean that some events can go ahead which otherwise would not have, due to capacity limits or if organisers would have been concerned about holding events which might have put their community at risk.

The impact of these decisions on Maaori and Pasifika communities deserves consideration, given the lower rates of vaccination uptake in Maaori communities in the Waikato region. Restricting access to facilities will therefore have a greater impact on Maaori than on other ethnic groups.

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As of 3 April 2022, for the Waikato DHB jurisdictional area, out of 357,176 eligible people (all ethnicities) 93.5% are fully vaccinated and 68.3% fully boosted. Broken down further, out of the 69 707 eligible Maaori 87.9% are fully vaccinated and 53% boosted. Out of the 10682 eligible Pacific people, 96.6% are fully vaccinated and 59.6% fully boosted (Ministry of Health: 2022).

## Risks

Decisions on requiring a vaccination certificate for entry to Council facilities follows a risk-based approach that is detailed in this report.

## Significance and Engagement

This matter is assessed as having a high degree of significance. This is because:

- iv. it involves the potential for a more than nominal alteration in the provision of several Council services.
- v. there is a high degree of public interest in vaccine mandate decisions.
- vi. the decision impacts all users of Council facilities.

Given the very short timeframes before the changes to the traffic light system commence, it is not possible to carry out public consultation on this matter. Elected members will have considerable knowledge of the views that their communities hold in relation to COVID-19 vaccines and vaccine mandates. This is likely to include the strength of feeling demonstrated by the various court cases brought against workplace mandates and the public protests mandates and other public health measures, and, on the other hand, the widespread uptake of the vaccine.

## 6. Next steps

### Ahu whakamua

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#### Already happened:

- **11:59pm on 4 April 2022**- Requirement to use the My Vaccine Pass under government changes to the Covid Protection framework elapsed.
- **4 April 2022** - Government decision to retain the 'Red' traffic light setting until 14 April - when the setting will be reviewed.

#### Upcoming:

- **11 April 2022** - Council meeting to ratify decision on the requirement to remove the use of My Vaccine Passes at its facilities.
  - **14 April 2022** - Next government review date for the 'Red' traffic light setting.
  - **15 April 2022** - Easter school holidays start for most schools.
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## 7. Attachments

### Ngaa taapirihanga

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There are no attachments for this report.

Date:	11 April 2022
Report Author:	Vishal Ramduny Strategic Projects Manager
Authorised by:	Tony Whittaker Acting Chief Executive

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**To** | **Waikato District Council**  
**Report title** | **Exclusion of the Public**

**1. Staff recommendations**  
**Tuutohu-aa-kaimahi**

**THAT the public be excluded from the following parts of the 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:**

<b>General subject of each matter to be considered</b>	<b>Reason for passing this resolution in relation to each matter</b>	<b>Ground(s) under section 48(1) for the passing of this resolution</b>
<b>Item number PEX 3.4</b>	<b>Good reason to withhold exists under Section 6 or Section 7 Local Government Official Information and Meetings Act 1987</b>	<b>Section 48(1)(a)</b>

**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 relevant part of the proceedings of the meeting in public, as follows:**

<b>Item No.</b>	<b>Section</b>	<b>Interest</b>
<b>Item PEX 3.4 Dog Control Bylaw &amp; Policy - Additional Legal Advice</b>	<b>7(2)(g)</b>	<b>To maintain legal professional privilege.</b>

## 2. Attachments

### Ngaa taapirihanga

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There are no attachments for this report.

Date:	11 April 2022
Report Author:	Gaylene Kanawa, Democracy Team Leader
Authorised by:	Gavin Ion, Chief Executive

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