

01-15-016
RDC-1361699**ROTORUA
LAKES COUNCIL**
Te Kaunihera o ngā Roto o Rotorua

Kaupapataka Agenda

NOTICE OF AN ORDINARY MEETING OF COUNCIL

Date: Wednesday 22 February 2023**Time: 9.30am****Venue: Council Chamber**

MEMBERSHIP**Chair** Mayor Tapsell**Deputy Chair** Cr Kai Fong**Members**
Cr Barker
Cr Brown
Cr Kereopa
Cr Lee
Cr Maxwell
Cr O'Brien
Cr Paterson
Cr Wang
Cr Waru**Quorum** 6

NGĀ TUKUNGA HAEPAPA A TE KAUNIHERA COUNCIL DELEGATIONS

Type of Committee	Council
Subordinate Committees	None
Legislative Basis	Schedule 7 S30 (1) (A), Local Government Act 2002 Committee delegated powers by the Council as per Schedule 7, S32, Local Government Act 2002
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
Membership	Mayor Tania Tapsell (Chair) Deputy Mayor Councillor Sandra Kai Fong (Deputy Chair) Councillors Karen Barker, Gregg Brown, Lani Kereopa, Robert Lee, Trevor Maxwell, Conan O'Brien, Don Paterson, Fisher Wang and Rawiri Waru
Quorum	6
Meeting frequency	Monthly
Delegations	<ul style="list-style-type: none"> • the power to make a rate • the power to make a bylaw • the power to borrow money, or purchase or dispose of assets, other than in accordance with the Long-term Plan • the power to adopt a long-term plan, annual plan, or annual report • the power to appoint a chief executive • the power to adopt policies required to be adopted and consulted on under the LGA 2002 in association with the long-term plan, or developed for the purpose of the local governance statement; and • the power to adopt a remuneration and employment policy • the power to set and support strategies in measures related to emergency matters. • 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.
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

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1 Karakia Whakapuaki - Opening Karakia

TŪTAWA MAI

Tūtawa mai i runga
Tūtawa mai i raro
Tūtawa mai i roto
Tūtawa mai i waho
Kia tau ai te mauri tū
Te mauri ora, ki te katoa
Hāumi e. Hui e. Tāiki e!

TŪTAWA MAI

I summon from above
I summon from below
I summon from within
I summon the surrounding environment
The universal vitality and energy to infuse and
enrich all present
Enriched, unified and blessed

2 Ngā Whakapāha - Apologies

The Chair 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 Whakapuakitanga Whaipānga - Declarations of interest

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 Ngā Take Whawhati tata kāore i te Rārangi Take - Urgent Items not on the Agenda

Items of business not on the agenda which cannot be delayed

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

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

The Chair 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 Chair 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 Te Whakaū i ngā Meneti - Confirmation of Minutes

5.1 Council Meeting Minutes (Draft) 8 February 2023

01-15-016
RDC-1359780

Minutes (draft)

Council meeting held Wednesday 8 February 2023 at 9.30am
Council Chamber, Rotorua Lakes Council

MEMBERS PRESENT:	Mayor Tapsell (Chair) Cr Kai Fong (Deputy Chair), Cr Barker, Cr Brown, Cr Kereopa, Cr Lee, Cr Maxwell, Cr O'Brien, Cr Paterson, Cr Waru
MEMBERS PRESENT VIA AUDIO VISUAL:	Cr Wang
APOLOGIES:	None
IN ATTENDANCE VIA AUDIO VISUAL:	Mark Abbot, Business Consultant and a principal consultant with EQUIP [EQUIP is the independent consultancy arm of Local Government New Zealand (LGNZ)]
STAFF PRESENT:	G Williams, Chief Executive; T Collé, Deputy Chief Executive, Organisational Enablement; J.P Gaston, Deputy Chief Executive, District Development; O Hopkins, Deputy Chief Executive, District Leadership & Democracy; G Rangi, Deputy Chief Executive, Te Arawa Partnership; I Tiriana, Manager, Council Communications; D Cossar, Governance & Democracy Manager; G Kieck, Corporate Planning and Strategy Manager; T Rutherford, Executive of Communications, Mayor's Office; T Togatama, Executive of the Mayor's Office; G Konara, Governance Support Advisor.

The meeting opened at 9.30am.

The Mayor welcomed elected members, media, staff and members of the public.

1 KARAKIA WHAKAPUAKI OPENING KARAKIA

Cr Barker opened the meeting with a Karakia.

2 NGĀ WHAKAPĀHA APOLOGIES

None

**3 WHAKAPUAKITANGA WHAIPĀNGA
DECLARATIONS OF INTEREST**

None

**4 NGĀ TAKE WHAWHATI TATA KĀORE I TE RĀRANGI TAKE
URGENT ITEMS NOT ON THE AGENDA**

None

**5 TE WHAKAŪ I NGĀ MENETI
CONFIRMATION OF COUNCIL MINUTES****5.1 MINUTES OF COUNCIL MEETING HELD 15 DECEMBER 2022**

Resolved;

- 1. That the minutes of the Council meeting held 15 December 2022 be confirmed as a true and correct record.**

Moved: Cr Kereopa

Seconded: Cr Brown

CARRIED

**6. PŪRONGO KAIMAHI
STAFF REPORTS****6.1 SCHEDULE OF MEETINGS – 1 MARCH 2023 TO 31 DECEMBER 2023**

RDC-1350989

Resolved:

- 1. That the report “Schedule of meetings – 1 March 2023 to 31 December 2023” be received.**

Moved: Cr Kai Fong

Seconded: Cr Barker

CARRIED

Oonagh Hopkins overviewed the report.

Further resolved:

- 2. That Council resolves to adopt the schedule of meetings for the period 1 March 2023 to 31 December 2023.**

Moved: Cr Waru

Seconded: Cr O'Brien

CARRIED

6.2 ADOPT CODE OF CONDUCT 2022-2025

RDC-1342050

Resolved:

1. **That the report “Adopt Code of Conduct 2022-2025” be received.**

Moved: Cr Kai Fong

Seconded: Cr Paterson

CARRIED

Oonagh Hopkins Introduced Mark Abbot and informed that Mr Abbot is available to answer any questions from councillors.

Ms Hopkins overviewed the report and spoke to a presentation titled “Code of Conduct 2022-2025” (Attachment 1).

Mr Abbot provided advice and answered questions from councillors.

Further resolved:

2. **That Council resolves to adopt the Code of Conduct 2022-2025.**

Moved: Mayor Tapsell

Seconded: Cr Kai Fong

Mayor Tapsell signaled to make an amendment to the motion as below:-

2. **That Council resolves to adopt the Code of Conduct 2022-2025 up to including page 15.**

Moved: Mayor Tapsell

Seconded: Cr Kai Fong

LOST

The meeting adjourned at 11.33am and resumed at 11.45am.

6.3 COUNCIL REPRESENTATION ON OTHER ENTITIES 2022- 2025

RDC-1340335

Resolved:

1. **That the report “Council representation on other entities 2022- 2025” be received.**

Moved: Cr O’Brien

Seconded: Cr Brown

CARRIED

Oonagh Hopkins overviewed the report.

Further resolved:

- 2. That pursuant to Clauses 10, 11, 14 and Clauses 19 30 (1) and 31 of Schedule 7 of the Local Government Act 2002, where relevant, Council appoint representatives as ex-officio positions to other entities as follows:**

Other entity	Council representative/s
Air Quality Working Party (BOPRC)	Mayor Tapsell and Cr Kai Fong
BOPRC Public Transport Committee (1 RLC representative plus alternate)	Cr O'Brien Alternate - Mayor Tapsell
BOPRC Regional Transport Committee (Mayor plus alternate)	Mayor Tapsell Alternate - Cr O'Brien
BOP Civil Defence Emergency Management Group (Mayor plus Deputy Mayor as alternate)	Mayor Tapsell Alternate - Deputy Mayor Kai Fong
Creative Communities Rotorua Assessment Committee	Cr Barker
Friends of the Library	Cr O'Brien and Rachel Clark (Rural Community Board)
Friends of the Rotorua Museum of Art & History	Cr Barker and Cr Brown
Global Covenant of Mayors for Climate Change and Energy (GCOM)	Cr Wang
Kaituna Catchments Control Scheme	Nick Chater (Lakes Community Board)
Kauae Cemetery Trust Board	Mayor Tapsell, Cr Maxwell, Cr Kereopa and Cr Waru
Ngāti Rangiteaorere Protocol Committee	Mayor Tapsell, Cr Maxwell, Cr Kereopa and Cr Waru
Ngāti Rangiwehehi Protocol Committee	Mayor Tapsell, Cr Maxwell, Cr Kereopa and Cr Waru
Ngāti Waoku Protocol Committee	Mayor Tapsell, Cr Maxwell, Cr Kereopa and

Other entity	Council representative/s
	Cr Waru
Ngāti Whakaue Gifted Reserves Protocol Committee	Mayor Tapsell, Deputy Mayor Kai Fong and Cr Maxwell
Pukaki ki Rotorua Charitable Trust	Mayor Tapsell and Cr Waru
Raukawa Trust / RLC Governance Committee	Mayor Tapsell and Cr Maxwell
RLC Neighbourhood Matching Fund Committee	Cr Paterson
Rotorua Access Committee	Cr O'Brien
Rotorua Geothermal Liaison Group (BOPRC) (2 RLC reps.)	Cr O'Brien and Cr Kereopa
Rotorua Te Arawa Lakes Strategy Group (Mayor + 1 representative + 1 alternate) (BOPRC)	Mayor Tapsell and Cr Brown Alternate - Phill Thomass (Lakes Community Board)
Tapuika Protocol Committee	Mayor Tapsell, Cr Maxwell, Cr Kereopa and Cr Waru
Tarawera Awa Restoration Strategy Group	Cr Brown Alternate - Phill Thomass
Te Arawa River Iwi Trust Joint Management Committee	Mayor Tapsell, Cr Kereopa, Cr Brown and Cr Wang
Te Maioha o Parekarangi Youth Justice Community Liaison Committee	Cr Lee
Te Maru o Kaituna (the Kaituna River Authority) (1 RLC representative + alternate)	Nick Chater (Lakes Community Board) Alternate - Cr Kereopa
Te Oranga Nui-Rawhiti Mai/Eastside Structure Wellness Plan	Cr Paterson
Te Tatau o Te Arawa	Full Council
Tūhourangi Protocol	Mayor Tapsell, Cr Maxwell, Cr Kereopa and

Other entity	Council representative/s
	Cr Waru
Waikawau / Hannah's Bay Reserve Committee	Cr Lee, Alternate - Lakes Community Board member
Water Programme Steering Group	Cr Wang and Phill Thomass

Moved: Cr Paterson

Seconded: Cr Waru

CARRIED

6.4 ADOPT GOVERNANCE DELEGATIONS 2022-2025

RDC-1353896

Resolved:

- 1. That the report "Adopt Governance Delegations 2022-2025" be received.**

Moved: Cr Lee

Seconded: Cr Barker

CARRIED

Oonagh Hopkins overviewed the report.

Further resolved:

- 2. That the Council resolves to adopt the governance delegations 2022-2025 and note the delegated responsibilities as follows:**

COMMITTEE	DELEGATIONS
Council	As per Attachment 2
Community and District Development	As per Attachment 3
Infrastructure and Environment	As per Attachment 4
District Licensing	As per Attachment 5
Audit and Risk	As per Attachment 6
Rotorua Lakes Community Board	As per Attachment 7
Rotorua Rural Community Board	As per Attachment 8

Moved: Cr Lee

Seconded: Cr Kai Fong

CARRIED

Abstained - Cr Kereopa, Cr Maxwell and Cr Waru.

6.5 ADDITIONAL RESPONSIBILITIES REMUNERATION 2022-2023

RDC-1353096

Resolved:

1. That the report “Additional Responsibilities Remuneration 2022-2023” be received.

Moved: Cr Waru

Seconded: Cr Kereopa

CARRIED

Oonagh Hopkins overviewed the report.

Further resolved:

2. That Council set the councillor base salary rate at \$65,000 for 2022-2023.

3. That Council adopts the following additional responsibilities remuneration:

Councillor	Committee Name	Role	Base salary	Above base salary	Total Salary (\$)
Cr Kai Fong	Council Community & District Development	Deputy Mayor Chair	\$65,000	\$78,787	\$143,787
Cr Brown	Community & District Development	Deputy Co-chair	\$65,000	\$32,500	\$97,500
Cr Waru	Community & District Development	Deputy Co-chair	\$65,000	\$32,500	\$97,500
Cr Wang	Infrastructure & Environment	Deputy Co-chair	\$65,000	\$32,500	\$97,500
Cr Barker	Infrastructure & Environment	Deputy Co-chair	\$65,000	\$32,500	\$97,500

Moved: Cr Lee

Seconded: Cr Brown

CARRIED

Recorded against - Cr O'Brien.

6.6 ANNUAL PLAN 2023/24 MILESTONES

RDC-1353889

Resolved:

1. **That the report “Annual Plan 2023/24 Milestones” be received.**

Moved: Cr Barker

Seconded: Cr Waru

CARRIED

Greg Kieck overviewed the report and spoke to a presentation titled “Annual Plan 2023/24” (Attachment 9)

Further resolved:

2. **That Council note the timeline and milestones of the Annual Plan 2023/24 process.**

Moved: Cr Paterson

Seconded: Cr Lee

CARRIED

6.7 ADOPTION OF ROTORUA LAKES COUNCIL SUBMISSIONS POLICY

RDC-1353890

Resolved:

1. **That the report “Adoption of Rotorua Lakes Council Submissions Policy” be received.**

Moved: Cr Kereopa

Seconded: Cr Lee

CARRIED

Greg Kieck overviewed the report.

Further resolved:

2. **That Council resolves to adopt the Rotorua Lakes Council Submissions Policy for implementation effective 8 February 2023 with the following amendment.**

Amendment – Remove “Frivolous or vexatious” from Submission content conditions and include “irrelevant” as item one.

Moved: Cr Paterson

Seconded: Cr Maxwell

CARRIED

Recorded against - Cr Lee, Cr O’Brien and Cr Paterson.

**7. TE KARAKIA WHAKAMUTUNGA
CLOSING KARAKIA**

Cr Barker closed the meeting with a Karakia.

The meeting closed at 1.43pm

To be confirmed at a Council meeting on 22 February 2023.

.....

Chair

Note 1: Rotorua Lakes Council is the operating name of Rotorua District Council

Note 2: Attachments to these minutes are available on request or on Council's website: [click here](#)

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6 Pūrongo Kaimahi - Staff Reports

01-15-016
RDC-1361096

ROTORUA LAKES COUNCIL

Mayor
Members
COUNCIL

6.1 Hearings on Kerbside Organic Waste Collection in Rotorua

Report prepared by: Greg Kieck, Manager Corporate Planning and Strategy

Report reviewed by: Oonagh Hopkins, Deputy Chief Executive, District Leadership and Democracy

Report approved by: Geoff Williams, Chief Executive

1. TE PŪTAKE PURPOSE

The purpose of this report is to receive two verbal presentations in support of submissions to the “Proposal to introduce kerbside organic waste collection in Rotorua”.

2. TE TĀHUHU BACKGROUND

Organic waste collection is identified in Council’s Waste Management and Minimisation Plan (WMMP) 2022-28 and Climate Action Plan 2020. The introduction of a potential organic waste collection service was indicated in the Long-Term Plan 2021-2031.

Council approved the initial proposal to go out for public consultation on 28 April 2022.

Between 16 May and 16 June 2022, public consultation was held to assess community support for an organic waste kerbside collection service in Rotorua. The community was provided with five options.

- Option 1 was to continue business as usual:
- Option 2 (GO only) was for garden organics collection,
- Option 3 (FO only) was for food organics collection.
- Option 4 (FO & GO) was a combination of Options 2 and 3.
- Option 5 (FOGO) was for mixed collection of both food and garden waste in one bin.

A total of 371 submissions were received at close of consultation. Two submitters wish to be heard by the Council. Attached are the submissions that are to be heard at the hearing (Attachment 1).

As part of the elected member induction, a briefing was held on 24 November 2022 which outlined the proposal and next steps.

Following the hearings, a report will be brought back to Council to agree to proceed to a procurement process for the agreed option. The result of that process will be reported back to Council in line with the next Long-term Plan.

A complete list of submissions received is available on Council's Lets Talk/Kōrero Mai website (<https://letstalk.rotorualakescouncil.nz/>) under the Organic Waste Collection Project.

**3. HE TŪTOHUNGA
RECOMMENDATION**

- 1. That the report "Proposal to introduce kerbside organic waste collection in Rotorua" be received.**

**4. NGĀ ĀPITI HANGA
ATTACHMENTS**

Attachment 1: Organic Waste Collection Hearings Submissions

Organic Waste Collection Hearings Submissions



Respondent No: 9

Login: Anonymous

Email: n/a

Responded At: May 16, 2022 10:38:28 am

Last Seen: May 16, 2022 10:38:28 am

IP Address: n/a

- Q1. He aha tāu e pirangi ai mo te kohinga pararopi? What is your preferred option for organic waste collection? Option 5 - Mixed food organics and garden organics (FOGO) collection.
-
- Q2. Mēnā kua tohua a Option 1, he aha ō āwangawanga mo te kohinga pararopi? If you have selected Option 1, what are your main concerns about an organics collection service? not answered
-
- Q3. Mēnā kua tohua ko Option 4, 5 rānei, kei te whakaae koe kia kohi o para ia rua wiki, ā he pai ki te utu he \$35 ki te kohi o para ia wiki? If you have selected Options 4 or 5, do you agree with fortnightly rubbish collection, or would you want to pay an extra \$35 per year for weekly rubbish pick up? I would prefer to pay \$35 extra for weekly rubbish collection
-
- Q4. Kei i a koe ētahi atu whakaaro? Anything you would like to add? Bins for organic waste needs to be supplied and collected weekly with the other rubbish runs. We have a family of 9 so it is important that our rubbish gets picked up weekly most of it is food rubbish however this service should be free like the water rubbish that gets taken.
-
- Q5. Kei te pirangi koe ki te kōrero ki te Kaunihera? Do you wish to present your comments to Council at a hearing? Āe - Yes
-
- Q6. Īngoa - Name Tara
-
- Q7. Wāea, Īmēra rānei - Phone or Email address
-
- Q8. I pēhea koe e rongō ai i te tēnei kaupapa? How did you find out about this project? Social Media
-



Respondent No: 175

Login: Anonymous

Email: n/a

Responded At: May 22, 2022 19:04:56 pm

Last Seen: May 22, 2022 19:04:56 pm

IP Address: n/a

- Q1. He aha tāu e pirangi ai mo te kohinga pararopi? What is your preferred option for organic waste collection? Option 5 - Mixed food organics and garden organics (FOGO) collection
-
- Q2. Mēnā kua tohua a Option 1, he aha ō āwāngawanga mo te kohinga pararopi? If you have selected Option 1, what are your main concerns about an organics collection service? not answered
-
- Q3. Mēnā kua tohua ko Option 4, 5 rānei, kei te whakaae koe kia kohi o para ia rua wiki, ā he pai ki te utu he \$35 ki te kohi o para ia wiki? If you have selected Options 4 or 5, do you agree with fortnightly rubbish collection, or would you want to pay an extra \$35 per year for weekly rubbish pick up? I agree with fortnightly rubbish collection
-
- Q4. Kei i a koe ētahi atu whakaaro? Anything you would like to add? We have moved from Christchurch where organic bins were picked up fortnightly. We thought it was fantastic and we're sad to see this had not been put in place in Rotorua yet.
-
- Q5. Kei te pirangi koe ki te kōrero ki te Kaunihera? Do you wish to present your comments to Council at a hearing? Āe - Yes
-
- Q6. Ingoa - Name Chris Hamilton
-
- Q7. Wāea, Imēra rānei - Phone or Email address
-
- Q8. I pēhea koe e rongoi ai i te tēnei kaupapa? How did you find out about this project? Other (please specify) Facebook

ROTORUA LAKES COUNCIL

Mayor
Members
COUNCIL

6.2 Financial Performance for the six months ending 31 December 2022

Report prepared by: David Jensen, Director of Finance

Report reviewed by: Thomas Collé, Deputy Chief Executive, Organisational Enablement

Report approved by: Geoff Williams, Chief Executive

1. TE PŪTAKE PURPOSE

The purpose of the report is to provide information on Council's financial performance for the six months ended 31 December 2022.

2. HE TŪTOHUNGA RECOMMENDATION

1. That the report "Financial Performance for the Six Months ended 31 December 2022" be received.
2. That, noting operating pressure relating to Emergency Housing, Plan Change 9, Inflation and Rooding Weather Events and the cost-saving initiatives to date, Council staff will continue to identify options to achieve budget targets within their financial delegations.
AND/OR
3. That at the next Council meeting, staff will present cost saving options through the reduction of Council's level of service to the community in order to achieve budget targets.

3. TE MATAPAKI DISCUSSION

➤ Operating Pressures

Council's operating environment contains several key challenges, which is having a significant impact on Council's financial position. These pressures include:

Council's operating environment contains several key challenges, which is having a significant impact on Council's financial position. These pressures include:

- Emergency Housing. The costs associated with the monitoring of motels providing emergency housing services and with hearings and deliberations on the conditions these motels must operate under were not known at the time the 2022/23 Annual Plan was adopted. Council have invoiced the Ministry of Housing for a share of the costs associated with the November/December 2022 resource consent hearings however the residual costs will remain with Council. Council has spent \$680k so far this financial year on Emergency Housing.
- Plan Change 9. The need for expenditure on Plan Change 9 was driven by Central Government in response to National Policy Statements relating to housing density and the way in which we encourage development. This has led to significant unbudgeted expenditure on consultants and

community consultation to fulfil our obligation to enable the Plan Change to become operative and to ensure the final Plan meets the expectations of Government. Costs associated with Plan Change 9 are \$200k year-to-date.

- Inflation. Council operates a number of significant contracts to deliver services which include inflation escalation clauses. As measures of inflation including the Consumer Price Index, the Local Government Cost Index and the Capital Goods Price Index reach record highs, Council has a legal obligation to pay these contracts at the newly inflated rates, regardless of the inflation included in the 2022/23 Annual Plan. Other activities within Council are experiencing tender responses and quotes above budget as labour and material shortages continue to impact our suppliers and contractors. Key Council contracts are \$800k over budget year-to-date as a result of these inflation clauses.
- Rooding and weather events. The occurrence of weather events degrading our rooding network is trending above prior years and Council has incurred significant expenditure ensuring that the rooding network is safe and fit for use in response to these events. This has been compounded by the inflation pressure noted above in that while we are having to perform emergency rooding repairs more often, the work is becoming more expensive as suppliers and contractors pass on cost increases in their quotes to Council. As at 31 December 2022 rooding operational expenses were \$400k over budget and capital expenses \$1m over budget due to weather events, noting additional severe weather events through January and February 2023.

Staff continue to mitigate these factors where possible, and look for opportunities to offset above-budget expenditure within their wider approved budgets and work programmes.

➤ **Year End Forecast**

Through November and December 2022, Council staff undertook a review of forecast income and expenditure which identified a potential operating deficit of \$5.6m, recognising pressures achieving certain revenue targets and increases in Council's forecast expenditure as a result of the operating pressures noted above. Through January 2023, staff worked through a prioritisation assessment and identified cost savings of \$2.7m. This was primarily achieved through decisions to defer recruitment for vacant roles, delay or cancel planned expenditure with contractors and to increase revenue targets to meet changing market conditions.

Assessments are still underway across the organisation to identify additional cost saving initiatives to further reduce the residual \$2.9m forecast operating deficit as staff prioritise their work programmes for the remainder of the year. This report recommends that staff continue to work within their financial delegations to find additional cost saving initiatives to reduce the residual forecast operating deficit in order to deliver a full year financial position within the limits agreed in the 2022/23 Annual Plan.

This report also provides an optional recommendation for Elected Members to request cost saving initiatives to be brought to the next Council meeting through the reduction of Council's level of service delivered to the community in order to secure Council approval.

➤ **Year to Date Financial Performance**

The current and ongoing economic environment continues to apply pressure to Council finances and delivery of services as we continue to face challenges from high inflation, contractor availability and weather-related events.

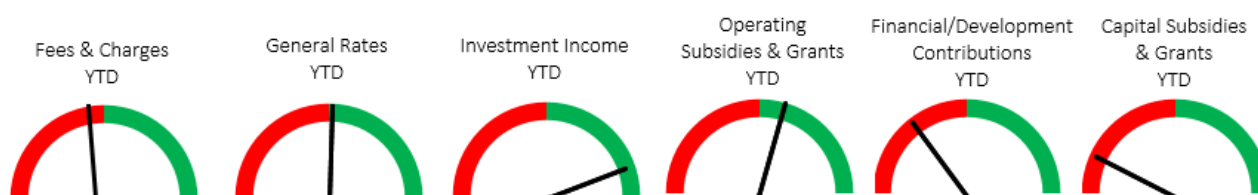
As at 31 December 2022, Council has an operating deficit of \$1.4m compared to a budget surplus of \$17.2m. Most of the variance to budget is continues to be related to revenue from capital subsidies due (\$17m) which is linked to delivery milestones of key capital projects. The balance (\$1.6m) is

materially driven by ongoing economic conditions impacting fees and charges revenue and operating expenditure, including capital revenue from developers.

Our capital works programme expenditure is currently at \$45m against a budget of \$64m. The lower than budgeted spend is predominantly related to the timing of key projects and planned infrastructure renewals.

Figures in \$000's	Actual	Budget	Variance - Favorable / (Unfavorable)
Income			
Fees & Charges	8,694	9,430	(737)
General Rates	60,312	59,229	1,083
Investment Income	494	275	218
Development & Financial Contributions	661	1,182	(520)
Subsidies & Grants - Capital	6,136	23,130	(16,994)
Subsidies & Grants - Operational	3,535	2,954	582
Total Income	79,831	96,199	(16,369)
Opex			
Administration Expense	1,965	2,003	38
Finance Cost	68	190	122
Maintenance	586	811	225
Operating Expenses	34,793	32,018	(2,775)
Staff Costs	16,428	16,629	201
Utilities	1,421	1,486	65
Total Opex	55,260	53,137	(2,123)
Total Operating Surplus / (Deficit)	24,570	43,062	(18,492)
Allocated Costs			
Depreciation	21,015	21,015	
Interest Cost	4,915	4,915	
Overheads	0		
Recovery & Applied	(0)	-52	-52
Total Allocated Costs	25,929	25,877	-52
Net Surplus / (Deficit)	(1,359)	17,185	(18,544)

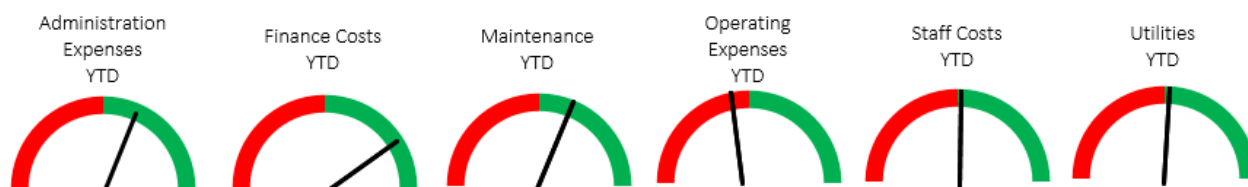
➤ Income



Total Income is tracking unfavourably to budget, with a \$16.4m negative variance to budget. This primarily relates to Capital Grants & Subsidies related to Capital Expenditure. Operating Income is currently \$1.1m ahead of year-to-date budget.

- Council's fees and charges are \$737k behind year-to-date budget due to lower than forecast Subdivision Fees (\$656k lower than budget), Parking Revenue (\$322k) and Animal Control (115k). This is partially offset by \$420k unbudgeted Resource Consent revenue due to the on charging of consenting costs to the Ministry of Housing.
- Rate revenue is \$1.1m ahead of year-to-date budget primarily due to higher than budgeted Water by Meter revenue and Sewerage Disposal charges.
- Investment Income is \$1218k ahead of year-to-date budget due to rising interest rates on cash deposits.
- Operating Subsidies & Grants are \$582k ahead of year-to-date budget due to the timing of receipts from the Ministry of Environment and other community grants.
- Financial & Development Contributions are \$520k behind year-to-date budget due to lower developer activity year-to-date.
- Capital Subsidies & Grants are \$17.0m behind year-to-date budget due to the timing of completion of capital works, particularly within the Tarawera Wastewater Scheme and the Lakefront Revitalisation projects.

➤ Operating Expenses

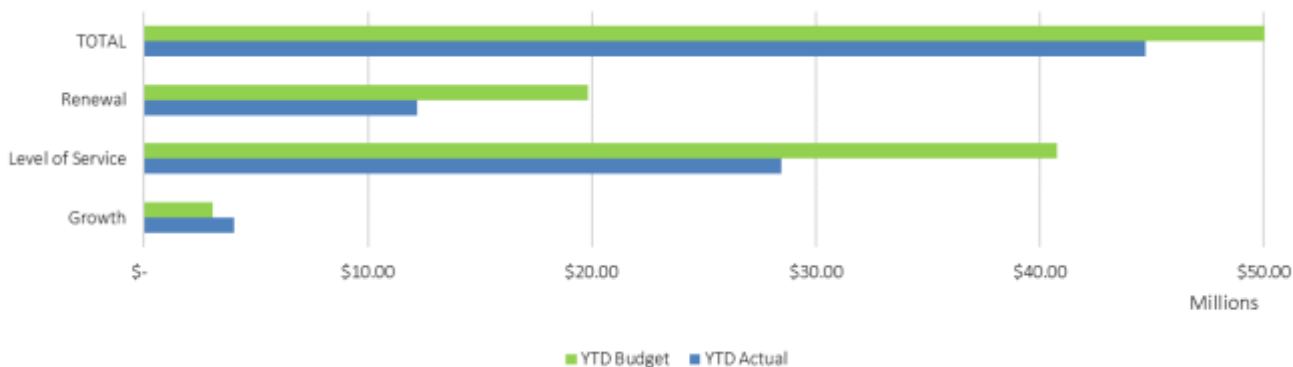


Operating Expenses are tracking unfavourably to budget, with a \$2.1m negative variance to budget.

- Administration Expenses are tracking to budget year-to-date.
- Finance Costs are \$122k under budget year-to-date due to lower than forecast external borrowing.
- Maintenance is \$225k under budget year-to-date due primarily to underspends on repairs and reactive maintenance.
- Operating Expenses are \$2.78m higher than year-to-date budget due to costs associated with Emergency Housing (\$680k), additional expenditure on roading contractors following recent flooding events (\$300k over year-to-date budget) and additional expenditure on security contracts (\$273k over budget). Operating costs include expenditure related to the NRL All Stars game for which offsetting revenue will be received post-event. Council is also experiencing higher than budgeted contractual CPI adjustments on major operational contracts due to current inflation rates, predominantly within Wastewater and Waste Management.

- Staff Costs are \$201k underspent year-to-date representing the difficulties on boarding staff in the current recruitment market.
- Utilities are tracking to year-to-date budget.

➤ Capital Expenses



As at 31 December 2022, Council had spent \$44.7m against year-to-date budget of \$63.7m. The full 2022/23 capital programme is \$143.8m.

Expenditure on key projects is as follows:

- Sir Howard Morrison Centre: \$7.14m. The centre is fully operational and is being prepared for the opening Gala in mid-February.
- Sewage Capital Projects: \$6.46m. Work continues on the Rotoiti/Rotomā scheme (\$3.61m) and the sewage renewal programme (\$2.85m).
- Lakefront Revitalisation: \$3.62m. Landscaping works continue to progress according to the work programme.
- Pukehangi West Stormwater: \$2.75m
- Museum \$1.75m. The design team continue to develop the detailed design and initial construction plan for the Museum strengthening and restoration project.
- IT System Renewals: \$2.54m. Final User Acceptance Testing will be completed through February and March in preparation for the go live date in May 2023.

4. TE TINO AROMATAWAI ASSESSMENT OF SIGNIFICANCE

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

ROTORUA LAKES COUNCIL

Mayor
Councillors
COUNCIL

6.3 Bay of Plenty Mayoral Forum Triennial Agreement 2022-2025

Report prepared by: Rick Dunn, Governance & Democracy Advisor

Report reviewed by: Oonagh Hopkins, Deputy Chief Executive, District Leadership & Democracy

Report approved by: Geoff Williams, Chief Executive

1. TE PŪTAKE PURPOSE

The purpose of this report is to seek Council endorsement for the Bay of Plenty Mayoral Forum Triennial Agreement 2022 – 2025.

2. TE TUHINGA WHAKARĀPOPOTOTANGA EXECUTIVE SUMMARY

The Local Government Act 2002 (LGA) requires all local authorities within each region to enter into a Triennial Agreement that complies with section 15 of the LGA, by 1 March of the year following local government elections.

The proposed Triennial Agreement for the 2022-2025 triennium is based on the existing Agreement, with streamlining of some provisions to be more succinct, and raising the intent of the agreement between Councils.

The agreement recognises the importance of local government authorities working together to improve the Bay of Plenty and represents the shared desire of local government in the region to work collaboratively to maximise effectiveness and efficiency and promote wellbeing in our communities. Determining the strategic regional issues and opportunities over the triennium and beyond has also been included under the statement of intent.

The Triennial Agreement may need to be amended by agreement at the first available opportunity, once the Resource Management reforms are in force. Also, any implications from the Future for Local Government Review will need to be considered and included if relevant.

Council will need to consider and endorse the Triennial Agreement. Endorsements and electronic signatures of councils Mayors and Chairs will need to be provided to Regional Council by 28 February 2023 to enable the statutory deadline to be met.

3. NGĀ TŪTOHUNGA RECOMMENDATIONS:

- 1. That the report 'Bay of Plenty Mayoral Forum Triennial Agreement 2022-2025' be received.**
- 2. That Council notes that the Local Government Act 2002 requires not later than 1 March after each triennial general election of members, all local authorities within each region to enter into a triennial agreement covering the period until the next election.**
- 3. That Council endorses the Bay of Plenty Mayoral Forum Triennial Agreement 2022-2025 for approval, and provide an electronic signature of council's Mayor to Regional Council by 28 February 2023.**

4. TE TĀHUHU BACKGROUND

The Local Government Act 2002 (LGA) requires all local authorities within each region to enter into a triennial agreement for the period until the next triennial general election. This agreement must be entered into not later than 1 March after each election.

The local authorities in the Bay of Plenty region have successfully worked together under a Bay of Plenty Triennial Agreement for over a decade.

The proposed Triennial Agreement is based on the 2019-2022 Triennial Agreement but has been streamlined to better reflect the intentions of the member councils. The Agreement recognises the importance of local government authorities working together to improve the Bay of Plenty and represents the shared desire of local government in the region to work collaboratively to maximise effectiveness and efficiency and promote wellbeing in our communities.

5. TE MATAPAKI ME NGĀ KŌWHIRINGA DISCUSSION AND OPTIONS

5.1 Legal Requirements

Section 15 of the LGA sets out the minimum requirements for triennial agreements, which are:

- (1) Not later than 1 March after each triennial general election of members, all local authorities within each region must enter into an agreement which complies with section 15 of the LGA for the period until the next triennial general elections of members.
- (2) Each agreement must include:
 - a. Protocols for communication and coordination among local authorities,
 - b. A statement of the process for consultation on proposals for new regional council activities, and
 - c. A protocol and process in regards to funding facilities and services of significance to more than one district.
- (3) Each agreement may include joint committee or other joint governance arrangement information including matters to be included in the terms of reference.
- (4) All local authorities within each region may agree to amendments to the protocols.
- (5) An agreement remains in force until replaced by another agreement.

(6) Each agreement must include a process to be followed if a decision of a local authority is or is expected to have consequences that will be significantly inconsistent with the agreement. The process includes the local authority identifying the inconsistency, the reason for the inconsistency, and any intention for the local authority to seek an amendment to the agreement. There are also notice provisions that must be included in the agreement.

5.1.1 Clause 3A of Schedule 1 to the Resource Management Act 1991 specifies that the triennial agreement must include an agreement on the consultation process to be used by the affected councils when preparing a proposed policy statement or its variation, and a change or review of a policy statement.

5.1.2 It is up to the authorities who are party to each agreement to determine how far beyond the statutory requirements they wish to go in terms of the content and level of detail included in their agreement. The Bay of Plenty Triennial Agreement has developed steadily over time and has worked well.

5.1.3 The Resource Management reforms, and Future for Local Government Review may affect the legal provisions within the Triennial Agreement. It is proposed that the Triennial Agreement is reviewed and amended by agreement between the signatories once any implications are confirmed.

5.2 Statement of Intent – Strategic Regional Issues and Opportunities

The statement of intent includes the shared objective of working collaboratively to maximise effectiveness and efficiency and to promote wellbeing in our communities and promote the consultation process for preparation and review of the Regional Policy Statement.

Added into this triennium's Triennial Agreement is the intent for Mayors and Chairpersons to seek to determine high-level regional strategic issues and opportunities over the triennium and beyond (e.g., three and ten year timeframes).

5.3 Triennial Meetings

Section 15 of the LGA does not require parties to a Triennial Agreement to hold triennial meetings; however, they are a logical outcome of the Agreement. This is standard practice for the Bay of Plenty, and other regions.

It has been previously acknowledged that the Bay of Plenty has a very formal Mayoral Forum structure that some other regions do not have. Mayors, Chairpersons and Chief Executives of each council will continue to meet regularly as per an agreed annual schedule of meetings. This will allow sufficient time and opportunity for relationship building and the identification and progression of regional strategic issues, opportunities and topical matters.

If there are any formal public communications arising from these meetings, then the messaging will need to be approved by all participating Councils prior to its release.

At this stage, Bay of Plenty Regional Council will continue to act as Administrator of these meetings.

The meeting provision within the triennial agreement is sufficiently broad to allow some flexibility in the future if members feel that change is needed.

6. Future Considerations

6.1 Consider if Mayoral Forum members should have portfolio responsibilities, once regional strategic issues and opportunities are determined.

6.2 Consider if the Mayoral Forum should progress to an inclusive Strategic Partnership Forum with Iwi and Central Government representatives.

The Strategic Partnership Forum could evolve into the Joint Committee for implementing Resource Management reforms, but each council will need to make its own decision to agree to the Bay of Plenty being a “role model region” for regional spatial strategies.

In entering into any agreement on a “role model region”, there would need to be conditions discussed and agreed by Local Government and Iwi. This includes funding and progressing sub regional spatial strategies first and seconding/securing capacity to support progressing sub regional and regional spatial strategies.

6.3 Once confirmed, any implications from the Resource Management reforms and Future for Local Government Review, will need to be considered, and the Triennial Agreement amended by agreement of the signatories, to reflect those changes.

This will likely be during the first year of the Triennium and would serve as a useful further review of the whole Agreement in light of any changes.

7. Next steps

The final steps in the Triennial Agreement process are:

1. Receipt by the Regional Council of all the resolutions by individual local authority members approving the Triennial Agreement, and
2. Receipt by the Regional Council of all electronic signatures of the Councils Mayors/Chairpersons for signing of the Triennial Agreement by 28 February 2023.

8. TE TINO AROMATAWAI ASSESSMENT OF SIGNIFICANCE

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

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

Community consultation is not considered necessary in relation to this item.

10. HE WHAIWHAKAARO CONSIDERATIONS

10.1 Mahere Pūtea Financial/budget considerations

There are no financial costs associated with this item.

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

There is no policy or planning implications associated with this item.

**10.3 Tūraru
Risks**

The Local Government Act 2002 (LGA) requires all local authorities within each region to enter into a triennial agreement containing protocols for communication and co-ordination for the period until the next triennial election.

**10.4 Te Whaimana
Authority**

Council has the authority to adopt the recommendation as outlined in the Local Government Act 2002, Part 2 (15)

**11. NGĀ ĀPITI HANGA
ATTACHMENTS**

Attachment 1: Draft Bay of Plenty Mayoral Forum Triennial Agreement 2022-2025

BAY OF PLENTY MAYORAL FORUM

TRIENNIAL AGREEMENT

For the triennium from October 2022 to October 2025

Bay of Plenty Mayoral Forum Triennial Agreement

1 Parties to this Agreement

This is an agreement between the following councils of Local Government:

- Bay of Plenty Regional Council;
- Kawerau District Council;
- Ōpōtiki District Council;
- Rotorua Lakes Council;
- Taupō District Council;
- Tauranga City Council;
- Western Bay of Plenty District Council;
- Whakatāne District Council.

This Agreement does not place any limits on opportunities for neighbouring local authorities, Central Government agencies and non-government organisations to work jointly with Local Government within the Bay of Plenty.

2 Statement of Intent

This Agreement represents the shared desire of Local Government in the Bay of Plenty region to work collaboratively, to maximise effectiveness and efficiency, and to:

- Promote the social, cultural, economic and environmental wellbeing of the Bay of Plenty communities now and in the future;¹
- Promote an agreed consultation process for preparation and review of the Regional Policy Statement.

Bay of Plenty Local Authorities will also collaboratively seek to determine what are the high-level strategic regional issues and opportunities over the triennium and beyond.

This Agreement is deemed to meet the requirements of section 15 of the Local Government Act 2002 (“the Act”), included in Appendix 1.

¹ As defined by the Local Government Act 2002

3 Introduction

The Act recognises that individual local authorities are only one player in the achievement of its priorities and desired outcomes, and making efficient use of its resources, and that work to promote its priorities and desired outcomes goes beyond individual local authority boundaries. The Act recognises that local authorities should collaborate and co-operate with one another and a variety of other organisations to find solutions to local issues. The main framework to guide collaboration and co-operation between local authorities within the Bay of Plenty region is the Triennial Agreement.

This Agreement describes why and how Councils in the Bay of Plenty region will work together and provides an opportunity for improved communication and co-ordination at all levels of Local Government in our region. This will enable democratic local decision-making and action by and on behalf of communities. It also provides the opportunity to speak with “one consistent message” to Central Government on issues affecting Local Government in our region.

4 Principles of this Agreement

The parties agree to work in good faith together for the good governance of their localities and the region. As signatories to this Agreement each local authority will:

- 1 Continue to promote coordination and application of quality public services, infrastructure and planning for the present and future communities of the Bay of Plenty, by collaborating and cooperating as considered appropriate to achieve priorities and desired outcomes.
- 2 Respect the individual roles and responsibilities of each party to this agreement and the statutory independence and accountability of each Council to its own communities and constituencies.
- 3 Recognise that issues and concerns that are shared by some communities and local authorities may be of little relevance to others, and that it is therefore appropriate to have a range of sub-agreements on local issues.
- 4 Acknowledge that collaboration among local authorities is necessary to address increasingly complex governance issues. Many issues cannot be solved by any one organisation acting alone and need joint responses.
- 5 Support the establishment of processes for communication and collaboration at both governance and management levels in ways that will give clear Bay of Plenty perspectives, and enhance the overall performance and reputation of Local Government in the region.
- 6 Recognise that shared services in the region, or joint procurement approaches with joint or separate contracting, can bring efficiencies and savings in terms of planning, administration, consultation and operations; increases in available resources and promotion of cooperative approaches to the allocation of resources.
- 7 Support processes through which all local authorities in the region can participate in identifying, delivering and funding facilities and services of significance to more than one district in the region, in a way that

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encourages efficiencies to be realised and opportunities to be recognised.

- 8 Recognise the value of undertaking joint processes to engage with communities, Central Government, community organisations and regional and territorial authorities from other regions for issues that cross local authority boundaries.
- 9 Strengthen Local Government collaboration and coordination in the region in ways that enhance relationships with Central Government and other parties that can influence the wellbeing of the region and its communities.
- 10 Ensure a 'no surprises' approach with other parties to this Agreement. This will be given effect by ensuring other parties receive early notification of:
 - (a) Significant proposed decisions that may affect other parties and their communities, and
 - (b) Advice of divergent views on proposed decisions before critical public announcements are made.

5 General Protocols

5.1 Meetings:

Mayors/Chairs and Chief Executives of each council, party to this Agreement, will endeavour to meet regularly as per an agreed annual schedule of meetings, to give effect to this Agreement.

Any formal public communications from these meetings will be approved by all participating Councils prior to their release.

5.2 Significant Decisions:

Where a significant decision or issue affects a particular Council, or its community, it should, in partnership with the other Councils of the region, have the lead role in formulating the collective response of the region's local authorities to that issue or decision.

Where a Council makes a decision that is or is likely to have consequences that are significantly inconsistent with this Agreement they will, as soon as practicable, notify all other councils in the region of:

- (a) the decision;
- (b) the inconsistency;
- (c) the reasons for the inconsistency; and
- (d) any intention of the local authority to seek an amendment to this Agreement.

6 New Regional Council Activities

If the Regional Council or one of its CCOs proposes to undertake a significant new activity, and these activities are already undertaken or proposed to be undertaken by one or more territorial authorities in the region, section 16 of

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the Act will apply. As such, the Regional Council will, as soon as practicable, inform all territorial authorities within the region of:

- The proposal and the reasons for the proposed activity.
- The nature and scope of the proposed activity and its expected effects on the activities of the other Councils in the region.

Any such proposal will be included in the consultation document referred to in section 93A of the Act.

Where section 16 of the Act *does not* apply, but a proposed new activity is significant in terms of the Regional Council's Policy on Significance, and if a special consultative procedure (SCP) is required, the Regional Council will deliver a copy of the statement of proposal, prepared under section 83 of the Act, to all parties to allow them a reasonable opportunity to make submissions during the SCP. The process for mediation between the Regional Council and the territorial authorities if agreement is not reached at the end of the SCP will be as set out in section 16 of the Act.

Territorial authorities will be given a reasonable period of time, but no less than 20 working days, to respond to any proposal that triggers section 16 of the Act. The Regional Council agrees to fully consider any submissions and representations on the proposals made by territorial authorities within the region. The territorial authorities also acknowledge a reciprocal obligation to consult when they are proposing new activities, or changes in current activities, that may have implications for the Regional Council.

7 Significant Facilities and Services

Where there are facilities and services that are considered to be of significance to more than one district, an item will be scheduled for discussion at the next available Mayoral Forum meeting (as noted in the schedule of meetings) or other agreed meeting that includes all likely affected councils.

As soon as practicable, and prior to the meeting, the council(s) that has identified the significant facilities and services will contact the likely affected councils to discuss. In the event that it is not clear which councils will be affected, this can be canvassed at the meeting.

The meeting will facilitate the discussion around the facilities and services including; identifying and confirming the affected area and the process for determining the delivery and funding.

8 Regional Policy Statement and Plans Consultation

For the purpose of meeting the requirements of clause 3A of Schedule 1 to the Resource Management Act 1991 (Appendix 1), the consultation process to be used by affected local authorities in relation to the Regional Policy Statement is set out in the latest version of the *Protocol for Bay of Plenty RMA Policy and Plans*. The protocol also covers the agreed consultation process on district plans and regional plans.

The protocol describes when and how local authorities in the Bay of Plenty region consult in relation to Resource Management Act policy and plan preparation and changes. There are four stages of interaction and consultation covered in the protocol. They include:

- Scoping;
- Drafting;
- Notifying and submitting;
- Appeals to the Environment Court.

Each of the local authorities in the Bay of Plenty region is a party to this protocol.

9 Resolving Disagreement

All parties to this Agreement are committed to working strenuously, in good faith, to resolve any disagreements that may arise in relation to its application. Where a party has a significant disagreement with the position of the others, all parties will make every effort to accommodate, acknowledge or at least fairly represent the dissenting view.

Should any disagreement arise every endeavour will be made to ensure that disagreement is resolved with regard to the broader interests of the regional community and the effectiveness of local government in the Bay of Plenty region.

If the affected parties are unable to reach agreement the members may agree by majority decision to either ask Local Government New Zealand (LGNZ) or the New Zealand Law Society (NZLS) to appoint a mediator.

Should such a process be unsuccessful any of the Councils directly affected may ask the Minister of Local Government to determine the matter.

10 Signatories to the 2022 to 2025 Triennial Agreement

The Agreement is effective from the date of signing until such time as it is either amended by the agreement of all parties or is renewed following the next Local Government elections.

In signing this Agreement, the parties:

- recognise that co-operation and collaboration evolve as a result of successful communication and co-ordination;
- are committed to ensuring that this Agreement delivers tangible outcomes for Bay of Plenty communities; and
- intend that the operation of this Agreement should contribute to the strengthening of regional relationships.

—

Chair Doug Leeder
Bay of Plenty Regional Council

—

Mayor Faylene Tunui
Kawerau District Council

—

Mayor David Moore
Ōpōtiki District Council

—

Mayor Tania Tapsell
Rotorua Lakes Council

—

Mayor David Trewavas
Taupō District Council

—

Commissioner Chair Anne Tolley
Tauranga City Council

—

Mayor James Denyer
Western Bay of Plenty District Council

—

Mayor Victor Luca
Whakatāne District Council

Dated: _____ 2023

Appendix 1 – Legislative Context

Local Government Act 2002

Section 15 states:

- (1) Not later than 1 March after each triennial general election of members, all local authorities within each region must enter into an agreement under this section covering the period until the next triennial general election of members.
- (2) An agreement under this section must include—
 - a. protocols for communication and co-ordination among the local authorities; and
 - b. a statement of the process by which the local authorities will comply with section 16 in respect of proposals for new regional council activities; and
 - c. processes and protocols through which all local authorities can participate in identifying, delivering, and funding facilities and services of significance to more than 1 district.
- (3) An agreement under this section may also include—
 - a. commitments by local authorities within the region to establish or continue 1 or more joint committees or other joint governance arrangements to give better effect to 1 or more of the matters referred to in subsection (2); and
 - b. the matters to be included in the terms of reference for any such committees or arrangements, including any delegations.
- (4) An agreement under this section may be varied by agreement between all the local authorities within the region.
- (5) An agreement under this section remains in force until it is replaced by another agreement.
- (6) If a decision of a local authority is significantly inconsistent with, or is expected to have consequences that will be significantly inconsistent with, the agreement under this section that is currently in force within the region, the local authority must, when making the decision, clearly identify—
 - a. the inconsistency; and
 - b. the reasons for the inconsistency; and
 - c. any intention of the local authority to seek an amendment to the agreement under subsection (4).
- (7) As soon as practicable after making any decision to which subsection (6) applies, the local authority must give to each of the other local authorities within the region notice of the decision and of the matters specified in that subsection.

Resource Management Act

Schedule 1, Clause 3A- Consultation in relation to policy statements

- (1) A triennial agreement entered into under section 15(1) of the Local Government Act 2002 must include an agreement on the consultation process to be used by the affected local authorities in the course of:
 - (a) Preparing a proposed policy statement or a variation to a proposed policy statement, and
 - (b) Preparing a change to a policy statement, and
 - (c) Reviewing a policy statement.

01-15-016
RDC-1359775ROTORUA LAKES COUNCILMayor
Members
COUNCIL**6.4 Rotorua District Council (Representation Arrangements) Bill****Report prepared by:** Gina Rangi, Deputy Chief Executive Te Arawa Partnership**Report approved by:** Geoff Williams, Chief Executive**1. TE PŪTAKE
PURPOSE**

The purpose of this report is to provide a summary of the Rotorua District Council (Representation Arrangements) Bill (the 'Bill') and to seek a decision from Council on next steps.

**2. HE TŪTOHUNGA
RECOMMENDATION**

1. That the report 'Rotorua District Council (Representation Arrangements) Bill' be received.
2. That Council write to the Māori Affairs Select Committee to advise that the Council withdraws its support for the Bill.
OR
That Council write to the Māori Affairs Select Committee to advise that the Council confirms its support for the Bill.

**3. TE TĀHUHU
BACKGROUND****Representation Review 2021**

The Local Electoral Act 2001 requires that Council review its representation arrangements at least every six years.

On 21 May 2021, Council resolved to establish Māori wards for the 2022 local body elections. On 31 August 2021, Council approved an **initial proposal** for public consultation:

- 1 mayor at large, 1 Māori ward with 2 seats, 1 General ward with 4 seats, and 4 at-large seats;
- A Lakes Community Board and a Rural Community Board.

Following consultation and public hearings on the initial proposal, Council adopted a **revised model** consisting of:

- 1 mayor at large, 1 Māori ward with 1 seat, 1 General ward with 1 seat, and 8 at-large seats;
- A Lakes Community Board and a Rural Community Board.

At the same time, the Council also directed that a local bill be introduced that would achieve the **preferred model** comprising:

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- 1 mayor at large, 1 Māori ward with 3 seats, 1 General ward with 3 seats, and 4 at-large seats;
- A Lakes Community Board and a Rural Community Board.

The preferred model was intended to address themes that emerged during the consultation process including concern from some submitters that voters on the Māori electoral roll would be locked into a minority position (the 'equality/parity' argument), as well as a desire to better reflect te Tiriti o Waitangi and the Rotorua Townships (Fenton) Agreement. However the preferred model did not meet the requirements of the Local Electoral Act 2010 ("LEA"), so could only be achieved by way of a local bill.

Local Government Commission decision

While the Bill was going through the Parliament process, the Local Government Commission ("LGC") continued to hear appeals on representation reviews throughout the country. On 8 April 2022, the LGC released its determination on the revised model, which resulted in a different model again:

- 1 mayor at large, 1 Māori ward with 3 seats, 1 General ward with 6 seats, and 1 General rural ward with 1 seat;
- A Lakes Community Board and a Rural Community Board.

This is the model that was in place for the 2022 local election. It will be in place until the next representation review, which is due within the next 6 years.

Parliament process

With assistance from the Department of Internal Affairs and Parliamentary Counsel, Council prepared the Bill. The Bill was introduced into Parliament on 29 March 2022. It received its First Reading in Parliament on 6 April 2022, and was referred to the Māori Affairs Select Committee for public hearings.

The Attorney-General provides a report on all Bills that identifies whether a Bill is consistent with the Bill of Rights Act and, if not, whether that inconsistency is justified. In this case, the Attorney-General considered that:

- The Bill was inconsistent with the right to freedom from discrimination, and
- Having reviewed public information released by the Council and Local Government Commission, considered that there was an absence of information available to him to justify that inconsistency.

It is important to note that the Attorney General's report did not address:

- The Crown's obligations under Te Tiriti o Waitangi.
- The Crown's obligations in respect of the Rotorua Townships (Fenton) Agreement (particularly the local government promises made in that Agreement).
- The fact that the LEA allows general wards to exceed the +/- 10% representation limits (but does not allow Māori wards to exceed those representation limits).

The select committee process attracted a significant number of submissions opposing the Bill, although the majority were from people who were not residents or ratepayers to the district. In addition, Te Tatau o Te Arawa Trust and Te Arawa Lakes Trust made a joint submission supporting the Bill, as did a number of iwi and hapū entities (including the Ngāti Whakaue collective entities).

On 28 April 2022, the Council resolved that the then Mayor Steve Chadwick should write to the Māori Affairs Select Committee to request that the committee pause its consideration of the Bill. The select committee agreed to suspend public hearings, and continued to take advice on specific technical questions. The select committee has asked whether the new Council wishes to continue the Parliamentary process.

4. TE MATAPAKI ME NGĀ KŌWHIRINGA

DISCUSSION AND OPTIONS

Options for Council consideration are:

- (a) To confirm its support for the Bill to continue through the Parliamentary process.
- (b) To withdraw its support for the Bill.

If Council **confirms** its support, the select committee would re-commence the public hearings, publish any technical advice/reports, and make a report back to Parliament by 31 May 2022. The Bill would need a majority vote of support in Parliament for its second and third readings before being enacted (becoming law). If enacted as currently drafted, the Bill would take effect for the next two local elections.

If Council **withdraws** its support, the select committee would be notified and it is expected that the Bill would be withdrawn (and the process would then end).

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

Because of the significant amount of prior engagement, the decision to confirm or withdraw support for the Bill is not considered significant in accordance with the Council's Significance and Engagement Policy.

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

Community engagement and publicity occurred during the representation review, and through the select committee process. Further Council consultation is not considered necessary in respect of the decision to confirm/withdraw support.

If the Council decides to support the Bill, the select committee will continue with its public hearing process.

7. **HE WHAIWHAKAARO CONSIDERATIONS**

7.1 **Mahere Pūtea Financial/budget considerations**

There are no material financial or budget considerations in respect of the decision to withdraw or confirm support for the Bill.

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

There are no new planning or policy implications.

Note that Council and Te Tatau o Te Arawa are required to review the Te Arawa Partnership Agreement every three years. Te Tatau have commenced consultation with their members on this. The Partnership review is not directly affected by this decision.

7.3 **Tūraru Risks**

If Council confirms support for the Bill, there will be renewed public interest in the issue. To date much of the public commentary has been inaccurate, and it is likely that this will continue, which may negatively affect Council's reputation.

If Council withdraws support for the Bill, there may be criticism about Council's commitment to the Rotorua Township Agreement and fair representation for Māori. It is recommended that these questions should be addressed at the next representation review through early and in-depth discussion with mana whenua and with the community at large.

That review could also consider the Canterbury Regional Council (Ngāi Tahu Representation) Act, which was enacted on 8 August 2022. That Act establishes two additional Regional Council seats, which are direct appointments by Te Rūnanga o Ngāi Tahu. In addition to the Ngāi Tahu seats, that Act also allows for the future establishment of Māori wards (following the ordinary LEA process). Using similar provisions could resolve any Bill of Rights Act concerns.

It is not recommended that the next representation review be brought forward. Instead, time should be allowed so that the community and Council can observe and consider how effective the existing model is.

7.4 Te Whaimana Authority

Council has the authority to approve the recommendation of this report.

7 He whakataunga kia hoki atu te aronga o te hui hai hui tūmatawhānui - Resolution to move into public excluded (to consider and adopt confidential items)

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

General subject of each matter to be considered	Reason for passing this resolution in relation to each matter	Ground(s) under Section 48(1) for passing of this resolution
Extension of Contract 21/03 – Linton Park detention Park upgrade.	Protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information.	Section 48(1)(a) Section 7(2)(b)(ii)
Award of Contract 23/003 - Water Main Upgrade – State Highway 5 Reporoa (Handcock Road –Dairy Factory).	Protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information. Enable any local authority holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).	Section 48(1)(a) Section 7(2)(b)(ii) Section 48(1)(a) Section 7(2)(i)

This resolution is made in reliance on Section 48(1) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by Sections 6 or 7 of the Act or Sections 6, 7 or 9 of the Official Information Act 1982, as the case may require, which would be prejudiced by the holding of the whole or the relevant part of the proceedings of the meeting in public are as shown above (in brackets) with respect to each item.