

01-15-016  
RDC-1149777

# Kaupapataka Agenda

## NOTICE OF AN ORDINARY MEETING OF COUNCIL

---

**Date:** Monday 5<sup>th</sup> July 2021

**Time:** 9.30am

**Venue:** Council Chamber

---

### MEMBERSHIP

Chairperson Mayor Chadwick

Deputy Chairperson Cr Donaldson

Members

- Cr Bentley
- Cr Kai Fong
- Cr Kumar
- Cr Macpherson
- Cr Maxwell
- Cr Raukawa-Tait
- Cr Tapsell
- Cr Wang
- Cr Yates

Quorum 6

## NGĀ TUKUNGA HAEPAPA A TE KAUNIHERA

### COUNCIL DELEGATIONS

Type of Committee	Council
Subordinate to	
Subordinate Committees	<p>Strategy, Policy and Finance committee</p> <p>Operations and Monitoring committee</p> <p>District Licencing committee</p> <p>CEO performance committee</p> <p>RMA Policy Committee</p> <p>Audit and Risk Committee</p>
Legislative Basis	<p>Schedule 7 S30 (1) (A), Local Government Act 2002</p> <p>Committee delegated powers by the Council as per Schedule 7, S32, Local Government Act 2002</p>
Purpose	The purpose of the Council is to make decisions on all matters that cannot be delegated, that it has not delegated or that it has had referred to it by staff or a committee.
Reference	01-15-016-01
Membership	<p>Mayor Steve Chadwick (Chair)</p> <p>Deputy Mayor Councillor Dave Donaldson (Deputy Chair)</p> <p>All councillors</p>
Quorum	6
Meeting frequency	Monthly
Delegations	<ul style="list-style-type: none"> <li>• the power to make a rate</li> <li>• the power to make a bylaw</li> <li>• the power to borrow money, or purchase or dispose of assets, other than in accordance with the Long-term Plan</li> <li>• the power to adopt a long-term plan, annual plan, or annual report</li> <li>• the power to appoint a chief executive</li> <li>• the power to adopt policies required to be adopted and consulted on under the LGA 2002 in association with the long-term plan, or developed for the purpose of the local governance statement; and</li> <li>• the power to adopt a remuneration and employment policy</li> <li>• the power to set and support strategies in measures related to emergency matters.</li> <li>• all the powers, duties and discretions under the Civil Defence Act for the proper operation and administration of the approved Civil Defence Plan; such delegation to be executed solely within the defined policy guidelines as determined from time to time by the Council and subject to the Financial limits imposed by the approved Council estimates.</li> </ul>
Relevant Statutes	All the duties and responsibilities listed above must be carried out in accordance with the relevant legislation.
Limits to Delegations	Powers that cannot be delegated to committees as per the Local Government Act 2002 Schedule 7 S32

## Order of Business

---

<b>1</b>	<b>Opening Karakia - Karakia Whakapuaki.....</b>	<b>4</b>
<b>2</b>	<b>Apologies - Ngā Whakapāha .....</b>	<b>4</b>
<b>3</b>	<b>Declarations of Interest - Whakapuakitanga Whaipānga .....</b>	<b>4</b>
<b>4</b>	<b>Urgent Items not on the Agenda - Ngā Take Whawhati tata kāore i te Rārangi Take .</b>	<b>4</b>
<b>5</b>	<b>Staff Reports – Pūrongo Kaimahi.....</b>	<b>5</b>
	5.1 Mana Whenua Partnerships – Three Waters.....	5

## **1 Opening Karakia - Karakia Whakapuaki**

## **2 Apologies - Ngā Whakapāha**

The Chairperson invites notice from members of:

1. Leave of absence for future meetings of the Rotorua Lakes Council; or
2. Apologies, including apologies for lateness and early departure from the meeting, where leave of absence has not previously been granted.

## **3 Declarations of Interest - Whakapuakitanga Whaipānga**

Members are reminded of the need to be vigilant to stand aside from decision making when a conflict arises between their role as a member and any private or other external interest they might have.

## **4 Urgent Items not on the Agenda - Ngā Take Whawhati tata kāore i te Rārangī Take**

### **Items of business not on the agenda which cannot be delayed**

The Chairperson will give notice of items not on the agenda as follows:

Matters Requiring Urgent Attention as Determined by Resolution of Rotorua Lakes Council

The Chairperson shall state to the meeting.

1. The reason why the item is not on the agenda; and
2. The reason why discussion of the item cannot be delayed until a subsequent meeting.

The item may be allowed onto the agenda by resolution of the Rotorua Lakes Council.  
s.46A (7), LGOIMA

### **Discussion of minor matters not on the agenda.**

Minor Matters relating to the General Business of the Rotorua Lakes Council.

The Chairperson shall state to the meeting that the item will be discussed, but no resolution, decision, or recommendation may be made in respect of the item except to refer it to a subsequent meeting of the Rotorua Lakes Council for further discussion

s.46A (7), LGOIMA

## 5 Staff Reports – Pūrongo Kaimahi

---

01-15-016  
RDC-115896

### ROTORUA LAKES COUNCIL

Mayor  
Chairperson and Members  
COUNCIL

#### 5.1 Mana Whenua Partnerships – Three Waters

**Report prepared by:** Gina Rangi, DCE Te Arawa Partnerships**Report approved by:** Geoff Williams, Chief Executive

---

#### 1. TE PŪTAKE PURPOSE

The purpose of this report is to recommend the establishment of a committee to consider the impact of the proposed Three Waters Reform on Council's relationships with mana whenua, and make recommendation to Council and mana whenua on the same.

#### 2. NGĀ TŪTOHUNGA RECOMMENDATIONS:

1. That the report 'Mana Whenua Partnerships' – Three waters Reform' be received
2. That Council resolves to establish a committee in accordance with Schedule 7, S30 (1) (a) (Attachment 1) to:
  - a) Consider the impacts of the Three Waters Reform on Council's partnerships with mana whenua,  
and
  - b) Make recommendation to the Council and to mana whenua on the same.
3. That the membership of the Committee be:
  - a) 5 Councillors namely: Her Worship Mayor Chadwick, Deputy Mayor Dave Donaldson, Councillors Tapsell, Raukawa-Tait and Maxwell.
  - b) 5 representatives of mana whenua.
4. That the mana whenua partnership groups will meet to agree their representatives and will notify Council accordingly.
5. That the Committee co-chairs be the Mayor and one of the mana whenua representatives.

#### 3. TE TĀHUHU BACKGROUND

##### Existing relationships

Prior to establishing the Te Arawa Partnership, Rotorua Lakes Council went through a period of poor relationships with mana whenua leading to failed applications for resource consent (for example, the

original Rotoiti Wastewater Treatment Plant) or consent conditions that were unfavourable to Council (for example, reduced consent term for the Taniwha Springs water take). Council recognised that it needed to work with mana whenua in a different way if it was to achieve key infrastructure objectives.

In addition, a number of Treaty settlement processes have occurred within the district, which also create binding obligations for Council.

Consequently, Council currently has a number of relationships with mana whenua specifically relating to lakes, springs, rivers and other waterbodies:

*Te Arawa Lakes Strategy Group (“TALSG”)*

- Established under the Te Arawa Lakes Settlement Act 2006, the TALSG is a permanent joint committee of BOPRC, RLC and Te Arawa Lakes Trust (“TALT”) that coordinates policy and actions to improve the Te Arawa lakes.
- Membership is appointed by Regional Council (2), Council (2) and TALT (2), as well as representation from the Minister for the Environment.
- Operational decisions to manage the Programme are made at the Partnership Steering Group, made up of senior managers from the partner organisations and the Ministry for the Environment.
- TALSG (including Rotorua Lakes Council) and the Crown signed a Memorandum of Understanding to establish a formal working relationship between the Crown and TALSG, and a Deed of Funding committing the Ministry for the Environment to providing funding. Rotorua Lakes Council has received Crown subsidies for Three Waters projects under the Deed of Funding.

*Waikato River catchment - Raukawa and Te Arawa River iwi (“TARIT”)*

- The Ngāti Tūwharetoa, Raukawa, and Te Arawa River iwi Waikato River Act 2010 provides for co-governance and co-management (between Councils and iwi) in the Waikato river catchment.
- That Act requires Council to enter into Joint Management Agreements with Raukawa and with TARIT. Those JMAs set out how Council and Raukawa/TARIT will work together in respect of the Waikato River catchment, and are legally binding.
- The Act also provides that the Vision and Strategy for the Waikato River has legal effect/status under both the Resource Management Act and Local Government Act.

*Te Puna a Pekehaua (Taniwha Springs)*

- Te Puna a Pekehaua (Taniwha Springs) is Māori land, owned by trustees, who allow Council access to the spring to take drinking water and supply it to Ngongotahā (and Te Koutu in an emergency).
- This includes a lease and easement to access the springs, as well as agreement that the trustees and Council will jointly apply for (and jointly hold) the necessary resource consents.

*Rotoiti/Rotomā wastewater treatment plant*

- Council has a number of agreements with mana whenua to enable the Rotoiti/Rotomā wastewater treatment scheme.
- This includes a lease of Māori land with Haumingi 9B3B trustees (for the plant itself), an MoU providing for specific environmental works (also recorded in resource consent conditions), and an Iwi Liaison Group.

*Central North Island Iwi*

- Council has an easement allowing for spray irrigation of recovered water to land owned by CNI Iwi.
- Council is also working with CNI iwi (including Tūhourangi-Ngāti Wāhiao and Ngāti Whakaue) to develop a new Sustainable Forest Approach for the future.

*Te Maru o Kaituna*

- Te Maru o Kaituna River Authority is a co-governance partnership (established through the Tapuika Claims Settlement Act 2014) to restore, protect and enhance the environmental, cultural and spiritual wellbeing of the Kaituna River.
- A permanent joint committee of Rotorua Lakes Council, the Bay of Plenty Regional Council, Western Bay of Plenty District Council and Tauranga City Council. Its members are appointed equally by mana whenua and by the relevant Councils (including Rotorua Lakes Council).
- The committee has power to develop the Kaituna River Document, which has legal effect/status under both the Resource Management Act and Local Government Act.

*Ngati Rangitahi Claims Settlement Bill.*

- Establishes a permanent joint committee of BOPRC, with the purpose “to support, co-ordinate, and promote the integrated restoration of the mauri of the catchment” for the Tarawera River.
- The committee will have power to develop the Tarawera Awa Restoration Strategy, which has legal effect/status under both the Resource Management Act and Local Government Act. The membership includes 4 Council and 4 iwi representatives.
- The Bill has passed its first reading.

**Three Waters Reform**

Central government is carrying out a process to reform the ownership and management of New Zealand’s three waters infrastructure and related services. This is a significant and intergenerational proposed change. On 7 September 2020, Council signed a Memorandum of Understanding and associated Funding Agreement and Delivery Plan. The MoU provides

*“The Parties also recognise the reform programme will give rise to rights and interests under the Treaty of Waitangi and both Parties acknowledge the role of the Treaty partner. This includes maintaining Treaty settlement obligations and other statutory rights including under the Resource Management Act 1991 and the Local Government Act 2002. The outcome of discussions with iwi/Māori will inform design of appropriate mechanisms to reflect Treaty interests. This will include clarity of roles and responsibilities.”*

The Government has also established the Joint Three Waters Steering Committee to provide oversight and guidance to support progress of those reforms, and to assist in engaging with local government, iwi and other water sector stakeholders. The steering committee comprises an independent chair, local government mayors, chairs and CEs, representatives of LGNZ and Taituarā (Local Government Professionals Aotearis), as well as Crown officials (from DIA, Taumata Arowau, MBIE and the Treasury). There is no iwi representation on the Steering Committee.

On 30 June 2020, the Minister for Local Government released further information regarding the reforms and the proposed entities to be established. In the coming months Council will be required to make a decision on the proposed reforms, including whether to transfer its community assets to a new 3 Waters entity, which will have responsibility for the future provision of 3 Waters services to communities.

Council and mana whenua partners have entered into good faith relationships, supported by legally binding commitments. However, there is currently no formal process for Council and our mana whenua partners to discuss the 3 Waters reform, to identify risks and opportunities, and to co-ordinate our respective responses to the proposed 3 Waters Reforms (and Council’s relationship commitments).

#### 4. TE MATAPAKI ME NGĀ KŌWHIRINGA DISCUSSION AND OPTIONS SECTIONS

The options available include

- (1) Status quo. Currently, Council and Te Arawa are separately engaging with central Government. Although there have been informal discussions (including in Protocol committee meetings and at an operational level), there is no forum for discussing the impact on existing relationship agreements, nor for developing a unified, coordinated Council/iwi position.
- (2) Engage with each Te Arawa entity separately (particularly those with Protocol Agreements, Joint Management Agreements or other relationship agreements) to identify potential impacts of the Three Waters Reform, seek agreement on how to respond and agree amendments to their agreements.
- (3) Establish a Council Committee as a forum for governance oversight, to identify and develop shared concerns and aspirations, to understand the effects on relationship agreements, and to ensure well-informed, co-ordinated decision-making of the parties.

##### **Discussion**

It is important that Council (and mana whenua) understand the impact of the proposed reforms on Council's existing partnerships, and identify opportunities for a co-ordinated response to Government (as well as where there might be different Council/iwi views). That will ensure a more robust, well-informed and co-ordinated approach to decision-making by Council and by mana whenua entities. Accordingly, it is proposed that a committee be established as the forum for discussion and reaching agreement (where possible).

Because the committee focuses on existing relationships, it is suggested that the representatives of Council be drawn from the elected members who are already appointed to those relationship committees. That will ensure good familiarity with the issues to be considered. Because of the number of mana whenua groups, it is not proposed that each entity be directly represented, but instead that they agree on five mana whenua representatives to appoint to the committee.

A power of recommendation is appropriate because it recognises the separate roles and responsibilities of Te Arawa and Council. It is an approach that is based on 'mana ōrite' (separate but equal authority), and provides for the partners' different roles and responsibilities while still ensuring informed, co-ordinated decision-making.

It is also noted that Te Tatau o Te Arawa explicitly does not have a role to override direct discussions between Council and mana whenua. In this case, there are relationship agreements with particular Te Arawa groups, and those agreements will be directly affected by the proposed Three Waters Reforms. For that reason, it is recommended that the affected groups meet to identify 5 Te Arawa representatives (and that hui should be called with Te Tatau support).

##### **Legal framework**

Clause 3 section 41A of the Local Government Act 2002 provides for the Mayor:

1. to establish committees of the territorial authority.
2. to appoint the chairperson of each committee established and make the appointment before the other members of the committee are determined.
3. may appoint himself or herself to the committees.

However, nothing in this section limits or prevents a Council from discharging or reconstituting committees or chairpersons of those committees established by the Mayor by way of Council resolution at a later date. The Mayor can decline to exercise the powers outlined above.



Delegations set out the functions, duties, or powers (except those that must be exercised by the full council) for each committee of council. A committee can further delegate functions, duties, and powers to subcommittees unless prohibited by its council. All delegations by council's or committees must be recorded in a delegations register that must be found in the council's governance statement.

The Local Government Act 2002, Schedule 7 (32) provides that a local authority:

*(1) may delegate to a committee or other subordinate decision-making body, community board, or member or officer of the local authority any of its responsibilities, duties, or powers except —*

*(a) The power to make a rate; or*

*(b) The power to make a bylaw; or*

*(c) The power to borrow money, or purchase or dispose of assets, other than in accordance with the long-term plan; or*

*(d) The power to adopt a long-term plan, annual plan, or annual report; or*

*(e) The power to appoint a chief executive; or*

*(f) The power to adopt policies required to be adopted and consulted on under this Act in association with the Long-term Plan or developed for the purpose of the local governance statement.*

*(2) Nothing in this clause restricts the power of a local authority to delegate to a committee or other subordinate decision-making body, community board, or member or officer of the local authority the power to do anything precedent to the exercise by the local authority (after consultation with the committee or body or person) of any power or duty specified in subclause (1).*

*(3) A committee or other subordinate decision-making body, community board, or member or officer of the local authority may delegate any of its responsibilities, duties, or powers to a subcommittee or person, subject to any conditions, limitations, or prohibitions imposed by the local authority or by the committee or body or person that makes the delegation.*

*(4) A committee, subcommittee, other subordinate decision-making body, community board, or member or officer of the local authority to which or to whom any responsibilities, powers, or duties are delegated may, without confirmation by the local authority or committee or body or person that made the delegation, exercise or perform them in the like manner and with the same effect as the local authority could itself have exercised or performed them*

*(5) A local authority may delegate to any other local authority, organisation, or person the enforcement, inspection, licensing, and administration related to bylaws and other regulatory matters.*

*(6) A territorial authority must consider whether or not to delegate to a community board if the delegation would enable the community board to best achieve its role.*

*(7) To avoid doubt, no delegation relieves the local authority, member, or officer of the liability or legal responsibility to perform or ensure performance of any function or duty.*

*(8) The delegation powers in this clause are in addition to any power of delegation a local authority has under any other enactment.*

**5. TE TINO AROMATAWAI  
ASSESSMENT OF SIGNIFICANCE**

The decisions or matters of this report are not considered significant in accordance with the Council's Policy on Significance.

**6. NGĀ KŌRERO O TE HAPORI ME TE WHAKATAIRANGA  
COMMUNITY INPUT/ENGAGEMENT AND PUBLICITY**

The Council is not required to consult on this matter. The establishment of committees is a provision of the Local Government Act 2002.

**7. HE WHAIWHAKAARO  
CONSIDERATIONS**

**7.1 Mahere Pūtea  
Financial/budget considerations**

Remuneration of elected members is set by the Remuneration Authority and is already provided for in the governance budgets. It is proposed that the elected members for Te Arawa be remunerated at a similar rate as external appointees to other Council committees. The budget impact for those fees is expected to be less than \$25,000.

**7.2 Kaupapa Here me ngā Hiraunga Whakariterite  
Policy and planning implications**

Clauses 10, 11, 14 and clause 19, 30(1) and 31 of Schedule 7 of the Local Government Act 2002 provide for the establishment of a governance structure in which council use to make decision in line with their objectives and future direction.

**7.3 Tūraru  
Risks**

There are no major risks associated with the decisions or matters.

**7.4 Te Whaimana  
Authority**

The Mayor has the authority to make a decision on a structure for committees under the Local Government Act Section 41A

**8. NGĀ ĀPITI HANGA  
ATTACHMENTS**

Attachment 1: Delegations

**DELEGATIONS**

Type of Committee	Committee
Subordinate to	Council
Subordinate Committees	n/a
Legislative Basis	Schedule 7, S30 (1) (a), Local Government Act 2002
Purpose	To consider the impacts of the Three Waters Reform on Council's partnerships with mana whenua, to consider Te Arawa and Council responses to the reforms, and to make recommendation to the Council and to Te Arawa on the same.
Reference	
Membership	The Mayor (co-Chair), Councillor Donaldson, Councillor Tapsell, Councillor Raukawa-Tait and Councillor Maxwell and 5 Te Arawa representatives (to be confirmed)
Quorum	3 Council and 3 Te Arawa
Meeting frequency	Monthly
Delegations	<p>The Committee's function is recommendatory only.<sup>1</sup> It is authorised to take actions precedent to the exercise by the Council of its statutory responsibilities, duties and powers, by:</p> <ul style="list-style-type: none"> <li>• Considering and making recommendations on the strategic direction of Te Arawa and of Council regarding the proposed Three Waters Reform;</li> <li>• Considering and making recommendations on the development of Council's strategies, policies and plans regarding the proposed Three Waters Reform,</li> <li>• Receiving and considering reports from working/strategy groups;</li> <li>• Considering and making recommendations on the development of guidelines for decision making to assist Council in achieving its strategic outcomes in respect of the proposed Three Waters reform;</li> <li>• Considering and making recommendations on the development of submissions/responses regarding the proposed Three Waters reform including: <ul style="list-style-type: none"> <li>○ Central government policies, plans and proposed legislative reform;</li> <li>○ Proposals by other organisations/authorities (Local and Regional).</li> </ul> </li> <li>• Performing such other functions as the Council may direct from time to time.</li> </ul>
Relevant Statutes	All the duties and responsibilities listed above must be carried out in accordance with the relevant legislation.

<sup>1</sup> 1 Council is authorised to delegate anything precedent to the exercise of Council's powers, duties and functions - Schedule 7, S32, Local Government Act 2002

Limits to Delegations	<p>The Committee does not have the delegated authority to make decisions for and on behalf of the Council (or Te Arawa). All matters requiring a decision of Council or of a Te Arawa entity must be referred, by way of recommendation, to the Council or to the Te Arawa entity for final consideration and determination.</p> <p>In the event that the Council resolves not to approve or adopt a Committee recommendation, the item shall be returned to the Committee via the Chief Executive for review and subsequent referral to the Council for further consideration and determination.</p>
-----------------------	---