



SOUTH WAIRARAPA DISTRICT COUNCIL

Kia Reretahi Tātau

Agenda

**ORDER PAPER FOR ORDINARY COUNCIL MEETING
TO BE HELD IN
Supper Room, Waihinga Centre, Texas Street
Martinborough
27 March 2024**

**MEMBERSHIP OF COUNCIL
ACTING MAYOR
Ms Melissa Sadler-Futter**

Cr M Bosley
Cr R Gray
Cr A Plimmer
Cr C Olds
Cr A Woodcock

Cr K McAulay
Cr P Maynard
Cr A Ellims

**RECOMMENDATIONS IN REPORTS ARE NOT COUNCIL POLICY
UNTIL THEY ARE AGREED TO BY THE COUNCIL.**



Council Meeting Agenda – 27 March 2024

NOTICE OF MEETING

This meeting will be held in the Supper Room, Waihinga Centre, 62 Texas Street, Martinborough and via audio-visual conference, commencing at 9:00am. The meeting will be held in public where noted and will be live-streamed and will be available to view on our [YouTube channel](#).

All SWDC meeting minutes and agendas are available on our website: <https://swdc.govt.nz/meetings/>

Membership: Acting Mayor Melissa Sadler-Futter (Chair), Councillors Aidan Ellims, Colin Olds, Alistair Plimmer, Rebecca Gray, Martin Bosley, Pip Maynard, Aaron Woodcock and Kaye McAulay.

A. Open Section

A1. Karakia Timatanga – opening

Kia hora te marino

May peace be widespread.

Kia whakapapa pounamu te moana

May the sea be like greenstone; a
pathway for all of us this day.

Hei huarahi mā tatou I te rangi nei

Aroha atu, aroha mai

Let us show respect for each other, for
one another.

Tātou i a tātou katoa.

Bind us all together.

A2. Apologies

A3. Conflicts of interest

A4. Acknowledgements and tributes

A5. Public participation

As per standing order 14.17 no debate or decisions will be made at the meeting on issues raised during the forum unless related to items already on the agenda.

A6. Actions from Public participation

A7. Extraordinary business

A8. Confirmation of minutes

Proposed Resolution: *That the minutes of the Council meetings held on 21 February 2024 are a true and correct record.*

Pages 1-6

Proposed Resolution: *That the public excluded minutes of the Council meetings held on 28 February 2024 are a true and correct record.*

Pages 7-8

- A9. Matters arising from previous meetings
- B. Report backs and requests from Māori Standing Committee and Community Boards**
- C. Recommendations from Committees**
- C1. Recommendations from the Strategy Working Committee: Adoption of Freedom Camping Bylaw Pages 9-50
- D. Decision Reports from Chief Executive and Staff**
- D1. Approval for Revolving Bank Facility Pages 51-57
- D2. Review of the Wairarapa Consolidated Bylaw 2019 Pages 58-62
- E. Information Reports from Chief Executive and Staff**
- E1. Pain Farm History, Legality and Consultation for Treated Effluent Disposal Site Pages 63-103
- E2. Action Items Pages 104-107
- F. Chairperson Reports**
- F1. Report from Acting Mayor Sadler-Futter Pages 108-129
- G. Public Excluded Section**
- G1. Confirmation of public excluded minutes *(distributed separately)*
Proposed Resolution: *That the public excluded minutes of the Council meetings held on 21 February 2024 are a true and correct record.*
- G2. Enhanced Annual Plan 2024-25 Consultation Document *(distributed separately)*
Note: Appendix 1 to be tabled

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:

Report/General Subject Matter	Reason for passing this resolution in relation to the matter	Ground(s) under Section 48(1) for the passing of this Resolution
Public excluded minutes 21 February 2024; Report from His Worship the Mayor, and Leave of Absence Request.	Good reason to withhold exists under section 7(2)(a) and 7(2)(e)	Section 48(1)(a)
Enhanced Annual Plan 2024-25 Consultation Document	Good reason to withhold exists under section 7(2)(f)(i) and 7(2)(f)(ii)	Section 48(1)(a)

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 section 6 or section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public are as follows:

Reason for passing this resolution in relation to the matter	Ground(s) under Section 48(1) for the passing of this Resolution
The withholding of the information is necessary to protect the privacy of natural persons, including that of deceased natural persons.	Section 7(2)(a)
The withholding of the information is necessary to avoid prejudice to measures that prevent or mitigate material loss to members of the public.	Section 7(2)(e)
The withholding of the information is necessary to maintain the effective conduct of public affairs through— (i) the free and frank expression of opinions by or between or to members or officers or employees of any local authority in the course of their duty; or (ii) the protection of such members, officers, employees, and persons from improper pressure or harassment	Section 7(2)(f)

G. Karakia Whakamutunga – Closing

Kua mutu ā mātou mahi	Our work has finished
Mō tēnei wā	For the time being
Manaakitia mai mātou katoa	Protect us all
Ō mātou hoa	Our Friends
Ō mātou whānau	Our Family
Āio ki te Aorangi	Peace to the universe



South Wairarapa District Council Minutes from 21 February 2024

- Present:** Mayor Martin Connelly (Chair) Deputy Mayor Sadler-Futter (until 11.54am), Councillor Aidan Ellims (from 11:12am to 11:39am; from 12:49pm), Colin Olds, Alistair Plimmer (from 12:43pm), Rebecca Gray, Martin Bosley, Pip Maynard and Kaye McAulay.
- Apologies:** Councillors Aaron Woodcock; Councillors Alistair Plimmer and Aidan Ellims (partial attendance).
- In Attendance:** Martinborough Community Board: Storm Robertson (Chair), Mel Maynard, Karen Krogh.
- Greytown Community Board: Louise Brown (Chair)
- Janice Smith (Chief Executive Officer), Amanda Bradley (General Manager Policy and Governance), James O'Connor (Manager Partnerships and Operations) Russell O'Leary (Group Manager Planning and Environment), Stefan Corbett, Leanne Karauna (Principal Advisor Māori) (via Zoom), Nicki Ansell (Lead Community Advisor), Robyn Wells (Principal Advisor Water Transition), Alex Pigou (Communications Team Lead), Andrew McEwan (Acting Manager Environmental Services) and Amy Andersen (Committee Advisor)
- Public Forum:** Louise Lyster and John MacGibbon.
- Conduct of Business:** This meeting was held in the Supper Room, Waihinga Centre, 62 Texas Street, Martinborough and via audio-visual conference. This meeting was live-streamed is available to view on our YouTube channel. The meeting was held in public under the above provisions from 10.30am to pm except where expressly noted.
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Open Section

A1. Karakia Timatanga - Opening

Mayor Connelly opened the meeting with a karakia.

A2. Apologies

COUNCIL RESOLVED (DC2024/01) to accept apologies from Cr Woodcock; and Cr Plimmer for all items except item F1. Cr Ellims except for extraordinary business (E2), item B and item F1.

(Moved Cr McAulay/Seconded Cr Gray)

Carried

A3. Conflicts of Interest

Mayor Connelly declared a conflict of interest in public excluded section.

A4. Acknowledgements and Tributes

Cr Maynard acknowledged and congratulated Trevor Hawkins for his inclusion on the New Year Honours List 2024 and awarded the Queen's Service Medal. Members supported Mayor Connelly in sending a letter to Mr Hawkins, congratulating him on behalf of Council.

Cr Maynard also paid tribute to Gerald Hensley (CNZM) who passed away in February and acknowledged his work as a New Zealand diplomat and public servant; her thoughts are with his family and many friends throughout the district.

Cr Olds acknowledged Featherston resident, Pat Flynn and expressed best wishes for her 100th birthday in March.

A5. Public Participation

Louise Lyster – Speed Management Review

Ms Lyster spoke to Council about the Speed Management Review, including that the action was not on the Council action register, signage and clear communication with public.

John MacGibbon - Dublin Street

Mr resident, 40km zone. Be reduced 30km for heavy traffic at all times, changed needed to reduce deterioration of street and children attending school.

Members queried issues relating to roading infrastructure and Mr MacGibbon's recent observations of the street.

Members reassured Mr McGibbon there is an action for officers to follow up on Mr MacGibbons concerns.

A6. Actions from public participation

Noted that speed review is being followed up through Strategy Working Committee and actions have been captured on that action register.

Officers confirmed there is a different maintenance schedule for heavy bypass.

Action 57: Confirm addresses on Dublin Street to follow up work requests/issues with Wellington Water (leaks in road). *J Smith*

Action 58: Members requested a report on Mr O'Leary's position on the current Spatial Plan, in respect to the history and status of the heavy bypass on Dublin Street. *R O'Leary.*

A7. Extraordinary business

COUNCIL RESOLVED (DC2024/02) to add the 2024-34 Alternative to the Long-Term Plan Report to the agenda as Item C2. The item was not on the agenda as the option was not notified to Council until Tuesday 13 February and staff required time to evaluate the option. The discussion on the item can't wait for a future meeting as the audit of the consultation document was due to commence this week.

(Moved Mayor Connelly/Seconded Cr Olds)

Carried

COUNCIL RESOLVED (DC2024/03) to add the report from the Mayor on Pain Farm to the agenda as Item E2. This item was not on the agenda as the issue arose after the meeting agenda was published. The discussion on the item can't wait for a future meeting as Council recognises the urgency of the issue to respond to community concerns.

(Moved Mayor Connelly/Deputy Mayor Sadler-Futter)

Carried

C2. ITEM MOVED - 2024-34 Alternative to the Long-Term Plan

Ms Smith spoke to matters included in the report.

Crs queried royal assent of key legislation, disadvantages that Council should be aware of if Council approve an enhanced Annual Plan, clarification on contents of enhanced AP; what happens with rating review (1 July 2024).

COUNCIL RESOLVED (DC2024/04) to:

1. Receive the 2024-34 Alternative to the Long-Term Plan Report.

(Moved Mayor Connelly/Seconded Cr Olds)

Carried

2. That Council defers the 2024-34 Long-term Plan for one year and consults on a 2024-25 Enhanced Annual Plan with the additions laid out in the new legislation and adopts a Long-Term Plan (2025-34) by 30 June 2025.

(Moved Olds/Seconded Cr McAulay)

Carried

E2. ITEM MOVED Report from His Worship The Mayor – Pain Farm

Mayor Connelly spoke to his report.

Cr Ellims joined meeting via Zoom at 11:12am.

Ms Maynard (representing the Martinborough Community Board) spoke to Council regarding lack of information to the MCB regarding Pain Farm and this issue, concerns about public consultation. MCB sought Council action to stop the designation, using trust lands for anything outside of deeds of trust/wills. Queries about wastewater impact on property and future state of the land

Cr queried would it be appropriate time for preliminary work for stopping designation, what is implications of stopping the designation from happening; what information was given to CLG,

Ms Smith spoke about current work, but not looking at alternative until clear on what was proposed during consent process and legal opinion from 2011.

Cr Ellims left the meeting at 11:39am.

MCB requested input into what is considered by the CE.

COUNCIL RESOLVED (DC2024/05) to:

1. Receive the Mayor's report regarding Pain Farm.

2. Request that the CEO present a report to the next Council meeting setting out:

- a. The history behind the Pain Farm being permitted to be used for wastewater disposal.

- b. Reporting on the further legal advice that will be sought regarding the use of Pain Farm for this purpose.
3. Request that the CEO consider publishing the key findings (or parts of them) in advance of the next Council meeting to reassure residents and interested people of the legality of the use of Pain Farm for wastewater disposal and of the consultation that occurred at the time.

[Items 1-3 read together]

(Moved Mayor Connelly/Seconded Cr Maynard)

Carried

A8. ITEM MOVED - Minutes for Confirmation

COUNCIL RESOLVED (DC2024/06) that the minutes of the Extraordinary Council meeting held on 7 December 2023 are confirmed as a true and correct record.

(Moved Cr Gray/Seconded Cr Bosley)

Carried

A9. ITEM MOVED - Matters arising from previous minutes

There were no matters arising.

B. Report Backs and Updates from Community Boards

Greytown Community Board

Ms Brown spoke to Council about Action 455, point 4 – Greytown Venue expressions of interest. Requested change to advertisement of expression. For community benefits. Members reassured Ms Brown that the community groups will be considered during the evaluation process.

C Decision Reports from the Interim Chief Executive and Council Officers

C1. Dog Tag for Life

Cr Maynard left at 11:56am.

Mr O’Leary spoke to matters included in the report.

Members made observations in relation to costs for implementation and issues around current technology, potential savings, support for limiting waste and climate change.

Cr Maynard returned at 11:58pm.

Mayor Connelly suggested working with Kapiti District Council for lessons learned.

Members requested future reporting to include costs for tablets/IT to support mobile work.

Members also queried other ways to reduce waste for current tags and reusing them.

COUNCIL RESOLVED (DC2024/07) to:

1. Receive the *Dog Tag For Life* Report.

(Moved Cr Olds/Seconded Deputy Mayor Sadler-Futter)

Carried

2. That Council maintains the current annual approach for the issuing of dog tags for dog registration through to June 2025.

3. That officers work alongside Carterton District Council to further evaluate implementation aspects of the Dog Tag For Life system from a lessons learned perspective.

[Items 2 and 3 read together]

(Moved Mayor Connelly/Seconded Cr Olds)

Carried

Meeting adjourned at 12:16pm.

Cr McAulay left during the adjournment.

Meeting reconvened at 12:26pm.

D Information Reports from the Interim Chief Executive and Council Officers

D1. Action Items

Action 461 – Ms Bradley noted she is in contact with Rosie Swanson, Greytown Sports and Leisure, noting that further information relating to the budget for AP/LTP was required and further reporting (funding/budget source) will occur that can be included in deliberations.

E Mayor's Report

E1. Report from His Worship The Mayor

Mayor Connelly spoke to the report.

Members discussed roles and responsibilities relating to the Water Resilience Interim Governance Group.

COUNCIL RESOLVED (DC2024/08) to receive the Report from His Worship the Mayor.

(Moved Mayor Connelly/ Seconded Deputy Mayor Sadler-Futter) Carried

F Public Excluded Business

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:

Report/General Subject Matter	Reason for passing this resolution in relation to the matter	Ground(s) under Section 48(1) for the passing of this Resolution
Leave of Absence Request	Good reason to withhold exists under section 7(2)(a).	Section 48(1)(a)
Mayor's Report	Good reason to withhold exists under section 7(2)(e).	Section 48(1)(a)

This resolution (DC2024/09) 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 section 6 or section 7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public are as follows:

Reason for passing this resolution in relation to the matter	Ground(s) under Section 48(1) for the passing of this Resolution
The withholding of the information is necessary to protect the privacy of natural persons, including that of deceased natural persons.	Section 7(2)(a)
The withholding of the information is necessary to avoid prejudice to measures that prevent or mitigate material loss to members of the public.	Section 7(2)(e)

(Moved Cr Olds/Seconded Cr Bosley)

Carried

Cr Plimmer joined the meeting at 12:43pm.

Cr McAulay returned to the meeting at 12:44pm.

Meeting adjourned at 1:20pm.

Meeting reconvened at 1:33pm.

The meeting closed at 1:40pm.

Confirmed as a true and correct record

.....(Mayor)

.....(Date)

.....(Chief Executive)

.....(Date)



**South Wairarapa District Council
Extraordinary Meeting
Public Excluded Minutes from 28 February 2024**

- Present:** Deputy Mayor Sadler-Futter (Chair), Councillors Aidan Ellims, Pip Maynard, Rebecca Gray, Martin Bosley, Kaye McAulay Aaron Woodcock, and Colin Olds.
- Apologies** Mayor Martin Connelly, Alistair Plimmer.
- In Attendance:** Janice Smith (Chief Executive) and Amy Andersen (Committee Advisor).
- Conduct of Business:** This extraordinary meeting was held in the Supper Room, Waihinga Centre, 62 Texas Street, Martinborough and via audio-visual conference. The meeting was held under public excluded provisions from 8:31am to 8:47am except where expressly noted.

A Open Section

A1. Karakia Timatanga - Opening

Cr Maynard opened the meeting with a karakia.

A2. Apologies

COUNCIL RESOLVED (DC2024/12) to accept apologies from Mayor Connelly and Cr Plimmer

(Moved Cr Gray/Seconded Cr Maynard)

Carried

A3. Conflicts of Interest

There were no conflicts of interest.

B. Public Excluded Business

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:

Report/General Subject Matter	Reason for passing this resolution in relation to the matter	Ground(s) under Section 48(1) for the passing of this Resolution
Leave of Absence Request	Good reason to withhold exists under section 7(2)(a).	Section 48(1)(a)

This resolution (DC2024/13) 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 section 6 or section

7 of that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the meeting in public are as follows:

Reason for passing this resolution in relation to the matter	Ground(s) under Section 48(1) for the passing of this Resolution
The withholding of the information is necessary to protect the privacy of natural persons, including that of deceased natural persons.	Section 7(2)(a)

(Moved Cr Ellims/Seconded Cr Gray)

Carried

B1. Leave of Absence Request

Ms Smith tabled an amended *Leave of Absence Request* report and highlighted the key changes.

COUNCIL RESOLVED (DC2024/14PE) to accept the amended ‘Leave of absence request’.

(Moved Cr Gray/Seconded Cr Woodcock)

Carried

Members queried what support for the Deputy Mayor would be required during the period of the Mayor Connelly’s absence. Members discussed arrangements prior to the leave of absence, including a press release and communication about the Council’s decision with Mayor Connelly.

COUNCIL RESOLVED (DC2024/15PE) to:

1. Receive the *Leave of Absence Request* Report
2. Approve a leave of absence without pay for Mayor Martin Connelly effective from 4 March 2024 to 24 April 2024; and
3. Approve that Councillor Melissa Sadler-Futter be given full delegated authority to act as Mayor from 4 March 2024 to 24 April 2024;
4. Approve the CEO write a letter of confirmation to the Mayor detailing the period and conditions of the leave of absence.
5. Agree that this report and associated minutes stay in public excluded until the Chief Executive determines there are no longer any reasons to withhold the information under the Act.
6. Notes that the withholding of information under the Local Government Official Information and Meetings Act 1987 is necessary to: protect the privacy of natural persons, including that of deceased natural persons - section 7(2)(a).

[Items read together 1-6]

(Moved Cr Ellims/ Seconded Cr Olds)

Carried

The meeting closed at 8:47am.

Confirmed as a true and correct record

.....(Chair)

.....(Chief Executive)

.....(Date)

.....(Date)

Recommendations from the Strategy Working Committee

1. Purpose

To provide an opportunity for members to consider recommendations received from the Strategy Working Committee (SWC).

2. Recommendations

The Committee recommends that the *Council*:

1. **approve** the following recommendations:

<ul style="list-style-type: none"> a. receive the ‘Freedom Camping Bylaw Deliberations’ Report. b. amend the Clifford Square Reserve Management Plan to allow for freedom camping to occur subject to the restrictions within the Freedom Camping Bylaw 2024. c. adopt the Freedom Camping Bylaw 2024, as per Appendix 1. d. authorise the Chief Executive to make any minor editorial changes to the above documents if required prior to adoption. e. Support the trial of Freedom Camping Ambassadors (\$47k grant from MBIE) for the 2024/5 camping season, and if successful, to consider ongoing funding in the next Long Term Plan. 	<p><i>Resolution:</i> <i>SWC2024/13</i></p>
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2. **approve** the effective date of 1 July 2024 for the Freedom Camping Bylaw, to allow time for signage.

3. Background

The report relating to recommendations (SWC2024/13), was considered by the Strategy Working Committee at their meeting on the [13 March 2024](#) as item B1, Freedom Camping Bylaw Deliberations. Please refer to the report for more information.

4. Appendices

Appendix 1 – Freedom Camping Bylaw Deliberations Cover Report, 13 March 2024

Appendix 2 – Updated Freedom Camping Bylaw (minor edits following SWC meeting 13 March 2024) available here: <https://swdc.govt.nz/meeting/council-27-march-2024/>

Contact Officer: Amanda Bradley, General Manager Democracy and Engagement

Reviewed By: Janice Smith, Chief Executive

Appendix 1 – Freedom Camping Bylaw Deliberations Cover Report, 13 March 2024

Freedom Camping Bylaw Deliberations

5. Purpose

The purpose of this report is to provide the Committee with a summary and analysis of submissions received on the Proposed Freedom Camping Bylaw and to allow Council to deliberate any changes for the preparation of a final Freedom Camping Bylaw.

6. Recommendations

The Committee recommends that Council:

1. **receives** the 'Freedom Camping Bylaw Deliberations' Report;
2. **amends** the Clifford Square Reserve Management Plan to allow for freedom camping to occur subject to the restrictions within the Freedom Camping Bylaw 2024.
3. **adopts** the Freedom Camping Bylaw 2024, as per Appendix 1.
4. **authorises** the Chief Executive to make any minor editorial changes to the above documents if required prior to adoption.
5. **Supports** the trial of Freedom Camping Ambassadors (\$47k grant from MBIE) for the 2024/5 camping season, and if successful, to consider ongoing funding in the next Long Term Plan.

7. Executive Summary

The Proposed Freedom Camping Bylaw (the Bylaw) began development in early 2023. Council staff conducted pre-consultation with mana whenua, community groups and stakeholders for the development of the Bylaw. Council approved the Bylaw for consultation at the meeting on 27 September 2023. Consultation occurred between Friday 13 October and Monday 13 November 2023. A total of 53 submissions were received and considered at the Hearing on Wednesday 29 November 2023. Two submitters also verbally presented their submissions at the November hearing.

The Committee is now requested to consider a final Freedom Camping Bylaw and amendment to the Clifford Square Reserve Management Plan. The Committee will then make a recommendation to Council about the adoption of the Freedom Camping Bylaw at the upcoming Council meeting on 27 March 2024.

8. Background

8.1 Freedom camping legislation

The [Freedom Camping Act 2011](#) (the Act) is the national legislation regulating freedom camping. The Act is permissive by default, which means its starting point is to allow

freedom camping on all public land. The Act does recognise that some areas may not be suitable for freedom camping. Section 11 of the Act enables Council to adopt a Freedom Camping Bylaw to apply some protections to areas within the district that Council controls and manages.

The Act defines freedom camping as camping within 200 m of an area accessible by motor vehicle or within 200 m of the mean low-water springs line of any sea or harbour, or on or within 200 m of a formed road or a Great Walks Track, using either or both of the following:

- (a) a tent or other temporary structure;
- (b) a motor vehicle.

It does not include staying at a camping ground, temporary or short-term parking of a motor vehicle, day trips, resting or sleeping at the roadside to avoid driver fatigue, or people who are homeless and as a result need to sleep in their vehicle.

8.2 Recent changes to the legislation

The [Self-contained Motor Vehicles Legislation Act 2023](#) came into force in June 2023 making several amendments to the Act. The changes include:

- the requirement for vehicle-based freedom campers to use a certified self-contained vehicle when they stay on council land, unless a council designates the site as suitable for non-self-contained vehicles;
- a new regulated system for the certification and registration of self-contained vehicles;
- the requirement for vehicles to have a fixed toilet to be certified as self-contained; and
- strengthening of the infringement system with the introduction of a new tiered penalty system which entered into force in July 2023.

More details on the changes are available on the Ministry of Business, Innovation and Employment (MBIE) freedom camping website: <https://www.mbie.govt.nz/freedomcamping>.

[Additional guidance](#) regarding the new legislation was released in January 2024. This guidance, along with a new model bylaw, was developed by Local Government New Zealand (LGNZ) in consultation with MBIE, the New Zealand Motor Caravan Association Incorporated (NZMCA) and Taituarā. Though this was released post-consultation on the Bylaw, the guidance has been considered and reflected in recommendations where appropriate in this report.

8.3 Bylaw development

The changes in legislation prompted an evaluation of freedom camping in South Wairarapa. Camping as an activity is managed through a range of plans, bylaws and legislation. Council does not currently have a freedom camping bylaw, and as a result, cannot effectively regulate or enforce rules relating to freedom camping at any parks or other Council land that is not gazetted reserve.

When considering a bylaw to address freedom camping, the Act requires the Council:

- not to ban, or effectively ban, freedom camping on all council owned or managed land (known as a blanket ban).
- to be satisfied that any prohibitions or restrictions are the most appropriate and proportionate response to freedom camping demand in the area, and the problems it would cause if allowed.
- to make a bylaw that is consistent with the New Zealand Bill of Rights Act 1990 (NZBORA).
- to have considered other ways to manage the problem, other than through a bylaw.
- to map or clearly describe each area covered by prohibitions or restrictions, so freedom campers have certainty about what rules apply.

Staff investigated the issues related to freedom camping in the District and conducted pre-engagement with mana whenua, community groups and other stakeholders. Workshops were held with the Māori Standing Committee on 6 June 2023 and the three Community Boards on 22 June 2023. At the 28 June 2023 Council meeting, Council received the [Freedom Camping Bylaw Development and Determinations Report](#). Council determined to make a bylaw under the Freedom Camping Act 2011. Funding was received from MBIE for the purposes of developing and implementing a new freedom camping bylaw.

The Act states that councils can only prohibit or restrict freedom camping in an area using a bylaw if it is necessary to:

1. protect the area e.g. to protect areas that are: environmentally or culturally sensitive.
2. protect health and safety to keep freedom campers and other visitors to an area safe.
3. protect access to the area where the presence of freedom campers could block access or could damage infrastructure.

An assessment tool was used to evaluate sites against the three criteria specified in the Act. This tool is considered best practice by the sector and has been used by many New Zealand councils for the same purpose. The assessment tool applies the criteria in a transparent and standardised manner to ensure the proposed prohibitions and restrictions are consistent with the Act.

A workshop was held with Councillors on 6 September 2023. A [Statement of Proposal and Draft Bylaw](#) was developed, including a schedule of [maps](#) and [site assessment document](#), which Council adopted for public consultation at the 27 September 2023 Council meeting. Consultation on the Bylaw took place, in accordance with section 83 of the Local Government Act 2002, from Friday 13 October to Monday 13 November. Submissions were heard and considered at the 29 November 2023 [Hearings Committee Meeting](#).

8.4 Proposal

The intent of the Bylaw is to enable Council to regulate and enforce how and where freedom camping occurs within the District. The Bylaw identifies local authority areas for freedom camping to be restricted or prohibited and includes proposed restrictions for each of the three townships. It proposes to preserve the status quo at existing coastal camping areas while respecting the new legislation and offering protection to vulnerable areas particularly along the coast. Full details of the proposed restrictions and prohibitions can be found in the [Statement of Proposal and Draft Bylaw](#).

The proposal also includes reference to the NZ Standard 5465:2001 for self-contained freedom camping vehicles and an amendment to the Clifford Square Reserve Management Plan (RMP). The Clifford Square RMP amendment will allow freedom camping in self-contained vehicles only at the car park behind the Fell Museum in Featherston. This area is otherwise prohibited under the Reserves Act 1977.

9. Discussion

9.1 Consultation

Consultation on the Bylaw occurred between Friday 13 October and Monday 13 November. The opportunity to make a submission was provided to the community via an online survey, emailing the Council directly or dropping off a printed or paper submission form at the Council offices and public libraries around the district. A combination of broad and targeted communication was used to encourage feedback, including through the Council website, direct email, social media, print media and in person community meetings.

Submitters were asked to provide feedback on the following topics within the Bylaw:

- Proposed prohibited areas
- Proposed restricted areas
- Proposed township restrictions
- Proposed amendment to the Clifford Square Reserve Management Plan
- Proposed incorporation of the NZ Self-contained Standard
- Other feedback

9.2 Submissions

Council received a total of 53 submissions on the Bylaw. 47 submissions were made online using the platform SurveyMonkey. Six submissions were made via email or hardcopy. Two submitters spoke to their submissions at the Hearing on 29 November 2023. Copies of the full submissions were provided to Council on 29 November 2023 at the Hearing and are available [here](#).

Additional correspondence was received outside of the formal consultation period from three different sources: New Zealand Transport Agency – Waka Kotahi (NZTA), mana whenua and the New Zealand Angling and Casting Association (NZACA). This feedback is also included for Council’s consideration.

10. Analysis

Submissions have been summarised and collated according to themes and organised by the relevant clause of the Bylaw as follows:

- General comments
- Clause 3. Application
- Clause 5. Interpretation
 - Self-containment – NZ Standard for self-contained vehicle
 - NZTA Land
- Clause 6. Areas where Freedom Camping is Prohibited
- Clause 7. Areas where Freedom Camping is Restricted
- Clause 9. Prior Consent from Council
- Clause 10. Offences

- Clause 12. Schedules
 - Schedule 1: Prohibited areas
 - Schedule 2: Restricted areas
 - Township restrictions
 - Area specific restrictions – Clifford Square Reserve
 - Coastal area restrictions
- Out of scope

10.1 General Comments

The following comments were received on the Bylaw in general, rather than in response to a specific proposal. These comments discussed topics including:

- general support or opposition of the Bylaw;
- that the Bylaw is too restrictive, or not restrictive enough;
- the provision of facilities and signage;
- monitoring and enforcement;
- tourism and the economy;
- the new self-contained requirement;
- cost, rubbish and other concerns; and
- the mapped areas.

“It is a measured and sound proposal that supports the many and diverse users of the areas whilst respecting and supporting local community interests.”

“Freedom camping is about inclusivity and freedom, the ability to travel relatively cheaply and see our nation. Dont let the actions of a few ruin it for everyone else. Keep the balance.”

“Swdc should be encouraging responsible freedom camping not restricting it.”

“Thank you for proposing a bylaw that endeavours to strike a fair balance between permitted/restricted and prohibited areas.”

Submission Summary	Staff Response
<p>Support Five submitters stated general support for the Bylaw.</p>	<p>Acknowledged</p>
<p>Opposition Six submitters stated general opposition to the Bylaw. Of these:</p> <p>One submitter stated it is crazy.</p> <p>One submitter stated it is a waste of time.</p> <p>One submitter stated there is no reason for a bylaw and it is unnecessary bureaucracy.</p> <p>One submitter stated it is a burden on ratepayers.</p>	<p>At the Council meeting on 28 June 2023, Council determined to make a bylaw as the most appropriate and proportionate response to issues with freedom camping.</p> <p>Funding was received from MBIE for the purpose of developing a bylaw and this process has not been funded using rates.</p>

Submission Summary	Staff Response
<p>One submitter stated they will not comply.</p> <p>One submitter stated it breaches human rights and questioned Council's authority to make a bylaw.</p>	<p>The Freedom Camping Act gives Council access to infringements and fines for breaches of the Bylaw.</p> <p>The Universal Declaration of Human Rights does not include the activity of freedom camping. An assessment against the New Zealand Bill of Rights Act (NZBORA) is presented later in this report. The Bylaw is proposed to be made under the Freedom Camping Act 2011.</p>
<p>Too restrictive</p> <p>Seven submitters indicated the Bylaw is too restrictive. Of these:</p> <p>One submitter stated there are too many unnecessary restrictions.</p> <p>One submitter stated Council should encourage responsible camping rather than restrict it.</p> <p>One submitter requested Council be welcoming to freedom campers.</p> <p>One submitter urged Council to let people enjoy life.</p> <p>One submitter urged Council to not let the actions of a few ruin it for all.</p> <p>One submitter stated it is no longer freedom camping if there are many rules that apply.</p> <p>One submitter stated they should not be limited on how many days they camp as they take care of the environment and take home more rubbish than they create.</p>	<p>The Bylaw reflects the existing restrictions at Council camping areas and applies some new restrictions to reflect the changes in national legislation. It attempts to minimise complexity as much as possible by applying similar rules in similar situations.</p> <p>The Bylaw encourages freedom camping in locations where it is appropriate and where facilities are available. It aims to strike a balance between the needs of freedom campers and local communities while also protecting the three criteria in Section 11 of the Act, so that all users, both residents and visitors, are able to enjoy what South Wairarapa has to offer. Freedom camping is defined in the Act. Section 11 of The Act gives Council the ability to apply restrictions and/or prohibitions on freedom camping where necessary for the protection of three criteria. These criteria are:</p> <ul style="list-style-type: none"> • to protect the area, including environmentally, historically and/or culturally sensitive sites; • to protect health and safety, for example where there is a risk of flood or storm surge; and • to protect access to the area, where freedom campers could block access for other users or cause damage to infrastructure.

Submission Summary	Staff Response
	Environmental concerns are only one aspect of consideration for protection.
<p>Facilities</p> <p>Seven submitters commented on the provision of public facilities and amenities. Of these:</p> <p>Five submitters requested more toilet facilities be provided.</p> <p>One submitter requested more amenities for children and families to make camping areas more inclusive for whānau.</p> <p>Three submitters commented on high numbers of day trippers contributing to facility use more than overnight campers.</p> <p>One submitter suggested charging a fee if necessary.</p> <p>One submitter stated camping opportunities are limited by available space and facilities.</p> <p>One submitter suggested more toilet facilities be provided at Whatarangi on the Cape Palliser coast for both day-trippers and campers as there are currently no facilities in that area.</p>	<p>Council maintains public toilet and rubbish facilities at each of the proposed coastal camping areas. These are maintained and managed within existing budgets. These budgets are being looked at as part of the 2024-34 Long Term Plan process.</p> <p>Resource and investment would be required to increase the number of Council facilities and other amenities provided.</p> <p>A freedom camping bylaw is able to regulate the activity of freedom camping, it is not able to regulate day trip activity.</p> <p>Charging a fee for toilet use or waste disposal would require investment in new systems and infrastructure. It is not known if resulting behaviour change and environmental benefit would balance the amount of investment required.</p> <p>Resource and investment would be required to develop additional facilities.</p>
<p>Signage/education</p> <p>One submitter stated that signage should be carefully thought out and strategically placed to guide tourists.</p> <p>One submitter wanted to encourage responsible camping through education.</p>	<p>A signage plan is under development, alongside local community and mana whenua. The signage plan will consider strategic and appropriate locations of the signs to support people unfamiliar with the area, to inform of relevant restrictions, locations of toilet facilities and to encourage responsible waste disposal.</p>
Tourism/economy	

Submission Summary	Staff Response
<p>Three submitters emphasised the positive impact of freedom camping for the economy.</p> <p>One submitter stated it must be managed appropriately to protect the natural environment.</p> <p>One submitter queried how much financial value campers bring to the community and whether Council wishes to increase or decrease this amount. This submitter also stated that freedom campers have a positive impact on safety and deter criminal activity.</p>	<p>The Bylaw continues to provide opportunities for freedom camping for both self-contained and non-self-contained freedom campers to stay and contribute to tourism and the local economies in the district.</p> <p>MBIE research published in 2021 gives an estimate of the average daily spend of domestic and international freedom campers. The Bylaw aims to strike a balance between the needs of freedom campers and the communities that host them, providing opportunities for the positive impacts, while minimising the negative impacts of freedom camping.</p>
<p>Self-contained requirement</p> <p>Two submitters suggested Council develop more areas for camping in non-self-contained vehicles.</p> <p>One submitter stated the requirement to be self-contained should not be necessary if only staying one night.</p> <p>Two submitters stated all camping should be self-contained unless toilet facilities are accessible close by.</p> <p>Two submitters stated there is no need to be self-contained if there are toilet facilities available.</p> <p>One submitter suggested the self-contained requirement should be only necessary for townships.</p> <p>One submitter stated tenting should be permitted everywhere.</p>	<p>Resource and investment would be required to develop more sites and to ensure protection of the three criteria under Section 11 of the Act.</p> <p>Monitoring and enforcement of a one-night stay is not practical given the geographic and logistical challenges of the district and current level of service. Monitoring and enforcement is undertaken on a reactive basis with Council responding to complaints and issues as they arise.</p> <p>Non-self-contained camping is permitted in areas where toilet facilities are located.</p> <p>Changes to the Freedom Camping Act in 2023 now require all freedom camping to be self-contained. The Bylaw identifies areas where there are facilities provided and it is appropriate for non-self-contained camping and tenting to be permitted.</p>
Cost	

Submission Summary	Staff Response
<p>Two submitters commented that the Bylaw was an unnecessary cost to Council and poor use of ratepayers' money.</p> <p>One submitter complained of cost to private residents of maintaining grass verges for freedom campers to use.</p> <p>One submitter would prefer Council focus on economic efficiency of camping operations in general, rather than freedom camping in particular.</p> <p>One submitter complained about high cost of living and property prices limiting the ability of families and children to enjoy beaches and other beautiful places.</p> <p>One submitter stated importance of retaining access to coastal camping and affordable holidays for locals.</p>	<p>Council received MBIE funding for the development of a freedom camping bylaw and it has not been funded by rates.</p> <p>In July 2021 the responsibility for maintaining grass berms was transferred to residents. Council is currently reviewing the level of service for grass verge maintenance as part of the development of the 2024-34 Long Term Plan. The Bylaw applies restrictions to urban areas including a self-contained requirement and 3-night maximum stay. This will give some protection to areas that would otherwise be permitted under the Act.</p> <p>The Bylaw applies restrictions to improve and manage the impact of freedom camping in the District. It also gives Council access to the infringements and fines in the Act.</p> <p>The Bylaw continues to provide areas for freedom camping near beaches. All existing coastal camping areas will continue to be permitted with the maximum stay extended from 21 days to 28 days.</p>
<p>Monitoring/enforcement</p> <p>Three submitters stated concerns for how the Bylaw would be monitored and enforced.</p> <p>Two submitters suggested using community members to assist Council with monitoring and enforcement.</p>	<p>The enforcement strategy is intended to continue in line with the approach to other similar bylaws and the previous Camping in Coastal Areas Bylaw. Council staff intend to take a reactive approach to issues and complaints, responding as they arise, which will allow the Bylaw to be enforced within existing resources. Council has also received further funding from MBIE for the development and implementation of a Freedom Camping Ambassador Programme which will enable community members to support the monitoring and enforcement strategy.</p>

Submission Summary	Staff Response
<p>Rubbish</p> <p>One submitter suggested penalties for campers who leave rubbish.</p> <p>One submitter stated concern for ecosystems impacted by rubbish and human waste from campers.</p> <p>One submitter described issues with litter at Te Awaiti.</p> <p>Two submitters described issues with litter, bottles and human waste at Vintners Lane.</p> <p>One submitter stated day trippers create greater damage and rubbish than campers.</p> <p>One submitter queried what damage, litter and health and safety risks have been assessed and how restrictions will address these.</p>	<p>Litter and human waste were issues discussed in the MBIE research published in 2021 and contributed to the change in legislation and new standard for self-contained vehicles. Section 20 of the Act states that depositing waste in or on a local authority area while freedom camping is an infringement offence and Council is able to issue a fine. Litter and depositing material in public is also enforced under sections 14 and 15 of the Litter Act 1979.</p> <p>Under the definition of freedom camping in the Act, a bylaw is not able to regulate recreational activities commonly known as day-trip excursions. Complaints, requests for service and known issues were investigated during bylaw development. Health and safety is one of the criteria for protection under Section 11 of the Act and was considered in the site assessment document which informed the Bylaw. A comprehensive review of waste management is planned to assess challenges and feasibility of alternative waste management strategies. The signage plan will also support waste minimisation and risk management by supporting people unfamiliar with the area, informing of relevant restrictions, locations of toilet facilities and encouraging responsible waste disposal.</p>
<p>Other</p> <p>One submitter stated importance for consultation with /approval by whanau.</p> <p>One submitter stated concern for ensuring safe, long-term road access along the Cape Palliser coast.</p>	<p>Pre-consultation and engagement with mana whenua was conducted throughout the bylaw development process.</p> <p>Access is one of the criteria for protection in Section 11 of the Act. The need to protect access for local communities and other users has been</p>

Submission Summary	Staff Response
<p>One submitter stated concern that camping opportunities do not meet the needs of the public, residents, ratepayers and the environment.</p> <p>One submitter suggested ratepayers vote on whether freedom camping should continue or if campers should be required to use paid campgrounds in order to support local business</p>	<p>considered in the site assessments for the Cape Palliser coast and is reflected in the proposed restrictions in the Bylaw.</p> <p>The Bylaw aims to strike a balance between the needs of the public, freedom campers and the communities that host them. It also considers the three criteria under Section 11 of the Act, which are:</p> <ul style="list-style-type: none"> • to protect the area, including environmentally, historically and/or culturally sensitive sites; • to protect health and safety, for example where there is a risk of flood or storm surge; and • to protect access to the area, where freedom campers could block access for other users or cause damage to infrastructure. <p>The special consultative procedure (SCP) under Section 83 of the LGA provides the opportunity for all those interested to give their feedback, including but not limited to, those who own property in specific locations.</p> <p>The Act prevents the placement of blanket bans.</p>
<p>Maps</p> <p>Two submitters requested more detailed maps of coastal areas.</p> <p>One submitter thought the maps were unclear and too general.</p> <p>One submitter noted that the maps also include areas of private land.</p>	<p>The maps are intended to give a general indication of the area where the Bylaw applies. The Act states if there is any inconsistency between the mapped area and the written description, it is the written description which prevails.</p> <p>A bylaw under the Act only applies to local authority areas and cannot restrict activity on private land. See further discussion below.</p>

Discussion

Concerns regarding the maps were discussed further at the hearing on 29 November 2023. Staff advise that SWDC mapping tools are extracted from the [Land Information New Zealand](#) (LINZ) database and there is potential for inconsistency when overlaid with aerial imagery. Staff wish to emphasise that these maps are useful indicative tools but

should not be used as the sole source of information. Where there is uncertainty, a re-survey may be undertaken by the landowners.

All printed maps, including those used in Appendix 1 of the Bylaw, contain the following disclaimer:

DISCLAIMER

The Masterton, Carterton, and South Wairarapa District Councils accept no responsibility for actions or projects undertaken or loss or damages incurred, by any individuals or company, or agency, using all or any of the information presented on this map. The Councils do not provide interpretation of this information or advice on how to interpret, or utilise this information. Your own independent and appropriate professional advice should be sought. The information displayed on this map may contain errors or omissions or may not have the spatial accuracy required for some purposes.

Staff also emphasise that the maps provided in Appendix 1 of the Bylaw are intended as indicative only, to assist with readability and understanding of the Bylaw. Section 11B (2) of the Freedom Camping Act states that where a bylaw contains both a map and a description and there is an inconsistency between the map and the description, the description prevails. The following text is included on the cover page of the *Appendix 1 of the South Wairarapa District Council Freedom Camping Bylaw 2024 Maps*:

Maps are indicative only. For complete descriptions of the areas please refer to Schedule 1 and 2 of the Freedom Camping Bylaw

Some of the maps contain intentionally broad areas with the clarification that the Bylaw applies only to local authority land within that area. Under the Freedom Camping Act, the Bylaw does not apply to private land. Signage will be used in key places to assist freedom campers to understand where camping is permitted and to direct them away from private land.

Complaints related to private property damage, trespassing or illegal activity should be addressed using the appropriate mechanism and, where appropriate, referred to the police.

Recommendation

No amendments to the Bylaw are recommended in response to these submission points.

10.2 Clause 3. Application

According to section 10A of the Freedom Camping Act 2011, a Freedom Camping bylaw may, with the written consent from the chief executive of NZTA, declare NZTA land to be local authority area for the purposes of the Act. The Bylaw proposes to prohibit freedom camping on the main streets of the three townships and restrict freedom camping in the general urban areas, which include sections of State Highway 2 and State Highway 53. These areas are discussed in further detail under section 6.8 of this report below.

Council staff began communication with NZTA staff regarding these areas in mid-2023 when elected members first indicated NZTA land was likely to fall within areas proposed to be included in the Bylaw. NZTA staff have confirmed that the letter providing written consent to include the NZTA areas in the Bylaw, as required in the Act, has been drafted and is going through an internal review process. NZTA staff expect that this letter, finalised and signed by the CEO of NZTA, will be received by Council prior to the planned adoption meeting on 27 March 2024.

Recommendation

It is recommended that Council add a new Clause 3.2 and accompanying explanatory notes to enable the declaration of NZTA land as local authority land under the Bylaw. These amendments have been made within the Bylaw in Appendix 1 for Council approval.

10.3 Clause 5. Interpretation

Proposed incorporation of the NZ Self-contained Standard 5465:2001

41 submitters responded to the question on the incorporation of the NZ Self-contained Standard (the Standard). Submissions described general support of or opposition to the incorporation of the Standard, as well as concerns around affordability, the type of toilet required and tenting.

“Makes sense”

“I like the proposal -it gives/provides consistency across the country.”

“The new rules restrict camping to only those who can afford an expensive vehicle with a fixed toilet.”

“...being ‘Self contained’ is not reflective of how the campers conduct themselves or dispose of waste...”

Submission Summary	Staff Response
<p>Support 21 submitters supported the incorporation of the Standard</p>	<p>Incorporating the Standard into the Bylaw provides consistency and clarity for those camping in South Wairarapa as well as in other parts of the country. Including the Standard by reference ensures information is readily available and accessible.</p>
<p>Opposition 13 submitters opposed the incorporation of the Standard. Of these:</p> <p>Two submitters stated more facilities should be provided instead.</p> <p>One submitter stated that is not necessary to apply the Standard where there are public toilet facilities available.</p> <p>One submitter stated concern for potential negative impact on tourism.</p> <p>One submitter suggested a separate certification of “responsibly self-contained”.</p>	<p>The Standard is a national requirement under the Act, and freedom campers must comply regardless of whether it is incorporated into the Bylaw. Resource and investment would be required to provide more facilities.</p> <p>The Bylaw permits non-self-contained camping at locations where toilet facilities are provided.</p> <p>The Standard applies throughout New Zealand and was developed in part to improve the experience of tourists, and so encourage tourism, by mitigating the negative effects of freedom camping such as litter and waste (MBIE). The Bylaw provides options for both self-contained and non-self-contained camping.</p>

Submission Summary	Staff Response
<p>One submitter stated the Standard is hard to understand.</p> <p>One submitter stated that the Standard penalises campers for the actions of day trippers.</p>	<p>The development and implementation of a unique certification for South Wairarapa is not practicable.</p> <p>The Standard is publicly available online and the Bylaw’s explanatory notes provide a link directing readers to the Standard online.</p> <p>A Freedom Camping Bylaw is able to regulate the activity of freedom camping, not day excursions. Though it is not possible to quantify the level of harm caused by freedom campers and the level of harm caused by others such as day-trippers, the impact on the environment is cumulative and a reduction in harm at freedom camping sites is expected from the implementation of the Standard (MBIE).</p>
<p>Affordability</p> <p>Two submitters stated concern for those who are unable to afford to comply with the new Standard.</p> <p>One submitter stated concern for the unfair impact on younger campers.</p>	<p>There is a two-year transition period to allow those who are currently certified as self-contained time to become certified under the new Standard. The Bylaw also provides areas where non-self-contained camping is permitted for those who are not certified self-contained under the new Standard.</p>
<p>Type of toilet required</p> <p>Two submitters discussed the type of toilet used. Of these:</p> <p>One submitter sought evidence that portable toilets are a problem and stated little confidence that the Standard would make a difference as both plumbed and portable toilets still need to be emptied.</p>	<p>The type of toilet required is specified by the Standard. This is a national requirement under the Act and freedom campers will need to comply regardless of whether it is incorporated into the Bylaw. Research from MBIE published in 2019 discusses the issues, impacts and policy options regarding freedom camping. Public consultation occurred on the proposed national regulatory changes in 2021. A reduction in the negative effects of freedom camping is expected (MBIE).</p>

Submission Summary	Staff Response
One submitter stated that camper behaviour is more important than the type of toilet required.	Signage and education will be used to encourage responsible behaviour.
Tenting One submitter noted the standard does not address tenting.	The Bylaw provides clarity on this issue by designating specific areas where camping is only permitted for self-contained vehicles as well as areas where self-contained, non-self-contained vehicles and tenting are all permitted.

Recommendation

No amendments to the Bylaw are recommended in response to these submission points, however, following from the discussion in section 6.2 of this report above, and following review of the updated model bylaw, it is recommended to include a definition of NZTA Land as defined by the Act, as follows:

***NZTA Land** has the same meaning as in section 6A of the Act.*

It is recommended to include an explanatory note to provide the reader with the current definition as provided in the Act.

For consistency and alignment with the legislation at the time of writing, it is also recommended, where there are explanatory notes providing the definitions as in the Act, to amend any dates to reflect the date at which this report was drafted. This date is 27 February 2024.

These amendments have been made within the Bylaw in Appendix 1 for Council approval.

10.4 Clause 6. Areas where Freedom Camping is Prohibited

No submissions relevant to the text of this clause were received. Submissions responding to the question on Prohibited areas are discussed below in section 6.8.1. Schedule 1. Prohibited Areas for Freedom Camping.

There are no recommended amendments to this clause.

10.5 Clause 7. Areas where Freedom Camping is Restricted

No submissions relevant to the text of this clause were received. Submissions responding to the question on Restricted areas are discussed below in section 6.8.2. Schedule 2. Restricted Areas for Freedom Camping.

There are no recommended amendments to this clause.

10.6 Clause 9. Prior Consent from Council

There were no formal submissions received regarding this clause, however, correspondence was received from two separate groups regarding freedom camping along the coast in exceptional circumstances or for extraordinary events.

During communication with mana whenua immediately prior to the start of the formal consultation period, concerns were raised around potential impact on customary rights and kaitiaki permits for the gathering of kai moana by iwi and hapu groups. The correspondence requested Council consider a specific exemption or consent pathway

for mana whenua groups to freedom camp when engaging in the exercise of customary rights. A freedom camping bylaw cannot regulate activity other than freedom camping, as defined in the Act, in addition to this, *Clause 11. Relationship of Bylaw with Settlement Legislation* states that the Bylaw does not limit or affect rights in relation to iwi entitlements under settlement acts. Staff consider it appropriate to include customary rights as a specific consideration for prior consent.

Communication was received after consultation closed from the New Zealand Angling and Casting Association (NZACA). Concern was raised by this national body for its member organisations hosting events in the South Wairarapa that include overnight fishing competitions, for example, the Moki 1000. According to the definition of freedom camping in Section 5 of the Act, freedom camping does not include recreational activities. A freedom camping bylaw is therefore unable to regulate recreational activities such as fishing. If, for the purposes of a special event such as an overnight fishing competition, organisers wish to provide for camping in an otherwise prohibited or restricted area, this would fall within the criteria of special events catered for under the prior consent clause. The explanatory note to Clause 9 specifies consideration for:

Where Freedom Camping is associated with a special event or occasion occurring in an area, and an exemption is required for the duration of the event or occasion.

[Event applications](#) currently include items such as special licencing for food and alcohol, plans for waste management and camping. This will be updated for consistency with the Bylaw. Communication will continue with local fishing associations concerned to clarify any potential new requirements for event organisers.

Recommendation

Staff recommend an amendment to the explanatory notes of the Bylaw to include specific mention of customary rights as follows:

Council anticipates the following reasons could be grounds for an application:

- *Where Freedom Camping is associated with the exercise of customary rights*

This amendment has been made within the Bylaw in Appendix 1 for Council approval.

10.7 Clause 10. Offences

One submission relevant to the text of this clause was received.

Submission Summary	Staff Response
One submitter suggested including the penalties under the new legislation.	The Bylaw gives Council access to infringement fees under the Act. The explanatory notes for this clause of the Bylaw refer the reader to the online link for the most up-to-date information on infringements and fees. By doing so, any changes are immediately applicable without needing to amend the text of the bylaw.

Recommendation

Following review of the updated model bylaw it is recommended to include a new clause 10.3 to specify that an offence is liable to the infringement fine specified in regulations under the Act.

This amendment has been made within the Bylaw in Appendix 1 for Council approval.

10.8 Clause 12. Schedules

10.8.1. Schedule 1. Prohibited Areas for Freedom Camping

45 submitters responded to the question on the proposed prohibited areas. Submissions indicated general support or opposition, some discussed the prohibited areas being too restrictive while others suggested additional areas to be prohibited.

"I think the more areas of the coast should be open to freedom camping and the council should provide bins and toilets at more locations."

"It is understandable to prohibit camping in main centres."

"They are good and represent little change apart from the restrictions of overnight stays which is good"

"Cape Palliser coast restrictions are excessive. There should be more places for self contained vehicles. Only places that are suffering for significant erosion should be banned for self contained vehicles."

Submission Summary	Staff Response
<p>Support 15 submitters indicated general support for the proposed prohibited areas.</p> <p>One submitter gave specific support to the prohibition for Martinborough Square</p>	<p>Acknowledged.</p>
<p>Opposition 14 submitters indicated opposition to the proposed prohibited areas.</p> <p>One submitter stated it is unfair on responsible campers.</p> <p>Two submitters indicated opposition to the coastal prohibitions.</p> <p>One submitter requested no change from current situation, no areas be prohibited and the coast remain free to camp.</p>	<p>The proposed prohibited areas have been assessed against the three criteria in Section 11 of the Act. These criteria are;</p> <ul style="list-style-type: none"> • to protect the area, including environmentally, historically and/or culturally sensitive sites; • to protect health and safety, for example where there is a risk of flood or storm surge; and • to protect access to the area, where freedom campers could block access for other users or cause damage to infrastructure. <p>The Bylaw aims to strike a balance between preserving the status quo at existing coastal camping areas while respecting the new legislation and offering protection to vulnerable areas particularly along the coast. Existing camping areas on the coast continue to be permitted areas for freedom camping.</p>

Submission Summary	Staff Response
<p>One submitter stated coastal prohibitions would discourage tourism, signage will detract from the environment, campers won't follow rules.</p> <p>One submitter stated Council does not have the right to tell tangata whenua what to do and threatened legal action.</p> <p>One submitter stated the Bylaw will anger some of the community and camping is important for mental health.</p> <p>One submitter requested more camping areas be made available instead of prohibited.</p> <p>One submitter stated there is ample safe space to camp without damaging the environment.</p>	<p>The Bylaw continues to provide appropriate areas for freedom camping for those tourists who wish to camp using both self-contained and non-self-contained vehicles as well as tents. A signage plan is under development and will consider appropriate design and strategic locations to support the monitoring and enforcement strategy.</p> <p>Consultation with mana whenua has indicated support for the Bylaw to protect sensitive environmental areas as well as large numbers of significant sites along the coast.</p> <p>The Bylaw continues to provide locations where freedom camping is permitted for those that enjoy camping for a multitude of reasons.</p> <p>The availability of appropriate areas for freedom camping is limited to local authority land (owned and/or managed by Council). Other considerations include the ability to provide necessary facilities and assessment against the three criteria in Section 11 the Act, of which protection of the environment is only one consideration. Resource and investment would be required to develop additional camping areas which ensure protection of all three criteria in Section 11 of the Act.</p>
<p>Too restrictive</p> <p>One submitter requested to keep the areas that are available now.</p> <p>One submitter stated it would be a shame to change current situation.</p> <p>One submitter stated campers should be able to camp however they like as long as they respect the land and sea.</p>	<p>The Bylaw maintains the existing camping areas.</p> <p>The Bylaw aims to strike a balance between the needs of freedom campers and local communities while also protecting the three criteria in Section 11 of the Act. Protection of the environment falls under one of the criteria. The other criteria in the Act for</p>

Submission Summary	Staff Response
	consideration include the protection of health and safety and access to the areas.
<p>Monitoring/Enforcement One submitter indicated concern for the ability and cost of management and enforcement</p>	<p>The enforcement strategy is intended to continue in line with the approach to other similar bylaws and the previous Camping in Coastal Areas Bylaw. Council staff intend to take a reactive approach to issues and complaints, responding as they arise, which will allow the Bylaw to be enforced within existing resources. Council has also received further funding from MBIE for the development and implementation of a Freedom Camping Ambassador Programme which will support the monitoring and enforcement strategy.</p>
<p>Additional areas One submitter requested including Ocean Beach as a prohibited area.</p> <p>Four submitters suggested including Vintners Lane, Martinborough as a prohibited area with one submitter suggesting freedom camping be prohibited within 500m of a dump station.</p> <p>One submitter suggested freedom camping should be prohibited in front of houses.</p> <p>One submitter suggested freedom camping be prohibited in all townships, including Tora and Ngawi.</p>	<p>The land at Ocean Beach is Department of Conservation (DOC) land which does not come under the definition of Local Authority Land and is therefore out of scope of the Bylaw.</p> <p>Section 11 of the Act enables prohibition of Freedom Camping under three criteria; to protect the area, to protect health and safety and to protect access to the area. There is no evidence that being within 500 metres of a dump station meets the criteria for protection under the Act.</p> <p>The Act is permissive by default and prohibits what are known as “blanket bans”. Proposed prohibitions must be consistent with the criteria for protections under Section 11 of the Act. Queenstown Lakes District Council (QLDC) is undergoing an ongoing legal challenge to their 2019 Freedom Camping Bylaw for being overly prohibitive. It prohibited freedom camping in townships.</p>

Submission Summary	Staff Response

Recommendation

No amendments to the Bylaw are recommended in response to these submission points, however, following from the discussion in section 6.2 of this report above, as the proposed township prohibitions include areas of NZTA land, it is recommended that Council amend the description of the prohibited areas to specify where NZTA land is to be included.

These amendments have been made within the Bylaw in Appendix 1 for Council approval.

10.8.2. Schedule 2. Restricted Areas for Freedom Camping

Township restrictions

42 submitters responded to the question on the proposed township restrictions. Submissions indicated general support or opposition, some discussed the restricted areas being not restrictive enough, the number of nights, self-containment requirements, the impact on tourism or the economy and suggested additional areas for restriction.

“I agree as they are high density areas”

“If there are toilets I don't think you should need to be self contained”

“Maximum 5 days would be more suitable for us to visit family/funerals etc”

“It's good for the towns to have tourism even if they just stay for 1 hour or overnight for free”

Submission Summary	Staff Response
<p>Support 24 submitters indicated general support for the proposed township restrictions.</p>	Acknowledged.
<p>Opposition Three submitters indicated opposition to the proposed township restrictions. Two submitters indicated they thought the proposed restrictions to be too restrictive.</p>	The proposed restrictions aim to balance the needs of freedom campers with the needs of communities within the townships and to spread the impacts of freedom camping.
<p>Not restrictive enough Two submitters suggested campers use paid campgrounds in the townships instead of freedom camping.</p>	The Act is generally permissive and a bylaw is not able to apply a blanket ban on freedom camping. A bylaw is able to restrict or prohibit freedom camping where necessary according to the criteria under Section 11 of the Act. The presence of a paid campground does not meet the criteria for prohibition. Overly prohibitive bylaws risk litigation as

Submission Summary	Staff Response
<p>One submitter stated that the Bylaw invites freedom camping at the dump station and in Vintners Lane.</p> <p>One submitter suggested matching the boundary of the township restricted area to the 50kph speed zones.</p>	<p>demonstrated by the legal challenge to QLDC’s freedom camping bylaw.</p> <p>Freedom camping has been permitted by the Act since 2011 on all local authority land. New legislation in 2023 updated the self-contained requirements and the Bylaw adds some additional restrictions where appropriate under the criteria in Section 11 of the Act.</p> <p>The boundary for the township restricted area has been mapped according to zoning in the District Plan. Council is currently reviewing its Speed Management Plan. Once this Speed Review is complete, it may be appropriate to review the descriptions of the township restricted areas with reference to speed zones.</p>
<p>Number of nights</p> <p>Three submitters suggested more nights be permitted – 8 nights, 5 nights, 4 nights.</p> <p>One submitter suggested non-self-contained camping be permitted for one night.</p> <p>One submitter stated clarification is needed to understand whether 3 nights is permitted in each township within the 28-day period.</p>	<p>The Bylaw permits three nights in one area, or within 500m of that area, within a four-week period. After three nights a self-contained freedom camping vehicle may move to a different area within the same township, at least 500m distance from the original location, or to a different township. This is intended to disperse the impacts of freedom campers and prevent disproportionate, lengthy stays.</p>
<p>Self-containment</p> <p>Two submitters stated there is no need to be self-contained if there are public toilet facilities available.</p>	<p>Public toilet facilities in each of the townships are located in reserves (Clifford Square, Featherston and Martinborough Square), where freedom camping is prohibited under the Reserves Act and on State Highway 2 in Greytown which is within the proposed prohibited area. Other areas do not have access to facilities and are restricted to self-contained vehicles only.</p>

Submission Summary	Staff Response
<p>Tourism/Economy One submitter is concerned the restrictions will negatively impact tourism in South Wairarapa</p>	<p>The township restrictions require freedom campers to be self-contained. This aligns with the new self-contained legislation under the Act and applies nation-wide, not only in South Wairarapa.</p>
<p>Number of areas One submitter requested more camping areas be made available referencing the high rates levied in South Wairarapa.</p>	<p>Rates provide funding for a number of important services and infrastructure for the District. The Bylaw was developed using funding received from MBIE for this purpose and was not funded by rates.</p>
<p>Additional areas One submitter suggested expanding the township boundary to include the area at Vintners Lane</p>	<p>The township restricted area boundary has been mapped according to zoning in the District Plan. Vintner’s Lane is a no exit street directly adjacent to the boundary. It would improve consistency and ease of understanding as well as reduce complexity to include this area in the township restriction requiring freedom campers to be self-contained.</p>

Recommendation

It is recommended, to improve clarity and understanding of the township restrictions, to update the schedule descriptions of the townships to include the following wording:

...as mapped, except for where freedom camping is prohibited as defined in Schedule 1.

It is recommended to include Vintners Lane in the township restriction area where freedom camping is permitted using self-contained vehicles only, for 3 nights maximum within a 4-week period.

It is also recommended that Council amend the descriptions of the township restrictions to specify where NZTA land is to be included.

These amendments have been made within the Bylaw in Appendix 1 for Council approval.

Area specific restrictions:

Fell Museum Carpark

The camping area behind the Fell Museum lies within the Clifford Square Reserve. Camping is prohibited on reserves under the Reserves Act 1977, unless provided for in a reserve management plan (RMP). To ensure consistency and enable freedom camping to continue at this location it was proposed to amend the Clifford Square RMP. Section 44 (9) of the Reserves Act 1977 enables councils to make

changes that do not involve a comprehensive review of an RMP without following a complete formal review under section 44 (5) and 44 (6) of the Reserves Act 1977. The special consultative procedure conducted during this Bylaw process complies with Council’s consultation requirements.

Proposed amendment to the Clifford Square Reserve Management Plan

34 submitters responded to the question on the proposed amendment to the Clifford Square Reserve Management Plan. Submissions indicated general support or opposition with some stating they were not impacted by the proposal.

“makes sense”

“as long as there is enough parks for at least 10 vehicles”

“Perfect. Now we just need one in Greytown”

“...as long as the number of free camping sites are limited.”

Submission Summary	Staff Response
<p>Support 25 submitters supported the camping area at Fell Museum and amendment to the Clifford Square Reserve Management Plan. Of these:</p> <p>Two submitters suggested limiting the number of spaces/vehicles.</p> <p>One submitter supported self-containment if no toilet facilities provided.</p>	<p>The parking area has been used for freedom camping for more than ten years. It is a gravel carpark without marked spaces which enables flexibility for parking of small and large self-contained vehicles. Occupancy currently self-manages with few issues requiring intervention.</p> <p>There are no public toilet facilities.</p>
<p>Opposition Two submitters indicated opposition to the proposed amendment.</p>	<p>Amendment to the Reserve Management Plan is proposed to formalise the existing camping area which would otherwise be prohibited under the Reserves Act 1977.</p>
<p>Too restrictive One submitter stated it is too restrictive</p>	<p>The proposed amendment enables freedom camping where it would otherwise be prohibited under the Reserves Act 1977.</p>
<p>Number of nights One submitter questioned the rationale for 3 nights in 4-week period.</p>	<p>Current signage permits a two-night maximum stay. Three nights brings the rule in line with other proposed township restrictions, reducing complexity and making it easy to understand.</p>
<p>Additional areas</p>	

Submission Summary	Staff Response
<p>One Submitter suggested creating camping areas for self-contained vehicles in Greytown and other townships similar to that behind the Fell Museum in Featherston with time restrictions between 8pm and 7am.</p>	<p>The carpark behind the Fell Museum has been an existing camping area for more than ten years. Staff are not aware of any existing comparable locations in the other townships. Resource and investment would be required to develop similar areas and this may trigger further consultation using the special consultative procedure under section 83 of the LGA. Adding time restrictions overnight would add complexity and an expectation of monitoring and enforcement beyond levels currently planned.</p>
<p>Not applicable</p> <p>Three submitters stated they were either not impacted by the proposed amendment or unfamiliar with the area.</p> <p>One submitter thought few people would want to camp there.</p>	<p>Acknowledged.</p>

Recommendation

No amendments to the Bylaw are recommended in response to these submission points.

Consultation included a request for feedback on a proposed amendment to the Clifford Square RMP for consistency with the Bylaw and to allow for camping to continue to occur behind the Fell Museum. Therefore, it is recommended to amend the Clifford Square RMP to include the following statement:

7.2.12. Camping is permitted only in the designated camping area as defined by Council Bylaws. Only self-contained vehicles may be used for camping.

It is noted that, while further review of the Clifford Square RMP is likely required, the analysis and recommendations in this report are confined to matters consulted on within the scope of the Bylaw.

Coastal area restrictions

43 submitters responded to the question on the proposed restricted areas. Submissions indicated general support or opposition, that the proposed areas were too restrictive or not restrictive enough, and discussed concerns for monitoring and enforcement, signage, different levels of complexity, facilities, the number of nights and the criteria under the Act. Comments were also received specific to certain restricted areas including South Tora Reserve, Ngawi Reserve, Ngawi Surf Breaks and Te Awaiti Reserve and some additional areas along the Cape Palliser coast were proposed.

“Pleased to see the Council doing something about these areas”

“The coast should not be banned or limited”

“Yes that is good. Allowed everyone to have a chance and staying at these special places and not let some people think they own it”

“These restrictions seem fair enough”

Submission Summary	Staff Response
<p>Support 20 submitters indicated general support for the proposed restricted areas.</p>	<p>Acknowledged.</p>
<p>Opposition Nine submitters indicated opposition to the proposed restricted areas.</p>	<p>The proposed restricted areas have been assessed against the criteria in Section 11 of the Act. These criteria are:</p> <ul style="list-style-type: none"> • to protect the area, including environmentally, historically and/or culturally sensitive sites; • to protect health and safety, for example where there is a risk of flood or storm surge; and • to protect access to the area, where freedom campers could block access for other users or cause damage to infrastructure.
<p>Too restrictive Nine submitters suggested the proposed restrictions are too restrictive. Of these:</p> <p>Five submitters wanted more areas to be made available.</p> <p>One submitter suggested self-contained camping not be restricted on the coast.</p> <p>One submitter opposed restrictions at Ngawi surf breaks.</p> <p>One submitter requested fewer restrictions in dive areas.</p> <p>One submitter discussed need to stay overnight when setting crayfish pots.</p> <p>One submitter stated it is unfair to require non-self-contained vehicles to travel back and forth from the coast each day.</p> <p>One submitter requested more flexibility to allow campers to spread out and not</p>	<p>The coastal areas have been assessed against the criteria in Section 11 of the Act. Site assessment along the coast indicates there are significant concerns for environmental reasons due to coastal erosion and the presence of unique biodiversity including native wildlife populations. Discussions with mana whenua indicate a high number of cultural sites of significance. There are also concerns for preserving access along the coast for remote communities and all users of the areas, including campers, day-trippers and residents.</p> <p>There are a number of areas along the coast where freedom camping is permitted for self-contained vehicles, non-self-contained vehicles and tenting, where those engaging in activities such as diving and crayfishing may camp overnight.</p>

Submission Summary	Staff Response
<p>be all in the same area and does not understand why situation needs to change from when they were growing up.</p> <p>One submitter stated restricted areas should apply only to vehicle-based camping and tenting should be permitted everywhere.</p>	<p>Recent changes in legislation have come in response to increased negative impacts of freedom camping, which are in part due to the cumulative effect of increased numbers of freedom campers. The proposed restricted areas have been assessed against the criteria in Section 11 of the Act and restrictions are proposed for the protection of these criteria.</p> <p>There are appropriate locations with facilities provided on the coast where non-self-contained vehicles and tenting are permitted. The proposed restrictions are based on the criteria in Section 11 of the Act, to protect areas from the negative impacts of freedom camping using both vehicles and tents.</p>
<p>Not restrictive enough</p> <p>One submitter stated waterfront camping should be prohibited.</p>	<p>The definition of freedom camping in the Act includes waterfront camping “...within 200m of the mean low-water springs line of a sea or harbour”. Areas may be prohibited where necessary to protect the criteria under Section 11 of the Act. Some areas along the coast are proposed to be prohibited under these criteria. There are other areas where freedom camping is proposed to continue to be permitted with restrictions.</p>
<p>Monitoring/enforcement</p> <p>Three submitters indicated concern for the ability and cost of management and enforcement.</p> <p>One submitter suggested more focus on peak periods and busy weekends.</p> <p>One submitter suggested a ‘ranger’ position to assist with education/information, monitoring and enforcement.</p>	<p>The enforcement strategy is intended to continue in line with the approach to other similar bylaws and the previous Camping in Coastal Areas Bylaw. Council staff intend to take a reactive approach to issues and complaints, responding as they arise, which will allow the Bylaw to be enforced within existing resources. Council has also received further funding from MBIE for the development and implementation of a Freedom Camping Ambassador Programme using local</p>

Submission Summary	Staff Response
	community members to support the monitoring and enforcement strategy.
<p>Signage</p> <p>One submitter suggested collaborating with local communities for design and placement of signage to improve and manage understanding between day users and overnight campers.</p>	<p>A signage plan is under development, alongside local community and mana whenua. The signage plan will consider strategic and appropriate locations of the signs to support people unfamiliar with the area, to inform of relevant restrictions, locations of toilet facilities and to encourage responsible waste disposal.</p>
<p>Complexity</p> <p>One submitter stated rules are too complex and to rely on common sense.</p> <p>One submitter suggested applying seasonal restrictions for areas that may be unsafe at certain times for example due to weather events.</p>	<p>The Bylaw aims to minimise complexity by reflecting existing restrictions at key areas and proposing similar restrictions for similar situations. This ensures consistency of approach and ease of understanding.</p> <p>The Bylaw gives Council the ability to close camping areas temporarily for various reasons, including maintenance and safety.</p>
<p>Facilities</p> <p>One submitter queried if facilities were in place where tenting and non-self-contained camping is permitted.</p> <p>One submitter stated there is no need to be self-contained when there are toilet facilities available.</p> <p>One submitter is concerned about the cost to ratepayers of maintaining public facilities at many locations on the coast.</p> <p>Three submitters requested more toilet and rubbish facilities be provided at more locations. Of these, one requested more facilities be provided at every beach so campers can camp wherever they want.</p>	<p>There are toilet facilities located at each of the locations where non-self-contained camping and tenting are permitted.</p> <p>Public facilities at coastal locations are currently maintained and managed within existing budgets.</p> <p>Resource and investment would be required to develop and maintain additional facilities.</p>
Number of nights	

Submission Summary	Staff Response
<p>One submitter stated that length of stays on the coast generally self-regulate due to weather conditions, isolation and the need for supplies.</p> <p>One submitter suggested 3-5 nights.</p> <p>One submitter suggested a 48 hour restriction along the coast instead of prohibiting.</p>	<p>The proposed number of nights is informed by the status quo and information from operations and enforcement staff.</p> <p>Monitoring and enforcement in remote areas for 3-5 nights or 48 hours is not practical given the geographical and logistical challenges of the district and current level of service. Monitoring and enforcement is undertaken on a reactive basis with Council responding to complaints and issues as they arise.</p>
<p>Criteria under the Act</p> <p>One submitter does not think health and safety is a valid reason for restrictions and people should use common sense.</p>	<p>Health and safety is one of the three criteria for protection specified in section 11 of the Act.</p>
<p>South Tora Reserve</p> <p>Two submitters commented on South Tora Reserve camping area. Of these:</p> <p>One submitter described obstruction and damage caused by commercial paua fishing boats.</p> <p>One submitter made a number of points as follows: Stated erosion means the road now encroaches on private property. Requested a survey of changing reserve area and update of the designated camping area to reflect the private property boundary and sea level change. Suggested vehicle-based camping be permitted again at this area.</p>	<p>Staff have no record of complaints related to the issue described. There are no existing consents for operating commercial business across Council reserves. Concerns around fishing should be referred to the Ministry for Primary Industries (MPI).</p> <p>Staff are aware of the changing coastline and reduction in the reserve area due to erosion. While coastal movements are unpredictable, staff are aware this area will likely need to be reviewed in future. As discussed in section 6.1 of this report, the mapped areas are intended to be indicative only. Map data is taken from the LINZ database and there is potential for some inconsistency.</p> <p>Though outside this bylaw process, Council staff can investigate surveying the reserve to ensure the area mapped is accurate.</p> <p>The development of signage for this area will consider strategic locations to support people unfamiliar with the area,</p>

Submission Summary	Staff Response
	<p>to distinguish the reserve area from private property and to direct camping area users to appropriate locations. The previous prohibition on vehicles was in response to an issue of caravans being left permanently at the site. This issue has now been resolved and staff advise vehicle-based camping currently occurs in this area despite signage indicating a prohibition. Removing the prohibition on vehicles would formalise the status quo and reduce complexity in the Bylaw. Signage can be removed and updated as part of the signage plan. There would be no implications for the RMP.</p>
<p>Ngawi Reserve Three submitters commented on Ngawi Reserve. Of these:</p> <p>Two submitters stated that high numbers of freedom campers obstruct access for day users and residents.</p> <p>One submitter discussed overflowing rubbish and recycling bins.</p> <p>One submitter stated freedom campers are unsightly, leave rubbish and contribute nothing to the community.</p> <p>One submitter supported the proposed restrictions for this area and proposed to expand the permitted camping area within the Reserve.</p>	<p>Beach access is available either side of the designated camping area.</p> <p>Staff are aware of issues of rubbish overflow at peak times and advise this is exacerbated by the camping area rubbish bins also being used to dispose of household waste. Additional collections are currently organised during peak periods and a comprehensive review of waste management is planned to assess challenges and feasibility of alternative waste management strategies for this area.</p> <p>Expansion of the designated camping area is possible within the reserve boundary to the south. Freedom campers using vehicles currently overflow onto this area and expansion would formalise current practice. If elected members support formalising the expansion of this area within the Bylaw, maps will require updating within the Coastal RMP to reflect this</p>

Submission Summary	Staff Response
	<p>expansion. As this change has been subject to public consultation through this Bylaw's development process and does not constitute a significant change to the overall camping policy for this reserve, updating the maps within the Coastal RMP for consistency with the areas described in the final Bylaw will not trigger any additional consultation requirements.</p> <p>Updated maps showing the extended area can be included in the signage plan.</p>
<p>Ngawi Surf Breaks Two submitters commented on Ngawi Surf Breaks.</p> <p>One submitter stated camping should not be permitted in front of a paid campground.</p> <p>One submitter supported the proposed restrictions for this area and proposed to expand the permitted camping area within the Reserve. Also suggested applying a maximum occupancy to the area.</p>	<p>The presence of a paid campground does not meet the criteria in Section 11 of the Act for prohibition.</p> <p>The Reserve area to the south is directly adjacent to the Ngawi Hitaround Golf links course. There is no clearly delineated boundary between the two parcels of land. Authorising camping in this area may create tension between golfers and campers as well as present a safety risk.</p> <p>Expansion of the designated camping area is possible within the reserve boundary to the north. Freedom campers currently overflow into this area and expansion would formalise current practice. Staff note the riverbed is Māori land and iwi have assisted in moving campers off this private land in the past.</p> <p>If elected members support formalising the expansion of this area within the Bylaw, maps will require updating within the Coastal RMP to reflect this expansion. As above, this change has been subject to public consultation through this Bylaw's development process and does not constitute a significant change to the overall camping policy for this reserve, updating the</p>

Submission Summary	Staff Response
	<p>maps within the Coastal RMP for consistency with the areas described in the final Bylaw will not trigger any additional consultation requirements. Updated maps showing the extended area can be included in the signage plan.</p>
<p>Te Awaiti Reserve</p> <p>One submitter claimed ownership of approximately 80 percent of the Te Awaiti Reserve. The submitter stated that the Freedom Camping Act does not apply to private land and requested compensation for the use of the Reserve for freedom camping.</p> <p>The submitter also requested prohibiting or charging a fee for camping at Te Awaiti and claimed many local Māori object to the camping area.</p> <p>The submitter described issues of illegal vehicles at Te Awaiti.</p> <p>The submitter stated concern for risk of drowning and eutrophication of the lagoon water at Te Awaiti.</p>	<p>Te Awaiti Reserve was gazetted as a recreation reserve in the year 2000. It comes under the definition of Local Authority Land and is subject to the Freedom Camping Act 2011 and Reserves Act 1977.</p> <p>This reserve is a popular camping area with strong community support. Prohibiting freedom camping would represent a significant change from the status quo and would be likely to trigger additional consultation using the special consultative procedure under section 83 of the LGA.</p> <p>Charging a fee would make it no longer freedom camping and instead subject to the comprehensive requirements under the Camping-Grounds Regulations 1985. These are cost prohibitive and include the requirement to provide additional toilet, shower, laundry and cooking facilities as well as potable water and hot water.</p> <p>Pre-engagement and consultation with mana whenua throughout bylaw development has indicated no objection to continued camping in Te Awaiti Reserve.</p> <p>Vehicle-based camping is permitted at Te Awaiti, any illegal activity should be referred to the police.</p> <p>Staff are aware of potential for flooding in specific circumstances. Signage currently advises campers of the risk and community members support risk management. Staff are not aware of evidence of water safety concerns for swimmers in the lagoon.</p>

Submission Summary	Staff Response
	<p>Staff are not aware of evidence that shows eutrophication (increased nutrient input frequently caused by run-off from productive land) of the lagoon linked to freedom camping activity.</p>
<p>Additional areas</p> <p>One submitter suggested creating new areas for freedom campers that are not on the waterfront and where they do not inconvenience ratepayers or day-trippers (eg Pinnacles DOC site).</p> <p>One submitter suggested a number of additional areas along the Cape Palliser coast where it may be appropriate to permit self-contained camping. These areas are: Turner’s Bay, Waiwhero and Whatarangi.</p>	<p>Local authority areas on the coast have been assessed against the criteria in Section 11 of the Act. In order to provide additional areas, investment would be required to ensure protection of these criteria; protection of the area, protection of health and safety and protection of access to the area.</p> <p>Suggested areas at Turner’s Bay and Waiwhero are part of private titles, not local authority areas and unable to be regulated by a bylaw.</p> <p>The suggested area at Whatarangi is currently used for storage of gravel and heavy machinery used for ongoing road repairs along the Cape Palliser coastal road. Staff advise it would present a risk to health and safety for freedom camping to be permitted in this area. There are no facilities and it would be inappropriate and inconsistent to permit tenting or non-self-contained camping. Providing a new area for self-contained vehicles only would introduce more complexity into the Bylaw and create possible implications for RMPs. It would also be likely to trigger additional consultation using the special consultative procedure under section 83 of the LGA.</p>

Recommendation

It is recommended that Council amend the restrictions for South Tora Recreation Reserve to remove the prohibition on vehicles. It is also recommended to extend the designated camping areas at Ngawi Reserve and at Ngawi Surf Breaks as described above.

These amendments have been made within the Bylaw in Appendix 1 for Council approval.

10.9 Out of Scope

A number of submissions discussed issues that are out of scope of the Bylaw.

Submission Summary	Staff Response
<p>Trespassing</p> <p>Two submitters described issues with freedom campers trespassing, accessing TOP10 holiday park facilities without paying.</p> <p>One submitter described issues with freedom campers trespassing on private property and disturbing livestock at Te Awaiti.</p>	<p>Staff have no record of complaints filed or previous communication about this issue at the TOP10 holiday park. Trespassing should be treated as a police matter and reported accordingly.</p>
<p>Fire</p> <p>One submitter described instances of illegal fires after Kupe’s Sail.</p> <p>One submitter described instances of illegal fires at Te Awaiti.</p>	<p>Issues related to fire permits or hazards should be referred to Fire and Emergency New Zealand (FENZ).</p>
<p>Dogs</p> <p>One submitter requested campers be permitted to bring their dogs.</p> <p>One submitter requested a response to their submission on the Dog Policy and Bylaw describing an issue of sheep measles allegedly caused by dogs at Te Awaiti camping area.</p>	<p>Dogs are addressed in Council’s Control of Dogs Policy and Bylaw 2023. Dogs are prohibited in camping areas, with the exception of Ngawi Reserve, where a trial period is currently being conducted.</p> <p>Engagement feedback and submissions made during formal consultation on the Dog Control Policy and Bylaw were considered and responded to at the deliberations meeting on 27 September 2023. This feedback informed amendments to the Dog Control Policy and Bylaw.</p>
<p>Mobile app</p> <p>One submitter suggested developing a mobile app for campers showing public toilet facilities nationwide.</p>	<p>Resource would be required for this beyond Council budget.</p>
<p>Fishing</p> <p>One submitter described issues of illegal fishing (as well as dangerous vehicle use and public toileting) at Fish Rocks.</p>	<p>Illegal fishing, such as poaching, should be reported to MPI.</p>

Submission Summary	Staff Response
<p>One submitter described issues of illegal fishing at Te Awaiti.</p>	
<p>Other</p> <p>One submitter discussed a 2005 Deed of Management and requested Council give formal notice to DOC Wellington Conservancy on behalf of his Majesty the King to implement the terms of the Deed of Management.</p>	<p>Council staff have no record of a 2005 Deed of Management. Council staff are aware of a 1995 Deed of Management. The Office of the Auditor General commented in a letter dated 14 August 2008:</p> <p><i>“The 1995 Deed is not relevant to Te Awaiti recreation reserve and the camping ground at that reserve as it concerns a different reserve – Te Awaiti esplanade reserve.”</i></p> <p>The 1995 Deed of Management does not apply to any of the areas addressed in the Bylaw. Freedom camping is prohibited under the Reserves Act 1977 on the reserves to which the Deed of Management applies.</p> <p>If Council wish to consider the terms of the 1995 Deed of Management further, it is recommended that this be done outside this Bylaw process as it would be outside the scope of the Freedom Camping Act.</p>

Recommendation

No amendments to the Bylaw are recommended in response to these submission points.

11. Options

Option	Advantages	Disadvantages
<p>1. Adopt the recommended changes to the attached Bylaw <i>(recommended option)</i></p> <p>Recommend to Council to adopt the Freedom Camping Bylaw as attached to this report and to amend the Clifford</p>	<ul style="list-style-type: none"> • The changes recommended to the Bylaw reflect the community’s feedback. • Making a Freedom Camping Bylaw is consistent with previous Council decisions on this matter. 	<ul style="list-style-type: none"> • Following elections in 2023, the New Zealand Government has changed since the Freedom Camping Act 2011 was amended in mid-2023. It is possible there may be further amendments to the Act which may require Council to review

<p>Square Reserve Management Plan to enable camping as described in the Bylaw.</p>	<ul style="list-style-type: none"> • Council can consider a bylaw which has been amended to reflect updated advice from MBIE, including the model bylaw updated in January 2024. • Completion of this step continues the consultation process previously communicated to the public and is consistent with the approach Council advised MBIE it would undertake as part of the funding allocated. • Helps address the problems caused by freedom camping in a local appropriate way, by identifying areas which require protection and giving Council the ability to apply temporary restrictions or prohibitions and allowing for exemptions. • Allows Council to identify areas where vehicles that are not self-contained can camp, such as on the coast. • Allows Council to access infringement offences and other enforcement powers in the Act (e.g. removal of camping items) can be used to deal with breaches. • Ensures the Reserve Management Plans are consistent with the new bylaw. 	<p>the bylaw before the five-year review period.</p>
<p>2. Make additional changes to the attached Bylaw Recommend to Council to adopt the Freedom Camping Bylaw as attached to this report</p>	<ul style="list-style-type: none"> • Elected members are able to directly influence the wording of the bylaw. 	<ul style="list-style-type: none"> • Making additional amendments during a Council meeting does not give Council staff opportunity to consider and research the impact of the amendments.

<p>and to amend the Clifford Square Reserve Management Plan to enable camping as described in the Bylaw, with additional amendments</p>		<ul style="list-style-type: none"> • Does not allow for community feedback on additional amendments.
<p>3. Do not make a bylaw (status quo) Recommend that Council do not adopt a Freedom Camping Bylaw.</p>	<ul style="list-style-type: none"> • The District may be perceived as being more welcoming to visitors that choose to freedom camp because, under the Freedom Camping Act 2011, the 'default' is that freedom camping is permitted on all council-owned or managed land. This may result in economic benefits due to more visitors. • Any future changes to the Freedom Camping Act 2011 made by the new Government can be addressed as needed. 	<ul style="list-style-type: none"> • Ignores the community feedback received to date which is generally supportive of Council actively regulating and allowing for freedom camping. • Prevents vehicles that are not self-contained from camping on Council controlled land. • Section 44 of the Reserves Act 1977 is likely to prevent the use of Council reserves for freedom camping, even on those that may be suitable locations for the activity. This could result in over-use of other locations and cause cumulative negative effects in those areas. • Relies on enforcement tools under several different pieces of legislation to address the negative effects of freedom camping with the risk that enforcement action becomes piecemeal or inconsistent. • Potentially higher cost to the Council to implement multiple monitoring and enforcement systems and manage assets (e.g. rubbish bins, public toilets).

12. Strategic Drivers and Legislative Requirements

12.1 Significant risk register

- Relationship with iwi, hapū, Māori
- Climate Change
- Emergency Management
- IT architecture, information system, information management, and security
- Financial management, sustainability, fraud, and corruption
- Legislative and regulative reforms
- Social licence to operate and reputation
- Asset management
- Economic conditions
- Health and Safety

12.2 Legal and Policy Considerations

Freedom Camping Act 2011

As set out in section 11(2) of the Freedom Camping Act 2011, the Council may only make a bylaw under the Act if it is satisfied that:

- (a) the bylaw is necessary for one or more of the following purposes:
 - (i) to protect the area
 - (ii) to protect the health and safety of people who may visit the area
 - (iii) to protect access to the area; and
- (b) the bylaw is the most appropriate and proportionate way of addressing the perceived problem in relation to that area; and
- (c) the bylaw is not inconsistent with the New Zealand Bill of Rights Act 1990 (NZBORA).

In regard to the above, area assessment summaries were included in the staff report to the [27 September 2023 Council meeting](#). These show the necessity for freedom camping in some areas to be restricted or prohibited for the purposes set out in (a)(i) to (iii). At the [meeting on 28 June 2023](#), Council considered options for addressing the problems caused by freedom camping and determined a bylaw to be the most appropriate and proportionate response as well as being necessary for the purposes in (a) above.

In regard to (b) above, [the staff report](#) to the 28 June 2023 Council meeting describes the problems related to freedom camping. While some of the issues (e.g. litter and traffic safety) are not caused solely by those who are freedom camping, cumulative impacts can be exacerbated due to the number of people freedom camping in a particular place. Other options for addressing the problems caused by freedom camping were described in the same staff report and considered at the Council meeting. After considering these options, the Council agreed, at the 28 June 2023 meeting, a bylaw is the most appropriate and proportionate way to address the problems.

In regard to (c) above, the staff report to the [27 September 2022 Council meeting](#) included a preliminary assessment of the Bylaw's consistency with NZBORA. A full assessment follows.

New Zealand Bill of Rights Act 1990 (NZBORA)

Part 2 of NZBORA sets out rights that are affirmed and protected, that may only be subject to reasonable limits that can be demonstrably justified in a free and democratic

society. The Freedom Camping Bylaw may give rise to implications for the following rights under NZBORA:

- Section 16: Right to freedom of peaceful assembly
- Section 18: Right to freedom of movement and residence

Council staff have assessed the possible inconsistencies as follows:

- Section 16 and 18 Rights – the Bylaw’s provisions are justified because they only limit the rights of individuals to the extent it is reasonable to do so to in order for other people’s rights and freedoms to be maintained.

This assessment indicates that the Bylaw and its provisions are justified because they only limit the rights of individuals to the extent it is reasonable to do so, according to the criteria of the Act. These criteria ensure restrictions are applied where necessary in order to maintain the rights and freedoms of other people.

This report recommends some changes to the Bylaw. Council staff have reviewed the changes to ensure they comply with the Freedom Camping Act 2011, including that they are the most appropriate and proportionate ways of addressing the perceived problems in relation to the various areas. Staff advise that the changes proposed consist of minor refinements of the text to improve readability, to better achieve the intention of the relevant clauses and to align with the legislation, and that changes made in response to submissions received via the consultation process are reasonably within the scope of what was consulted on.

On this basis, staff advise that further consultation on the changes is not necessary. The substantive content of the Bylaw has not changed from the draft, staff therefore recommend the above assessment be confirmed, and the Council can be satisfied that the final form of the Bylaw is not inconsistent with NZBORA.

12.3 Significance, Engagement and Consultation

Local Government Act 2002 (LGA) Special consultative procedure

Section 86 of the LGA sets out the special consultative procedure required by the Freedom Camping Act 2011 when making a freedom camping bylaw. The consultation described earlier in this report and in the previous report titled [Adoption of the Freedom Camping Bylaw Statement of Proposal for Community Consultation](#) presented at the Council meeting on 27 September 2023 is consistent with this requirement.

Reserves Act 1977

Section 44 (9) of the Reserves Act enables councils to make changes to a Reserve Management Plan where the change does not involve a comprehensive review of the Reserve Management Plan, and without following a complete formal review under section 44 (5) and 44 (6) of the Reserves Act 1977, if it thinks fit. The consultation conducted, as described earlier in this report, is consistent with this requirement.

13. Financial Considerations

Financial considerations associated with the development of the Bylaw have been met using the funding received from MBIE for the purpose of creating a freedom camping bylaw.

It is planned that the MBIE funding received will also meet costs associated with the initial implementation of the Bylaw, including for the delivery of additional signage, educational activities to communicate the new Bylaw and development of the

Ambassador Programme. Enforcement is intended to continue in line with the approach to other similar bylaws and to be managed within existing budgets.

14. Prioritisation

14.1 Mana whenua considerations

Specific engagement was conducted with mana whenua including the Māori Standing Committee and Ngāti Kahungunu ki Wairarapa Tāmaki Nui-a-Rua Settlement Trust to understand some of the issues of importance, sites of significance and immediate preferences for land under settlement. This feedback was considered and incorporated into the Bylaw where appropriate.

Recent Settlement with Ngāti Kahungunu ki Wairarapa Tāmaki Nui-a-Rua impacts some existing Council-managed camping areas which come under the scope of the Bylaw. Communications with mana whenua will be continued regarding impacted land to ensure the Bylaw is consistent with future management arrangements.

Freedom camping is an activity that can accompany the exercise of customary rights particularly in coastal areas. Prior consent from Council for freedom camping will consider the exercise of customary rights.

14.2 Environmental/Climate Change Impact

The Bylaw has no direct impact on Environment and Climate Change.

15. Risks and Mitigations

15.1 Communications

A communications plan for implementation of the Bylaw is under development. This includes the signage plan, education activities and the development of the Ambassador Programme. These are intended to support understanding of the changes for those both familiar and unfamiliar with the areas, to inform of relevant restrictions, locations of toilet facilities and to encourage responsible waste disposal.

Contact Officer: Emma Wright McHardie & Natalie Street, GMD Consultants
Reviewed By: Amanda Bradley, General Manager, Policy and Governance
Nicki Ansell, Lead Advisor – Community Governance

Approval for Revolving Bank Facility

1. Purpose

To seek resolution by Councillors to accept the Westpac offer as per the attached letter.

2. Executive Summary

Following an earlier resolution by Council, Bancorp Treasury Services Ltd has been assisting South Wairarapa District Council in undertaking a request for proposal process with the local banking sector in relation to the establishment of appropriate funding facilities.

The three banks approached were ANZ, BNZ (current transactional banking provider) and Westpac. All indicated that they had a strong interest in establishing a lending relationship with SWDC and would be able to present a credit approved offer as was requested.

This executive summary will also be provided to:

- Māori Standing Committee
- Featherston Community Board
- Greytown Community Board
- Martinborough Community Board
- All of Council

3. Recommendations

Officers recommend that the *Committee*:

1. **receive** the *Approval for Revolving Bank Facility* Report.
2. **approve** the acceptance of the offer made by Westpac for the funding request, specifically for a total of \$10.0 million for a three-year term, as per Appendix 1.

4. Background

The table below summarises the offers received.

Money Market Facility	Cost comparison		
	ANZ	Westpac	BNZ
Amount	\$5,000,000	\$10,000,000	\$10,000,000
Pricing Basis	BKBM	BKBM	BKBM
Security	Deb Trust Deed	Deb Trust Deed	Deb Trust Deed
3 years			
Establishment Fee* (\$)	\$0	\$0	\$0
Line Fee \$ p.a.	\$12,500	\$35,000	\$35,000
Line Fee	0.250%	0.350%	0.350%
Margin	1.150%	1.00%	1.200%
Total cost fully drawn	1.400%	1.350%	1.550%

Westpac has been notified that subject to formal Council approval, there proposal is the preferred option and in anticipation of said approval, are preparing appropriate documentation for execution.

5. Prioritisation

5.1 Te Tiriti obligations

Engagement considered not required in this case.

5.2 Long Term Plan alignment

How does this align with strategic outcomes?

- Spatial Plan
- Long Term Plan
- Annual Plan

6. Discussion

The main points to cover are:

- Work undertaken by Officers to reach this recommendation
- Proposed recommendation and any associated risks

7. Strategic Drivers and Legislative Requirements

7.1 Significant risk register

- Relationship with iwi, hapū, Māori
- Climate Change
- Emergency Management
- IT architecture, information system, information management, and security
- Financial management, sustainability, fraud, and corruption
- Legislative and regulative reforms

- Social licence to operate and reputation
- Asset management
- Economic conditions
- Health and Safety

7.2 Policy implications

- [Financial delegations](#)
- [Revenue and Financing Policy](#)

8. Consultation

8.1 Communications and engagement

The persons who are affected by or interested in this matter are the general public and elected and appointed officials. It is the view of Officers that no public consultation is necessary.

8.2 Partnerships

Have you completed a communications plan for the work described/project to engage/communicate with partners/key stakeholders e.g. Waka Kotahi, Kainga Ora, community groups, particular individuals etc?

Yes No

If no, is a communications plan required?

Yes No

9. Financial Considerations

There is no financial impact. All actions from the policy will be within operating budgets.

10. Climate Change Considerations

There are no positive or negative effects on climate change from this decision.

11. Health and Safety Considerations

There are no health and safety considerations

12. Appendices

Appendix 1 – Amended Discretionary Expenditure Policy and Guidelines (with tracked changes and redactions)

Contact Officer: Paul Gardner, General Manager – Corporate Services
Reviewed By: Janice Smith, Chief Executive

Appendix 1 – Funding request for proposal

23 February 2024

PRIVATE AND CONFIDENTIAL

Janice Smith
Chief Executive
South Wairarapa District Council
PO BOX 6
MARTINBOROUGH 5741

Dear Janice

FUNDING REQUEST FOR PROPOSAL (“RFP”) – SUMMARY & RECOMMENDATION

Bancorp Treasury Services Ltd (“Bancorp Treasury”) has been assisting South Wairarapa District Council (“SWDC”) in undertaking an RFP process with the local banking sector in relation to the establishment of appropriate funding facilities.

The three banks approached were ANZ, BNZ (current transactional banking provider) and Westpac. All indicated that they had a strong interest in establishing a lending relationship with SWDC and would be able to present a credit approved offer as was requested.

The table below summarises the offers received.

Money Market Facility	Cost comparison					
	ANZ		Westpac		BNZ	
Amount	\$5,000,000		\$10,000,000		\$10,000,000	
Pricing Basis	BKBM		BKBM		BKBM	
Security	Deb Trust Deed		Deb Trust Deed		Deb Trust Deed	
3 years						
Establishment Fee* (\$)	\$0		\$0		\$0	
Line Fee \$ p.a.	\$12,500		\$35,000		\$35,000	
Line Fee	0.250%		0.350%		0.350%	
Margin	1.150%		1.00%		1.200%	
Total cost fully drawn	1.400%		1.350%		1.550%	

- The banks require copies of annual accounts, within 120 days of year-end for Westpac and 270 days for ANZ with BNZ not defining a timeframe.
- BNZ has covenant requirements of gross interest <12% of rates revenue and <10% of total revenue as per current annual plan. No specific covenants from the other two and we assume they would reference against the LGFA covenants for an unrated borrower.

All banks also offered overdraft facilities of up to \$2.0 million but, as discussed, SWDC is going to defer any overdraft establishment at this stage but rather include it within an RFP process in relation to transactional banking services. This will commence over the next few months.

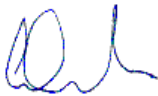
We have referenced the pricing against other recent Council funding RFPs we have been involved in and also against current bank pricing across our wider Council client base. The offers from ANZ and Westpac are at the bottom of the range we would expect for a non-rated Council and in fact are in line with bank facility charges for rated Councils.

Based on the offers received we think that the Westpac offer meets the funding needs of SWDC as detailed in the RFP documentation, has the most attractive all-up pricing and, and from our experience is a simple to use product.

Thus, **we recommend that SWDC accepts the Westpac offer for a total of \$10.0 million for a three-year term** and, as per RFP timetable, today notify the bank that it has been successful (subject to formal Council approval on 13 March) and request that it prepare appropriate documentation for execution after Council approval is received.

If you have any queries, please do not hesitate to contact the undersigned.

Yours sincerely



EARL WHITE

Executive Advisor



NICK REEVES

Client Advisor

This document has been prepared by Bancorp Treasury Services Limited (“BTSL”). Whilst all reasonable care has been taken to ensure the facts stated are accurate and the opinions given are fair and reasonable, neither BTSL nor any of its directors, officers or employees shall in any way be responsible for the contents. No liability is assumed by BTSL, its directors, officers or employees for action taken or not taken on the basis of this document.

Review of the Wairarapa Consolidated Bylaw 2019

1. Purpose

The purpose of this report is to provide information on the review of the Wairarapa Consolidated Bylaw 2019. This report also seeks Council agreement to share the estimated costs of the review across the Wairarapa District Councils, and to delegate responsibility to the Wairarapa Policy Working Group to support the review.

2. Recommendations

That Council:

- a. **notes** that a review of the Wairarapa Consolidated Bylaw 2019 for the Masterton, Carterton and South Wairarapa districts is required by 26 June 2024 and is underway;
- b. **notes** that the review approach is consistent with the requirements of the Local Government Act 2002;
- c. **agrees** to share the review costs across the three Wairarapa District Councils as per the Wairarapa Shared Services Funding Policy (joint policy development activity type); and
- d. **agrees** to delegate responsibility to the Wairarapa Policy Working Group to support the review and make recommendations back to the three Wairarapa District Councils.

3. Background

Section 145 of the Local Government Act 2002 (LGA) empowers councils to make bylaws to:

- protect the public from nuisance;
- protect, promote and maintain public health and safety;
- minimise the potential for offensive behaviour in public places.

The Wairarapa Consolidated Bylaw 2019 was adopted by Masterton, Carterton and South Wairarapa District Council (the Wairarapa District Councils) on 26 June 2019 and came into force on 8 July 2019.

The adoption of the bylaw followed a review of the Masterton and South Wairarapa District Council Consolidated Bylaw 2012 which was first made in 2013. As part of the 2019 review, the scope of the consolidated bylaw was expanded to include Carterton District Council and adopted as a new Wairarapa Consolidated Bylaw.

The Wairarapa Consolidated Bylaw 2019 is divided into parts as follows:

- Part 1: Introductory
- Part 2: Public Places (including Park and Reserves)
- Part 3: Selling of Goods or Services in Public Places
- Part 4 Prevention of Nuisance from Fire and Smoke
- Part 5: Water Supply
- Part 6: Keeping of Animals, Poultry and Bees
- Part 7: Cemeteries and Crematoria
- Part 8: Wastewater
- Part 9: Trade Waste
- Part 10: Traffic

Part 11: Speed - revoked in 2023 due to the Land Transport Rule: Setting of Speed Limits 2022 which changed the way speed limits are set.

- Part 12: Beauty Therapy, Tattooing and Skin Piercing

A copy of the current Bylaw is provided in Attachment One.

A bylaw made under the LGA must be reviewed five years after it is first made, and then every 10 years after that. For Masterton and South Wairarapa, the consolidated bylaw builds on and reflects what was in the previous Masterton and South Wairarapa Consolidated Bylaw. It was the 5-year review of that Bylaw that included Carterton and resulted in the new Wairarapa Consolidated Bylaw. The new Wairarapa Consolidated Bylaw is therefore due for review by 26 June 2024. If the bylaw is not reviewed by this date, the LGA states it will be revoked two years after the date that the bylaw should have been reviewed by (26 June 2026).

In addition to the consolidated bylaw, Wairarapa District Councils also have a Wairarapa Solid Waste Management and Minimisation Bylaw and standalone bylaws (e.g. Alcohol Control Bylaw). These bylaws are each subject to their own review periods and are not in scope of this review.

4. Analysis and Advice

Review Requirements

The LGA states councils must review a bylaw by making the determinations required by s155:

- a bylaw is the most appropriate way of addressing the perceived problem;

- the proposed bylaw is the most appropriate form of bylaw;
- whether the proposed bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990.

If, after the review, amendments are considered necessary, councils must consult using the Special Consultative Procedure (SCP). If amendments are not considered necessary, consultation is still required in accordance with the consultation requirements of the LGA and each Council's Significance and Engagement Policy.

Proposed Approach to the Review

As noted above, 2019 was the first time the consolidated bylaw was made for Carterton. Given that, a key focus of the review will be determining whether the bylaw is having the desired effect for Carterton. The review will also consider outstanding matters from the 2019 development as outlined below; and whether the consolidated bylaw is still fit for purpose and relevant in today's environment, taking into account recent developments and any legislative changes.

Governance oversight

In accordance with s32 of Schedule 7 of the LGA, the ability to *make* a bylaw cannot be delegated by Council. However, it is considered practical for the Wairarapa Policy Working Group (WPWG) to support the review and make recommendations back to the Wairarapa District Councils on any proposed bylaw amendments and the consultation approach. The WPWG would also carry out hearings and deliberations and make recommendations back to the Wairarapa District Councils on the adoption of a final bylaw. This is consistent with the approach to joint policy reviews.

Outstanding matters from the 2019 review

As part of the review in 2019, the Wairarapa District Councils resolved to undertake further consultation on proposed amendments to Part 12 of the Bylaw. This part provides the necessary regulatory support to manage hygiene standards in commercial practices where there is a risk of infection of communicable diseases from procedures carried out by beauty therapists, tattooists and skin piercers.

The proposed amendments would:

- prohibit scleral tattooing (permanent colouring of the white part of the eye) in the Masterton and Carterton Districts unless it is carried out by an ophthalmologist; and
- mean that tohunga tā moko (traditional Māori tattooing) would be exempt from the bylaw and that Tā Moko tattooists would instead adhere to the Ministry of Health's Customary Tattooing Guidelines for Operators.

These amendments were raised during the 2019 consultation period, however, as these changes would have an effect on the rights and obligations of the people to whom the bylaw applies, further consultation with the community would be required before making a final decision.

This review will assess whether these two matters are still relevant to progress.

Review Timeframes

The key tasks and indicative timeframes for the review are outlined below. We expect that the full review, including community consultation, will take a minimum of seven months to complete.

Note that for the purposes of the LGA, a bylaw review involves making the determinations required by s155 of the LGA. This is being completed as part of Phase 1 of the review. It is this phase that needs to be complete by 26 June.

Review Phase	Date	Activity/Milestone
Phase 1	March/April 2024	Background research, staff workshops and pre-engagement
	May 2024	WPWG meeting to present findings and proposed roll-over or amendments
	26 June 2024	Council makes s155 determinations and adopts draft bylaw and Statement of Proposal for consultation
Phase 2	28 June – 28 July 2024	Consultation period
	August 2024	WPWG Hearings/Deliberations and recommendation to Wairarapa District Councils on the final bylaw
	September 2024	Council adopts the final bylaw
	1 October 2024	If adopted, the bylaw comes into effect.

5. Summary of Considerations

Strategic, Policy and Legislative Implications

As noted above, councils are empowered to make bylaws under section 145 of the LGA and the bylaw is due for review as per the LGA.

The LGA states that one of the purposes of councils is to promote the social, economic, environment and cultural well-being of communities, in the present and for the future. Section 11 of LGA provides that the role of councils is to give effect to their purpose and perform the duties and exercise the rights conferred on them by, or under, LGA.

Significance, Engagement and Consultation

As noted, the LGA requires councils to consult using the SCP if amendments are proposed. This involves making a Statement of Proposal and draft bylaw publicly available for a one-month period.

If no amendments are proposed, the Councils will carry out consultation in accordance with the LGA and our Significance and Engagement Policies.

Financial Considerations

The budget for the review will be split across the Wairarapa District Councils according to the Wairarapa Shared Services Funding Policy, under the 'joint policy development' activity. The cost allocation will be 52% Masterton District Council, 20% Carterton District Council and 28% South Wairarapa District Council.

Council's contribution towards the costs associated with the review will be met from within existing budgets for 2023/24 and 2024/25.

Implications for Māori

There are no implications for Māori associated with the decisions in this report.

There are aspects of the current bylaw which impact Māori, such as the Beauty Therapy, Tattooing and Skin Piercing bylaw (in relation to Tā moko practices) and the Public Places and Cemeteries and Crematoria bylaws (in relation to scattering of ashes and Māori burials). The views of the Māori community will be sought during the consultation period.

Communications/Engagement Plan

The development of a communications and engagement plan to support the project are underway. Promotion of the review and opportunities to provide feedback will be undertaken via print and social media platforms.

Environmental/Climate Change Impact and Considerations

There are no environmental/climate change impact and considerations resulting from the decisions in this report.

NEXT STEPS

The review will progress as outlined.

Carterton and South Wairarapa District Councils will consider this report on 27 March 2024 and Masterton District Council will consider this report on 3 April 2024.

6. Appendices

Appendix 1 – Wairarapa Consolidated Bylaw 2019 – available here:
<https://swdc.govt.nz/meeting/council-27-march-2024/>

Contact Officer: Tania Madden, Strategic Planning Manager, MDC
Karen Yates, Manager Strategy and Governance, MDC

Reviewed By: Amanda Bradley, General Manager Democracy & Engagement, SWDC

Pain Farm History, Legality and Consultation for Treated Effluent Disposal Site Report

1. Purpose

To provide Council with a report as requested by resolution DC2024/05 setting out the history behind the Pain farm being permitted to be used for wastewater disposal, and on the further legal advice sought on the use of Pain Farm for this purpose.

This report will also provide sufficient information to reassure residents and interested people of the legality of the use of Pain farm for wastewater disposal and that consultation occurred with the community at the time that decisions were made resulting in its designated use.

2. Executive Summary

An advice letter of 24 May 2011 sent to the CE recently by a member of the community concluded with a view that, before moving to dispose of treated effluent on the Pain farm, council should first consult with the community about changing the use for the farm, and secondly, seek a court order modifying the Scheme as approved by the court order sought by the then Martinborough Borough Council in 1966.

However, this was one of three pieces of advice received by Council between 2011 and 2014 and it is important to consider all three and the concurrent actions of Council in implementing an approved Wastewater Strategy when looking at the history.

Recent advice confirms that the position council has taken is defensible when considering the requirements of the Scheme and council's overarching duties as Trustee.

It is also clear, based on the available records, that significant consultation occurred with the community at the time decisions were made to move to land disposal at Martinborough and to gain consent for the Discharge Permit to discharge treated effluent to land at Pain Farm. This included a SWDC Wastewater Combined Steering Committee, mail outs to all ratepayers, consent notification, environment court hearings, post-consent Community Liaison Group meeting, and reports to the Martinborough Community Board and Council referring to the future irrigation scheme and storage at the Pain farm.

In June 2023, Council along with WWL as its advisor, moved to designate the Pain Farm for the 'operation, maintenance, and improvement of a waste treatment and disposal

facility'. A portion of the site is already designated for 'waste transfer and recycling centre' purposes.

The community was alarmed by the notice of Requirement to designate the entire farm of approx. 76 hectares, including the Homestead and existing landfill. In the consent application and hearings of 2016, it was clear that the proposed irrigable area was 53 hectares, but this excluded buffer zones, and the possibility of storage on the farm in Stage 2B. Detailed design has not occurred and therefore it is unclear exactly what area will be used for buffer zones, storage or irrigation. However, Council can proceed with the removal of the homestead parcel from the designation.

Further, it is proposed that, as soon as practicable following completion of the Stage 2A irrigation detailed design phase for the Project, the Requiring Authority shall:

- a. Assess whether there are any areas of designated land that are not necessary for the construction, long term operation or maintenance of the site for wastewater treatment purposes, or on-going mitigation (including planting and buffer areas).
- b. Give notice to the Council in accordance with Section 182 of the RMA seeking the removal of any parts of the designation identified in Condition 1(a).

This would be an approach consistent with the original consent application that was notified to the community and to the decision of the Environment Court.

3. Recommendations

Officers recommend that the *Council*:

1. Receive the Pain Farm History, Legality and Consultation for Treated Effluent Disposal Site Report.
2. Support the conclusions of the report that the use of Pain Farm for treated effluent disposal is lawful and that significant public consultation occurred as decisions were made resulting in its designated use.

4. Background

Stating in 2008, SWDC consulted about future wastewater management for the district with representatives of iwi, public health, Department of Conservation, Fish and Game, GWRC and community boards. Additionally, they formed committees in each township to discuss and progress options for the future. All this work culminated in the preparation and distribution of a Draft Wastewater Strategy that was distributed to the entire community in 2011.

The proposed improvement plan (B) comprised moving from discharges to waterways and into discharge of treated effluent onto land¹. The proposal included obtaining consents and irrigating onto Council-owned land at all SWDC plants. The proposed

¹ Draft Wastewater Strategy 2011 dated 12 April 2011 page 2

improvement plan was supported by the community and stakeholders and ultimately included in Council's Annual Plan 2012/13².

As the Martinborough wastewater consent came up for renewal, the strategy was deployed, and this involved looking at the suitability of council-owned land for irrigation and storage. The use of the Pain Farm Estate was investigated both technically and legally.

These investigations, that continued over several years, culminated in a resource consent application, hearing, and ultimately decision approving a resource consent that included a staged implementation of discharge of treated human effluent to Pain Farm. It noted in the decision report that the Council engaged in a very comprehensive consultation process with key stakeholders, the SWDC Māori Standing Committee, the SWDC Wastewater Combined Steering Committee, and the wider community.

While the Wastewater Strategy was being implemented council officers obtained legal advice on the possibility of disposing of treated effluent on the Pain Farm lands. This advice was progressive as a clearer understanding of the overarching duties of council as the Trustee and the requirements of the Scheme (as defined by the court order obtained by Martinborough Council in 1966) was developed in relation to wastewater disposal³.

The key point defined by the Supreme Court's approval of a Scheme was that the farm could be used as an endowment, and the income of the Trust lands should be used for the benefit of the Martinborough community.

The overarching duty of council as Trustee is to ensure that whatever is done with the income generated from the land, needs to be to the benefit of the inhabitants of Martinborough. The definition of benefit is broad, and conceivably, benefit reaches to the upgrading of Martinborough's wastewater system, which is of benefit to the inhabitants of Martinborough.

It was always anticipated that the use of land disposal at Pain Farm would generate income to be used for the benefit of the community both through a market-based lease arrangement and through the distribution of income generated in irrigating the land.

It was also anticipated that the resource consent gained for the activity of wastewater disposal would ensure that concerns of the community (odour, aerosols, water quality standards, Māori cultural matters) would be addressed. The consent was granted and took effect in June 2016.

By 2019, the public asked the Finance, Audit and Risk Committee that Pain Farm be included as a strategic asset as part of the wastewater network in the district⁴.

² Ratified and committed to by Council through the 2012/13 Annual Plan

³ Advice received in 2011, 2013 and 2014

⁴ Minutes of FAR 28 August 2019

This executive summary will also be provided to:

- Māori Standing Committee
- Featherston Community Board
- Greytown Community Board
- Martinborough Community Board
- [NAME] Committee

5. Prioritisation

5.1 Te Tiriti obligations

Engagement considered not required in this case.

5.2 Long Term Plan alignment

The upgrade of the Martinborough WWTP is in SWDC's infrastructure strategy and compliance plans and part of the proposed investment plan for the next LTP.

Check box – where does it fit?

- Spatial Plan
- Long Term Plan
- Annual Plan

Martinborough WWTP Compliance Upgrades – Stage 2a Land Irrigation and Stage 2b Winter Storage are identified in years 1 to 10 of the programme to coincide with the consent requirements in 2030 and 2035.

6. Discussion

6.1 Legality

An advice letter of 24 May 2011 sent to the CE recently by a member of the community concluded with a view that, before moving to dispose of treated effluent on the Pain farm, council should first consult with the community about changing the use for the farm, and secondly, seek a court order modifying the Scheme as approved by the court order sought by the then Martinborough Borough Council in 1966.

It is useful to review the 1966 decision and specifically the concept of approval of a 'scheme', the key point being, that the farm could be used as an endowment, and the income of Trust lands should be used for the benefit of the Martinborough community.

Supreme Court decision approving a Scheme:

... That the income of the Trust lands should be used ... in maintaining and improving the borough's parks, sportsgrounds, camping ground, swimming baths, providing, equipping and maintaining sports facilities and a children's playground in such manner and in such proportion as the Council may from time to time decide.

The Scheme varies the trust in respect of the income from the Pain Farm. It is silent as to the property, i.e., the Pain Farm itself. The Scheme simply allows for distribution of the income from the Pain Farm for a wider purpose, rather than being reinvested into the trust. However, the Scheme means that any profit from the discharge of treated human effluent will need to be applied per its terms.

Advice #1: - 24 May 2011 (letter privy to the public)

Council sought advice on process and ability to use the Pain Farm income for projects outside of the geographical area that used to be Martinborough Borough; and, whether an area of Pain Farm can be used for treated effluent disposal.

This advice did not consider that the disposal of treated human effluent would generate income, thereby, adhering to the terms of the Scheme as we know that to be consistent with the will/scheme, that the Pain Farm endowment (land) must generate income.

Post receipt of this piece of advice SWDC adopted a Pain Farm Income Distribution Policy after public consultation. This policy provided guidelines for the distribution of funds from the income from the various leases of the Pain Farm Trust Lands. This is important because the eventual proposal for use of Pain Farm for effluent discharge involves a lease arrangement.

Advice #2 – 3 December 2013

Council then sought a second piece of advice concurrently with the work it was doing to prepare for a resource consent. They asked for advice on the processes involved to obtain a determination on a) whether or not using the Pain Farm for effluent disposal would be lawful under the existing scheme, or b) an order establishing a new scheme which authorizes that use.

The Court would be likely to focus on whether using the land for effluent disposal would continue to generate an income stream for maintaining parks (etc) at other locations.

During this time investigations for the consent application and Assessment of Environmental Effects (AEE) were being prepared to move to land based disposal of treated human effluent in Martinborough as described and consulted on with the community through the Wastewater Position Paper and Strategy for Upgrade Works (distributed to everyone in the community in April 2011.)

Just before submitting the AEE and consent application in April 2014, the MCB requested the bequest be reviewed for current and future needs of the Martinborough community. That is, MCB was asking the Council to test the important overarching duty placed on Council as Trustee, being that whatever is done with the income generated from the land, needs to be to the benefit of the inhabitants of Martinborough.

This led to a third piece of advice from DLA Piper Fox.

Advice #3 – 4 December 2014

The scope for this advice was described as Pain Farm Bequest – Restrictions on Use of Property.

Council advised that the proposal to spread treated effluent was to be the subject of a resource consent application.

At this time investigations had been completed for the AEE and draft conditions for consent would have been investigated and discussed with GWRC based on the AEE.

The legal firm was asked to comment on the legality of using Pain Farm for the spreading of treated effluent - whether the spreading of treated effluent on the farm will constrain the income from the land and (importantly) potential future use and income options (because to be consistent with the court order, income must be generated from the land.)

Council advised its proposal, reflected in the consent application, was that the use of the land would not render the land incapable of future use, future use options would not be diminished, the treatment would be to a high standard, and market rates would be paid for the lease of the land.

The effects part of this proposal would be incorporated into any conditions agreed as a part of the resource consent process.

On that basis, it was advised that the use was not inconsistent with the terms of the trust under which the Council holds the land.

After receipt of the legal advice, and after hearings but before the environment court's decision report, the Income Distribution Policy was amended.

Environment Court Decision - 11 February 2016

The regulator and various other stakeholders were interested in the impacts on the land, the groundwater and the community of the spreading of treated human effluent on the Pain Farm Trust lands. All these matters were considered in the consent application and incorporated into the consent conditions ultimately reflected in the court's decision. These are and will, of course, be subject to monitoring and adherence like any conditions of consent.

Through this process, in which the public was invited to participate via, amongst other methods, notification and hearing processes, the proposed land use activity was examined and ultimately approved to proceed on the basis that:

The potential adverse effects of the proposal are either no more than minor or can be adequately avoided, remedies or mitigated by the imposition of conditions under section 108 of the RMA.

Advice #4 – 5 March 2024

This recent advice pulled all previous advice together and determined that the position council has taken is defensible when considering the requirements of the Scheme and council's overarching duties.

Designation – Notice of Requirement June 2023

In June 2023, Council along with WWL as its advisor, moved to designate the Pain Farm for the 'operation, maintenance, and improvement of a waste treatment and disposal facility'. A portion of the site is already designated for 'waste transfer and recycling centre' purposes.

For information:

- A designation is a planning authorisation for public works used by Ministers of the Crown, local authorities and network utility operators approved as 'requiring authorities' under the Resource Management Act (RMA).
- A designation is a form of 'spot zoning' over a site. The 'spot zoning' authorises the requiring authority's work on the site without the need for additional land use consents from the relevant territorial authority.
- The requiring authority must still comply with all regional council rules and gain consents from the regional council for activities on the site (as required by the regional plan).
- Designations provide longer-term protection and security for a public work than a resource consent.
- As with resource consents, designations are subject to an assessment and approval process to enable their establishment. Rather than lodging a consent application, requiring authorities lodge a 'Notice of Requirement' (NOR) with the territorial authority
- A NOR can be lodging as part of a district plan review process (as was done for Pain Farm) or as a standalone application.
- All designations are included/shown in a district plan (schedules and maps).

The designation process is separate from the resource consent process Council has already completed for the proposed activities, i.e., discharge and land disposal of treated human effluent. It is also not relevant to other areas of the law, such as the terms of the trust and the Scheme which Council still needs to comply with. It is an enabling process rather than a mandatory process. Therefore, it is not relevant to the question of the legality of the use of Pain Farm for wastewater disposal.

However, the community was alarmed by the notice of Requirement to designate the entire farm of approx. 76 hectares, including the Homestead and existing landfill. In the consent application and hearings of 2016, it was clear that the proposed irrigable area was 53 hectares, but this excluded buffer zones, and the possibility of storage on the farm in Stage 2B. Detailed design has not occurred and therefore it is unclear exactly what area will be used for buffer zones, storage or irrigation. However, Council can proceed with the removal of the homestead parcel from the designation.

Further, it is proposed that, as soon as practicable following completion of the Stage 2A irrigation detailed design phase for the Project, the Requiring Authority shall:

- c. Assess whether there are any areas of designated land that are not necessary for the construction, long term operation or maintenance of the site for wastewater treatment purposes, or on-going mitigation (including planting and buffer areas).
- d. Give notice to the Council in accordance with Section 182 of the RMA seeking the removal of any parts of the designation identified in Condition 1(a).

This would be an approach consistent with the original consent application that was notified to the community and to the decision of the Environment Court.

6.2 Public Consultation

There were multiple consultation methods used over the period leading up to the preparation of the Draft Wastewater Strategy, the preparation of the consent application, consent hearings, and finally, in the post-consent stages. A brief overview of the primary activities by sequence follows:

Preparation of the Strategy

SWDC Wastewater Combined Steering Committee included representatives from Tangata Whenua, the SWDC Māori Standing Committee, DOC, Wairarapa Public Health, Sustainable Wairarapa, adjacent landowners, Federated Farmers, SWDC Councillors and the Featherston, Greytown and Martinborough Community Boards.

Wide consultation was undertaken on the Wastewater Strategy from early 2011 including mail outs to all ratepayers, local public meetings, meetings with Council's Māori Standing Committee, and offers of one-on-one meetings with other people as affected. Notices were put in local papers, including calls for input, and progress reporting was updated monthly on the Council's project website.

Public Notification of the Consent Application

Advertisements were placed in the Times Age and Wairarapa News specifically stating: *[32044] Discharge permit – to discharge treated effluent to land adjacent to the plant (Stage 1B) and the Pain Farm (Lake Ferry Road) (Stage 2A and 2B).*

Hearing Process

A list of the parties that appeared at the hearing is provided in the decision report. SWDC's strategic approach was supported by a number of submitters including Federated Farmers of NZ, Mr Styles, Kahungunu ki Wairarapa, Mahaki Trustees Limited and Hikinui Trustees, Regional Public Health, and the South Wairarapa Biodiversity Group⁵

Post Consent

The consent when granted included a condition requiring SWDC to set up and facilitate a community 'Consultative Liaison Group' with the intent of these meetings to keep the community informed and provide a chance for comment on plant operations and compliance with the consent conditions etc. Minutes of the 30 November 2016 meeting held at Pāpāwai Marae, Greytown in records makes comment of the

⁵ Page 6, Decision Report SWDC Resource Consent Applications to GWRC 11 February 2016

installation of irrigators and the use of Pain Farm being required by 2030. Notice of the community meeting would also have been made publicly available for wider interest. The CLG considered issues at both Greytown and Martinborough sites.

Martinborough Community Board

Reporting on Pain Farm is a regular agenda item at MCB meetings. An extraordinary meeting was held on 19 September 2019 in which a full report included a discussion of the Future of Pain Farm Estate where the resource consent to discharge treated wastewater to the land was discussed⁶. Council confirmed at that time that the level of income received from the farm when the wastewater operation commences will be at least commensurate with the market rate for a lease to farm the land which is consistent with the overarching duties of Council under the Scheme approved by the Supreme Court.

Based on the available records available it is clear that significant consultation occurred with the community at the time decisions were made to move to land disposal at Martinborough and to gain consent for the Discharge Permit to discharge treated effluent to land at Pain Farm.

7. Options

7.1 Option 1 - preferred

Support the conclusions of the report that the use of Pain Farm for treated effluent disposal is lawful and that significant public consultation occurred as decisions were made resulting in its designated use.

7.2 Option 2

Do not support the conclusions of the report that the use of Pain Farm for treated effluent disposal is lawful and that significant public consultation occurred as decisions were made resulting in its designated use.

8. Strategic Drivers and Legislative Requirements

8.1 Significant risk register

This report mitigates the social licence to operate and reputational risk associated with Council's previous decision-making processes to designate Pain Farm as a site to discharge treated human effluent.

- Relationship with iwi, hapū, Māori
- Climate Change
- Emergency Management
- IT architecture, information system, information management, and security
- Financial management, sustainability, fraud, and corruption
- Legislative and regulative reforms

⁶ Agenda Item 4.1 MCB 19 September 2019 section 2.6

Social licence to operate and reputation

Asset management

Economic conditions

Health and Safety

8.2 Policy implications

Pain Farm Trust Lands Income Distribution Policy adopted 04/4/2012 and amended 26/8/2015 can be seen here:

<https://swdc.govt.nz/wp-content/uploads/PolicyPainFarmIncomeDistribution2015.pdf>

The policy is due for review, and it is suggested that it is updated to account for the background described in this report.

9. Consultation

9.1 Communications and engagement

On 19 September 2019, a full report including a section on the Future of the Pain Farm Estate was presented to the Martinborough Community Board. The relevant section 2.6.1 references the resource consent and that the level of income received from the farm when wastewater operations commence will be at least commensurate with the market rate for a lease to farm the land.

Further, the report refers to a Finance, Audit and Risk Committee meeting of August 2019 where a request was made to list Pain Farm as a strategic asset to be identified in the Significance and Engagement Policy as an important part of Council's wastewater strategy being a part of the wastewater network⁷.

Therefore, any decision around the wastewater network for Martinborough, including Pain Farm, that could significantly alter the level of service provided by Council of a significant activity (compliance to a resource consent requirement) would be of importance to South Wairarapa and inconsistent with a prior decision and therefore of **high significance**.

9.2 Partnerships

Have you completed a communications plan for the work described/project to engage/communicate with partners/key stakeholders e.g. Waka Kotahi, Kainga Ora, community groups, particular individuals etc?

Yes No

If no, is a communications plan required?

Yes No

⁷ FARMinutes28Aug19v2.pdf

Resolution DC2024/05 requests that the CEO consider publishing the key findings (or parts of them) in advance of the next Council meeting to reassure residents and interested people of the legality of the use of Pain Farm for wastewater disposal and of the consultation that occurred at the time.

10. Financial Considerations

There are no financial considerations from the preferred option.

11. Climate Change Considerations

There are no positive or negative effects on climate change from this decision.

12. Health and Safety Considerations

There are no health and safety considerations.

13. Appendices

Appendix 1 – Sequence of Events

Appendix 2 – Approved Waster Water Strategy 2011

Appendix 3 – Legal letters in chronological order 2011 - 2024

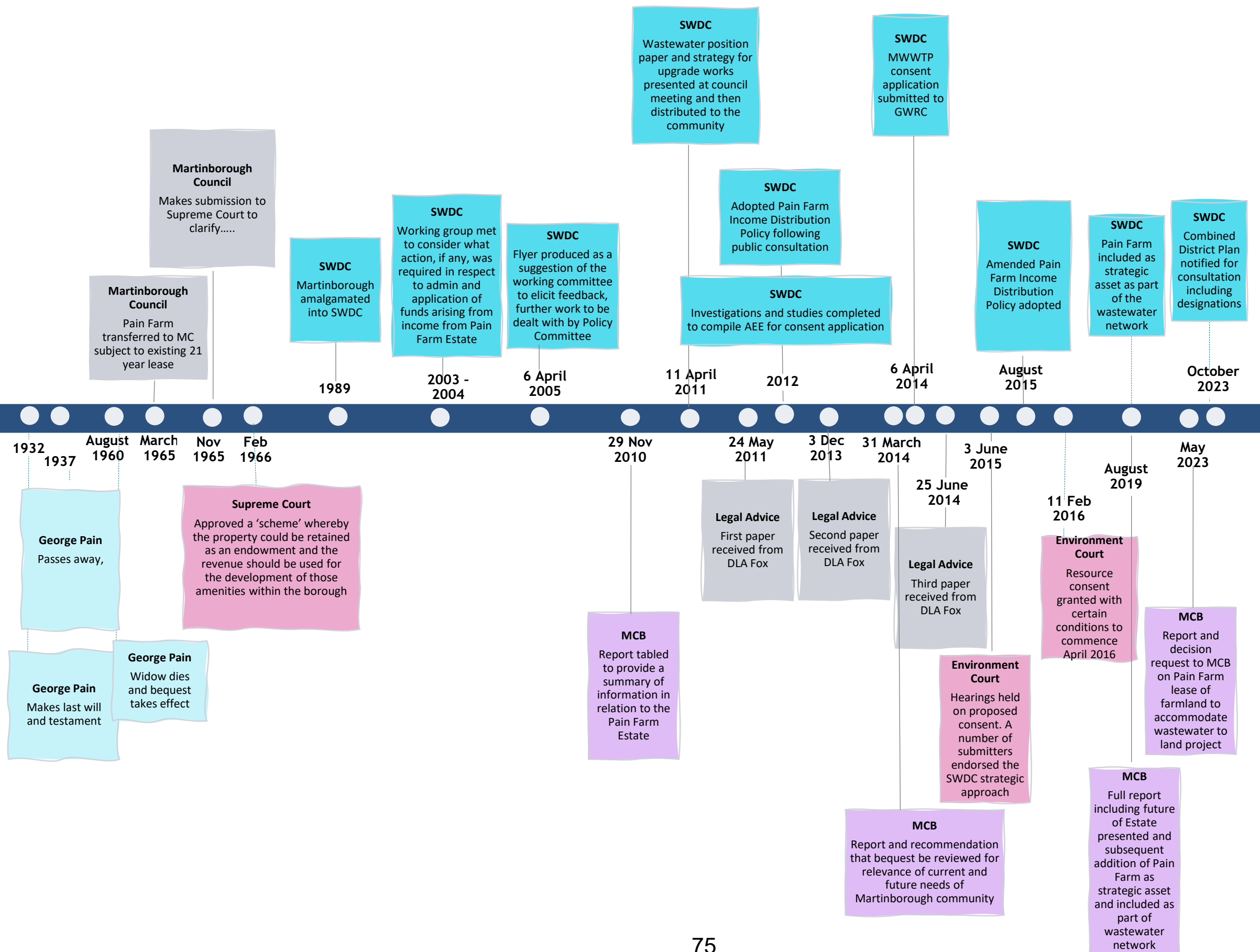
Appendix 4 – Public Notice for Consent Application 2014

Contact Officer: Robyn Wells, Principal Advisor Water Transition

Reviewed By: Janice Smith, Chief Executive

Appendix 1 – Sequence of Events

Sequence of Events



Appendix 2 – Approved Waster Water Strategy 2011

Draft Wastewater Strategy 2011



12 April 2011

This newsletter outlines the draft long-term strategy for upgrading South Wairarapa District Council's treatment of wastewater. It also explains where you can find more information, have your questions answered and have your say.

The issue

Wastewater from Greytown, Martinborough and Featherston is treated in oxidation pond systems which were built in the early 1970s. Treated effluent from these is discharged into our rivers and streams.

The discharge of treated effluent to our rivers and streams is of concern to our community, and may have a negative impact on the environment and public health and safety. To ensure that our wastewater system is sustainable now and into the future, we need to look at new solutions which address these concerns.



What's happened so far

Since 2008, Council has been consulting about future wastewater management with representatives of Ngati Kahungunu ki Wairarapa, Rangitane o Wairarapa, Wairarapa Public Health, Department of Conservation, Fish and Game, Greater Wellington Regional Council and community boards.

Committees from Featherston and Greytown have met several times to discuss and progress scheme upgrades, consider options for the future, and recommend the preferred type of upgrade and timeframes for action. These committees have now been combined and include Martinborough representatives.

The draft strategy

This is a major strategy with short, medium and long-term components which build on each other towards a long-term goal. These stages are outlined in more detail over the page. It is important to note that this is a broad strategy and much of the detail has not yet been decided.

We need to investigate and develop effluent treatment and discharge options to a reasonable degree of certainty before committing resources. Resource consents will be phased to reflect the time needed to achieve this.

Timing and costs

We need to do this project once and do it right. To get something this big to run smoothly requires a lot of planning, consultation and negotiation.

It is expected that the proposed wastewater upgrade will take more than 30 years to complete. The total cost is estimated at more than \$17 million. While this is a lot, it is far less than more sophisticated and complex treatment plants would cost. We plan to spread the cost over many years so the upgrade is affordable to the limited number of wastewater ratepayers funding the three schemes.

There will be a fine line between finding the best environmental solution and what is affordable to ratepayers. Only those ratepayers who are connected to or have access to a community wastewater scheme will pay for the upgrade.

Your feedback

We invite your feedback on this draft strategy proposal. It will be taken to Council to help shape and finalise the wastewater strategy ahead of the imminent resource consent renewal applications for each scheme. Meetings and open days (details on the back) are planned to help answer any questions you may have.



Adrienne Staples
Mayor



What is wastewater?

Wastewater includes sewage from toilets, hand basins, water from washing machines, sinks, the shower & bath and trade wastes.

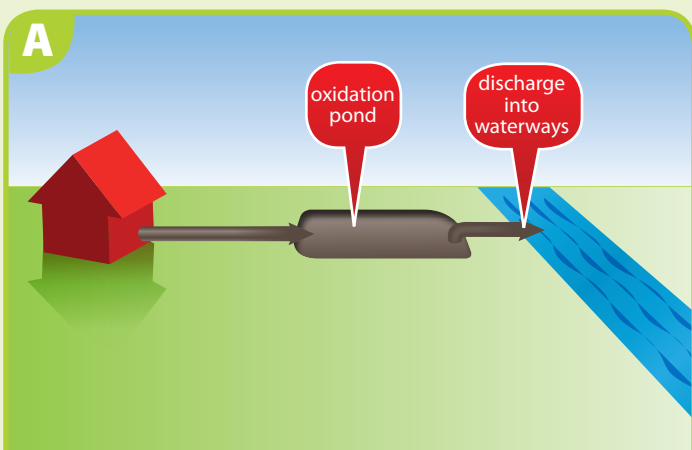
Our goal for wastewater

"To collect, treat and discharge wastewater from the urban areas of Featherston, Greytown and Martinborough and the coastal settlement of Lake Ferry so as to provide public health protection with minimal effects on the environment."

The current system (A)

Greytown, Featherston and Martinborough all use separate oxidation pond systems for the treatment of wastewater. These systems all discharge into nearby streams and rivers.

An oxidation pond's first task is to settle out all the solids that come in with wastewater. It uses sunlight, algae, phytoplankton and good bacteria combined with time to 'eat up' the contents in the wastewater.



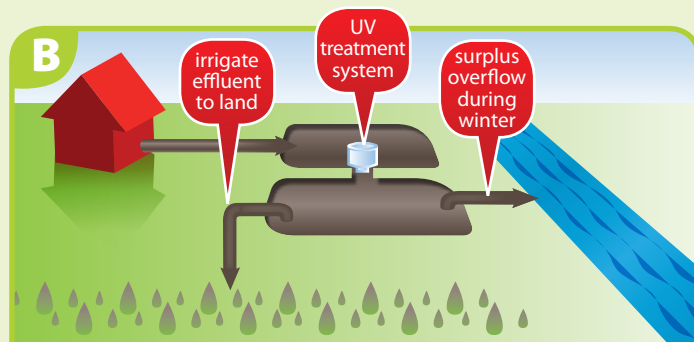
Wastewater from connected users is delivered by pipe to the oxidation pond. Treated effluent from the pond is then discharged into rivers and streams.

How do we propose to do this?

1. Progressively reduce discharges into waterways in a sustainable and affordable way.
2. Introduce an irrigation system to help discharge treated effluent onto land, particularly over the drier summer months, boosting the productivity of the irrigated land and using the wastewater as a valuable resource.

The proposed improvement plan (B)

1. Retain existing oxidation ponds but with improved treatment technology including UV (short-term).
2. Reduce plant inflow volumes by repairing the worst-condition sewer mains and drainage defects on private property.
3. An irrigation system to discharge treated effluent onto land (medium and long-term).
4. Construction of additional effluent storage ponds on Council-owned land (long-term strategy).



New technology in oxidation ponds results in cleaner effluent. Some of the treated effluent irrigates farmland, resulting in less going into waterways and a better use of a resource that is currently wasted. Irrigation is initially between November to March when discharge to waterways would otherwise have the most impact and the demand for irrigation is high. New ponds hold the wastewater that cannot be irrigated over winter. As more land is secured the irrigation period increases.

Advantages and disadvantages of the existing system

Advantages	Disadvantages
<ul style="list-style-type: none"> • enhances natural processes • little mechanical equipment required • uses very little energy or man hours • no adding of chemicals 	<ul style="list-style-type: none"> • cannot effectively remove nutrients like nitrogen & phosphorus • a 'closed system' – algae and plankton take up nutrients but when they die the nutrients are released back into the water • high levels of nutrients are discharged into rivers and streams which can contribute to algal blooms • potential to discharge 'bad bugs' which could be toxic for humans or fish



Improving water quality – progress to date

- Installation of UV technology at Featherston to reduce bacteria is underway.
- Construction of new channel and rock filter to bypass Papawai Stream at Greytown.
- 2 options are now being trialled at Featherston and will be assessed for later improvements (see below).

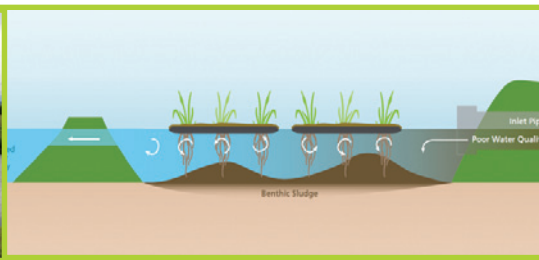
Trials to improve pond treatment to a level that will allow the effluent to be irrigated onto pasture are underway at the Featherston oxidation pond. Once these trials are complete (by 2012), Council be able to decide the most effective system for stage 2 improvements and begin

planning installations for each town.

A small (approx.12.5ha) area of land adjoining the Featherston oxidation pond has been purchased for potential use for additional treatment/storage



Trickling filters traditionally work by passing partially treated sewage over a rock and gravel bed. The surface of the rocks get covered in a slime-like coating which then captures most of the algae and suspended solids. The trial system has received modifications that should allow it to remove algae and suspended solids from oxidation pond wastewater, allowing the UV system to run more effectively.



Floating Treatment Wetlands are being trialled to measure their success in removing algae and other suspended solids from wastewater leaving the SWDC oxidation ponds. As the wastewater moves through the root system, algae and solids become trapped and fall to the bottom where they decompose.

The Proposal

Below is an outline of the three stages of the proposed strategy. While it is going to take some years to reach the final goal, there will be significant improvements along the way.

Stage 1 – Short-term	Stage 2 – Medium-term	Stage 3 – Long-term
<ul style="list-style-type: none"> • Address immediate resource consent requirements • Ensure that all stages of the upgrade are compatible with and form a permanent part of the long-term solution • Complete investigations, model, & undertake inflow & infiltration repair works to reduce excess inflow • Programme high-benefit inflow and infiltration reticulation control works, initially for Featherston & Greytown. Martinborough to be reviewed • Install UV treatment systems in each oxidation pond to remove or reduce risk of spreading disease from wastewater to humans & fish that use waterways near the discharge • Trial low-cost, high-benefit treatment technology that removes material (mostly algae), to allow the quality of the final effluent to be more suited to irrigation onto land 	<ul style="list-style-type: none"> • Install high-benefit inflow & infiltration reticulation repair & control works, initially at Featherston & Greytown • Investigate potential sites for irrigation, both seasonal and year-round, as an option for future discharge • Obtain consents & irrigate some or all of the treated effluent onto Council-owned land during summer • Establish lease agreements over suitable & available private land • Install optimised treatment technology at all 3 wastewater sites • Prepare resource consent applications, taking account of environmental & economic sustainability • To begin with, discharge any remaining wastewater not used for irrigation to local waterways when the weather is wet & the rivers are running high 	<ul style="list-style-type: none"> • Complete remaining high priority/high-benefit reticulation inflow & infiltration works • Supplement irrigation on Council land with full summer discharge over suitable, available Council-owned or leased private land, remote from Council's treatment ponds • Work towards removing discharge of treated effluent to streams in winter. Construct wet-weather storage, subject to affordability & secure long-term lease arrangements for irrigation on private land • Establish any storage requirements on Council-owned land to lessen the risk associated with the potential change of use of leased land for irrigation • Structure any future resource consent to allow discharge to streams as a contingency option during high-flow times, or when operational or capacity limitations are exceeded, or land-use arrangements are suspended

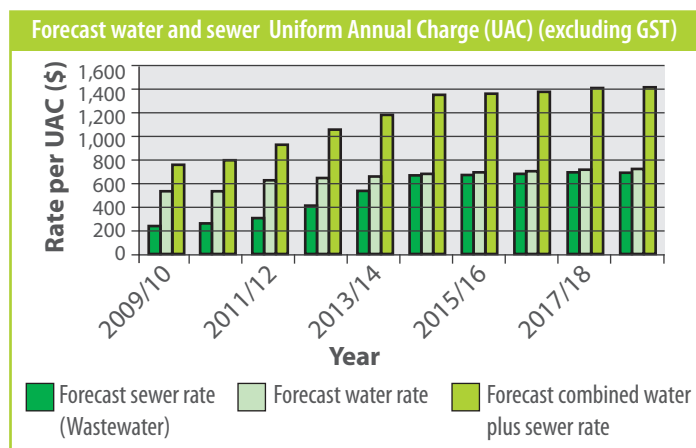


What will it cost?

The water and wastewater activities are major parts of Council expenditure. Most wastewater ratepayers are also connected to a town water supply at Featherston, Martinborough or Greytown. Upgrading work is required at each of these water supply schemes to achieve compliance with the new drinking water standards that will come into effect in 2014.

The graph below shows the expected increase in the water and wastewater rates until 2019, the end of the current long-term council plan period. On top of this will be the other Council rates plus the Greater Wellington Regional Council rates.

The sewer rates shown below correspond to the approximate \$9 million capital cost of the wastewater upgrade over the same period. There will be further cost increases, up to the estimated \$17 million, after that period over the next 30 years.



How can I help?

There are some simple things that you can do around the house to help improve the quality of your wastewater and so improve the quality of the effluent at each of the treatment plants:



House waste pipes entering a damaged gully trap

- Use phosphate-free detergents and soaps, these will commonly display an "NP" on the packaging.
- Don't use in-sink food disposal: composting for your garden is a much better use of food scraps.
- Conserve water: clean tap water gets treated before it reaches your house AND after it goes down the drain. Using less clean water means money can be saved by not having to treat it again.

How can I have my say?

Council will meet to finalise its wastewater strategy later this year. Consideration of your feedback will be an essential part of that process. Please let us know your views on Council's draft strategy. You can do this by:

Email: wastewater@swdc.govt.nz

Letter: PO Box 6, Martinborough 4751
or drop into 19 Kitchener St Martinborough

Fax: 06 306 9373

Phone: 06 306 9611

When can I have my say?

You have until 6 May 2011 to send us your written feedback/submissions.

Council will hear submissions on the draft strategy on 19 & 20 May 2011.

Where can I get more information?

- **Website:** www.swdc.govt.nz
A dedicated "Wastewater" tab has been added for news on this strategy
- **Open day - 30 April 2011**
Featherston wastewater treatment site

The Featherston site is now running trials of new technology and details of these and the proposed improvements to the oxidation ponds will be explained.

Please call SWDC at the number below to register interest and receive an information pack including directions to the site open day. *Note that due to health and safety reasons, the site open day will have restricted numbers and children under the age of 16 will not be able to attend.*

Public meetings

Martinborough 18 April 7 – 9pm
Council building (Kitchener Street)

Featherston 19 April 7 – 9pm
Anzac Hall

Greytown 20 April 7 – 9pm
Greytown Town Centre building

Depending on the level of public interest shown in this draft strategy, Council is open to holding more frequent public meetings to help update and answer questions on progress.

Appendix 3 – Legal letters in chronological order 2011 – 2024

Our ref: 0508208

24 May 2011

Dr Jack Dowds
Chief Executive Officer
South Wairarapa District Council
By email

Mark Allingham
Group Manager Infrastructure Services
South Wairarapa District Council
By email

Dear Jack and Mark

Pain Farm

- 1 Following our meeting with you on 21 March 2011, you asked us to advise you on the process and ability for the South Wairarapa District Council (**the Council**) to use the Pain Farm income for projects located outside the geographical area of what was the former Martinborough Borough.
- 2 You have also sought our advice on whether an area of the Pain Farm may be used for the disposal of treated effluent. In particular, you have asked what legal processes the Council would need to go through in order to use Pain Farm for this purpose.
- 3 We outline below our advice in respect of these two issues below.

Review of Council files

- 4 We have reviewed the documentation on Council's files in relation to Pain Farm. The Will of George Pain is not on the Council's files. We contacted Gawith Burridge (who previously acted for the Council on various issues relating to this property), who could not locate a copy of the Will in their files either.
- 5 We rely on the documents in the Council's file and the earlier Court proceedings.

Background

6 We understand that:

6.1 The Will of the late George Pain was made in 1932. The bequest of Pain Farm to the Martinborough Borough Council came into effect on the death of his widow in August 1960. The relevant direction in the Will read as follows:

... my said house property and farm of [210] acres at Martinborough to the Martinborough Town Board of Martinborough Borough Council or the local authority for the time being controlling the township of Martinborough to the intent that the said property should be held on behalf of the inhabitants of Martinborough and I particularly desire that the said property should as far as possible be made available as a sportsground for the residents of Martinborough and as a playground for the children.

6.2 George Pain died in 1937 and the Will came into effect, giving his wife a life interest in Pain Farm. George Pain's widow died on 9 August 1960, at which time the New Zealand Insurance Company was the sole trustee of his estate.

6.3 In March 1965, Pain Farm was transferred to the Martinborough Borough Council subject to an existing 21 year lease. As the terms of the will were uncertain, the Martinborough Borough Council submitted a scheme for approval to the Supreme Court for the income of the trust under Part III of the Charitable Trusts Act 1957. We understand that the focus was on the income from the lease of the farm land, as the Council did not required the land to be used as a sportsground or a playground.

6.4 The Supreme Court subsequently approved a scheme, under the provisions of the Charitable Trust Act 1957 on 11 February 1966. The material portion of the Court order directed:

... That the income of the Trust lands should be used ... in maintaining and improving the borough's parks, sportsgrounds, camping ground, swimming baths, providing, equipping and maintaining sports facilities and a children's playground in such manner and in such proportion as the Council may from time to time decide.

'Borough' reference

7 You have asked us to consider whether the Council can use the Pain Farm income for projects located outside the geographical area of what was the former Martinborough Borough. Specifically, we have considered whether the Court order requires the income to be spent on facilities owned by the Council and situated within the area of the former Martinborough Borough or requires the income to be spent within the geographical area of the Martinborough Borough.

8 We outline below the relevant legislative provisions that have informed our view.

9 In accordance with section 2 of the Municipal Corporations Act 1954 (**MCA**):

Borough means a borough constituted under this Act, or thereby deemed to be so constituted; and includes a city:

Borough Council includes a City Council:

Corporation means the Corporation of a borough or of a town district, as the case may be:

[Council means a City Council, Borough Council, or Town Council; and includes the Auckland Regional Authority, the Christchurch Drainage Board, the Christchurch Transport Board, the Dunedin Drainage and Sewerage Board, the Hutt Valley Drainage Board, the North Shore Drainage Board, the Dunedin Ocean Beach Domain Board, ~~[[the Rotorua Area Electricity Authority, the Lyttelton Harbour Board, [the Wellington Regional Water Board, and the Tauranga Electric Power Board]]:]~~

- 10 In accordance with section 4 of the MCA, to be classified as a 'borough' required a certain area and population:

Section 4 Constitution of boroughs

With respect to the constitution of boroughs the following provision shall apply:

(a) Every borough existing at the commencement of this Act shall be deemed to be constituted a borough under this Act:

...

(c) **Any part of New Zealand comprising in a continuous area not more than 9 square miles, and having no points distant more than 6 miles from one another, and having a population of not less than 1,500, may be constituted a borough** in manner provided by this Act:

Provided that no such area may be constituted a borough **unless it has an average density of population of not less than or person to the acre:**

(d) A borough that is situated within the boundaries of a county shall be deemed not to form part thereof:

(e) A borough may, subject to the provisions of this Act, be either undivided or divided into not more than five wards:

(f) Every ward of a borough shall contain a population of not less than 1,000

(g) The wards of boroughs existing at the commencement of this Act are hereby declared to be wards under this Act.

- 11 In accordance with section 5 of the MCA, the 'Borough Council' was created by the inhabitants of a particular geographical area:

5 Incorporation of boroughs

(1) The inhabitants of every borough shall, under the name of "The Mayor, Councillors, and Citizens of the Borough of [Name of borough]", be a body corporate, with perpetual succession and a common seal; with power for the Council by special order to alter and change the seal; and shall, for the purposes and subject to the provisions of this Act, be capable of purchasing, holding, disposing of, and alienating real and personal property, and of doing and suffering all such other acts and things as bodies corporate may by law do and suffer.

(2) In the case of cities the word "City" shall be substituted for the word "Borough" in the corporate name.

- 12 The Local Government Act 1974 (**LGA74**) was enacted in order to:

consolidate and amend the law relating to the **reorganisation of the districts** and functions of local authorities... and to make provision for

the **establishment of united councils, regional councils, district councils**, district community councils, and community councils, [and to consolidate and **amend the Municipal Corporations Act 1954...**]

- 13 The MCA was repealed, as from 1 April 1980, by section 9(1) of the Local Government Amendment Act 1979 (1979 No 59). The definition of 'Borough' and 'Borough Council' were repealed, as from 6 June 1989, by section 2(16) Local Government Amendment Act (No 2) 1989 (1989 No 29).
- 14 In accordance with the LGA74, all of the Martinborough Borough Council powers, functions and authorities are vested in the Council. As you will be aware, the LGA74 has been repealed and replaced by the Local Government Act 2002 (**LGA02**).
- 15 The Supreme Court order directs that:
- ... the income of the Trust lands should be used ... in maintaining and improving the **borough's parks, sportsgrounds, camping ground, swimming baths ...**
- [our emphasis added]**

Our interpretation

- 16 In our view, 'borough' in the context of this order refers to the geographical area as opposed to the Martinborough Borough the legal entity.
- 17 Paragraph 12 of the Council's submissions (dated 8 November 1965) that were filed when the scheme was submitted for approval stated that:
- 17.1 It was impracticable or inexpedient to carry out George Pain's precatory wish that Pain Farm should be made available as a sports ground and children's playground for the reasons that the property is some distance outside the Borough boundary and is a useful farm unit. The Council already owns 35 acres of parks and reserves within the Borough which were far from fully developed or in a high state of maintenance. The Council has no funds with which to develop the trust land as a sports ground or playground.
- 17.2 The precatory wish of George Pain in favour of sports grounds and children's playgrounds can best be attained by retaining the property as an endowment and using the revenue therefrom for the **development of those amenities within the Borough.**
- [Our emphasis added]**
- 17.3 Recreational amenities existing on such reserves in the Borough include:
- 17.3.1 Public swimming baths - the only one in the Borough, and extensively used by school children learning to swim;
- 17.3.2 Camping ground;
- 17.3.3 Rugby, association football, cricket, hockey and softball grounds.

17.3.4 Children's Playground

- 18 The order of the Supreme Court dated 11 February 1966 endorsed the Council's statement of facts, submissions and scheme. As outlined in paragraph 17.2, the Council submitted that the property should be retained as an endowment and the revenue should be used for 'the development of those amenities within the Borough'.
- 19 Therefore, in our opinion the spending of the income is not limited to maintaining and improving Council owned facilities within Martinborough, but is rather a focus on any public parks, sportsgrounds, camping ground, swimming baths et cetera within the Martinborough area.

Spending of income

- 20 We are aware the Council may like to spend income from the trust on community facilities located outside the boundaries of the former Martinborough borough but within the current Martinborough town boundaries.
- 21 We understand there is a future possibility that the Council may like to spend income from the trust on a golf course, and a school. The golf course is owned by the Council and the school is not owned by the Council but which has a cricket pitch that is used by the community and needs some upgrading and improvement. We are aware that these facilities are within the Martinborough town but the golf course is not within the boundaries of the former Martinborough borough. We consider that although these sporting facilities are outside what was considered the old borough boundary and not directly owned by the Council, if the Council wishes these not to be omitted from funding from the trust, then it must be established these facilities are primarily for the residents of Martinborough and the Martinborough District.
- 22 The order provides the Council with the discretion to choose which facilities to spend the income of the trust, however the order does confirm that the spending of the trust income is on facilities within Martinborough. Despite the Council being reorganised in accordance with the LGA74 and now responsible for governing Featherston, Greytown and Martinborough, it does not by default mean that income from the trust can be spent outside the area the money was intended to be spent on.
- 23 However, we consider that provided the income is applied towards the same purposes and public access can be obtained to the facilities by the residents of Martinborough the Council can spend the income within the Martinborough town. In our view, the geographical constraint does not prevent spending money on the Martinborough golf course, and the lack of ownership of the school does not prevent expenditure of that public facility.

Where to from here?

- 24 Our opinion on the flexibility available to the Council for this proposed expenditure recognises that an arguable case exists in support of this interpretation. However, our opinion provides no certainty that a Court would reach the same conclusion. If greater certainty is sought then the Council has 2 options.
- 25 The Council could seek an order from the High Court, similar to the order sought by the Council in 1966. That would seek to provide the Council with further flexibility to

spend the income from the trust i.e. proposing to the Court that the income from the trust is spent on facilities outside the former Martinborough borough, or community facilities not owned by the Council but still community facilities that Martinborough residents can use. There would be Court costs associated with this process as appropriate and satisfactory evidence would need to be produced.

- 26 The other option available to the Council would be to notify the residents of Martinborough of Council's intention to spend the income of the trust on community facilities outside the former Martinborough Borough but within the Martinborough Town. The Council can then assess what opposition (if any) there would be to using the income in this way. This option simply provides an insight as to potential opposition, rather than any interpretation certainty.

Area of Pain Farm for the disposal of treated effluent

- 27 You have asked us to consider whether the Council could use an area of Pain Farm for the disposal of treated effluent. As outlined above George Pain envisaged Pain Farm:

...should as far as possible be made available as a sportsground for the residents of Martinborough and as a playground for the children.

- 28 The Court order only approved a scheme in relation to income generated from the Pain Farm. The Court did not consider how the land should or should not be developed. However, the Council cannot regard itself as the absolute owner of the land to do with it as it pleases because the land is held as a Trust. We consider the Council owns the land as a trustee, and the terms of the Trust are the terms contained in the Will as varied by the provisions of the Court order.
- 29 In our view, the Council is not at liberty to undertake activities in respect of the income farm unless those activities are permitted by the terms of the Will and/or Court order. Similarly, the land constitutes the capital of the Trust and utilising a portion of Pain Farm to dispose of human effluent would not be consistent with the purpose for which it was gifted to the Council i.e. to be available as a sportsground/playground. The Court has a duty to ensure that the scheme proposed follows the wishes of the settler as closely as possible. To use a portion of Pain Farm to dispose of human effluent the Council will need to prepare a scheme to vary the mode of administering the trust in accordance with the Charitable Trusts Act 1957 (**CTA**).
- 30 Every proposed scheme must be laid before the Attorney-General (**AG**) together with full information as to all the facts upon which is it proposed to vary the Will/current scheme, with copies of the necessary documents to explain the proposed scheme. The AG may remit a proposed scheme to the Council for consideration of any amendments the AG may suggest. After a report of the AG on a proposed scheme, the Council may apply to the Court for approval of the scheme reported on. The proposed scheme must be publicly advertised before it is considered by the Court. Any person desiring to oppose a scheme must give written notice of that intention at least 7 days before the hearing of the application for approval of the scheme by the Court.

31 As outlined above at paragraph 17.2, the Council submitted to the Supreme Court that Pain Farm be retained by the Council as an endowment. Other documentation we have reviewed considers Pain Farm is held on trust. In accordance with section 140 of the LGA02 there are restrictions on disposal of 'endowment property'. We also note that section 140(2) states:

This section and section 141 apply to the property or part of a property vested in a local authority as a trust or as an endowment.

32 As the Council does not intend to dispose of Pain Farm or part of Pain Farm we have not considered the restrictions on disposal in the LGA02. Whether Pain Farm is held by the Council on trust or as an endowment, the Council is still required to obtain a Court Order as the purpose for which the Council proposes to use a portion of the land is not consistent with the terms of the Will/Court order.

33 As we discussed with you, there are a number of unknown variables i.e. whether this proposal would impact on the income and value of the land, whether the land is suitable for the disposal of human effluent, whether there are any iwi related issues. A number of these matters can be dealt with through the Resource Management Act 1991 (**RMA**) process. It would be useful for Council to explore these matters before consulting with the public to ensure the proposal would be viable at Pain Farm.

34 The Council should consult the public as 'landowner' of Pain Farm on its proposal to change the use of the land. In our view, the Council should obtain a Court order before applying for resource consent for the proposal. In this case the Council as 'landowner' should consult with the public. The Council needs to highlight to the community that consultation on this matter with the public does not restrict the public rights to submit through the subsequent RMA process.

35 We trust this advice sufficiently answers your queries. Please do not hesitate to contact us if you have any queries.

Yours sincerely

Stephen Quinn

Partner

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stephen.quinn@dlapf.com

Our ref: 1412685

3 December 2013

Mark Allingham
Group Manager Infrastructure Services
South Wairarapa District Council
MARTINBOROUGH
By email

Dear Mark

Pain Farm

- 1 Council is interested in using the Pain Farm for effluent treatment purposes. We have previously advised that in order to do so, Council would need to prepare a scheme to vary the trust (refer paragraph 29 of our letter of advice dated 24 May 2011).
- 2 You have now asked us for more information on the process involved, specifically:
 - 2.1 What process Council needs to follow to obtain a determination on whether or not using the Pain Farm for effluent disposal would be lawful under the existing scheme, or an order establishing a new scheme which authorises that use;
 - 2.2 The timeframes involved in each case;
 - 2.3 The likelihood of success.

Executive summary

- 3 Council has two main options for confirming whether the Pain Farm can be used for effluent disposal:
 - 3.1 To seek a declaration from the High Court on whether the proposed use of the property is within scope of the existing scheme, under the Declaratory Judgement Act 1908 (**DJA**); or
 - 3.2 To seek an order confirming a new scheme, for the land under the Charitable Trusts Act 1957 (**CTA**).

- 4 A declaration is likely to take less time than a new scheme, because the latter would involve obtaining input and a report from the Attorney General as well as Court proceedings. We estimate that a declaration could be obtained within approximately six months, however a declaration is obviously constrained by the terms of the current scheme.
- 5 For both options, the likelihood of success will largely depend on whether the use would continue to generate an income stream for use in maintaining or upgrading recreational facilities in other locations.
- 6 If Council opted to seek a new scheme, the Court may also wish to revisit the issue of whether the Pain Farm itself could be used for recreational purposes, given the lapse of time since the last scheme was approved.
- 7 We would be better placed to provide concluded advice on the likelihood of success if Council could give us further information on:
 - 7.1 Whether it would now be feasible to use the Pain Farm for recreational purposes; and
 - 7.2 Whether the use of the Pain Farm for effluent disposal would continue to generate an income stream for maintaining recreational facilities at other sites.
- 8 The reasons for our views are set out below.

Process options

- 9 The two options available to Council for confirming the legal position are:
 - 9.1 To seek a declaration from the High Court on whether the proposed use of the property is within scope of the existing scheme, under the DJA; or
 - 9.2 To seek an order confirming a new scheme for the land, under the CTA.

Declaration

- 10 Under section 3 of the DJA, the High Court has the jurisdiction to make an order determining whether the use of the Pain Farm for effluent disposal is lawful, based on its interpretation of the will and existing scheme.
- 11 The process for seeking a declaration is relatively straightforward. Council would simply need to make an application to the Court, setting out the wording of the order sought, and pay the applicable filing fee.
- 12 The Court may decide that the application should be served on 'such persons as [it] thinks fit', which would enable others to participate in the proceedings
- 13 There is a right of appeal to the Court of Appeal against a declaration made by the High Court. There is no right of appeal to the Supreme Court.

- 14 We estimate that a declaration could be obtained within approximately six months. In the unlikely event of an appeal, a further 6 to 12 months might be required to reach a final resolution.
- 15 In terms of the likelihood of success, we consider that the key issue is the scope of the scheme. Importantly, the scheme itself does not restrict the way in which the Pain Farm land is used, but focussed on the income generated from the farm. Further, the background information provided to the Court in the Statement of Facts simply suggests that the testator's wish 'can best be attained by retaining the property as an endowment', so that it generates an income stream that can be used to maintain and improve parks (etc) in other locations.
- 16 On that basis, we consider that the key issue will be whether using the land for effluent disposal will generate an equal or better income stream to the other possible uses of it. If so, the chances of success are reasonable.
- 17 Note that there is also a process for seeking directions on the way a trust is administered under section 60(1)(d) of the CTA. However, we think a direction would not be appropriate in this case. Council wants to clarify what it can lawfully do with the property, rather than to be compelled to adopt a particular course of action.

Amending the scheme

- 18 The other option is to seek changes to the existing scheme, to expressly allow the land to be used for effluent disposal.
- 19 The process for doing so is set out in Part 3 of the CTA:
- 19.1 First, the trustees prepare a scheme, 'for the disposition of the property or income and for extending or varying the powers of the trustees or for prescribing or varying the more of administering the trust'¹;
- 19.2 Next the scheme is laid before the Attorney General, who may suggest amendments, and must prepare a report on it;
- 19.3 The scheme and the report are then advertised. Two notices must be published, with the first appearing at least one month before the date proposed for the Court to consider the scheme;
- 19.4 Any person can give notice that he or she wishes to appear and oppose the scheme;
- 19.5 The Court then determines who should be allowed to do so, and goes on to hold a hearing and make a determination;
- 19.6 Finally, the Court's decision is gazetted.

¹ Note that a new scheme could propose the sale of the Pain Farm, rather than its continued use it as an endowment property.

- 20 As the Attorney General is not required to report within a specified timeframe, it is difficult to estimate how long this process is likely to take. We expect that up to a year may be required.
- 21 Under section 56 of the CTA, the key issue for the Court will be whether a proposed scheme 'should carry out the desired purpose or proposal':
- No scheme shall be approved by the court under Part 3, or by the court or the Attorney-General under Part 4, unless the court or the Attorney-General is satisfied—
- (a) that the scheme is a proper one, and should carry out the desired purpose or proposal, and is not contrary to law or public policy or good morals; that the scheme can be approved under the Part of this Act under which the approval is sought; that every proposed purpose is charitable within the meaning of that Part of this Act and can be carried out; and that the requirements of that Part of this Act have been complied with in respect of the scheme
- 22 In *Re Tennant* [1996] 2 NZLR 633, the High Court noted that²:
- ...this Court has a duty to ensure that the scheme proposed follows the wishes of the settlor as closely as possible.
- 23 The being the case, the Court may wish to revisit the issue of whether the Pain Farm can now be used for a park or playground (or other similar uses).
- 24 If not, then as with the declaration option, the Court would be likely to focus on whether using the land for effluent disposal would continue to generate an income stream for maintaining parks (etc) at other locations.
- 25 Without having more information on those factual matters, we are unable to provide concluded advice on the prospects of success, but would be happy to comment further if you are able to provide it.
- 26 Please let us know if it would be helpful for us to elaborate on any aspect of this advice.

Yours sincerely



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² At page 5.

Our ref: SFQ:0508200

25 June 2014

Paul Crimp
Chief Executive Officer
South Wairarapa District Council
MARTINBOROUGH

By email

Dear Paul

Pain Farm bequest - restrictions on use of property

You have asked us to comment on the legality of using Pain Farm for the purpose of spreading treated effluent. In essence, the query is whether this change from the current use of the farm is inconsistent with the terms of the trust. We have separately advised the Council on the restrictions arising from use of the income from Pain Farm, and accordingly this advice is limited solely to this proposal relating to change of use of the farm itself.

By way of background, I note that the original will in 1932 that provided for this land was to gift the land to the Council for use as a sports ground. By way of Court order in 1966, the Court confirmed the constraints on use of income from the land. The Council has been operating within those constraints since this time. The Court order did not directly address the use of the farm. The land itself is accordingly held by the Council on trust, and accordingly any activity on the land must not be inconsistent with the terms of that trust.

To give effect to the Court order, the Council must ensure that income is generated from the use of the land. A potential problem may arise if proposal to use the land may reduce the current or future income. Against this background, the real issue arising from your question is whether the spreading of treated effluent on the farm will constrain the income from the land and potential future use and income options.

We understand that the proposal to spread treated effluent on Pain Farm will be addressed in the resource consent application under the Resource Management Act 1991 to be submitted to Greater Wellington Regional Council (**GWRC**). In terms of the proposal, you have confirmed the following points:

- 1 The wastewater will be treated to a very high standard through an ultra-violet treatment process.
- 2 In consideration of the right to use the land for spreading this treated wastewater, the land will be leased from Pain Farm Estate at a market rate set by an independent valuer. This will ensure that the income being generated from the farm remains at broadly the same, or potentially a greater, level than current income.

DLA Phillips Fox is a member of DLA Piper Group, an alliance of independent legal practices.

- 3 The land is not rendered incapable of use as a result of the activity of spreading the treated wastewater. The intention is to crop and sell grass from the land.
- 4 The proposed process will not diminish the future use options of the land. It is understood that the land can be returned to broadly its previous state by growing certain crops for a couple of cycles to ensure that there are no residual effects. On this basis, the land is not taken out of circulation for normal farming purposes.
- 5 The parameters summarised above are all subject to any potential restrictions that may be imposed by way of consent conditions through the resource consent process with GWRC. This may include some land use restrictions to ensure that the groundwater and land is not contaminated beyond repair.

On the basis of the summary that you have outlined, in our view this proposal is not inconsistent with the terms of the trust under which the Council holds the land. Obviously, in an event of a legal challenge, it would be necessary for Council to be able to establish the critical matters as summarised above by way of evidence. In my view, the key points to establish the Council's position will be to ensure that an appropriate income is still being derived from the land and that the proposal does not undermine future options for deriving an income from this land held in trust.

In order to assess whether there may be any opposition to the proposed change to use of Pain Farm, Council may choose to consult with the public. While there may be a consultation process associated with the resource consent application, or through the ability of any person to make a submission on the resource consent application, the focus of that process is on environmental effects rather than any concerns that the public may have in relation to the restrictions on Council's use of land held on trust. Our assessment of the risk to Council can be revisited if any issues arise through that process. In the meantime, based on the information that you have provided, in our view the proposal is not inconsistent with the terms of the trust.

For completeness we note that we have provided separate advice to you on a process for a private bill that could potentially amend the terms restricting the manner in which Council can use the income from the trust. For completeness, I note that if a private bill was to proceed then it could also address this proposal relating to use of the land. That would be to ensure (on a belts-and-braces basis) that there can be no residual argument that the proposal is inconsistent with the terms of the trust.

Yours sincerely



Stephen Quinn

Partner

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stephen.quinn@dlapf.com

Confidential

Your reference

Robyn Wells
Principal Advisor - Water Transition
South Wairarapa District Council
Martinborough

Our reference
1038268

By email

5 March 2024

Dear Robyn

Subject to legal professional privilege

Pain Farm - use for disposal of human effluent

- 1 You have sought our advice in respect of the position South Wairarapa District Council (**Council**) has taken in respect of its ability to discharge treated human effluent on the Pain Farm. Council first approached us for advice in respect of the Pain Farm in 2011.
- 2 For context, we **enclose** this previous advice. Our advice evolved as the proposal has evolved. Our advice of 25 June 2014, in which we stated spreading of treated effluent on the Pain Farm is not inconsistent with the terms of the trust, was based on the following understanding:
 1. The wastewater will be treated to a very high standard through an ultra-violet treatment process.
 2. In consideration of the right to use the land for spreading this treated wastewater, the land will be leased from Pain Farm Estate at a market rate set by an independent valuer. This will ensure that the income being generated from the farm remains at broadly the same, or potentially a greater, level than current income.
 3. The land is not rendered incapable of use as a result of the activity of spreading the treated wastewater. The intention is to crop and sell grass from the land.
 4. The proposed process will not diminish the future use options of the land. It is understood that the land can be returned to broadly its previous state by growing certain crops for a couple of cycles to ensure that there are no residual effects. On this basis, the land is not taken out of circulation for normal farming purposes.
 5. The parameters summarised above are all subject to any potential restrictions that may be imposed by way of consent conditions through the resource consent process with GWRC. This may include some land use restrictions to ensure that the groundwater and land is not contaminated beyond repair.
- 3 In preparing this advice we have relied upon the background information set out in our previous advice. Let us know whether any of those assumptions are incorrect.
- 4 The history of the Pain Farm reaches back to the early 20th century. The Pain Farm was bequeathed to the then Martinborough Borough Council in the will of George Pain in 1932, subject to a life interest in favour of his widow. Mr Pain died in 1937. In August 1960, Mrs Pain passed, and Council came into possession of the Pain Farm.

- 5 It is broadly understood that the Pain Farm was to be held on trust by the Borough Council for the residents of Martinborough. The key term of the will states (**Key Term**):

After the death of my said wife I give, demise and bequeath my said house property and farm of [210] acres at Martinborough to the Martinborough Town Board or Martinborough Borough Council or the local authority for the time being controlling the township of Martinborough to the intent that the said property should be held on behalf of the inhabitants of Martinborough and I particularly desire that the said property should as far as possible be made available as a sports ground for the residents of Martinborough and as a playground for the children.

- 6 On 11 February 1966, the Borough Council applied to High Court for, and was granted, a 'scheme' under the Charitable Trusts Act 1957 (**Scheme**). The Scheme varied the nature of the trust so that:

...the income of the Trust lands should be used ... in maintaining and improving the Borough's parks, sports grounds, camping ground, swimming baths, providing, equipping and maintaining sports facilities and a children's playground in such manner and in such proportion as the Council may from time to time decide.

- 7 Additionally, you have sought our advice regarding whether Council can designate the Pain Farm under the Resource Management Act 1991 (**RMA**) for the purpose of 'operation, maintenance, and improvement of a waste treatment and disposal facility'. If so, how does such a designation intersect with the will and the Scheme.

Summary

- 8 On the basis of the information we have, we consider the position Council has taken (ie. that a further court order is not required in respect of its ability discharge treated human effluent to the Pain Farm) is defensible. This is because the terms of the trust allow for Council to deal with the Pain Farm for the benefit of the inhabitants of Martinborough. The discharge of treated human effluent to the Pain Farm will not materially affect the land, and is for the benefit of the inhabitants of Martinborough.
- 9 We have considered the difference between income from the Pain Land from leasing and from baleage. We are unsure of the exact difference between income from leasing and income from baleage. Assuming the income from baleage is less, we do not consider this necessarily breaches the Key Term. 'Benefit' is wider than income, and the inhabitants of Martinborough will benefit from an upgraded wastewater system, in addition to the revenue from baleage.
- 10 We do not consider that the land holding arrangement that the Pain Farm is subject to adversely affects Council's ability to obtain a designation for the 'operation, maintenance, and improvement of a waste treatment and disposal facility'. The designation simply enables Council to carry out that land use activity under the RMA. However, Council still needs to comply with other areas of the law, such as the terms of the trust and the Scheme.
- 11 We now set out further analysis in support of these conclusions.

Analysis

Whether Mr Pain's will allows for the discharge of treated human effluent?

- 12 The key question is whether the terms under which Council holds the Pain Farm allows Council to discharge treated human effluent to an area of land on the Pain Farm. We start by making the following observations about the Key Term:
- 12.1 The Pain Farm is to be held by Council 'on behalf of the inhabitants of Martinborough'. This means that the Pain Farm must be dealt with in a way that benefits the 'the inhabitants of Martinborough'. We consider this is the overarching duty placed on Council as trustee.
- 12.2 It was Mr Pain's 'desire' that the Pain Farm 'should *as far as possible* be made available' (emphasis added) as a sports field and playground. This suggests his desire is not absolute, nor the only way of dealing with the Pain Farm.
- 12.3 The Pain Farm is some 210 acres. We observe that, if the entire Pain Farm was to be made into a sports field and playground, it would be a significant piece of infrastructure and would likely exceed the needs or demands of Martinborough.
- 13 For these reasons, we consider it was never Mr Pain's intent for the entire Pain Farm to be used exclusively as a sports field or playground. We consider that, provided the Council is dealing with the Pain Farm in a way that benefits the inhabitants of Martinborough, and making provision for a sports field and playground, it will be dealing with the Pain Farm in a manner consistent with the trust. That is consistent with the Scheme as confirmed by the Court in 1966.
- 14 The question then becomes whether discharging treated human effluent to the Pain Farm is for the benefit of the inhabitants of Martinborough. We understand the discharge will be treated and not affect the land, therefore there will be no material decrease in value of the Pain Farm. Further, the discharge of the treated human effluent is in pursuit of upgrading Martinborough's wastewater system, which is of benefit to the inhabitants of Martinborough. Finally, we note the intent to produce baleage on the area of the Pain Farm discharged to, will be a revenue stream that applies in accordance with the trust (and the Scheme).
- 15 We understand a key revenue stream of the Pain Farm is through leasing the land. We are unsure of the difference in quantum between income from leasing and income from baleage. Assuming the income from baleage is less, we do not consider this necessarily breaches the Key Term. 'Benefit' is wider than income, and the whole inhabitants of Martinborough will benefit from an upgraded wastewater system in addition to the revenue from baleage. Ultimately it is a judgement call whether the inhabitants of Martinborough will benefit more from only income from leasing or income from baleage and an upgraded wastewater system.
- 16 On this basis, we consider the discharge of treated human effluent to the Pain Farm will be of benefit to the inhabitants of Martinborough. Council will therefore be within the bounds of the Key Term in carrying out this discharge.
- 17 For completeness, we do not consider the Scheme to be of material assistance in this situation. The Scheme varies the trust in respect of the income from the Pain Farm. It is silent as to the property, ie. The Pain Farm itself. The Scheme simply allows for distribution of the income from the Pain Farm for a wider purpose, rather than being reinvested into the trust. However, the Scheme means that any profit from the discharge of treated human effluent will need to be applied per its terms.

Council's designation/notice of requirement over the Pain Farm

- 18 We understand that Council has an existing designation over the Pain Farm for 'waste disposal' purposes.¹ Council has also lodged a notice of requirement as part of Wairarapa Combined District Plan Review to designate all of the Pain Farm for the 'operation, maintenance, and improvement of a waste treatment and disposal facility'.² You are concerned whether Council can seek the revised designation over the Pain Farm given that it is held on trust.
- 19 We observe that there is no requirement when applying for a designation to own the land.³ This is made clear by section 185 of the RMA that allows a landowner subject to a designation to apply to the Environment Court for orders obliging the requiring authority to acquire the land.
- 20 Additionally, a designation is enabling rather than mandatory. Should Council be successful in the amended designation sought for the Pain Farm through the District Plan Review process, there is no requirement for the work to actually be undertaken.
- 21 For these reasons, we do not consider that the land holding arrangement that the Pain Farm is subject to adversely affects Council's ability to obtain the relevant designation. The designation simply enables Council to carry out the 'operation, maintenance, and improvement of a waste treatment and disposal facility' in terms of the land use requirements of the RMA. Council still needs to comply with other areas of the law, such as the terms of the trust and the Scheme.
- 22 As an aside, we are unclear as to why Council needs a designation over the Pain Farm. The main reason to obtain a designation is when a land use contravenes district plan provisions. A designation also provides a statutory ability to acquire the subject land, and ensures that no activities are undertaken on the land that contravene the designation's purpose. As Council is landowner already, the last two reasons are moot. As for contravention of the district plan provisions, the notice of requirement observes that the Pain Farm 'meets the permitted activity

¹ Wairarapa Combined District Plan, Designation Ds052.

² Notice of Requirement SWDC-S-26.

³ In the present circumstances, Resource Management Act 1991, Schedule 1, clause 4 is the relevant authority. However, see also sections 168 and 168A.

standards'.⁴ There may be other reasons or analysis as to why this designation is being sought.

Yours sincerely



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⁴ Notice of Requirement, 30 June 2023, at page 20.

Appendix 4 – Public Notice for Consent Application 2014

Advertisement

Wairarapa Times Age..... Date

Wairarapa News Date

Notification of application for a resource consent: WAR120058 under section 95(A) of the Resource Management Act 1991

Greater Wellington Regional Council has received an application for a resource consent from:

Applicant: *South Wairarapa District Council*

Location: *Martinborough Wastewater Treatment Plant, Dublin Street, Martinborough*

Map Reference: *NZTM: 1804586 5434856*

Proposal: *To discharge contaminants to land, air and water associated with the proposed long term upgrade and operation of the Martinborough Wastewater Treatment Plant.*

Consent applied for: *[31707] Discharge permit – to discharge contaminants from treated effluent into the Ruamahanga River through the whole term of the consent*

[32044] Discharge permit – to discharge treated effluent to land adjacent to the plant (Stage 1B) and the Pain Farm ([Lake Ferry Road](#)) (Stage 2A and 2B)

[32045] Discharge permit –to discharge contaminants to air (odour from the ponds and treatment process, and effluent associated with land application)

[xxxx] Discharge permit – to discharge contaminants to land and water via seepage from the ponds and channel

The consents are sought for a term of 35 years

To make a submission

Any person may make a submission on this application. The submission must be dated, signed by you and include the following information:

1. Your name, postal address, telephone number, email address and facsimile number (if applicable).
2. Details of the application in respect of which you are making the submission, including location.
3. Whether you support, oppose or are neutral to the application.
4. Your submission, with reasons.
5. The decision you wish Greater Wellington to make.
6. Whether you wish to be heard in support of your submission.

Submission forms are available from the Greater Wellington office at 34 Chapel Street, Masterton, and our website at <http://www.gw.govt.nz/assets/Resource-Consents/Submission-form.pdf>

Closing date for submissions

You are required to forward your submission to the Manager, Environmental Regulation, Greater Wellington Regional Council, PO Box 41, Masterton 5840, in time to be received no later than **4.30pm on Wednesday 6 August 2014.**

The application and all supporting information can be viewed at the following places during normal working hours:

- **Greater Wellington Regional Council (Masterton Office)**, 34 Chapel Street, Masterton
- **Martinborough Library**, Jellicoe Street, Martinborough
- **Greater Wellington Regional Council's website:** www.gw.govt.nz

The officer in charge of processing this application is Nicola Arnesen, Environmental Regulation, Greater Wellington Regional Council, Masterton.

Your submission may also become publicly available if a request for it is made under the Local Government Official Information and Meetings Act 1987. Greater Wellington is legally required to provide a copy of your submission to the applicant.

Note: You must serve a copy of your submission on the applicant as soon as reasonably practicable.

Address for Service: [South Wairarapa District Council; C/- Kerry Geange, Geange Consulting, PO Box 213, Carterton 5743](#)

Greater Wellington Regional Council Logo

Action Items

1. Purpose

To present the Council with updates on actions and resolutions.

2. Executive Summary

Action items from recent meetings are presented to Council for information. The Chair may ask the Chief Executive for comment and all members may ask the Chief Executive for clarification and information through the Chair.

If the action has been completed between meetings it will be shown as 'actioned' for one meeting and then will be remain in a master register but no longer reported on. Procedural resolutions are not reported on.

3. Appendices

Appendix 1 – Action Items to 27 March 2024

Contact Officer: Amy Andersen, Committee Advisor

Reviewed By: Janice Smith, Chief Executive Officer

Appendix 1 – Action Items to 27 March 2024

Number	Raised Date	Responsible Manager	Action or Task details	Status	Notes
461	22 Nov 23	A Bradley	COUNCIL RESOLVED (DC2023/177) to: 1. Receive the Greytown Sport and Leisure Funding report. (Moved Cr Woodcock/Seconded Cr Plimmer) Carried 2. Agrees to approve up to a maximum of \$60,000 of funding for 12 months for Greytown Sports and Leisure from 1 July 2024, and request Council Officers to prepare a report outlining long term options for expanding Greytown Sports and Leisure across the region. (Moved Cr Plimmer/Seconded Cr Bosley) Carried	Open	7/02/24: Handover of work due to changes in the Democracy and Engagement Team. Early planning for exploring options underway. 29/02/24: Additional funding of \$60k will be allocated to an appropriate budget line (yet to be determined) in the Enhanced AP.
57	21 Feb 24	J Smith	Confirm addresses on Dublin Street to follow up work requests/issues with Wellington Water (leaks in road).	Actioned	05/03/24: Addresses confirmed, and photos sent to Wellington Water on 1 March 2024 seeking immediate re-instatement.
58	21 Feb 24	R O'Leary	Report on Mr O'Leary's position on the current Spatial Plan, in respect to the history and status of the heavy bypass on Dublin Street.	Open	05/03/24: A future heavy traffic bypass on Dublin St was not captured as a matter within the South Wairarapa Spatial Plan 2021. Request action be closed and any further investigation or actions in relation to Mr MacGibbon's public participation on 21 February 2024 be assigned to Roading team.
62	21 Feb 24	J Smith	COUNCIL RESOLVED (DC2024/05) to: 1. Receive the Mayor's report regarding Pain Farm. 2. Request that the CEO present a report to the next Council meeting setting out: a. The history behind the Pain Farm being permitted to be used for wastewater disposal. b. Reporting on the further legal advice that will be sought regarding the use of Pain Farm for this purpose. 3. Request that the CEO consider publishing the key findings (or parts of them) in advance of the next Council meeting to reassure residents and interested people of the legality of the use of Pain Farm for wastewater disposal and of the consultation that occurred at the time. [Items 1-3 read together] (Moved Mayor Connelly/Seconded Cr Maynard) Carried	Open	05/03/24: Still in progress. Refer to Report to Council 27 March.

Number	Raised Date	Responsible Manager	Action or Task details	Status	Notes
64	21 Feb 24	R O'Leary	<p>COUNCIL RESOLVED (DC2024/07) to:</p> <p>1.Receive the Dog Tag For Life Report. (Moved Cr Olds/Seconded Deputy Mayor Sadler-Futter) Carried</p> <p>2.That Council maintains the current annual approach for the issuing of dog tags for dog registration through to June 2025.</p> <p>3.That officers work alongside Carterton District Council to further evaluate implementation aspects of the Dog Tag For Life system from a lessons learned perspective. [Items 2 and 3 read together] (Moved Mayor Connelly/Seconded Cr Olds) Carried</p>	Actioned	05/03/24: No further action require at this time - closed.



Chairperson's Report

1. Purpose

To update Council on activities and issues which have arisen since the last report of the Chair to Council; and to seek Council's approval for items as outlined in this report.

2. Recommendations

The Chairperson recommends that the *Council*:

1. Adopts the updated Council and Committees Terms of Reference (see Appendix 1).

3. Discussion

3.1 Amendments to Council and Committees Terms of Reference

Appointed Portfolio Leads attended a training session Strategic Leadership Team members on 28 February.

During this session there were proposed refinements to the Terms of Reference in relation to the Portfolio Lead role and focus for the year ahead. The updates are attached in Appendix 1.

Also, noted that changes have been made to the Strategy Working Committee membership following the appointment of Violet Edwards.

4. Appendices

Appendix 1 – Updated Council and Committees Terms of Reference

Prepared By: Deputy Mayor, Melissa Sadler-Futter



**COUNCIL AND COMMITTEE
TERMS OF REFERENCE
2023-2025**



**SOUTH WAIRARAPA
DISTRICT COUNCIL**
Kia Reretahi Tātau

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1. INTRODUCTION

This document sets out the Terms of Reference for the South Wairarapa District Council and its committees for the 2022-2025 triennium.

The Council's business is wide-ranging, and it has many obligations and powers under statutes and regulations. It is not always necessary for the full Council to deal with every matter itself, therefore committees are formed to support. In addition, delegations to officers are made for the effective and efficient operation of Council. These are outlined in the Delegations Policy and Register available on the Council website.

2. COMMITTEE ESTABLISHMENT

The Mayor has the power to establish committees and appoint the chairperson of each committee under section 41A of the Local Government Act 2002.

The Council also has the ability to appoint, discharge, or reconstitute, the committees that it considers appropriate under schedule 7 part 1, 30 of the Local Government Act 2002.

Committees include, in relation to the Council:

- » a committee comprising all the members of the Council
- » a standing committee or special committee appointed by the Council
- » a joint committee appointed under clause 30 of Schedule 7 of the Local Government Act 2002
- » any subcommittee of a committee described above.

The Mayor is a member of each committee.

3. TERMS OF REFERENCE (TOR)

The Terms of Reference for each committee are set out in full in this document. The Terms of Reference include the purpose, key responsibilities, delegations, membership, quorum and meeting frequency.

4. QUORUM

Generally, unless otherwise specified, a quorum is the presence of:

- » half of the members if the number of members (including vacancies) is even, or
- » a majority of members if the number of members (including vacancies) is odd.

5. AMBIGUITY AND CONFLICT

In the event of ambiguity or conflict between any of the provisions contained in these terms of reference, with the result that there is uncertainty or dispute as to which committee has delegated authority in respect of a particular matter, the Mayor will decide in consultation with the Deputy Mayor on advice from the Chief Executive.

6. CHAIRPERSON / PORTFOLIO LEAD

All Chairpersons and Portfolio Leads are required to attend training to chair meetings (through LGNZ, Governance Professionals or other similar provider).

A Chairperson must ensure that the Council/Committee/Portfolio functions properly, that there is full participation during meetings, that all relevant matters are discussed and that effective decisions are made and carried out.

Please see page 18 for a role description for Portfolio Leads.

7. AGENDA PREVIEW MEETINGS

To support planning and workflow, all formal committee and informal portfolio panel meetings will be required to attend a pre-meeting including the Chairperson/Portfolio Lead, executive leadership team member and a Democracy and Engagement Team member. Meetings will be arranged by the Democracy and Engagement Team in consultation with the Chairperson/Portfolio Lead. At least three days notice will be given.

COUNCIL TOR

1. Purpose

The purpose of Council is to:

- enable democratic local decision-making and action by, and on behalf of, communities; and
- promote the social, economic, environmental, and cultural well-being of communities in the present and for the future.

2. Key Responsibilities

Activities that will be decided by the full Council include the power to:

- make a rate;
- make a bylaw;
- borrow money, or purchase or dispose of assets, other than in accordance with the long-term plan;
- adopt a long-term plan, annual plan, or annual report;
- appoint a chief executive;
- adopt policies required to be adopted and consulted on under the Local Government Act 2002 in associations with the long-term plan or developed for the purpose of the local governance statement
- adopt a remuneration and employment policy; and
- determine any other matters that Council is legally unable to delegate or where a valid delegation has not been made to a committee or other subordinate decision-making body, community board, or member or officer.

3. Membership and Composition

Chair:	The Mayor
Membership:	The Mayor and all councillors
Quorum:	Five members (half the membership)
Meeting Frequency:	As required.

MĀORI STANDING COMMITTEE TOR

1. Introduction

These Terms of Reference reflect the intent and expectations of both the South Wairarapa District Council (“the Council”) and the South Wairarapa District Council Māori Standing Committee (“the Committee”). These Terms of Reference look to strengthen the relationship between the Council and the Committee members and to ensure that the role of kaitiakitanga by the Committee and tāngata whenua is fulfilled and the wellbeing of the South Wairarapa district and its people is enhanced. Te Tiriti o Waitangi/the Treaty of Waitangi is a historical agreement between the Crown and Māori. The Council is a statutory body with powers and responsibilities delegated to it by the Crown. The Council must therefore adhere to the principles of Te Tiriti o Waitangi/the Treaty of Waitangi in respect of tāngata whenua within the South Wairarapa district. The Council and the Committee acknowledge that the iwi of Ngāti Kahungunu ki Wairarapa and Rangitāne o Wairarapa and their respective hapū exercise mana whenua and mana moana over the South Wairarapa district. The Council and the Committee acknowledge that the marae in the South Wairarapa district are Kohunui Marae, Hau Ariki Marae and Pāpāwai Marae and Pae tū Mōkai O Taura as a kaupapa māori community group represented on the Committee. The Council and the Committee further acknowledge that there are mataawaka (people of Māori descent who are not tāngata whenua) living within the South Wairarapa District.

2. Background

On 15 December 1993, the Council made a resolution to support in principle the establishment of a Māori Standing Committee of the Council. On 27 March 1996, the Council Working Party and tāngata whenua established the Committee. On 17 April 1996, the Committee first met, and on 20 June 1996, the Committee was formally established following the adoption of the 1996/1997 Annual Plan. The Annual Plan included a Māori Policy and an acknowledgement that the Committee was now fully operational. The Committee has been established every triennium thereafter. The Committee is established pursuant to clause 30(1)(a) of Schedule 7 of the Local Government Act 2002.

3. Overview

The South Wairarapa District, which extends from the Tararua Ranges to the South Wairarapa Coastline and includes Greytown, Featherston and Martinborough (“the District”), is rich in Māori history and culture. The iwi of the District are Ngāti Kahungunu ki Wairarapa and Rangitāne o Wairarapa, the marae are Kohunui Marae, Hau Ariki Marae and Pāpāwai Marae and Pae tū Mōkai O Taura is a kaupapa māori community group represented on the Committee. Some of the earliest known occupational sites exist within the District’s boundaries and for centuries the natural environment has provided both material and spiritual sustenance. Its place in the Māori political history of Aotearoa is a matter of national record. Lake Wairarapa and the South Wairarapa Coastline are of immense cultural, spiritual and historic significance to tāngata whenua.

The Local Government Act 2002 (“the LGA”) signals that the social, cultural and economic development of Māori is of particular importance. There are also specific requirements to enable Māori to contribute to council decision-making. The Resource Management Act 1991 (“the RMA”) places obligations on the Council including a duty to consult with Māori during the planning process and requires consideration of Māori cultural and traditional relationships with their ancestral lands, water, sites of significance, wāhi tapu, and other taonga. These obligations are in turn derived from the underlying principles of Te Tiriti o Waitangi/the Treaty of Waitangi, which in this context, includes:

- Partnership - the development of an active and on-going relationship between the Council and hapū of Ngāti Kahungunu ki Wairarapa and Rangitāne o Wairarapa in the South Wairarapa.
- Participation - a principle which emphasises positive and active Māori involvement in the business of the Council, and in particular its planning and delivery functions.
- Active Protection - the requirement to ensure that Māori well-being is enhanced whenever possible, and that principles of equity of Māori outcomes are observed in the Council’s decision-making processes.

The Council is committed to giving effect to these principles by engaging effectively with tāngata whenua and fostering positive relationships in pursuance of the partnership envisaged under Te Tiriti o Waitangi/the Treaty of Waitangi, on matters that affect and concern tāngata whenua.

4. Purpose and Functions

The purpose of the Committee is to advocate on behalf of and in the best interests of tāngata whenua in the District (including the descendants of hapū of Ngāti Kahungunu ki Wairarapa and Rangitāne o Wairarapa) and to ensure that the Council is fulfilling its obligations to them. To achieve this purpose, the Committee will undertake the following functions to the extent that resources allow:

- Give advice and make recommendations to the Council on significant governance issues and decisions that affect tāngata whenua in the District.
- Actively participate in and contribute to decision-making processes, policy and strategy development and other activities of the Council, based on Te Tiriti o Waitangi/the Treaty of Waitangi principles of participation, partnership and active protection.
- Consider ways in which to support the development of Māori capacity and capability to contribute to the decision-making processes of the Council.
- Provide advice and relevant information to the Council regarding economic, social, environmental, spiritual and cultural matters in the District that support sustainable resource management, kaitiakitanga and economic growth.
- Make recommendations to the Council on matters of relevance affecting tāngata whenua in the District, and to help fulfil the Māori consultative requirements of the Council particularly with regard to the principles of Te Tiriti o Waitangi/the Treaty of Waitangi, the LGA and the RMA.
- Work with the Council to develop and maintain a Māori consultation policy and advise the Council about particular consultation processes with tāngata whenua in the District. Assist in the development of consultation networks throughout the District.
- Manage a budget for the purposes of making community grants, marae grants and undertaking projects that promote Māori interests.
- Advise the Council on engagement with tāngata whenua to ensure that these engagements are positive, productive, and culturally safe and that the tikanga of the tāngata whenua are observed and respected by Council.

5. Stakeholders

Stakeholders include:

- South Wairarapa District Council.
- Hapū of Ngāti Kahungunu ki Wairarapa and Rangitāne o Wairarapa.
- Iwi settlement trusts and their entities.
- Kohunui Marae, Hau Ariki Marae and Pāpāwai Marae.
- Pae Tū Mokai o Tauira.
- Greater Wellington Regional Council.
- Wellington Water Ltd.
- The wider South Wairarapa District community.

6. Deliverables

In addition to its functions outlined above, the Committee will:

- Contribute to the Long Term Plan every three years.
- Contribute to the Annual Plan every other year.
- Provide advice on the hapū responsible for cultural and historical input into resource consents under the RMA.

7. Accountability and Reporting

The Committee is accountable to the Council and minutes of Committee meetings and specific reports will be presented to the Council. The chairperson or nominated appointee of the Committee may provide an update to the Council at each Council meeting

8. Delegated Authority

In addition to the functions of the Committee outlined in paragraph 3 above, the Council delegates to the Committee the power to:

- Discretionarily spend on community grants and projects.
- Determine the criteria and allocation of the marae development fund granted through Annual or Long Term Plans, and any subsequent development grants, to Kohunui Marae, Hau Ariki Marae, Pāpāwai Marae and Pae tū Mōkai O Taurira.

9. Membership and Composition

Reports to: Council

Membership: At least one, but up to three councillors appointed by Council in consultation with Iwi representatives
Up to two representatives from each of the three South Wairarapa Marae (Kohunui Marae, Hau Ariki Marae and Pāpāwai Marae)

Up to two representatives from Pae Tū Mokai o Taurira

Up to one representative from Ngāti Kahungunu ki Wairarapa

Up to one representative from Rangitāne o Wairarapa

The Mayor

Up to one youth representative in an advocacy role

Nominations for Iwi or Marae/Pae tū Mōkai O Taurira representatives must be received in writing from each participating body and are ratified by the Committee. Councillor membership is ratified by Council. The chairperson and deputy chairperson are elected by the Committee at the start of the triennium.

A robust induction process will be in place for all incoming members of the Committee.

Non-voting attendees: The youth representative is not a voting member of the Committee

Meeting Frequency: Eight-weekly or as required, with workshops and community forums held as needed.

Quorum: Five members including a minimum of three representatives from Iwi or Marae/Pae tū Mōkai O Taurira and one representative from Council

Committee Continuation: Under clause 30(7) of Schedule 7 of the Local Government Act 2002, this Committee is deemed not to be discharged following each triennial general election.

Agenda and paper circulation: The agenda for Committee meetings will be circulated by email as well as by post, to be received at least two working days before the Committee meeting. The agenda will also be made publicly available at the South Wairarapa libraries and on the Council's website in the following location: <https://swdc.govt.nz/meetings/>.

Workshops and briefings: The Committee may hold workshops and briefings about matters that impact local government and Māori. These workshops are not decision-making forums and the provisions of Council's Standing Orders relating to workshops and similar forum apply.

Review of Terms

These Terms of Reference may be reviewed, updated or amended at any time by the Committee and must be endorsed by the Committee and approved by Council.

STRATEGY WORKING COMMITTEE TOR (Committee of the Whole)

1. Purpose

The purpose of the committee is to support Council in making decisions that:

- enable democratic local decision-making and action by, and on behalf of, communities; and
- promote the social, economic, environmental, and cultural well-being of communities in the present and for the future.

2. Key Responsibilities

- Approve or amend the Council Code of Conduct.
- Approve or amend Council's Standing Orders.
- Appoint committees or establish joint committees with another local authority.
- Advising and supporting the development of the Annual Plan and the Long-Term Plan.
- To have a strategic understanding of the Annual Report.
- Review and recommend policies and strategies for the delivery of Council services.
- Review and recommend submissions to external bodies.
- Provide planning direction for engagement and consultation activity and approve consultation documents.
- Hear submissions for consultations processes unless required under legislation to be heard by Council.
- Approve budget overspend (above tolerance levels in the CE delegations) and any reprogramming of capex for a project or programme provided that:
 - The overall budget is met from savings
 - The overall budget for capex is not exceeded. Where this is not the case, the Committee must either:
 - Recommend to Council that additional funding is approved (outside the Annual Plan or Long-Term Plan process), or
 - Recommend as part of the next round of Long-Term Plan or Annual Plan process that the funding is considered for inclusion.
- Setting direction and monitoring of significant projects that are of a nature which pose significant risk or high community impact, including delivery against key milestones, project risks, and budget.
- Ensure that operational functions comply with legislative requirements and Council policy.
- Ensure that consents associated with Council's infrastructure are being met and renewals are planned for.
- Setting direction, ensuring alignment and monitoring progress of the key local, regional and national strategic strategies and plans for Council.

3. Delegated Authority

Power to Act:

- Approve strategies and plans related to emergency response and business continuity within budgeted limitations.
- Delegate to members of the Committee and Chief Executive the powers to appoint an Independent Chair, as recommendations by the Auditor General.
- Appoint a subcommittee to assess and approve grants, as appropriate.
- The ability to sub-delegate to Community Boards and the Māori Standing Committee, grants consistent with their Terms of Reference.

- Approve unbudgeted emergency expenditure from reserve funds and emergency expenditure up to maximum of \$400,000, includes both capital and operational expenditure.
- Approve activities and unbudgeted expenditure up to \$100,000 outside of the annual plan that do not trigger the Significance & Engagement Policy or other legislative requirements, includes both capital and operational expenditure.
- Responsibility and decision making of the reserve management plans.
- To stop roads.
- Advice on direction and action to address climate change and environmental wellbeing.
- Advice on the establishment of Joint Committees.
- The power to develop co-operative structures involving the Carterton and Masterton District Councils.
- Adoption of relevant strategies and plans.

Power to Recommend to Council:

- Adoption of the Long Term Plan and Annual Plan.
- The use of reserve funds over \$400,000 for unbudgeted emergency expenditure.
- Activities outside of the annual plan that trigger the Significance & Engagement Policy or other legislative requirements.
- Approve the Council’s recommendation to the Remuneration Authority for remuneration of elected members.
- Make decisions on the review of representation arrangements under the Local Electoral Act 2001.
- Approve the Local Governance Statement under section 40 of the Local Government Act 2002
- Approve the Triennial Agreement under section 15 of the Local Government Act 2002.

4. Membership and Composition

Chair:	Deputy Mayor Melissa Sadler-Futter.
Membership:	The Mayor and all councillors; and one Māori Standing Committee representative (Violet Edwards) and an alternate (to be nominated).
Quorum:	Six members (half the membership, plus one)
Frequency:	Four weekly.

ASSURANCE RISK AND FINANCE COMMITTEE TOR

1. Purpose

- Ensure the strategic overall financial management and performance of the council; and
- provide independent assurance and assistance on Council's risk, controls, compliance framework, and its external accountability responsibilities.

2. Key responsibilities

- Quarterly review of the financial position of Council.
- Review the Council's financial and non-financial performance against the Long-Term Plan and Annual Plan.
- Advising and supporting the development of the Annual Plan and the Long-Term Plan.
- To have a strategic understanding of the Annual Report.
- Monitor levels of service (KPIs) and performance of the activities.
- Provide input into planning for engagement and consultation activity with a financial focus or impact.
- Setting direction and monitoring progress of the risk management framework, and associated procedures for effective identification and management of Council's financial and business risks, including insurance and fraud.
- Receive and review risk management dashboard reports.
- Provide input, annually, into the setting of the risk management programme of work.
- Receive updates on current litigation and legal liabilities.
- Ensure legal and compliance risks including monitoring Council's compliance with relevant laws, regulations, and associated government policies.
- Ensure the independence and adequacy of the external audit function.
- Setting direction and monitoring progress of Council's emergency response and business continuity planning arrangements.
- .
- Ensuring the health, safety and well-being responsibilities of Council are well managed (noting the distinct responsibilities of the CEO under legislation).
- The Committee will approve applications to declare land abandoned and any other such matters under the Rating Act.

3. Delegated Authority

Power to Act:

- Approve strategies and plans related to emergency response and business continuity within budgeted limitations.
- Delegate to members of the Committee and Chief Executive the powers to appoint an Independent Chair, as recommendations by the Auditor General.
- Assess and approve Community & Youth Grants
- The ability to sub-delegate to Community Boards and the Māori Standing Committee, grants consistent with their Terms of Reference.

Power to Recommend to Council:

- Adoption of the Annual Report.

4. Membership and Composition

Chair:	Independent Chair – Bruce Robertson
Membership:	Mayor Martin Connelly, Councillor Colin Olds, Councillor Kaye McAulay, Councillor Aaron Woodcock, Councillor Martin Bosley and Narida Hooper
Quorum:	Four Members
Frequency:	Quarterly.

CEO EMPLOYMENT COMMITTEE TOR

1. Purpose

The committee acts on behalf of Council to promote an effective working relationship between the Council and the Chief Executive Officer (CEO). The committee oversees matters relating to the CEO employment, development, and performance.

2. Key responsibilities

- Promote a collaborative and effective working relationship between the Council and the CEO.
- Establish a performance agreement with the CEO including agreed Key Result Areas (KRAs) and Key Performance Indicators (KPIs).
- Provide feedback to the CEO on the effectiveness of their performance, and any areas for development or improvement.
- Support the CEO to attend appropriate professional development courses and conferences.
- Ensure there are three-monthly reviews with an external consultant, Mayor and CEO.
- Complete formal reviews in conjunction with an external consultant, including ensuring the CEO completes a self-assessment report each year.
- Arrange for confidential feedback to be provided by councillors to an external consultant to be compiled into one document to be reported to the full Council.
- Review the salary of the CEO and make recommendations to Council on an annual basis.
- Receive written progress reports from an external consultant.

3. Delegated Authority

The Committee is delegated the Power to Act:

- To complete half-yearly reviews and feedback to CEO, in conjunction with an external consultant, with the summary reported to Council.
- The authority to forward written progress reports from the external consult to Council as required, but at least once a year.
- To seek specialist advice and support.
- The authority to authorise advertising for the position of CEO.

The Committee is delegated the Power to Recommend:

- To recommend to Council appointment of a CEO.
- To recommend to Council CEO salary adjustments.

4. Membership and Composition

Chair: Councillor Kaye McAulay

Membership: Mayor Martin Connelly, Deputy Mayor Melissa Sadler-Futter, Councillor Aiden Ellims, and Councillor Kaye McAulay

An external consultant may be co-opted to provide advice but is not a member of the committee

Quorum: Two members

Meeting Frequency: At least six-monthly or as required throughout the year.

RESOURCE MANAGEMENT HEARINGS PANELS TOR

1. Purpose

To hear and determine matters arising under the Resource Management Act 1991.

2. Key responsibilities

- Hearing and determining resource consents under sections 104 and 104A, 104B, 104C, and 104D under the Resource Management Act 1991.
- Hearing and recommending decisions on notices of requirement and amendments to notices of requirement under the Resource Management Act 1991.
- Hearing and deciding or recommending matters under the 1st Schedule of the Resource Management Act 1991, excluding clause 17.
- Specific delegations have been set out in Council's delegation register for panels convened for matters arising from the Resource Management Act 1991.

3. Delegated authority

Power to Act:

- To conduct hearings and make determinations on areas within its key responsibilities.
- To act in accordance with specific delegations set out in Council's delegation register.

Power to Recommend to Council:

- The committee shall have the authority to make a decision on any matter before it without reference to Council but has the power to make a recommendation or refer any matter to Council if it so wishes for decisions on Notices of Requirements and Plan Changes pursuant to the Resource Management Act 1991.
- To hear and make recommendations to Council for those matters where a decision can't be delegated (e.g. District Plan).

4. Membership and Composition

Membership

The Chief Executive has delegated authority to appoint a Hearings Panel on a recommendation received from the Group Manager, Planning and Environment.

The Chief Executive may appoint:

- Independent accredited commissioners
- Chair including chair acting alone
- Hearings Committee members
- An iwi approved accredited commissioner with relevant experience and skills to the matters being heard.

For matters pursuant to Plan Changes, the Chief Executive is encouraged to appoint a member or members from the Hearings Committee to a Hearings Panel where appropriate.

The chair will be an independent accredited commissioner and will have a casting vote.

Quorum: One member or commissioner with a 'chair' endorsement from the 'Making Good Decisions' programme.

Meeting Frequency: As required.

DISTRICT LICENSING COMMITTEE TOR

1. Purpose

This committee is appointed in accordance with section 186 of the Sale and Supply of Alcohol Act 2012 to deal with licensing matters for its district.

2. Key responsibilities

The committee has the functions outlined in section 187 of the Sale and Supply of Alcohol Act 2012:

- consider and determine applications for licences and manager's certificates
- consider and determine applications for renewal of licences and manager's certificates
- consider and determine application for temporary authority to carry on the sale and supply of alcohol in accordance with section 136
- consider and determine applications for the variation, suspension, or cancellation of special licences
- consider and determine applications for the variation of licences (other than special licences) unless the application is brought under section 280
- refer applications to the licensing authority with the leave of the chairperson for the licensing authority,
- conduct inquiries and to make reports as may be required of it by the licensing authority under section 175
- carry out any other functions conferred on licensing committees by or under the Sale and Supply of Alcohol Act 2012 or any other enactment.

3. Delegated Authority

In accordance with section 188 of the Sale and Supply of Alcohol Act 2012, the committee has all the powers conferred on it by or under the Sale and Supply of Alcohol Act 2023 or any other acts, and all the powers as may be reasonably necessary to enable it to carry out its functions.

4. Membership and Composition

Chair or Commissioner: Councillor Alistair Plimmer

Deputy Chair: Councillor Kaye McAulay

Membership: Chairperson and list members maintained under section 192, including one councillor and external members appointed by Council

Quorum: Three members

The Chairperson is able to act alone to consider and determine applications for a licence, manager's certificate or renewal of a licence or manager's certificate where no objection has been filed and no matters of opposition have been raised under sections 103, 129 or 141.

Meeting Frequency: As required

PORTFOLIOS TOR

Community, Climate and Environmental Wellbeing	Councillor Rebecca Gray
Infrastructure	Councillor Aidan Ellims
Planning and Regulation	Councillor Colin Olds

1. Introduction

Portfolios complement the formal Council and Committee structure and ensure that the Council considers the impact of decisions on:

1. particular population groups; or
2. a strategic issue which span Council activities

Portfolios enable Councillors to be the champion for these matters and help ensure that these are considered in Council's decision-making.

2. Definition

A Portfolio Holder is a Councillor who is formally assigned a portfolio by the Council. A Portfolio has one Councillor assigned to it.

3. Role

In addition to their responsibilities as a Councillor under the Local Government Act 2002, Portfolio Holders should:

1. Champion the advancement of community views on their portfolio area when Council is making relevant decisions;
2. Keep abreast of Council proposals and decisions which may impact on their portfolio area;
3. Provide a point of contact for members of the community engaged in their portfolio area;
4. Act as the official Council spokesperson or representative on relevant matters for their portfolio area; and
5. Provide an elected representative's viewpoint and act as a sounding board for Council Officers on issues relating to their portfolio area.

In discharging their responsibilities as Portfolio Holders and consistent with their role under the Local Government Act 2002, Councillors should maintain a focus on strategic issues relevant to their portfolio, rather than the day to day operational matters.

4. Portfolio Objective

Portfolio Holders focus on areas that cut across different functions of Council and champion those portfolio areas. They engage with community groups interested in their portfolio area and help bring their views to Council. They also both represent or speak on behalf of the Council on external bodies that focus of their area as required.

5. Responsibilities

Portfolio Holders should:

1. Provide advice and guidance to the Council on portfolio matters through participation, discussion and debate at Strategy Working Committee meetings;

2. Keep the Strategy Working Committee Chairperson fully informed on portfolio matters and emerging issues;
3. Collaborate with Committee Chairs and other Portfolio Holders where objectives are shared;
4. Contribute to issues which cut across portfolios or collective issues of responsibility;
5. Enhance relationships with key stakeholders and attend events or participate in external meetings in their portfolio area; and
6. Act as the Council's spokesperson and point of contact for those activities within their portfolio responsibility, unless deemed otherwise by the Strategy Working Committee Chairperson.

6. Term

The portfolio responsibility is for the period of the current term of Council or as determined by the Council. Revocation, alteration of terms of reference or addition of new portfolios requires a decision by Council.

7. Delegations / Limitations

Portfolio Holders do not hold any specific statutory or governance responsibilities related to their portfolio beyond those which they ordinarily hold as an elected Councillor.

A Portfolio Holder does not assume any of the roles, powers and functions assigned to the Mayor under the Local Government Act 2002 unless delegated by the Mayor.

A Portfolio Holder does not have the authority to make Council decisions, nor commit Council to any course of action or unbudgeted expenditure.

8. Relationship with Council officers

The assigned Strategic Leadership staff member (or their staff member if delegated) will be the key point of contact and advisor to the Portfolio Holder.

A regular catch up on portfolio matters should be arranged between that staff member and the Portfolio Holder. The Democracy and Engagement Team will help provide diary support and the Strategic Leadership staff member can help provide information (or delegate staff to work with the Portfolio Holder).

The Chief Executive is able to amend the staff member assigned to each Portfolio Holder listed in Schedule 1 of these Terms of Reference without a Council decision, however an email must be sent to the Portfolio Holder and the staff member to confirm the change.

9. Reporting and accountability

Portfolio Holders should report quarterly to the Strategy Working Committee on portfolio matters, regarding the current matters underway in their portfolio area and outstanding issues they want to bring to Council's attention. These reports can request further information from officers, but cannot propose to commit Council resources without staff advice.

Support loading these reports, once approved by the Strategy Working Committee Chairperson, will be provided by the Chief Executive and the Democracy and Engagement Team.

Portfolio Holders will engage regularly with the Strategy Working Committee Chairperson to ensure current awareness.

They can also seek time for informal discussion with other Councillors, collectively or individually, if and when required to progress portfolio interests and ensure information-sharing that will support informed and effective decision-making. Workshops can be scheduled with the support of the Democracy and Engagement Team (refer to SWDC workshop guidelines).

10. External communication protocol

The Mayor has first right of refusal as the Council's principal spokesperson on significant issues.

Notwithstanding this, it is the role of Portfolio Holders to act as the principal governance spokesperson in communicating to the media and public the official policy of the Council in line with the Code of Conduct, or in the absence of official policy, commenting in a manner consistent with the Council's strategic direction, on items relating to their portfolio are of responsibility

Schedule 1 – Current Portfolios

As at 7 December 2023 and in accordance with Council decision DC2023/189:

Area	Holder	Description/Priorities	Staff Member Assigned
Community, Climate and Environmental Wellbeing	Councillor Rebecca Gray	<ul style="list-style-type: none"> ▪ Enhancing community relationships, accessibility ▪ Climate impacts – highlight in all discussions ▪ Supporting environment groups, look for opportunities to support and align with objectives ▪ Supporting review of Climate Change Strategy 	Chief Executive
Infrastructure	Councillor Aidan Ellims	<ul style="list-style-type: none"> ▪ Water ▪ Roothing ▪ Community projects, e.g. Greytown Wheels Park, street lighting 	Group Manager Partnerships and Operations
Planning and Regulation	Councillor Colin Olds	<ul style="list-style-type: none"> ▪ Featherston Masterplan ▪ Wairarapa Combined District plan ▪ Changes to government policy and reforms 	Group Manager Planning and Environment