

# MEETING – AGENDA –

Ngā Take



# POLICY COMMITTEE

Komiti Kaupapa Here

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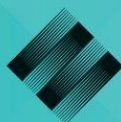
**PP21-5**

**Tuesday, 7 September 2021**

**Council Chambers**

**Barkes Corner, Tauranga**

**9.30am**



***Western Bay of Plenty  
District Council***

# Policy Committee

## Membership

<b>Chairperson</b>	Mayor Garry Webber
<b>Deputy Chairperson</b>	Cr Monique Gray
<b>Members</b>	Cr Grant Dally Cr Mark Dean Cr James Denyer Cr Murray Grainger Cr Anne Henry Cr Kevin Marsh Cr Margaret Murray-Benge Deputy Mayor John Scrimgeour Cr Allan Sole Cr Don Thwaites
<b>Quorum</b>	6
<b>Frequency</b>	Six weekly

## Role:

- To develop and review strategies, policies, plans and bylaws to advance the strategic direction of Council and its communities.
- To ensure an integrated approach to land development (including land for housing), land use and transportation to enable, support and shape sustainable, vibrant and safe communities.
- To ensure there is sufficient and appropriate housing supply and choice in existing and new urban areas to meet current and future needs.

## Scope:

- Development and review of bylaws in accordance with legislation including determination of the nature and extent of community engagement approaches to be employed.
- Development, review and approval of strategies and plans in accordance with legislation including determination of the nature and extent of community engagement approaches to be employed.
- Subject to compliance with legislation and the Long Term Plan, to resolve all matters of strategic policy outside of the Long Term Plan process which does not require, under the Local Government Act 2002, a resolution of Council.
- Development of District Plan changes up to the point of public notification under the Resource Management Act 1991.
- Development of the Future Development Strategy and urban settlement plan.
- Consider and approve changes to service delivery arrangements arising from service delivery reviews required under the Local Government Act 2002 (provided that where a service delivery proposal requires an amendment to the Long Term Plan, it shall thereafter be progressed by the Annual Plan and Long Term Plan Committee).
- To report to Council on financial implications of policies and recommend any changes or variations to allocated budgets.
- Listen to and receive the presentation of views by people and engage in spoken interaction with people pursuant to section 83(1)(d) of the Local Government Act 2002 in relation to any processes Council undertakes to consult on under the special consultative procedure as required by the Local Government Act 2002 or any other Act.

- Oversee the development of strategies relating to sub-regional parks and sub-regional community facilities for the enhancement of the social and cultural wellbeing of the Western Bay of Plenty District communities, for recommendation to Tauranga City Council and Western Bay of Plenty District Council.
- Develop the draft Statement of Intent for any Council Council-Controlled organisation (CCO) and review, assess and make recommendations to Council on any modifications to CCO or other entities' accountability documents (i.e. Letter of Expectation, Statement of Intent) or governance arrangements.
- Approve Council submissions to central government, councils and other organisations, including submissions on proposed plan changes or policy statements.
- Receive and make decisions and recommendations to Council and its Committees, as appropriate, on reports, recommendations and minutes of the following:
  - SmartGrowth Leadership Group
  - Regional Land Transport Committee
  - Any other Joint Committee, Forum or Working Group, as directed by Council.
- Receive and make decisions on, as appropriate, any matters of a policy or planning nature from the following:
  - Waihi Beach, Katikati, Ōmokoroa, Te Puke and Maketu Community Boards,
  - Maketu-Te Puke Ward Forum
  - Kaimai Community Ward Forum
  - Katikati- Waihi Beach Ward Forum

## Power to Act:

- To make all decisions necessary to fulfil the role and scope of the Committee subject to the limitations imposed.

## Power to Recommend:

- To Council and/or any Committee as it deems appropriate.

## Power to sub-delegate:

- The Committee may delegate any of its functions, duties or powers to a subcommittee, working group or other subordinate decision-making body subject to the restrictions within its delegations and provided that any such sub-delegation includes a statement of purpose and specification of task.

Notice is hereby given that a Policy Committee Meeting will be held in the  
Council Chambers, Barks Corner, Tauranga on:  
Tuesday, 7 September 2021 at 9.30am

## Order Of Business

<b>1</b>	<b>Present .....</b>	<b>5</b>
<b>2</b>	<b>In Attendance .....</b>	<b>5</b>
<b>3</b>	<b>Apologies .....</b>	<b>5</b>
<b>4</b>	<b>Consideration of Late Items .....</b>	<b>5</b>
<b>5</b>	<b>Declarations of Interest .....</b>	<b>5</b>
<b>6</b>	<b>Public Excluded Items .....</b>	<b>5</b>
<b>7</b>	<b>Public Forum .....</b>	<b>5</b>
<b>8</b>	<b>Presentations .....</b>	<b>5</b>
<b>9</b>	<b>Reports .....</b>	<b>6</b>
9.1	Elder Housing Operational Policy Adoption .....	6
9.2	Approval to Commence a Review of the Western Bay of Plenty Operative District Plan .....	14
9.3	Submission on behalf of Council - Proposed Change 5 (Kaituna) to the Regional Policy Statement .....	19
<b>10</b>	<b>Information for Receipt .....</b>	<b>28</b>

**1 PRESENT****2 IN ATTENDANCE****3 APOLOGIES****4 CONSIDERATION OF LATE ITEMS****5 DECLARATIONS OF INTEREST**

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

**6 PUBLIC EXCLUDED ITEMS****7 PUBLIC FORUM**

A period of up to 30 minutes is set aside for a public forum. Members of the public may attend to address the Board for up to five minutes on items that fall within the delegations of the Board provided the matters are not subject to legal proceedings, or to a process providing for the hearing of submissions. Speakers may be questioned through the Chairperson by members, but questions must be confined to obtaining information or clarification on matters raised by the speaker. The Chairperson has discretion in regard to time extensions.

Such presentations do not form part of the formal business of the meeting, a brief record will be kept of matters raised during any public forum section of the meeting with matters for action to be referred through the customer contact centre request system, while those requiring further investigation will be referred to the Chief Executive.

**8 PRESENTATIONS**

## 9 REPORTS

### 9.1 ELDER HOUSING OPERATIONAL POLICY ADOPTION

**File Number:** A4299373

**Author:** Jodie Rickard, Senior Policy Analyst

**Authoriser:** Emily Watton, Policy and Planning Manager

#### EXECUTIVE SUMMARY

1. The purpose of this paper is to present the Elder Housing Operational Policy for adoption.
2. The Elder Housing Operational Policy guides Council's approach to managing its tenancies. It includes tenant eligibility criteria and rent setting.
3. Council has legislative obligations to its tenants under the Residential Tenancies Act 1986. The requirement to meet those obligations is included in the Elder Housing Operational Policy.

#### RECOMMENDATION

1. That the Senior Policy Analyst's report dated 7 September 2021, titled Elder Housing Operational Policy Adoption, be received.
2. That the report relates to an issue that is considered to be of low significance in terms of Council's Significance and Engagement Policy.
3. That the Elder Housing Operational Policy, Attachment 1 to the agenda report, dated 7 September 2021, be adopted.
4. That, in adopting the Elder Housing Operational Policy dated 7 September 2021, all previous decisions relating to tenant eligibility criteria and rent setting are superseded.
5. That, in order to implement the Elder Housing Operational Policy, the Policy Committee recommends to Council the following delegations to the Chief Executive:

Application Criteria guidelines for Elder Housing, including:

- the ability to suspend some of the eligibility criteria where an individual's circumstances may warrant it;
- The ability to negotiate tenancies with community housing providers, where an individual's circumstances may warrant it;
- The ability to negotiate rental increases with individual tenants, where an individual's circumstances may warrant it.

#### BACKGROUND

##### Decision to develop Elder Housing Operational Policy

The development of this operational policy is an outcome of the Section 17A review of Council's elder housing activity, and Council's decision through the Long Term Plan 2021-31 to continue to operate elder housing as an activity of Council.

The review recommended that an operational policy be developed that sets out eligibility criteria and tenancing guidelines, as well as the policy and process for the setting of rents.

Council resolved to develop an operational policy for its elder housing through its decisions on the Long Term Plan 2021-31. (For reference purposes, the resolution number is APLTP21-3.12 dated 31 May 2021).

Council does not currently have an elder housing policy. However previous decisions have been made on the level rent will be set at, and eligibility criteria is in place.

The development of this policy:

- updates Council's current practices.
- updates and confirms the eligibility criteria for elder housing.
- updates and confirms the process for setting rents.

## **Contents of the Elder Housing Operational Policy**

### **Rent Setting**

The key direction of the Policy is to set out how Council will set rents for elder housing.

Council gave direction through the Long Term Plan 2021-31 (LTP) that the elder housing activity should be a 'ring fenced' activity of Council, meaning its revenue covers the full cost of providing the activity. This is reflected in Council's Revenue and Financing Policy (included in the LTP).

The recommendation from the Section 17A review was that rents should be no more than 35% of nett New Zealand Superannuation, plus the Accommodation Supplement.

This is considered to create a good balance between keeping rentals affordable for tenants, and ensuring the revenue generated from rents covers all operational and redevelopment costs.

An example is set out below (note this example is also included in the Draft Policy):

- Council sets rent at \$220 a week.
- At \$220 a week, the accommodation supplement is currently \$77.70
- Effective rent is \$142.30 (rent minus accommodation supplement).
- NZ super is \$436.94 a week (nett).

The *Effective Rent* as a percentage of NZ super is 32.6%.

Note that the calculation of the rate of New Zealand superannuation does not account for the winter energy payment.

It is also worth noting that Council pays water rates directly. These costs are not passed on to tenants.

### **Eligibility Criteria for tenants**

The Elder Housing Operational Policy also includes the eligibility criteria for tenants.

Council currently uses criteria for tenant selection, primarily being that the tenants are over 65 years and have assets worth \$20,000 or less (or \$25,000 for a couple).

In the Policy this criteria has been updated. The main change is that the assets can now be worth \$40,000 or less for a single person, and \$50,000 or less for a couple. This change makes the option of elder housing available to a wider group of people who are of limited financial means.

Council also currently includes a criteria that tenants can only earn up to \$100 before tax each week. This criteria has been removed, as tenants may choose to work for some period of the year (e.g. doing seasonal work) and this criteria limits their ability to do that.

### **Delegations to the Chief Executive**

The Chief Executive is currently delegated the application of the eligibility criteria for tenants. It is recommended these delegations enable flexibility in applying both the eligibility criteria and negotiation of rent increases. This is to recognise that new and existing tenants may have different situations or challenges they are facing, and Council want to be able to respond to in a way that best meets the tenant's needs.

## SIGNIFICANCE AND ENGAGEMENT

4. The Local Government Act 2002 requires a formal assessment of the significance of matters and decision in this report against Council's Significance and Engagement Policy. In making this formal assessment there is no intention to assess the importance of this item to individuals, groups, or agencies within the community and it is acknowledged that all reports have a high degree of importance to those affected by Council decisions.

The Policy requires Council and its communities to identify the degree of significance attached to particular issues, proposals, assets, decisions, and activities.

5. In terms of the Significance and Engagement Policy this decision is considered to be of **low** significance. This is because extensive analysis and engagement has already been completed through the Section 17A review of Council's elder housing activity, and through the Long Term Plan 2021-31. The consultation included the proposal for increases in rents. This was communicated to tenants through one-one-one meetings between ward councillors and tenants, held in March, July and December 2020. In addition, letters were sent to tenants seeking feedback into the Long Term Plan proposals. Several submissions were received from tenants. Overall, there was wide support for Council continuing to provide elder housing, even though this would mean increases to rent. The development of this policy is consistent with the feedback received on the elder housing activity.

## ENGAGEMENT, CONSULTATION AND COMMUNICATION

6. The table below outlines the engagement undertaken to date on Council's elder housing activity.

Interested/Affected Parties	Completed Engagement/Consultation/Communication		
Tenants	<p>One on one meetings with ward councillors in each tenant's home, to share information.</p> <p>Independent contact person set up so tenants could raise any concerns they had, exclusive of Council. 0800 number set up so they could contact independent person directly at no cost.</p> <p>Letters sent to each tenant advising of Long Term Plan Consultation Document and seeking their feedback.</p> <p>Ongoing updates from tenancy managers during visits with tenants.</p> <p>Specific support given to tenants to ensure they are receiving subsidies they are entitled to from WINZ.</p>		
General Public	<p>Engagement through the LTP 2021-31:</p> <ul style="list-style-type: none"> <li>- Pre-engagement (Phase 2) September 2020.</li> <li>- Formal Consultation (Special Consultative Procedure). Elder Housing included as a key proposal. Draft Schedule of Fees and Charges included proposed increases to rent.</li> </ul>		

## ISSUES AND OPTIONS ASSESSMENT

7. Council may choose to either:
- Adopt the Elder Housing Operational Policy, as per the recommendations of this report.
  - Not adopt the Elder Housing Operational Policy.



<b>Option A</b> <b>Adopt the Elder Housing Policy</b>	
<b>Assessment of advantages and disadvantages including impact on each of the four well-beings</b> <ul style="list-style-type: none"> <li>• Economic</li> <li>• Social</li> <li>• Cultural</li> <li>• Environmental</li> </ul>	<p><u>Advantages:</u></p> <ul style="list-style-type: none"> <li>- Clear process for the setting of rents, which gives certainty to tenants.</li> <li>- Clear and updated eligibility criteria, which enables staff to make consistent decisions around tenancies.</li> <li>- Clear delegations to the Chief Executive to implement the policy, giving staff a degree of flexibility to consider specific personal and financial situations of existing or prospective tenants.</li> </ul> <p><u>Disadvantages:</u></p> <ul style="list-style-type: none"> <li>- There are no disadvantages associated with this outcome.</li> </ul>
<b>Costs (including present and future costs, direct, indirect and contingent costs).</b>	<p>The key cost of this option is staff time to implement the policy. This is estimated to be equivalent to the staff time already used to implement the existing eligibility criteria and to set rents, so there is no additional cost involved.</p> <p>In agreeing to the approach to rent setting, Council is potentially foregoing rent that it could receive if it set a market rental. The Section 17A Review and the draft Policy weighs this against the reasons why Council is 'in the business' of providing elder housing, and the benefits that come with that.</p>
<b>Other implications and any assumptions that relate to this option (Optional – if you want to include any information not covered above).</b>	<p><u>Key Assumption</u></p> <ul style="list-style-type: none"> <li>- That the eligibility criteria for the accommodation supplement (or similar subsidy) will either remain the same, or become more favourable to those receiving New Zealand superannuation.</li> </ul> <p>Note that if this assumption were to change, Council would need to undertake a review of its policy.</p>
<b>Option B</b> <b>Do not adopt the Policy</b>	
<b>Assessment of advantages and disadvantages including impact on each of the four well-beings</b> <ul style="list-style-type: none"> <li>• Economic</li> <li>• Social</li> <li>• Cultural</li> </ul>	<p><u>Advantages</u></p> <p>If Council does not adopt this policy, it could retain flexibility to set rents annually, based on a range of factors that could be considered at the time.</p>

<ul style="list-style-type: none"> <li>• <b>Environmental</b></li> </ul>	<p><u>Disadvantages</u></p> <ul style="list-style-type: none"> <li>- No clear direction for rent setting or the reasons why rents are set at the level prescribed in the draft Policy. This means Council could change its rationale and potentially increase rents, without that being reviewed against an agreed policy position.</li> <li>- The development and adoption of this Policy was a recommendation of Council's Section 17A Review of its elder housing activity. If Council decides not to proceed with adopting this Policy, it should also reconsider the recommendations of the Section 17A review and agree another approach or determine clear rationale as to why that recommendation has not been implemented.</li> <li>- No clear eligibility criteria that has been agreed by Council.</li> </ul>
<p><b>Costs (including present and future costs, direct, indirect and contingent costs).</b></p>	<p>There are no specific costs associated with this option, however there may be additional staff time required if Council decides to do annual reviews of its rent setting on a case-by-case basis.</p>

### STATUTORY COMPLIANCE

There is no statutory requirement for Council to have an Operational Elder Housing Policy. However Council resolved through the Long Term Plan 2021-31 that it would continue to operate elder housing, and it would prepare an operational policy including the criteria for setting rents as outlined in the Section 17A Review of the Elder Housing Activity.

The development of the Policy is therefore consistent with that resolution.

### FUNDING/BUDGET IMPLICATIONS

There are no budget implications associated with this report.

### ATTACHMENTS

1. Elder Housing Operational Policy 2021 

## Attachment 1

### Elder Housing Operational Policy

#### 1. Relevant Legislation

Local Government Act 2002  
Residential Tenancies Amendment Act 2020

#### 2. General Approach

- 2.1 Western Bay of Plenty District Council owns four housing villages in Te Puke, Katikati and Waihi Beach. The villages are for the purposes of providing affordable housing for *older people* living in the District.
- 2.2 Council's general approach to this activity is:
- Council employs staff to carry out property and tenancy management functions, in accordance with relevant legislation.
  - The activity is self-funding. That is, revenue generated (primarily rental income) covers all capital and operational expenditure, without rates input.

#### 3. Policy Objectives

- 3.1 To provide guidelines for tenant eligibility for people wanting to live in Council-owned elder housing units.
- 3.2 To provide guidelines for the setting of rents, in accordance with the general approach set out in Clause 2.
- 3.3 To ensure Council meets its statutory obligations with respect to tenancies.

#### 4. Definitions

***Older People*** are those who are eligible for NZ Superannuation. This is currently people aged 65 years and over.

***Accommodation Supplement*** is the subsidy provided by the Ministry of Social Development to support people to meet their housing costs.

***Live Independently*** means to have the ability to manage living on one's own, either with or without support, as certified by a medical doctor.

***Effective Rent*** means the level of rent set by Council, minus the *Accommodation Supplement*.

## 5. Policy Eligibility Criteria

- 5.1 Applicants must be *Older People* who are New Zealand residents.
- 5.2 Applicants must be able to demonstrate their total assets are worth \$40,000 or less for a single person, and \$50,000 or less for a couple.

Total assets include cash, investments, dividends, bonds, shares, trust of any kind, house and other property, car, caravan or boat.

- 5.3 It does not include furniture or personal effects. Applicants must be able to demonstrate that they are able to *Live Independently*.
- 5.4 Applicants must have two written references, or provide the details of two people willing to provide verbal references. Referees must not be relatives of the applicants.

If there is a waiting list for units, consideration will be given to the following criteria:

- Whether applicants either reside, or have a history of residency within the Western Bay of Plenty District, or
- Whether applicants have close family either residing in the District, or with a history of residency in the Western Bay of Plenty.

## 6. Ongoing Eligibility

- 6.1 Tenants are obligated to inform their tenancy manager of any changes to their circumstances.
- 6.2 At any time, Council's tenancy managers can request evidence of a tenant's eligibility to remain in their units.

## 7. Tenancy Agreements

- 7.1 Council will ensure its tenancy agreements comply with the requirements of the Residential Tenancies Act 1986 at all times.

## 8. Rent Setting

- 8.1 Council will set the *Effective Rent* at a level that amounts to no more than 35% of the nett weekly rate of NZ superannuation.

Two examples are set out below:

### Example 1: Single person receiving NZ superannuation

- Council sets rent at \$220 a week.
- At \$220 a week, the accommodation supplement is currently \$77.70
- *Effective rent* is \$142.30 (rent minus accommodation supplement).
- NZ super is \$436.94 a week (nett).

The *Effective Rent* as a percentage of NZ super is 32.6%.

**Example 2: married couple receiving NZ superannuation**

- Council sets rent at \$280 a week.
- The accommodation supplement is \$78.40
- Effective accommodation cost is \$201.60
- NZ super is \$672.22 a week (nett).

The *Effective Rent* as a percentage of NZ super is 29.9%.

- 8.2 Tenants are not required to be eligible for the *Accommodation Supplement*. For tenants that are not eligible for the *Accommodation supplement*, the rent they pay may be higher than 35% of their income.
- 8.3 Rents will be reviewed annually through Council's fees and charges schedule.

**9. Water Rates**

- 9.1 Council will continue to cover the costs of water rates, as the units are not on individual meters. This policy may be reviewed if units are redeveloped, and individual meters are installed.

## 9.2 APPROVAL TO COMMENCE A REVIEW OF THE WESTERN BAY OF PLENTY OPERATIVE DISTRICT PLAN

**File Number:** A4313369

**Author:** Natalie Rutland, Project Manager District Plan Review

**Authoriser:** Rachael Davie, Group Manager Policy Planning And Regulatory Services

### EXECUTIVE SUMMARY

1. A review of the District Plan will ensure it continues to be a relevant and compliant statutory document for the District. A review of the District Plan ensures that it can maintain its legal requirement of providing a strategic planning framework for resource management growth across the western Bay of Plenty sub-region.
2. The purpose of this report is to obtain approval from the Policy Committee to accept the commencement of a review of the Operative Western Bay of Plenty District Plan.

### RECOMMENDATION

1. That the Project Manager District Plan Review's report, dated 7 September 2021, titled 'Approval to Commence a Review of the Western Bay of Plenty Operative District Plan', be received.
2. That the report relates to an issue that is considered to be of medium significance in terms of Council's Significance and Engagement Policy.
3. That, pursuant to section 79(1) of the Resource Management Act 1991, Council accepts the commencement of a District Plan Review process.

### BACKGROUND

3. The District Plan is Council's most important tool for managing growth and development across the District and within the sub-region. The Western Bay of Plenty sub-region is recognised, nationally, as one of the fastest growing sub-regions in New Zealand.

The Resource Management Act (RMA) requires a District Plan to be reviewed at least every 10 years. The Western Bay of Plenty District Plan First Review was made operative on the 16 June 2012 which means a review must commence before 16 June 2022. Over the past two years Government has released a National Planning Standard and a number of National Policy Statements. These national directions from Government require the District Plan to be updated, and there are a variety of dates within each of these documents that must be complied with.

4. The key drivers for undertaking a District Plan review process are:
  - (a) Council is legally required to review the District Plan every 10 years;
  - (b) It is important the District Plan continues to meet the needs of providing direction for growth and development across the District;
  - (c) The District Plan needs to include the direction set out in National Policy Statements and the National Planning Standards.
5. Through the 2021-2031 Long Term Plan (LTP), the District Plan Review process was considered. A business case was prepared that recommended Council pursue a District Plan Review over the first four years of the LTP (2021-22 to 2024-25). The District Plan Review project was approved through the adoption of the LTP on 29 June 2021.

6. The District Plan Review Project is planned to occur over the following phases:

		Duration	When
<b>Phase 1</b>	Scope & develop	6 months	July 2021 – Jan 2022
<b>Phase 2</b>	Public engagement & discussion	6 months	Jan 2022 – July 2022
<b>Phase 3</b>	Draft District Plan	12 months	July 2022 – July 2023
<b>Phase 4</b>	Proposed District Plan	18 months	July 2023 – Dec 2024

7. The overall project timeframes are indicative and are dependent on key dates and timing of the Streamlined Planning Process for Ōmōkoroa Plan Change and updated timing and implementation details on the Resource Management Reform. The Resource Management team are currently handling the Ōmōkoroa plan change and a progress update on this will be provided to the Policy Committee workshop on 9 September 2021.
8. The key goals and deliverables during the scoping and development phase are to develop and confirm the project methodology and gain an understanding of the relevant issues and topics the district plan review needs to consider. The key work streams over this phase are:
- Research and investigation
  - Project communication plan
  - Tangata whenua engagement plan and approach
9. Alongside the consideration of local planning and growth issues, the Government has confirmed that the RMA will be repealed and replaced with three new pieces of legislation. It is indicated that the implementation of a new resource management system to replace the RMA could take 10 years to put in place. With a higher level of uncertainty on the legislative framework in place, it raised the question on whether this is an appropriate time to undertake a review or not.
10. The most recent Government advice regarding district plan review processes was provided in the Parliamentary paper on the exposure draft of the Natural and Built Environments Bill where it stated its expectation that notwithstanding the legislative changes proposed that councils continue to address current environmental and planning challenges. From a practical perspective this is interpreted as continuing initially as if a full review is being undertaken. This involves progressing the issues identification and options phase as this will be applicable to both the RMA and new Act processes. Because of the timing of the new legislation, Council still has the opportunity to undertake plan changes on matters that need to be addressed sooner rather than later. This is the likely approach to be taken pending the final new legislation allowing a full review.
11. Within the sub-region, the Bay of Plenty Regional Council are actively working on implementing requirements of National Policy Statements including Urban Development and Freshwater Management. The Tauranga City Council are also addressing National Policy Statement requirements as well as a review of the Tauranga City Plan. Their review process has most recently involved initial engagement rounds to identify issues and topics. The alignment with these related work programmes is a factor relevant for determining the need to commence and timing of a review at this stage.
12. The District Plan Review has been considered by Council as follows:

Policy Workshop - July 2020 – Resource Management Work Programme Discussion Paper
LTP Workshop – September 2020 – Business Case District Plan Review
Policy Workshop - October 2020 – Resource Management Act Review Discussion Paper
Policy Workshop - July 2021 – District Plan Review Discussion Paper

## SIGNIFICANCE AND ENGAGEMENT

13. The Local Government Act 2002 requires a formal assessment of the significance of matters and decision in this report against Council's Significance and Engagement Policy. In making this formal assessment there is no intention to assess the importance of this item to individuals, groups, or agencies within the community and it is acknowledged that all reports have a high degree of importance to those affected by Council decisions.

The Policy requires Council and its communities to identify the degree of significance attached to particular issues, proposals, assets, decisions, and activities.

14. In terms of the Significance and Engagement Policy this decision is considered to be of **medium** significance because although the commencement of a District Plan Review does not in itself result in changes to council policy or statutory documents it does signal an intent to make changes which will affect and/or interest a significant number of residents and ratepayers.

## ENGAGEMENT, CONSULTATION AND COMMUNICATION

Interested/Affected Parties	Planned Engagement/Consultation/Communication		
Tangata Whenua	The first phase of the review – Scoping and Development will see the formation of an engagement plan based on how relevant iwi, hapū and iwi entities would prefer to participate and be involved in the review process.	Planned	Completed
Stakeholders and Reference groups	The first phase of the review – Scoping and Development will see the formation of a project communication plan. Details to be confirmed in the communication plan include but are not limited to stakeholder analysis, tools and techniques, communication methods, purpose, frequency and timing.		
General Public			

## ISSUES AND OPTIONS ASSESSMENT

A full analysis of options to commence a District Plan Review were assessed within the LTP Business Case. The option of not doing a review was not assessed further. Given the strong legislative compliance requirements to have an Operative District Plan document this option is not considered viable.

Option A Commence a District Plan review	
<b>Assessment of advantages and disadvantages including impact on each of the four well-beings</b> <ul style="list-style-type: none"> <li>• Economic</li> <li>• Social</li> <li>• Cultural</li> <li>• Environmental</li> </ul>	<p>Enables a comprehensive review and focus on key issues and the interrelationships across the entire plan.</p> <p>Comprehensive communication and engagement rounds can occur at the right time to relevant parties including the general public and tailored to specific stakeholders and interest groups.</p>



<b>Costs (including present and future costs, direct, indirect and contingent costs).</b>	Operational costs associated with staff resourcing, specialist and legal input, consultation and engagement processes are contained within existing budget
<b>Other implications and any assumptions that relate to this option (Optional – if you want to include any information not covered above).</b>	Short term planning horizons will ensure phases of work do not result in wasted effort and can be adapted to legislative changes as they occur.
<b>Option B</b> <b>Delay commencement of District Plan Review for as long as possible to await further understanding and information on legislative changes</b>	
<b>Assessment of advantages and disadvantages including impact on each of the four well-beings</b> <ul style="list-style-type: none"> <li>• Economic</li> <li>• Social</li> <li>• Cultural</li> <li>• Environmental</li> </ul>	<p>Potential to gain greater certainty on the future legislative direction and reduce the risk of any wasted effort.</p> <p>Delays the consideration of current issues the district is facing.</p> <p>Compressed timeframes to undertake the same extent of work.</p>
<b>Costs (including present and future costs, direct, indirect and contingent costs).</b>	Operational costs associated with staff resourcing, specialist and legal input, consultation and engagement processes are contained within existing budget
<b>Other implications and any assumptions that relate to this option (Optional – if you want to include any information not covered above).</b>	

## STATUTORY COMPLIANCE

15. The timing and process phases of the District Plan Review have been prepared in accordance with:
- Section 79 and Schedule 1 of the Resource Management Act.
  - The implementation timeframes for the relevant National Policy Statement and National Planning Standards

**FUNDING/BUDGET IMPLICATIONS**

16. There are operational costs of staff time associated with the commencement of a District Plan Review. A full budget for the District Plan Review project to accommodate the additional operational expenditure was approved through the LTP.

<b>Budget Funding Information</b>	<b>Relevant Detail</b>
Operational Budget approved through LTP	Staff time.

### 9.3 SUBMISSION ON BEHALF OF COUNCIL - PROPOSED CHANGE 5 (KAITUNA) TO THE REGIONAL POLICY STATEMENT

**File Number:** A4313684

**Author:** Matthew Leighton, Senior Policy Analyst

**Authoriser:** Emily Watton, Policy and Planning Manager

#### EXECUTIVE SUMMARY

1. This report provides a submission made by Mayor Webber on behalf of Western Bay of Plenty District Council on the following matter, for the information of the Policy Committee.
2. Western Bay of Plenty District Council submission to Proposed Change 5 Kaituna - BOPRC Regional Policy Statement, dated 10 August 2021.
3. Bay of Plenty Regional Council consulted on the Proposed Change 5 (Kaituna) to the Regional Policy Statement. This is intended to give effect to the Kaituna River Document Kaituna - He taonga tuku iho - a treasure handed down. This Plan Change is following the new Freshwater Planning Process (e.g. limited appeal rights).

#### RECOMMENDATION

1. That the Senior Policy Analyst's report dated 7 September 2021, titled 'Submission on behalf of Council - Proposed Change 5 (Kaituna) to the Regional Policy Statement' be received.
2. That the following submission, shown as Attachment 1 of the agenda report, is received by the Policy Committee and the information is noted:
  - Western Bay of Plenty District Council submission to Proposed Change 5 Kaituna - BOPRC RPS, dated 10 August 2021.

#### ATTACHMENTS

1. **Western Bay of Plenty District Council submission to Proposed Change 5 Kaituna - BOPRC RPS**  



## Submission Form

Send your submission to reach us by  
**4 pm on Tuesday, 10 August 2021**

Submission Number  
*Office use only*

<b>Post:</b> The Chief Executive Bay of Plenty Regional Council PO Box 364 Whakatāne 3158	<b>or Fax:</b> 0800 884 882	<b>or email:</b> rps@boprc.govt.nz
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**Submitter:** Western Bay of Plenty District Council

This is a submission on **Proposed Change 5 (Kaituna River) to the Bay of Plenty Regional Policy Statement**

- 1 I ~~could~~/**could not**\* gain an advantage in trade competition through this submission. [\*select one]
- 2 I ~~am/am not~~\* directly affected by an effect of the subject matter of the submission that [\*select one]
  - (a) ~~adversely affects the environment, and~~
  - (b) ~~does not relate to trade competition or the effects of trade competition~~

*[Delete the entire paragraph if you could not gain an advantage in trade competition through this submission.]*
- 3 The details of my submission are in the attached table.
- 4 I ~~wish/do not~~\* wish to be heard in support of my submission. [\*select one]
- 5 ~~If others make a similar submission, I will consider presenting a joint case with them at a hearing. [Delete if you would not consider presenting a joint case.]~~

Garry Webber **Mayor – Western Bay of Plenty District Council**

*[Signature of person making submission or person authorised to sign on behalf of person making submission.]*

*[NOTE: A signature is **not** required if you make your submission by electronic means.]*

09/08/2021

**Date**

**Contact person:** *[Name and Designation if applicable]*

Matthew Leighton, Senior Policy Analyst

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*Submissions contain personal information within the meaning of the Privacy Act 2020. By taking part in this public submission process, submitters agree to any personal information (including names and contact details) in their submission being made available to the public and published on our website, and for the information collected to be held in accordance with our Privacy Statement available at [www.boprc.govt.nz](http://www.boprc.govt.nz).*

BOPRC ID: A3683287

## The specific provisions of the proposal that my submission relates to are:

Page No	Reference (Issue, Objective, Policy, or Method)	Support/Oppose	Decision Sought What changes you would like to see	Give Reasons
	Overall	Support in part	Progress Change 5 with changes recommended below.	<p>Western Bay of Plenty District Council welcomes Proposed Change 5.</p> <p>As an active member of Te Maru o Kaituna, we are pleased to see Kaituna He Taonga Tuku Iho - the Kaituna River Document - given recognition in the Regional Policy Statement.</p> <p>The Kaituna River and its tributaries primarily lie within the Western Bay of Plenty District, and we are actively committed to protecting this taonga. It is a treasure for iwi and hapū, for our communities, and for the land itself.</p> <p>Whilst we largely support the content of the proposed Change 5, we do suggest that some changes be made to refine the draft prior to notification. These are outlined below. Where direct text changes have been recommended deleted text is shown by <del>strike through</del> and added text by <u>underlining</u>.</p>
2 and throughout	-	Other	That Maketū Estuary is consistently spelt with either a macron or without.	A minor correction for consistency is requested. Both Maketu and Maketū appear in the document in reference to the same place. For example on page 2 (2.12.3) the macron is used but page 3 (2.12.4 – 6) it is missing.
3	<p>2.12.4 Significant Issues affecting the Kaituna River</p> <p>2 Urban growth, climate change, rural land use intensification</p>	Oppose in part	<p>Amend to:</p> <p><del>2 Urban growth, climate change, rural land use intensification</del></p> <p><del>Rural land use intensification, urban growth and climate change effects are all placing pressure on the state of the Kaituna River, ecosystem health and wetland habitats.</del></p> <p><b><u>2a Urban growth and rural land use intensification</u></b></p> <p><u>Rural land use intensification and urban growth are placing pressure on the state of the Kaituna River, ecosystem health and wetland habitats. Projected urban growth and horticultural intensification may</u></p>	<p>We request that this section be broken into two, separating land use issues and climate change issues.</p> <p>Climate change and land use have different drivers and should be managed differently.</p> <p>Whilst we acknowledge there is currently a Natural Hazard section in the RPS, this does not necessarily align with the wider implications of climate change on the environment and particularly the Kaituna River. We also note that winter rainfall and the increased frequency of intense rainfall events will have different implications for the Kaituna River and that these</p>

			<p>place increased demand on water, particularly in the lower Kaituna.</p> <p><b><u>2b Climate change</u></b></p> <p><u>The effects of climate change are increasing pressure on the state of the Kaituna River, ecosystem health and wetland habitats. The trend of lower summer rainfall is anticipated to get worse and is placing pressure on river, stream and puna (spring) flows/levels. The trend of increasing winter rainfall and more intense rainfall events causes other issues such as greater run-off.</u></p>	<p>should be recognised here.</p> <p>We note that the Section 32 report discussion of the Issues does not mention climate change at all (page 29 - 5.1).</p>
6	<p>Objective 41 Water quality and the mauri of the water, including groundwater, in the Kaituna River is restored to a state which provides for ecosystem health, human contact, threatened species and mahinga kai values</p>	Oppose in part	<p>Amend to: Objective 41 Water quality and the mauri of the water, including groundwater, in the Kaituna River is restored to a state which provides for ecosystem health, human contact, threatened species and mahinga kai values</p>	<p>Specifically mentioning ground water is not necessary in Objective 41.</p> <p>Providing for ecosystem health, human contact, threatened species and mahinga kai values are all typically surface water values and not directly related to groundwater. We acknowledge there is an interplay between ground and surface water, but this would be better considered under Objective 42 or 43.</p> <p>It should be noted that in the Kaituna He Taonga Tuku Iho, groundwater is only mentioned in reference to Objective 5, which has been copied to become Objective 43 in the Proposed Change 5.</p> <p>This disconnect is further evidenced by the fact that groundwater does not currently link to the Policy or the Methods associated with Objective 41, but with Policy KR 4B which sits under Objective 42 and 43.</p> <p>It should be noted that the complex nature of groundwater makes the objective to 'restore' currently questionable. The groundwater aquifers are not accurately mapped and the state and quality not fully understood. There is no evidence or justification presented in the Section 32 report.</p> <p>It may be worth considering how far groundwater should be addressed here, given the definition of the Kaituna River in the Tapuika Claims Settlement Act 2014.</p>

16	Policy KR1B	Other	<p>Addition of the word 'the' in the title and body of the Policy for consistency and clarity.</p> <p>Policy KR 1B: Recognise, strengthen, enhance and provide for traditional and contemporary iwi and hapū relationships with <u>the</u> Kaituna River</p> <p>Recognise, strengthen, enhance and provide for traditional and contemporary iwi and hapū relationships with <u>the</u> Kaituna River</p>	<p>Minor correction to the title and text for consistency with other Policies.</p> <p>It is noted that the word 'the' appears in the body of the Policy, as sought here, in the Section 32 report (page 46).</p>
17	Policy KR 2B: Establishing water quality limits within the Kaituna River	Oppose in part	<p>We request the following amendment to the explanation:</p> <p>The drinking water standards are high across a range of contaminants and it is unrealistic to expect these to be met in <del>all parts of</del> the Kaituna River without water treatment.</p>	<p>We support the intent of the policy and the recognition of the importance of drinking water sources</p> <p>The Drinking-Water Standards for New Zealand set a very high bar and it is highly unlikely that any water take (surface water or groundwater) without treatment will meet the standards. Even a simple filter or boiling water before consumption is considered treatment.</p> <p>Clarity is required so as not to give the wrong impression around potable water and the Drinking-Water Standards.</p>
17	Policy KR 3B	Other	<p>Address typographical error by removing the apostrophe at the end of the sentence.</p> <p>Use mātauranga Māori to inform resource management decision making processes in the Kaituna River and achieve the vision, objectives and desired outcomes of the Kaituna River Document'.</p>	Minor correction required.
17	Policy KR 3B	Support	<p>Retain the policy and explanation text. In particular we note the sentence:</p> <p>To be useful mātauranga Māori needs to be stored and readily accessible to help inform resource management decision making processes.</p>	<p>We are pleased to see the policy strength and recognition for mātauranga Māori.</p> <p>Being able to readily draw upon mātauranga Māori will assist in using this knowledge base to inform resource management decisions.</p>
17	Policy KR 4B	Oppose in part	<p>Amend policy title to:</p> <p>Policy KR 4B: Managing groundwater abstraction in the Kaituna River <u>Catchment for the protection of puna and springs.</u></p>	<p>It is understood that the intent of the policy is the protection of puna and springs, rather than groundwater takes more generally.</p> <p>Amending the title better describes the policy's intent.</p>

18	Policy KR 5B	Support	Retain the Policy.	<p>We support the Policy intent and wording of the Policy itself.</p> <p>Discussion on the explanation provided is given below.</p>
18	Policy KR 5B	Oppose in part	<p>Request reconsideration of 'an example of best practice' used in the explanation. Alternatively a suitable amendment may be:</p> <p>An example of best management practice is <u>preparation and implementation of farm environment plans</u>.</p>	<p>Currently 'farm environmental plans' are used as an example of best practice. These are common place and for many operations a requirement.</p> <p>Consideration is required as to if this is really best practice, or if the example could be expanded or amended as sought.</p>
19	Policy KR 7B	Oppose in part	<p>We request that this be split into two policies:</p> <p>Enabling economic development opportunities for iwi and hapu in the Kaituna River Area</p> <p>And</p> <p>Encourage economic development that enhances the Kaituna River and acknowledges its cultural connections.</p> <p>This may require reconsideration of the associated methods.</p>	<p>As it is currently proposed, there are two concepts raised here –</p> <ol style="list-style-type: none"> <li>1 - economic opportunities for iwi and hapū,</li> <li>2 - economic development that enhances the Kaituna and acknowledges its cultural connections.</li> </ol> <p>The bundling of these concepts together is somewhat confusing. It suggests iwi economic opportunities should only be enabled where they 'promote greater understanding....or enhance the River's wellbeing'.</p> <p>There is a lack of clarity as to what is therefore required through the District Plan.</p> <p>One aspect relates to zoning of land and discussions with iwi and hapū about future aspirations.</p> <p>The other is regarding 'sustainable land management practices' to ensure respect for the Kaituna River for any economic development opportunities.</p>
22	Method KR3	Oppose in part	<p>Amend to:</p> <p><i>Implementation responsibility: <u>Regional Council, City and district councils, Te Maru o Kaituna and iwi authorities.</u></i></p>	<p>Identifying locations for safe contact recreation in the Kaituna River requires input from all bodies.</p> <p>This should include Regional Council through the role of the harbourmaster. The harbourmaster has an active role in removing hazards, promoting safe boating, dealing with conflict between user groups and the administration of the Bay of Plenty Regional Navigation Safety Bylaw 2017.</p>



22	Method KR5	Oppose in part	<p>Amend to:</p> <p><i>Implementation responsibility: <del>Regional Council, city and district councils and iwi authorities</del></i></p>	<p>We fully support the method, however it is clear from the text the information is to be provided 'to regional, city and district councils, land developers and consultants'.</p> <p>The implementation responsibility sits with iwi authorities.</p> <p>We seek for the implementation responsibility wording to revert to that used in the draft, that iwi authorities are responsible for implementation. Councils are not the owners or holders of this knowledge.</p>
22	Method KR6	Oppose	<p>Delete all.</p> <p>OR</p> <p>Amend to:</p> <p>Promote employment opportunities for tangata whenua through projects in the Kaituna River including providing:</p> <ul style="list-style-type: none"> <li>(a) Pest and silviculture management services</li> <li>(b) Fencing services</li> <li>(c) <del>Council reserves maintenance</del>; and</li> <li>(d) Environmental monitoring.</li> </ul> <p><i>Implementation responsibility: Regional Council, <del>city and district councils</del>, Te Maru o Kaituna and iwi authorities</i></p>	<p>Whilst we do not disagree with the method's intent, it is felt that the Regional Policy Statement is the wrong tool for the job. Council's procurement decisions are not a Resource Management Act issue.</p> <p>We do not feel that the Regional Policy Statement, as a Resource Management Act document, is the correct place for this method. We are unaware of similar provisions being used elsewhere.</p> <p>From a Council perspective, delivering on the intent of the method is better achieved through individual Councils' procurement strategies and decisions to give effect to Kaituna He Taonga Tuku Iho, through other processes (e.g. Long Term Plans, Annual Plans, procurement approaches, etc.).</p>
23	Method 23J	Other	<p>Corrections required to move incorrectly placed commas.</p> <p><i>Implementation responsibility: Regional Council, city and, district councils</i></p>	Minor typographical correction only.
23	Method 23S	Other	<p>Corrections required to move incorrectly placed commas.</p> <p><i>Implementation responsibility: Regional Council, city and, district councils and iwi authorities</i></p>	Minor typographical correction only.

23	Method 23T	Support in part	<p>Amend the method to recognise that the tributaries are equally as important to access. Amend to:</p> <p><b>Method 23T: Retain and enhance public and cultural access to and along rivers and streams in the Rangitaiki River Catchment and Kaituna River</b></p> <p>Retain and enhance safe public and cultural access to and along rivers and streams within the Rangitaiki River Catchment and Kaituna River by:</p> <p>...</p> <p>(c) Subject to (b) provide and maintain safe and identifiable public access points along the margin of the rivers <u>and streams</u> in the Rangitaiki River Catchment and Kaituna River.</p> <p>...</p> <p>(f) Working with communities, landowners and industries to consider opportunities to create appropriate access, including vehicle, walking, bicycle and waka access to the rivers <u>and streams</u>.</p>	<p>Access to the tributaries in the catchments is important recreationally and culturally.</p> <p>We think it is important that the Regional Policy Statement is explicit that this method applies to all tributaries in the catchment, and not just those considered as rivers.</p> <p>For example the Waiari Stream and its importance culturally and recreationally.</p>
23	Method 23T	Other	<p>Corrections required to move incorrectly placed commas.</p> <p><i>Implementation responsibility: Regional Council, city and district councils and iwi authorities</i></p>	Minor typographical correction only.
25	<p>4.2 Objectives, anticipated environmental results and monitoring indicators</p> <p>Objective 44</p> <p>Monitoring indicators</p>	Other	<p>Amend to:</p> <p>Existing use and new land development aligns with that land's land use capability classification <u>and with regional or sub-regional spatial planning</u>.</p> <p>Compliance monitoring of consented activities shows no contravention of earthwork related conditions.</p> <p><u>Percentage of farms and orchards with an approved farm management plan in place.</u></p>	<p>Amendments are necessary to deliver clarity here and enable effective monitoring. It would be beneficial for the indicators to reflect the objective more explicitly.</p> <p>The Land Use Capability Classification is primarily a tool to consider long-term sustained agricultural production. It does not include consideration of industrial, commercial or residential land uses. Sufficient consideration of sub-regional plans (such as SmartGrowth) would better provide a more rounded picture of suitable development in the Kaituna catchment area.</p> <p>Further monitoring indicators could be considered that line more explicitly with the objective and 'best management practices'. A monitoring indicator that considers Farm Management Plans is sought. This not only links it directly to the existing explanation for</p>

				Policy KR 5B, but also links to project 5 in Te Tini a Tuna.			
25	4.2 Objectives, anticipated environmental results and monitoring indicators  Objective 45  AER and Monitoring Indicators	Other	Amend by inserting: <table><tr><td><b>Objective 45</b>  The Kaituna River's wetlands, aquatic and riparian ecosystems are restored, protected and enhanced to support indigenous species</td><td><u>Healthy aquatic ecosystems, habitats, and biological communities are protected or increased.</u></td><td><u>An observed maintaining or increase in the health of natural communities and habitats of indigenous flora, fauna and ecosystems in the Upper and Mid Kaituna River and their riparian margins and wetlands.</u></td></tr></table>	<b>Objective 45</b>  The Kaituna River's wetlands, aquatic and riparian ecosystems are restored, protected and enhanced to support indigenous species	<u>Healthy aquatic ecosystems, habitats, and biological communities are protected or increased.</u>	<u>An observed maintaining or increase in the health of natural communities and habitats of indigenous flora, fauna and ecosystems in the Upper and Mid Kaituna River and their riparian margins and wetlands.</u>	<p>The inclusion of an additional 'anticipated environmental result' and associated monitoring indicator is sought.</p> <p>The protection of the high quality aquatic ecosystems in the upper and mid catchment should be prioritised and made more visible in the document</p> <p>We are concerned that the upper and mid catchment are somewhat missing in this document. With only one mention of the upper catchment (and then only in regards to rafting/kayaking).</p> <p>We acknowledge that Policy MN 2B sets the policy framework for giving particular consideration to protecting significant indigenous habitats and ecosystems. However, we feel an indicator to demonstrate how this is working for the Kaituna River is required.</p>
<b>Objective 45</b>  The Kaituna River's wetlands, aquatic and riparian ecosystems are restored, protected and enhanced to support indigenous species	<u>Healthy aquatic ecosystems, habitats, and biological communities are protected or increased.</u>	<u>An observed maintaining or increase in the health of natural communities and habitats of indigenous flora, fauna and ecosystems in the Upper and Mid Kaituna River and their riparian margins and wetlands.</u>					
27	Definitions – Kaituna River	Other	<p>Correction required as the Map reference is incorrect. It should read: Map 4<u>ab</u></p> <p>The definition of the Kaituna River should be reworded to better reflect the Tapuika Claims Settlement Act 2014. In this legislation the definition is given as :</p> <p><b>Kaituna River or river means the Kaituna River, including its tributaries within the catchment areas shown on deed plan OTS-209-79.</b></p>	<p>The map reference should be corrected.</p> <p>The definition of the Kaituna River should be amended to better reflect the key legislation.</p> <p>It is noted that the Rangitāiki River does not have a definition in the RPS.</p>			

**10      INFORMATION FOR RECEIPT**