AGENDA/KAUPAPA

Te Kaunihera o Te Tairāwhiti
GISBORNE
DISTRICT COUNCIL

P O Box 747, Gisborne, Ph 06 867 2049 Fax 06 867 8076
Email service@gdc.govt.nz Web www.gdc.govt.nz

MEMBERSHIP: Her Worship the Mayor Rehette Stoltz, Deputy Mayor Josh Wharehinga, Colin Alder, Andy Cranston, Larry Foster, Debbie Gregory, Ani Pahuru-Huriwai, Rawinia Parata, Aubrey Ria, Tony Robinson, Rob Telfer, Teddy Thompson, Rhonda Tibble and Nick Tupara

COUNCIL/TE KAUNIHERA

DATE: Thursday 12 December 2024

TIME: 9:00AM

AT: Te Ruma Kaunihera (Council Meeting Room), Awarua, Fitzherbert Street, Gisborne

AGENDA – OPEN SECTION

Council

Chairperson:	Mayor Rehette Stoltz
Deputy Chairperson:	Deputy Mayor Josh Wharehinga
Membership:	Mayor and all Councillors
Quorum:	Half of the members when the number is even and a majority when the number is uneven
Meeting Frequency:	Six weekly (or as required)

Terms of Reference:

The Council's terms of reference include the following powers which have not been delegated to committees, subcommittees, officers or any other subordinate decision-making body, and any other powers that are not legally able to be delegated:

1. The power to make a rate.
2. The power to make a bylaw.
3. The power to borrow money, or purchase or dispose of assets, other than in accordance with the Long Term Plan.
4. The power to adopt a Long Term Plan, Annual Plan, or Annual Report.
5. The power to appoint a Chief Executive.
6. The power to adopt policies required to be adopted and consulted on under the Local Government Act 2002 in association with the Long Term Plan or developed for the purpose of the Local Governance Statement.
7. The power to adopt a remuneration and employment policy.
8. Committee Terms of Reference and Delegations for the 2019–2022 Triennium.
9. The power to approve or amend the Council's Standing Orders.
10. The power to approve or amend the Code of Conduct for elected members.
11. The power to appoint and discharge members of Committees.
12. The power to establish a joint committee with another local authority or other public body.
13. The power to make the final decision on a recommendation from the Ombudsman where it is proposed that Council not accept the recommendation.

14. The power to make any resolutions that must be made by a local authority under the Local Electoral Act 2001, including the appointment of an electoral officer.

15. Consider any matters referred to it from any of the Committees.

16. Authorise all expenditure not delegated to staff or other Committees.

Council's terms of reference also includes oversight of the organisation's compliance with health and safety obligations under the Health and Safety at Work Act 2015.

Note: For 1-7 see clause 32(1) Schedule 7 Local Government Act 2002 and for 8-13 see clauses 15, 27, 30 Schedule 7 of Local Government Act 2002

MINUTES

Draft & Unconfirmed

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MINUTES of the EXTRAORDINARY COUNCIL/TE KAUNIHERA

Held in Te Ruma Kaunihera (Council Meeting Room), Awarua, Fitzherbert Street, Gisborne on Wednesday 6 November 2024 at 9:00AM.

PRESENT:

Her Worship the Mayor Rehette Stoltz, Colin Alder, Larry Foster, Debbie Gregory, Ani Pahuru-Huriwai, Aubrey Ria, Tony Robinson, Rob Telfer, Teddy Thompson, Rhonda Tibble, Josh Wharehinga.

IN ATTENDANCE:

Director Internal Partnerships & Protection James Baty, Acting Director Liveable Communities Kerry Hudson, Director Engagement & Maori Partnerships Anita Reedy-Holthausen, Chief Financial Officer Pauline Foreman, Director Sustainable Futures Jo Noble, Democracy & Support Services Manager Julian Rangihuna-Tuumuli and Committee Secretary Sally Ryan.

Secretarial Note: Chief Executive Nedine Thatcher Swann, Director Lifelines Tim Barry and Chief Advisor Maori Gene Takurua attended via audio visual link.

The meeting commenced with a karakia.

1. Apologies

MOVED by Cr Stoltz, seconded by Cr Alder

That the apologies from Cr Cranston, Cr Parata and Cr Tupara be sustained. CARRIED

2. Declarations of Interest

There were no interests declared.

3. Leave of Absence

There were no leaves of absence.

4. Acknowledgements and Tributes

There were no acknowledgements or tributes.

5. Public Input and Petitions

There were no public input or petitions.

6. Extraordinary Business

There was no extraordinary business.

7. Notices of Motion

There were no notices of motion.

8. Adjourned Business

There was no adjourned business.

9. Reports of the Chief Executive and Staff for DECISION

9.1 24-314 Proposed changes to Grey Street / Kahutia Street Intersection

Chief Executive Nedine Thatcher Swann attended.

Questions included:

- In order to maintain the integrity of Streets for People the design engineers have advised stop controls and a raised pedestrian crossing on Kahutia Street to slow the traffic be installed.
- The re-installation of the T intersection is to address the hazardous vehicle movements and safety issues while still allowing the trial to continue.
- The NZTA funded 90% of the Grey Street trial which will run until July 2025.
- There is evidence people are using the track between Kahutia Street and Midway Surf Club on bikes, scooters, skateboards and on foot.
- Further discussions will take place at Regional Transport Committee.

MOVED by Cr Stoltz, seconded by Cr Wharehinga

That the Extraordinary Council/Te Kaunihera:

1. Approves the installation of “t” intersection at the Grey and Kahutia Street intersection to address safety issues during the trial.

CARRIED

10. Close of Meeting

There being no further business, the meeting concluded at 9:19am.

Rehette Stoltz
MAYOR

MINUTES

Draft & Unconfirmed

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MINUTES of the GISBORNE DISTRICT COUNCIL/TE KAUNIHERA

Held in Te Ruma Kaunihera (Council Meeting Room), Awarua, Fitzherbert Street, Gisborne on Thursday 21 November 2024 at 9:00AM.

PRESENT:

Her Worship the Mayor Rehette Stoltz, Colin Alder, Andy Cranston, Larry Foster, Debbie Gregory, Ani Pahuru-Huriwai, Rawinia Parata, Tony Robinson, Rob Telfer, Daniel Thompson, Nick Tupara, Josh Wharehinga.

IN ATTENDANCE:

Chief Executive Nedine Thatcher Swann, Director Lifelines Tim Barry, Acting Director Liveable Communities Kerry Hudson, Chief Financial Officer Pauline Foreman, Director Sustainable Futures Jo Noble, Intermediate Policy Advisor Makarand Rodge, Senior Democracy Advisor Teremoana Kingi and Committee Secretary Jill Simpson.

The meeting commenced with a karakia.

Secretarial Note: Chief Executive Nedine Thatcher Swann attended the meeting via audio visual link.

1. Apologies

MOVED by Cr Stoltz, seconded by Cr Robinson

That the apologies from Cr Parata, Cr Ria, Cr Tibble be sustained. CARRIED

2. Declarations of Interest

There were no interests declared.

3. Confirmation of non-confidential Minutes

3.1 Confirmation of non-confidential Minutes - 17 October 2024

MOVED by Cr Foster, seconded by Cr Telfer

That the Minutes of 17 October 2024 be accepted subject to minor amendment. CARRIED

3.2 Action Register

Noted.

3.3 Governance Work Plan

Noted.

4. Leave of Absence

There were no leaves of absence.

5. Acknowledgements and Tributes

Her Worship the Mayor and Councillors acknowledged and paid tribute to the following:

- Tairāwhiti Civil Defence Emergency Management Team who received an award at the ALGIM Conference for 'Community Project of the Year - Marae Preparedness and Resilience Project'.
- Gisborne District Council Comms Team who won an award for the best Three Year Recovery Plan as well as the Consultation Document at the Local Government Awards.
- The crew of the HMNZS Manawanui for the work they have completed on the clean-up of our beaches.
- Our Councillors who joined the Hikoi mo te Tiriti against the Treaty Principles Bill.
- The passing of Chaplain Richard Rangihuna who was an experienced community support worker with a demonstrated history of working in the hospital and health care industry.
- The Assistant Auditor General Mark Maloney who was appointed to Local Government at the Office of the Auditor General in April 2022, passed away while on the Gold Coast Australia with his family. Mark had a genuine passion for the Local Government sector and his leadership, knowledge and insights were invaluable.

6. Public Input and Petitions

Tologa Bay Wharf - Clive Bibby attended and spoke to the Councillors regarding the Tolaga Bay Wharf.

- Acknowledged and welcomed his support team from Pouawa Dolly Mitchell and Judy Ruru.
- Outlined historical commitments around the relationship between the local authority and people of Uawa, Tolaga Bay.
- Outlined the process of gifting the Reynolds Hall to the people of the community in memory of Mr Reynold's son who passed away following an accident.
- Reynolds Hall has undergone a restoration project costing $2m with money raised locally. Council supported this work.

Secretarial Note: Cr Parata arrived at 9.15am.

- The Tolaga Bay Wharf has become a major feature of advertising campaigns and large numbers of people use the wharf.
- Over a 30 year period approximately $6m was raised for restoration of the wharf so that it continued to contribute to the local tourism trade. Council contributed in an oversight role. Restoration was signed off with a report on the structural soundness.
- A quote was received for replacing the two pous at the entrance of the wharf.

Her Worship the Mayor explained that all the information in relation to the Wharf, the Reynolds Hall etc will be compiled by staff.

7. Extraordinary Business

There was no extraordinary business.

8. Notices of Motion

There were no notices of motion.

9. Adjourned Business

There was no adjourned business.

10. Committee Recommendations to Council

10.1 24-329 Committee Recommendations to Council -September 2024

MOVED by Cr Stoltz, seconded by Cr Foster

That the Council/Te Kaunihera:

1. Adopts the recommendations from the Audit and Risk Committee:
    a. Approves the Ernst & Young New Zealand (EY) Close Report (Attachment 1), while noting:
        i. EY have substantively completed their audit for the 2023/24 Annual Report.
        ii. That the final opinion will be subject to matters outstanding.
    b. Authorises the Chair of Audit & Risk Committee and Chief Executive to:
        i. Review any of the outstanding matters with EY auditors; and
        ii. Escalate any significant matters arising from the review as noted under b(i.) to Council, before the adoption of the Annual Report.

CARRIED

11. Reports of the Chief Executive and Staff for DECISION

11.1 24-305 Determination to make a new Mobile Shops and Other Traders Bylaw

Director Sustainable Tairāwhiti Jo Noble and Intermediate Policy Advisor Makarand Rogers attended.

MOVED by Cr Robinson, seconded by Cr Cranston

That the Council/Te Kaunihera:

1. Determines that a bylaw is still the most appropriate way to address perceived problems associated with mobile trading because it provides a clear regulatory framework and that:
    a) The Mobile Shops and Other Traders Bylaw 2014 does not give rise to any unjustified implications and is not inconsistent with the New Zealand Bill of Rights Act 1990.
    b) The Mobile Shops and Other Traders Bylaw 2014 is not the most appropriate form of bylaw, and a new bylaw is required to address identified issues.
2. Requests that staff hold a workshop with elected members to discuss options for changing the current bylaw.

CARRIED

11.2 24-267 2025 Council and Committee Meeting Schedule

It was noted that the next Zone 3 meeting will be held in Taranaki.

MOVED by Cr Stoltz, seconded by Cr Pahuru-Huriwai

That the Council/Te Kaunihera:

1. Adopts the attached meeting schedule until the end of 2025 with any amendments suggested by Council.

CARRIED

12. Reports of the Chief Executive and Staff for INFORMATION

12.1 24-235 Chief Executive Activity Report November 2024

Chief Executive Nedine Thatcher Swann attended and answered questions of clarification.

- Recruitment is in place for increasing staffing numbers in the Climate Change Team and should be fully implemented early 2025. In terms of budget, each Activity Management plan considers the impact of climate change.
- The intention for setting requirements for housing growth goes hand in hand with infrastructure planning. Staff are waiting for information on the new National directive.
- Regarding the National Environmental Standards for Commercial Forestry, officials are still working on what the changes will look like. Consultation is expected in the first half of 2025. In the interim clear messages are being sent to the Officials that we want to retain the ability to control forestry in Tairāwhiti to meet our community's needs and aspirations.

- A report is on the Sustainable Tairāwhiti agenda for 27 November outlining the constraints around the Forestry Plan changes and timeframes around implementing the plan changes.

The Chief Executive advised that the letter sent to the Ministry of Primary Industries outlining considerations for changes to be made to the National Environmental Standards from an operational level can be recast to a governance level.

- A report will be on the Council agenda for 12 December meeting setting out a framework for decision-making on the future use of the Category 3 land.
- Regarding the Category 2P properties a review is being sought on the more complex issues and the findings are expected at the end of November.
- The increase in abusive and unacceptable behaviour is at a national level not just locally.
- The funding for the Deliberative Democracy Project was through the Better off Funding which enabled Council to undertake initiatives which would otherwise not been fundable. Part of this was to look at new ways to engage with the community and deliberative democracy is a popular process for engagement that staff were keen to trial around climate change. The investment around deliberative democracy is for Council to understand how the process can be deployed in other engagement areas. The greatest benefit for Council is around the actual process being undertaken.
- The Project Team have been working alongside mana whenua to identify the preferred location for the Indoor Multipurpose Centre.
- The Flood Intelligence - New Flood Forecasting Model is based on the rainfall and river flows to predict flood heights that trigger warnings to residents in terms of flooding and evacuations. The new model being developed will provide more reliable information and forecasting.
- Spartina is listed in the Pest Management Strategy and is an invasive weed problem.
- The Sustainable Hill Country Project is progressing however there are issues around land title. Funding is available through MPI for this work. Work is progressing slowly.
- In relation to the Local Alcohol Policy the engagement running on-line was informal engagement and staff still need to undertake formal consultation process before any changes can be made. The changes will not be made before Xmas.

MOVED by Cr Stoltz, seconded by Cr Wharehinga

That the Council/Te Kaunihera:

1. Notes the contents of this report.

CARRIED

13. Public Excluded Business

Secretarial Note: These Minutes include a public excluded section. They have been separated for receipt in Section 13 Public Excluded Business of Council.

14. READMITTANCE OF THE PUBLIC

MOVED by Mayor Stoltz, seconded by Cr Wharehinga

That the Council/Te Kaunihera re-admits the public.

CARRIED

15. Close of Meeting

There being no further business the meeting concluded at 10.35am.

Rehette Stoltz
MAYOR

3.3. Action Register

Meeting Date	Item No.	Item	Status	Action Required	Assignee/s	Action Taken	Due Date
27/06/24	11.1	24-102 2024-2027 Three Year Plan Adopting Report	In progress	Cr Foster requested that a report be brought back to council around Business Area Patrols and the targeted rate on area patrol for business owners, additionally requesting that a satisfaction survey be conducted on retailers around this service.	Gary McKenzie	03/12/2024 James Baty Survey scoping is complete, with plans to conduct it over the summer period.	20/03/25
27/06/24	13.1	24-153 Te Arai Future Harvest Plan	In progress	Adjourned item and supplementary report to be taken to Council on (date and meeting tbc). Note to amend the report to include further information on Councils legal obligation to provide compensation to JNL.	Amy England	07/11/2024 Denise Williamson It is likely that this information will come back to Public Excluded Finance & Performance Committee in early 2025.	27/02/25

3.4. Governance Work Plan

2024 COUNCIL							
HUB	Activity	Name of agenda item	Purpose	Report type	Owner	21-Nov	12-Dec
Office of the Chief Executive	Risk & Performance	Chief Executive Activity Report	The purpose of this report is to provide elected members with an update on Council activities from 1 November 2023 to 29 February 2024.	Information (I)	Joy Benioni		
Engagement and Māori Partnerships		2025 Council and Committee Meeting Schedule	Meeting set up for 2025.	Decision (D)	Heather Kohn/Julian Rangihuna-Tuumuli		
Liveable Communities	Community Projects	24-317 Waingake-Pamoa Joint Steering Group Strategic Direction	To update Council on recent research completed into the history of local government acquisitions of the Maraetaha 2 lands at Waingake-Pamoa and to seek endorsement of the Waingake JSG Strategic Plan.	Decision (D)	Amy England		
Community Lifelines	Water	24-348 Local Water Done Well - Delivery Options Business Case	For Council to select a delivery model for the Local Water Done Well water reform.	Decision (D)	Kevan Scott		
Sustainable Futures	Strategic Planning	24-305 Determination to make a new Mobile Shops and other Traders Bylaw	Presenting options and recommendations for Council to decide whether a bylaw is still the most appropriate method to address problems associated with mobile trading in the Gisborne region.	Decision (D)	Deb Rowland		
Sustainable Futures	Strategic Planning	24-299 Implementing Te Mana o Te Wai Recommendations	This report examines the Gisborne District Council's implementation of Te Mana o Te Wai based on recommendations from a review conducted by Poipoia Ltd in 2023.	Decision (D)	Ariel Yann le Chew		

2024 COUNCIL							
HUB	Activity	Name of agenda item	Purpose	Report type	Owner	21-Nov	12-Dec
Sustainable Futures	Strategic Planning	24-324 Policy Framework for Decisions on Storm-Affected Land Acquired by Council	The purpose is to approve the proposed policy framework.	Decision (D)	Tessa Buchanan		
Office of the Chief Executive		24-352 Submission on Principles of the Treaty of Waitangi Bill	The purpose of this report is to confirm Council's submission on the Principles of the Treaty of Waitangi Bill.	Decision (D)	Gene Takurua		
Internal Partnerships & Protection	Compliance Monitoring & Enforcement	24-342 Temporary Alcohol Bans December 2024 and January 2025	The purpose of this report is to seek approval from Council for four temporary alcohol bans during the Rhythm & Vines Festival (R&V) and the Summer Frequencies Music & Arts Festival (SF), as requested by the New Zealand Police (Police).	Decision (D)	Vincenzo Petrella		
Internal Partnerships & Protection	Compliance Monitoring & Enforcement	24-343 2024 - Public Financial Report on Income and Expenses Related to the Operation of the District Licensing Committee	The purpose of this report is to inform the Council Committee of the income and expenses related to the operation of the District Licensing Committee (DLC) and alcohol licensing functions from 1 July 2023 to 30 June 2024 (financial year 2024), prior to the report being publicly notified on the Gisborne District Council website.	Decision (D)	Vincenzo Petrella		

Te Kaunihera o Te Tairāwhiti
GISBORNE
DISTRICT COUNCIL

24-351

Title:	24-352 Submission on Principles of the Treaty of Waitangi Bill
Section:	Chief Executive's Office
Prepared by:	Gene Takurua - Chief Advisor - Māori
Meeting Date:	Thursday 12 December 2024

Legal: No	Financial: No	Significance: High

Report to COUNCIL/TE KAUNIHERA for decision

PURPOSE - TE TAKE

The purpose of this report is to confirm Council's submission on the Principles of the Treaty of Waitangi Bill.

SUMMARY - HE **WHAKARĀPOPOTOTANGA**

On 7 November 2024, the Principles of the Treaty of Waitangi Bill was introduced to Parliament as part of the 2023 coalition agreement between the National Party and ACT, with NZ First also supporting its first reading. The Bill redefines the principles of Te Tiriti o Waitangi / the Treaty of Waitangi (Te Tiriti) in legislation and mandates use of the newly defined principles when interpreting laws that refers or relates to Te Tiriti principles. Notably, there was no co-development, engagement, or consultation with Māori on the proposed principles.

The Bill proposes three principles, which can be summarised as:

> Principle 1: The Crown has full power to govern in the interests of everyone and in line with the rule of law and democratic principles.
>
> Principle 2: The Crown recognises the rights hapū and iwi had when they signed Te Tiriti, but those rights differ from the rights of everyone only when specified in a Treaty settlement.
>
> Principle 3: Everyone is equal before the law and has the same fundamental human rights.

If the Bill was enacted, it would have significant adverse effects on Council services and relationships with tangata whenua. A draft submission opposing the Bill and its process has been prepared, urging its withdrawal. Council must now decide between three options:

a) Not submitting on the Bill.

b) Submitting the drafted submission (Attachment 1).

c) Amending and submitting revised content.

The decisions or matters in this report are considered to be of High significance in accordance with the Council's Significance and Engagement Policy.

RECOMMENDATIONS - **NGĀ TŪTOHUNGA**

That the Council/Te Kaunihera:

1. Delegates authority to the Chief Executive to make amendments to the draft submission (Attachment 1) in line with the resolution/s of Council on this matter, and any minor amendments for grammar/spelling etc.
2. Delegates authority to the Chief Executive and Mayor to submit the submission to the Justice Committee.

Authorised by:

Nedine Thatcher Swann - Chief Executive

Keywords: Treaty of Waitangi, Te Tiriti o Waitangi, submission, coalition agreement, Government, legislation, Justice Committee

BACKGROUND - HE **WHAKAMĀRAMA**

1. On 7 November 2024, the Principles of the Treaty of Waitangi Bill was introduced to Parliament (see Attachment 1). The Bill is a product of the 2023 coalition agreement between the National Party and ACT. The National Party and the third coalition partner NZ First have committed to supporting the Bill through its first reading.
2. No engagement or consultation with Māori was undertaken during the development of the Bill, which can be seen as disregarding their role as Treaty partners and the principles of the Tiriti o Waitangi.
3. The Bill seeks to redefine Te Tiriti o Waitangi / Treaty of Waitangi principles in legislation and require the redefined principles to be used when interpreting legislation.
4. Section 6 of the Bill proposes the following principles:

   Principle 1

   The Executive Government of New Zealand has full power to govern, and the Parliament of New Zealand has full power to make laws,—

   (a) in the best interests of everyone; and

   (b) in accordance with the rule of law and the maintenance of a free and democratic society.

   Principle 2

   (1) The Crown recognises, and will respect and protect, the rights that hapū and iwi Māori had under the Treaty of Waitangi/te Tiriti o Waitangi at the time they signed it.

   (2) However, if those rights differ from the rights of everyone, subclause (1) applies only if those rights are agreed in the settlement of a historical treaty claim under the Treaty of Waitangi Act 1975.

   Principle 3

   (1) Everyone is equal before the law.

   (2) Everyone is entitled, without discrimination, to—

   (a) the equal protection and equal benefit of the law; and

   (b) the equal enjoyment of the same fundamental human rights.
5. On 14 November 2024, the Bill was read for the first time and referred to the Justice Committee for consideration. The closing date for submissions is 7 January 2025.
6. By contrast, Te Tiriti principles developed over many years of jurisprudence, lawmaking, and policymaking include:
   - Partnership – the Treaty / Te Tiriti is a partnership between Māori and the Crown, which requires the partners to act toward each other reasonably, honourably and with good faith.
   - Protection – active protection by the Crown of Māori interests, rights, taonga and rangatiratanga.
   - Participation – the Crown will provide opportunities for Māori to engage with decision making processes at all levels.
   - Redress – the Crown should provide redress for breaches of the Treaty / Te Tiriti.
   - Kāwanatanga – the Crown has the right to govern.

DISCUSSION and OPTIONS - WHAKAWHITINGA **KŌRERO** me **ngā KŌWHIRINGA**

7. Council has adopted Te Tiriti Compass as an articles-based approach to upholding its strategic and legislative Treaty commitments. However, many pieces of legislation Council works under reference the principles of Te Tiriti. Council's Te Tiriti Compass approach is still in alignment with legislation.

8. Staff have not undertaken a full impact assessment prior to drafting a submission because this is not practicable within the submission period. In addition, the statements of the National Party indicate they will not support the Bill beyond the select committee process. This would mean the Bill is unlikely to be passed into law based on statements of opposition from other political parties as well.

9. At a high level, if the Bill was ratified and enacted as law there would be a wide range of impacts across all Council services, and it would be incredibly damaging for Council's relationships with tangata whenua in our region and our ability to work together for mutually beneficial outcomes.

10. The draft submission provides succinct high-level reasons on why Council does not support the Bill or the process taken to draft it. The submission requests the withdrawal of the Bill.

11. The options for Council to consider are:

    a. Do not submit on the Bill.

    b. Submit the drafted submission (Attachment 2) on the Bill requesting its withdrawal.

    c. Draft additional/amended submission content and submit on the Bill.

12. Staff recommend Council make a submission based on the attached draft highlighting concerns about the Bill's impacts and process, with amendments made in line with any resolutions of Council on this matter.

ASSESSMENT of SIGNIFICANCE - AROTAKENGA o **NGĀ** HIRANGA

Consideration of consistency with and impact on the Regional Land Transport Plan and its implementation
Overall Process: Low Significance
This Report: Low Significance

Impacts on Council's delivery of its Financial Strategy and Long Term Plan
Overall Process: High Significance
This Report: Low Significance

Inconsistency with Council's current strategy and policy
Overall Process: High Significance
This Report: Medium Significance

The effects on all or a large part of the Gisborne district
Overall Process: High Significance
This Report: High Significance

The effects on individuals or specific communities
Overall Process: High Significance
This Report: High Significance

The level or history of public interest in the matter or issue
Overall Process: High Significance
This Report: High Significance

13. The decisions or matters in this report are considered to be of High significance in accordance with Council's Significance and Engagement Policy.

TREATY COMPASS ANALYSIS

K**āwanatanga**

14. We have not provided for Kāwanatanga for iwi, hapū, and Māori entities as part of this Council decision. Enactment of the Principles of the Treaty of Waitangi Bill as it currently stands would dramatically reduce the current requirement on council to involve tangata whenua in decision making processes. Tangata whenua have not been consulted by central government regarding this Bill. Any Bill that requires transgression to advance must be considered for ethical and moral merit also.

Rangatiratanga

15. We anticipate that many iwi, hapū and Māori entities will make submissions on this matter and our submission notes that we recognise their submissions and their rangatiratanga on this matter. The ability for tangata whenua to self-determine is already restricted. Council does make earnest attempts to provide for tangata whenua self-determination within priority kaupapa. This Bill stands to remove the requirement to uphold the foundation in which Aotearoa's constitution was built upon.

Oritetanga

16. As a partner to the foundations of Aotearoa's constitution tangata whenua have not been treated in an equitable fashion in relation to this Bill. The process undertaken has no alignment with the current Treaty principles. This has restricted the ability for an equitable approach at a national and regional level.

Whakapono

17. Provision for tangata whenua worldview, belief systems, tikanga and kawa stand to be rewritten without their input. This does not align with the three articles above.

TANGATA **WHENUA/MĀORI** ENGAGEMENT - **TŪTAKITANGA** TANGATA WHENUA

18. We have not engaged with tāngata whenua on a Council submission. Staff suggest that a copy could be provided for information to our iwi partners to provide clarity and certainty that had we have submitted in opposition to the Bill.

COMMUNITY ENGAGEMENT - **TŪTAKITANGA** HAPORI

19. There has been no community engagement in consideration of a submission on this Bill. Given the timeframes this is also not practical.

CLIMATE CHANGE – Impacts / Implications - **NGĀ REREKĒTANGA ĀHUARANGI** – **ngā** whakaaweawe / **ngā** ritenga

20. There are no climate impacts associated with this decision.

CONSIDERATIONS - HEI WHAKAARO

Financial/Budget

21. There are no financial implications associated with this decision.

Legal

22. There are no legal implications associate with the decision to submit on proposed Government legislation.

POLICY and PLANNING IMPLICATIONS - KAUPAPA HERE me **ngā** RITENGA WHAKAMAHERE

23. Submitting on the Bill is aligned with Council's strategic direction and current policy and planning documents.

RISKS - **NGĀ TŪRARU**

24. As noted above, Council has adopted the Te Tiriti Compass as an articles-based approach to upholding its strategic and legislative Treaty commitments. A decision to not make a submission opposing the bill would likely be perceived as contrary to this approach and therefore carry significant reputation risk for Council.

NEXT STEPS - **NGĀ** MAHI E WHAI AKE

Date	Action/Milestone	Comments
7 January 2025	Submissions close on the Bill	Any Council submission needs to be lodged by this date.

ATTACHMENTS - **NGĀ TĀPIRITANGA**

1. Attachment 1 - Principles of the Treaty of Waitangi Bill [24-352.1 - 8 pages]
2. Attachment 2 - Draft GDC Treaty Principles Bill Submission [24-352.2 - 3 pages]

Principles of the Treaty of Waitangi Bill

Government Bill

Explanatory note

General policy statement

The Principles of the Treaty of Waitangi Bill implements the Government policy to introduce a Treaty principles Bill, based on existing ACT Party policy, and to support it to a select committee as soon as practicable.

The overarching objective of the Bill is to define what the principles of the Treaty of Waitangi are in statute to—

- create greater certainty and clarity to the meaning of the principles in legislation:
- promote a national conversation about the place of the principles in our constitutional arrangements:
- create a more robust and widely understood conception of New Zealand's constitutional arrangements, and each person's rights within them:
- build consensus about the Treaty/te Tiriti and our constitutional arrangements that will promote greater legitimacy and social cohesion.

Parliament introduced the concept of the Treaty principles into legislation in the Treaty of Waitangi Act 1975, partially to reconcile the differences between the 2 texts. Parliament, however, did not define those principles.

The Treaty principles, as defined at this time, help reconcile differences between the te reo Māori and English texts and give effect to the spirit and intent of the Treaty when applied to contemporary issues. They apply to policy and operational decisions by Government (exactly what this requires depends on the context and there is guidance available to assist decision makers). They are used in the interpretation of legislation and are used by the Tribunal to review proposed Crown action or inaction, policies, and legislation.

Summary of key features

Principles

Civil government—the Government of New Zealand has full power to govern, and Parliament has full power to make laws. They do so in the best interests of everyone, and in accordance with the rule of law and the maintenance of a free and democratic society.

Rights of hapū and iwi Māori—the Crown recognises the rights that hapū and iwi had when they signed the Treaty/te Tiriti. The Crown will respect and protect those rights. Those rights differ from the rights everyone has a reasonable expectation to enjoy only when they are specified in Treaty settlements.

Right to equality—everyone is equal before the law and is entitled to the equal protection and equal benefit of the law without discrimination. Everyone is entitled to the equal enjoyment of the same fundamental human rights without discrimination.

Application

The Bill is an instrument of Parliament created for the purpose of interpreting Parliament's intent when it passes legislation.

The defined principles would be used exclusively to assist with the interpretation of an enactment where Treaty principles would normally be considered relevant, in addition to legislation that refers to Treaty principles directly. This does not necessarily require Treaty principles to be explicitly referenced in the legislation in question. Their application in decision making is determined by the nature of the decision rather than the explicit reference in legislation.

The Bill does not alter or amend the text of the Treaty/te Tiriti itself and does not apply to the interpretation of a Treaty settlement Act.

Commencement

The Bill will come into force if a majority of electors voting in a referendum support it. The Bill will come into force 6 months after the date on which the official result of that referendum is declared.

If a majority of electors voting in a referendum do not support the Bill, it will automatically be repealed.

Departmental disclosure statement

The Ministry of Justice is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2024&no=94

Regulatory impact statement

The Ministry of Justice produced a regulatory impact statement on 28 August 2024 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact statement can be found at—

- https://www.beehive.govt.nz/release/next-steps-agreed-treaty-principles-bill
- https://treasury.govt.nz/publications/informationreleases/ris

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 provides for the Bill to come into force 6 months after the date on which the official result of a referendum is announced if a majority of electors voting in that referendum support the Bill coming into force.

Part 1
Preliminary provisions

Clause 3 states the purpose of the Bill.

Clause 4 defines terms used in the Bill.

Clause 5 provides that the Bill, when enacted, will bind the Crown.

Part 2
Principles of Treaty of Waitangi

Clause 6 sets out the principles of the Treaty of Waitangi for the purposes of the Bill.

Clause 7 provides that the principles of the Treaty of Waitangi set out in the Bill must be used to interpret an enactment if principles of the Treaty of Waitangi are relevant to interpreting that enactment. This is the case whether the reference to principles is express or implied.

Clause 8 provides that the Bill does not apply to the interpretation of a Treaty settlement Act, or the Treaty of Waitangi Act 1975 in relation to the settlement of a historical Treaty claim entered into after the commencement of the Bill.

Clause 9 provides that the Bill does not amend the text of the Treaty of Waitangi/te Tiriti o Waitangi.

Hon David Seymour

Principles of the Treaty of Waitangi Bill

Government Bill

Contents

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Principles of the Treaty of Waitangi Act **2024**.

2 Commencement

(1) If a majority of electors voting in a referendum respond to the question in **subsection (2)** supporting this Act coming into force, this Act comes into force

months after the date on which the official result of that referendum is declared.

(2) The wording of the question to be put to electors in a referendum for the purposes of **subsection (1)** is—

> "Do you support the Principles of the Treaty of Waitangi Act **2024** coming into force?"

(3) The wording of the 2 options for which electors may vote in response to the question is—

> "Yes, I support the Principles of the Treaty of Waitangi Act **2024** coming into force."
>
> "No, I do not support the Principles of the Treaty of Waitangi Act **2024** coming into force."

(4) If a majority of electors voting in a referendum respond to the question in **subsection (2)** that they do not support this Act coming into force, this Act is repealed on the day after the date on which the official result of that referendum is declared.

(5) This Act is repealed if it does not come into force under **subsection (1)** within 5 years after the date on which it receives Royal assent.

(6) In this section, **referendum**—

(a) means a referendum providing electors with an opportunity to decide whether this Act should come into force; and

(b) includes any fresh referendum required to be held if the High Court, on a petition, declares the referendum under **paragraph (a)** to be void.

Part 1
Preliminary provisions

3 Purpose

The purpose of this Act is—

(a) to set out the principles of the Treaty of Waitangi in legislation; and

(b) to require, where relevant, that those principles must be used when interpreting legislation.

4 Interpretation

In this Act,—

historical Treaty claim has the same meaning as in section 2 of the Treaty of Waitangi Act 1975

Treaty settlement Act means—

(a) an Act listed in Schedule 3 of the Treaty of Waitangi Act 1975; and

(b) any of the following:

(i) the Maori Commercial Aquaculture Claims Settlement Act 2004:

(ii) the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014:

(iii) the Nga Wai o Maniapoto (Waipa River) Act 2012:

(iv) the Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010:

(v) the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 and secondary legislation that gives effect to section 10 of that Act:

(vi) any other Act that—

(A) provides collective redress or participation arrangements for claimant groups whose historical Treaty claims are, or are to be, settled by another Act; or

(B) otherwise relates to the settlement of a historical Treaty claim.

5 Act binds the Crown

This Act binds the Crown.

Part 2
Principles of Treaty of Waitangi

6 Principles of Treaty of Waitangi

The principles of the Treaty of Waitangi are as follows:

Principle 1

The Executive Government of New Zealand has full power to govern, and the Parliament of New Zealand has full power to make laws,—

(a) in the best interests of everyone; and

(b) in accordance with the rule of law and the maintenance of a free and democratic society.

Principle 2

(1) The Crown recognises, and will respect and protect, the rights that hapū and iwi Māori had under the Treaty of Waitangi/te Tiriti o Waitangi at the time they signed it.

(2) However, if those rights differ from the rights of everyone, **subclause (1)** applies only if those rights are agreed in the settlement of a historical treaty claim under the Treaty of Waitangi Act 1975.

Principle 3

(1) Everyone is equal before the law.

(2) Everyone is entitled, without discrimination, to—

(a) the equal protection and equal benefit of the law; and

(b) the equal enjoyment of the same fundamental human rights.

7 Principles of Treaty of Waitangi set out in section 6 must be used to interpret enactments

(1) The principles of the Treaty of Waitangi set out in **section 6** must be used to interpret an enactment if principles of the Treaty of Waitangi are relevant to interpreting that enactment (whether by express reference or by implication).

(2) Principles of the Treaty of Waitangi other than those set out in **section 6** must not be used to interpret an enactment.

(3) This section applies despite any other enactment, except **section 8**.

8 Act not to apply to interpretation of Treaty settlement Act or settlement of historical Treaty claim under Treaty of Waitangi Act 1975

This Act does not apply to the interpretation of a Treaty settlement Act, or the Treaty of Waitangi Act 1975 in relation to the settlement of a historical Treaty claim entered into after the commencement of this Act.

9 Treaty of Waitangi/te Tiriti o Waitangi not amended

Nothing in this Act amends the text of the Treaty of Waitangi/te Tiriti o Waitangi.

Te Kaunihera o Te Tairāwhiti
GISBORNE
DISTRICT COUNCIL

12 December 2024

Justice Committee
Parliament Buildings
Wellington

Gisborne District Council – Submission on the Principles of the Treaty of Waitangi Bill

Tēnā koutou,

Gisborne District Council (Council) appreciates the opportunity to provide our submission on the Principles of the Treaty of Waitangi Bill currently being considered by the Justice Committee.

Council acknowledges the importance of Te Tiriti o Waitangi / Treaty of Waitangi as the foundational document of Aotearoa New Zealand, and the Crown's commitment to its principles in upholding the partnership between Māori and the Crown.

After careful consideration, we write to express our strong opposition to the Bill.

Our position is informed by the unique composition of our region, our role as a steward of the Crown's Treaty obligations, and our responsibilities to deliver meaningful regional outcomes.

Below, we outline the key reasons for Council's opposition to the Bill and request the opportunity to speak to this submission.

Te **Tairāwhiti** Demographic Context

1. Te Tairāwhiti is home to a population that is 56% Māori – our region has the highest proportion of Māori residents in Aotearoa. Te Tiriti o Waitangi is not a historical agreement in our region, but an active, living partnership that underpins the wellbeing, identity, and future of the majority of those living in our community.

2. Any redefinition of Treaty principles must account for this demographic context and the significant implications for our region.

Undermining Current and Future Treaty Settlements

3. The Bill, as drafted, risks undermining current and future Treaty settlement negotiations in the Tairāwhiti region.

4. Settlements are the product of years of negotiation, trust-building and collaboration. Any unilateral redefinition of Treaty principles without the full and meaningful input of Māori as a Treaty partner jeopardizes this progress.

5. This approach is inconsistent with the partnership ethos required under the Treaty, particularly in a region where settlements remain an essential pathway for addressing historic grievances and advancing shared prosperity.

Impacts on Council's Role as a Steward of Crown Treaty Responsibilities

6. As a Unitary Authority, Council works closely with tangata whenua to fulfill shared responsibilities aligned with Treaty principles. These principles guide key regional outcomes, including environmental management, housing, and infrastructure development.

7. The Bill's potential to narrow or alter Treaty principles risks constraining our ability to deliver on these priorities effectively and equitably.

8. This is particularly concerning in light of our Council's commitments to the retention of te mana o te wai, the preservation of Māori wards, and ensuring housing and water solutions that uphold Treaty values.

9. The breaches of Te Tiriti o Waitangi by the Crown and its governors - suppression of language, culture and tikanga, and alienation from ancestral lands - have created intergenerational harms and injustices that need to be restored and rebalanced.

10. The bill as drafted would undermine this important mahi now and into the future. Addressing these inequities, learning from our past and bringing reciprocity and balance to our relationships, as envisioned by the Rangatira (leaders) that signed Te Tiriti o Waitangi, will create a better future for all of us.

Inconsistent with the Partnership Approach Required

11. Redefining Treaty principles without the active input and agreement of the other affected Treaty partner, tangata whenua, is inconsistent with the partnership approach required by the Treaty of Waitangi.

12. Such an approach sets a concerning precedent, undermining trust and collaboration between the Crown and Māori.

13. Council is committed to working in partnership with tangata whenua, and we expect the same standard to be upheld by Government now and into the future.

Recommendation

The Gisborne District Council recommends that the Treaty of Waitangi Bill be abandoned.

If Government wishes to pursue a genuine conversation about our existing constitutional arrangements, we advocate for a collaborative process that involves genuine partnership with Iwi/Hapū and Māori, particularly those directly affected, in any discussion of Treaty principles. This will ensure the Crown's obligations are met and maintain the trust and integrity necessary for our shared future.

Council remains committed to working constructively with Government and tangata whenua to uphold the Treaty and achieve positive outcomes for all New Zealanders.

Noho ora mai

Nedine Thatcher Swann (Chief Executive)

Mayor Rehette Stoltz

Te Kaunihera o Te Tairāwhiti
GISBORNE
DISTRICT COUNCIL

24-299

Title: 24-299 Implementing Te Mana o Te Wai Recommendations

Section: Sustainable Futures

Prepared by: Ariel Yann le Chew - Policy Planner

Meeting Date: Thursday 12 December 2024

Legal: Yes	Financial: Yes	Significance: Medium

Report to COUNCIL/TE KAUNIHERA for decision

PURPOSE - TE TAKE

This report examines the Gisborne District Council's implementation of Te Mana o Te Wai based on recommendations from a review conducted by Poipoia Ltd in 2023.

SUMMARY - HE **WHAKARĀPOPOTOTANGA**

Council is aligning its freshwater management plans with the National Policy Statement for Freshwater Management (NPS-FM) 2020. Central to the NPS-FM is Te Mana o te Wai, a framework that recognises the importance of healthy waterways to our own health and wellbeing. A review by Poipoia Ltd in 2023 evaluated the Regional Freshwater and Waipaoa Catchment Plans' compliance with Te Mana o Te Wai. Recommendations include integrating Māori values and perspectives indicative of the Tairāwhiti context into freshwater management, fostering partnerships with iwi and hapū, and upskilling Council staff on cultural competency and legal obligations under Te Tiriti o Waitangi.

Council has taken steps to implement these recommendations through technical and advisory group workshops with Tāngata Whenua, council staff undertaking cultural-awareness training, and collaborative projects, such as catchment and wetland management plans. The approach promotes and facilitates Māori participation in for and leadership in freshwater planning processes and ensures alignment with broader Council goals, including sustainability and community resilience.

Staff recommend continuing these actions, while acknowledging both the evolving policy landscape and the risks of inaction, such as reputational damage and missed opportunities for partnership. Continuing these actions will support the region's aspirations for environmental sustainability and Council's obligations to our Treaty Partners under Te Tiriti o Waitangi.

The decisions or matters in this report are considered to be of Medium significance in accordance with the Council's Significance and Engagement Policy.

RECOMMENDATIONS - **NGĀ TŪTOHUNGA**

That the Council/Te Kaunihera:

1. Agrees that Council staff continue undertaking work to give effect to Te Mana o te Wai ki **Tairāwhiti.**

Authorised by:

Joanna Noble - Director Sustainable Futures

Keywords: Te Mana o te Wai, Implementation, Freshwater

BACKGROUND - HE **WHAKAMĀRAMA**

Review of existing freshwater plans against Te Mana o te Wai

1. The National Policy Statement for Freshwater Management (NPS-FM) 2020 is the key legislative tool that provides direction on how councils should manage freshwater under the Resource Management Act 1991 (RMA).
2. Gisborne District Council (Council) developed its Regional Freshwater Plan and Waipaoa Catchment Plan under the NPS-FM 2014. As part of the Tairāwhiti Resource Management Plan (TRMP) Review programme, the Freshwater Planning workstream is currently reviewing these plans to ensure they give effect to the NPS-FM 2020.
3. In 2023 Council engaged environmental advocacy and policy consultancy Poipoia Ltd to undertake a desktop review of these plans against Te Mana o Te Wai as defined in the NPS-FM 2020.
4. The scope of the review included:
    - reviewing the degree the two plans recognise and give effect to Te Mana o Te Wai under the NPS-FM 2014 and 2020 and identifying the components of the plans that are or are not well aligned with Te Mana o Te Wai.
    - providing recommendations on improvements that can be made through the freshwater plan review to better recognise and give effect to Te Mana o Te Wai.
    - providing recommendations on how to support mana-enhancing partnerships with iwi and hapū where appropriate.
    - providing recommendations on how the National Objectives Framework (NOF)[1] can be applied through early engagement with iwi/hapū.
5. Poipoia Ltd facilitated three workshops with iwi technicians from the Iwi Technical Trial[2] to wānanga Te Mana o Te Wai and the freshwater planning process to date. The three workshops were held from September to October 2023 and focused on how Te Mana o Te Wai could be applied to each iwi. The iwi technicians also provided feedback on their participation in the freshwater planning process to date. These workshops informed the proposed recommendations in the final report.
6. The review also took into account past whānau, hapū and iwi submissions to Council on the Regional Freshwater and Waipaoa Catchment plans and freshwater resource consents.
7. The review found that the regulations in the Regional Freshwater and Waipaoa Catchment plans were developed to manage the adverse effects of activities on freshwater – rather than managing the activities for the health and wellbeing of freshwater. Māori kupu and concepts were used in the plans, but the plans did not provide guidance on how to interpret and/or apply these concepts in freshwater management.

[1] The NOF is a process where regional councils and unitary authorities are required to undertake in setting the objectives, policies and rules to manage freshwater in the regions.

[2] The Iwi Technical Trial (ITT) was a 12-month trial, consisting of five iwi technicians appointed by four iwi: Te Runanganui o Ngāti Porou, Rongowhakaata Iwi Trust, Tāmanuhiri Tūtū Poroporo Trust and Te Aitanga a Māhaki Trust. The Trial was established as a mechanism for iwi to actively participate in the TRMP review and plan-making process.

8. Poipoia Ltd completed the review in October 2023. The final report is attached as Attachment 1.

9. The recommendations in Te Mana o Te Wai review report have been grouped into three categories:

    - Plan policy drafting for the new Regional Freshwater and Waipaoa Catchment plans (which can also be applied to the other six catchment plans).
    - Upskilling the capacity and capability of Council staff and elected members.
    - Working with iwi and **hapū.**

Council's Approach to a Changing Legislative Environment

10. The Government has signalled that it intends to make amendments to the NPS-FM 2020. Earlier legislation extended the date by which councils are required to notify freshwater plan changes, by three years to 31 December 2027. The recent Resource Management (Freshwater and Other Matters) Amendment Act 2024 came into effect on 25 October 2024 and prohibits regional councils from notifying freshwater planning instruments before either the date of the new NPS-FM is published, or 31 December 2025, whichever date is sooner. This was taken to the 27 November Sustainable Tairāwhiti Committee (Report 24-319).

11. At this stage it is uncertain what kind of changes the replacement NPS-FM will include. It may include an amendment to the definition and/or application of Te Mana o te Wai at a national level, including removal of the hierarchy of obligations. If this is the case, there may be a perceived risk that time and money will be wasted on work that cannot be applied under a new NPS-FM.

12. To date, the focus of the Freshwater Planning workstream has been on developing the evidence base to support good management options and engagement. Our freshwater planning is expected to come together in the second half of 2025 where we may be in a position to align with proposed changes to the NPS-FM.

13. Staff consider continuing the work done under the existing NPS-FM to be hugely valuable and believe it will be applicable under any new policy framework. Our rationale has always been to focus on the fundamentals of planning:

    a) Sustaining kōrero with Tāngata Whenua and our communities about the importance of freshwater and what is important to them in the Tairāwhiti context.

    b) Understanding the freshwater challenges and issues that are relevant to our region.

    c) Undertaking technical work and research to better understand those issues, and

    d) Identifying different management options.

14. These fundamentals respond to our regional context and are ultimately reflected in policy.

15. Continuing the work done under the NPS-FM 2020 also aligns with this Council's resolution to retain Te Mana o te Wai in its current form (including the hierarchy of obligations and the six principles) at the 20 March 2024 Extraordinary Council meeting (pages 4 – 6 of the official meeting minutes).

DISCUSSION and OPTIONS - WHAKAWHITINGA **KŌRERO** me **ngā KŌWHIRINGA**

Implementing recommendations to Te Mana o Te Wai review

16. Staff have been considering how to implement the report recommendations. In a report to the TRMP Review Committee on 3 September this year (Report 24-229), staff provided the Poipoia review and provided some initial commentary on its implementation. The report recommended further investigation and development of options which the Committee endorsed.

17. Table 1 below outlines the recommendations from the Poipoia review and how Council staff have considered their implementation.

Table 1: Recommendations for giving effect to Te Mana o Te Wai (Poipoia Ltd)

Recommendations for Plan Policy Drafting	
Poipoia recommendations	Council work with whānau, hapū, iwi (including Māori landowners) to: • define and articulate their interpretation of Te Mana o Te Wai in their rohe and reflect these through their freshwater plans. • define the use of terms describing Māori groupings (e.g. Tāngata Whenua, Mana Whenua). • understand the use of Māori kupu and concepts in a consistent and culturally appropriate manner in the plans. Develop freshwater plan provisions that align with the hierarchy of obligations of Te Mana o Te Wai and Māori concepts, such as exploring the appropriate use of rāhui in managing water quantity and discharges.
What we've done	Council reached out to iwi and hapū working in the taiao space to seek direction on how Te Mana o Te Wai discussion and freshwater plans could be developed in partnership. The response at the iwi level was minimal and did not result in any agreed working arrangements. At the request of Ohako marae, Council staff facilitated five Te Mana o Te Wai wānanga. This was an opportunity to hear the views of tāngata Te Arai on Te Mana o Te Wai as related to the Te Arai Catchment for incorporation into the Waipaoa Catchment Plan. Tāngata Whenua are actively participating in catchment plan advisory groups, from the drafting of terms of reference, through to allocated places on the catchment plan advisory groups. The current advisory groups and the participating Tāngata Whenua are: • Waipaoa Catchment Plan (Rongowhakaata, Ngāti Oneone, Te Whanau a Kai, Nga Ariki Kaiputahi). • Ūawa Catchment Plan (Te Aitanga a Hauiti, Te Akau ō Tokomaru). • Waimatā-Pakarae Catchment Plan (Ngāti Oneone, Rongowhakaata). • Waiapu Catchment Plan (Ngāti Porou) Council collaborated with Ngā Uri o Te Kooti Rikirangi Settlements Trust (a whānau group of Rongowhakaata who held the mandate to settle the claim that relates to the stigmatisation of descendants of Te Kooti Rikirangi) to develop a management plan for the Maungarongo wetland. The aspirations and intended outcomes identified in the management plan will be incorporated into the Waipaoa Catchment Plan.

What's planned	Staff continue working with Tāngata Whenua on freshwater where there is an interest to do so. This includes: • Improve the integration of Tāngata Whenua values (Te Aitanga a Māhaki, in particular Mātāwai Marae) within the Mōtū Catchment Plan. • Work with Tāngata Whenua on new catchment plans: Northern Catchment (Ngāti Porou), Southern Catchment (Ngai Tāmanuhiri, Rongowhakaata, Tātau Tātau o te Wairoa). • Support iwi and hapū in exploring the application of Te Mana o te Wai to the Taruheru River (Te Aitanga a Māhaki) and Waikanae Stream (Ngāi Tāwhiri). • Reaffirm commitment to the Joint Management Agreement with Te Runanganui o Ngāti Porou (TRONPnui), including co-development of the Waiapu Catchment Plan. Continue working with ngā hapū o Ngāti Porou to complete the plan. • Work with Iwi authorities to consider the relevance and application of Te Mana o te Wai ki Tāirawhiti to the Regional Policy Statement.
Poipoia recommendation	Provide multiple mechanisms for whānau, hapū and iwi (including Māori landowners) to participate (to the extent they wish) in freshwater management. This includes (but not limited to): • co-developing case studies and guidance for best practice • direct inclusion within the plan provisions (requires discussion with whānau, hapū and iwi on their level of involvement) • hapū and iwi planning documents • Cultural Values Assessments and Cultural Impact Assessments • identifying the role of Tāngata Whenua in assessing and monitoring impacts on the relationship, values and use of water • develop process for hapū and iwi to identify wāhi tapu and appropriate management approach for these sites • develop process for management of activities within or adjacent to statutory acknowledgement areas.
What we've done	1. Established an Iwi Technical Trial (ITT) in 2022 to explore TRMP review workstreams including freshwater planning. • Assist whanau and hapū readiness and engagement in freshwater discussions. 2. Te Mana o te Wai wānanga at Ohako marae. Development of a summary document that serves as a record of the outcomes which can inform the development of Te Arai specific provisions in the Waipaoa Catchment Plan. 3. Collaboration with Ngā Uri o Te Kooti Rikirangi Settlements Trust in the development of a wetland management plan for the Maungarongo wetland. 4. Providing iwi, hapū, whānau and community groups with eDNA kits to monitor and improve our collective understanding of local waterways. 5. Working with tangata whenua representatives on catchment plan advisory groups.

What's planned	1. Support iwi and hapū in exploring the application of Te Mana o Te Wai ki Tairāwhiti contextualised to the Taruheru River and Waikanae Stream. 2. Continue engagement in 2025 as freshwater plans are developed and packaged up for notification in 2026. 3. Work with TRONPnui and Ngā Rohe Moana o ngā hapū o Ngāti Porou to co-create the Waiapu Catchment Plan. Coordinate the gathering of research including the development of a Cultural Values Assessment for the Catchment that will assist in better understanding the catchment for gravel management purposes.
Recommendations for Upskilling Council capacity and capability	
Poipoia recommendation	Provide Te Mana o Te Wai ki Tairāwhiti training for Council staff, where the training programme is designed and/or delivered in collaboration with hapū and iwi to understand the concept within the NPS-FM context.
What we've done	Staff have focused on engaging with Tāngata Whenua to determine aspirations, values and priorities applicable to the context of Te Mana o Te Wai ki Tairāwhiti which are captured and included in the freshwater planning process. Staff understandings of Te Mana o Te Wai ki Tairāwhiti are dependent on the knowledge prosperity of participating iwi and hapū and shared commitment to protecting freshwater. All staff responsible for engagement in the freshwater space have been made familiar with the way in which council is approaching Te Mana o te Wai discussions. We have regular catchment kāhui meetings where issues/opportunities are shared, learnt from and built upon.
What's planned	Staff will review this recommendation on development of the freshwater plans and on a regular basis thereafter. Following an initial engagement period council will seek to evaluate its approach to giving effect to Te Mana o te Wai through the consultation and engagement period of final drafts.
Poipoia recommendation	Develop internal guidance for staff on Te Mana o Te Wai, including: • The statutory requirements regarding Te Mana o Te Wai. • Te Mana o Te Wai in Tairāwhiti context (i.e. hapū and iwi interpretation of Te Mana o Te Wai). • Te Tiriti o Waitangi and the role of Council's Māori Partnership team in supporting Council to give effect to Te Mana o Te Wai.
What we've done	Staff have completed some initial thinking around the technical and process application of Te Mana o te Wai ki Tairāwhiti. The rationale for this thinking is to build an internal understanding about the objective of Te Mana o Te Wai ki Tairāwhiti including its targets, limits, actions, and policies envisaged for each catchment plan. This understanding will help to build plan integration, support the Section 32 evaluation for each plan and allow staff to evaluate the effectiveness of plan provisions in the future.
What's planned	Refinement of approach following further engagement in 2025: • In continued agreement with iwi, hapū and community representatives, staff will develop guidance materials to support effective engagement. • To develop a shared understanding of Te Mana o Te Wai ki Tairāwhiti with the Māori Partnerships Team to ensure intra-cultural skills and knowledge are driving how we apply our regulatory requirements.

Poipoia recommendation	Develop and deliver Te Tiriti o Waitangi training for staff and elected representatives, focusing on requirements and examples of good and honourable Te Tiriti partnership at all levels of the freshwater management system.
What we've done	The approach to date for this recommendation has been wider than just the freshwater management system. We have: 1. Implemented Te Tiriti Compass to provide an articles-based approach consistently across Council for governance reporting and policy development to support applying Te Tiriti with consistency (Report 22-170). 2. Reinforced the four articles-based approach through the update of the internally focused Te Matapihi[3] online platform. The approach integrates evidence-based practice and service-based evaluation methods. The platform was updated in August 2024 and there are now verified 54 projects across Council. 3. Completed workshops for staff on Te Tiriti Compass and Te Matapihi. 4. Brokered intra-cultural understandings relevant to local iwi and hapū through all phases of Te Matapihi implementation – application, submission, verification, and pre-engagement. 5. Engaged an external provider to deliver Te Tiriti training to staff for the interim.
What's planned	At the end of financial year 2024/25, Māori Partnerships will review the implementation of Te Tiriti Compass and Te Matapihi platforms. The review will focus on whether our targeted outcomes served the needs and aspirations of Tāngata Whenua. Additionally, the review will provide insight about how well staff responded to shared decision-making with Māori. The Māori Partnerships team is also developing an engagement framework for staff that will identify engagement expectations at five distinct levels of consultation. A complementary framework focused on building cultural sense making and intra-cultural skills in-house is also scheduled for development in tandem with the outcomes of the aforementioned review.
Poipoia recommendation	Upskilling staff and elected representatives on the region's cultural context – Te Tiriti Settlements, Nga Rohe Moana o Nga Hapu o Ngāti Porou, Iwi Management plans and other existing agreements (e.g. Ngāti Porou Joint Management Agreement).
What we've done	1. Māori Partnerships and Sustainable Futures have engaged a Pouhononga Mahi Māori (Principal Advisor) to work alongside staff during consultation rounds relating to the review of the TRMP programme, e.g. and Regional Policy Statement. The function of the role is to ensure cultural sensibilities are implemented in all aspects of consultation – the field and in written provisions. 2. The team currently also works closely with staff responsible for managing Iwi Management plans and other existing agreements. 3. Māori Partnerships is developing a MOU with Ngā Rohe Moana o ngā hapū o Ngāti Porou to ensure their statutory overlay and collective hapū views are recognised appropriately in our work.
What's planned	A complementary framework focused on building cultural sense making and intra-cultural skills in-house is also scheduled for development in tandem with the outcomes of the aforementioned review.

[3] Te Matapihi is an internal Council platform where projects are verified to ensure that engagement on the project is done in a culturally safe way.

Poipoia recommendation	Develop a Communications Strategy for the wider community on Te Mana o Te Wai and the role of hapū and iwi on articulating and giving effect to Te Mana o Te Wai.
What we've done	1. Developed Communications and Engagement plans for engaging with Tāngata Whenua on freshwater. 2. Developed background documents for each catchment plan that provide an outline of legislative requirements (including Te Mana o Te Wai), catchment context and state of freshwater. 3. Council webpage on catchment planning including an outline of Te Mana o Te Wai ki Tairāwhiti, links to supporting information, scope of catchment plans and links to each catchment plan's webpage.
What's planned	1. Development of further Te Mana o Te Wai ki Tairāwhiti information in 2025 for wider community engagement purposes.
Poipoia recommendation	Consider an agreed approach to monitor the relationship and the direction of workplan(s) developed between hapū, iwi and Council.
What we've done	1. Te Matapihi approach integrates evidence-based practice and service-based evaluation methods. Outcome evaluation is a process that measures the effectiveness of a project or group of projects or an organisation by determining if it achieved the intended outcomes. It can be used to inform decisions about improvement and resource allocation. 2. The advantage of Te Matapihi approach is that the four articles are already embedded in the process and end outcomes identified by project teams in their Te Matapihi submissions.
What's planned	1. As part of Te Matapihi process, to roll out surveys mid-project and at the end of the project with Tāngata Whenua and staff to understand if projects have met the targeted outcomes identified in their submissions. 2. To plan a workshop with the Freshwater Team to design a 'measurement rubric reflective' of what good looks like in a freshwater context.
Recommendations for Working with Iwi and **Hapū**	
Poipoia recommendation	Review formal relationships and/or agreements between Council and hapū and iwi, considering if these relationships or agreements (in its current state) can give effect to the principles of Te Mana o Te Wai
What we've done	1. Reviewed and updated an organisation-wider register of relational agreements between the Council, hapū and iwi. 2. Renewed a MOU with the Ūawa Catchment Advisory Group. 3. Maintained an Iwi Management Plan with Ngā Ariki Kaipūtahi. 4. Maintained a MOU with the Motu Catchment Advisory Group. 5. Maintained a MOU with Waiapu Kōkā Huhua: Waiapu Accord. 6. Maintained a Joint Management Agreement with Te Rūnanganui o Ngāti Porou.
What's planned	Staff to establish relational agreements with freshwater-focused advisory groups.

Poipoia recommendation	Council enables and resources hapū and iwi to: • determine culturally safe engagement practices within their rohe or takiwā • engage with Council, such as in the NOF process • build capacity and capability of hapū and iwi to participate (and eventually lead) Te Mana o Te Wai driven kaupapa • support projects that aim to contribute to the body of mātauranga-a-whānau, mātauranga-a-hapū and mātauranga-a-iwi.
What we've done	Council has provided support to the following areas of work: • Ngā Uri o Te Kooti Rikirangi Settlements Trust in the development of the Maungarongo wetland management plan. • TRONPnui to support hapū engagement and the co-creation of the Waiapu Catchment Plan. • Te Aitanga a Māhaki in the development of an Environmental Management Plan. • Memorandum of Agreement with Hauiti Mana Kaitieki to provide technical support for bore drilling project within the Ūawa catchment. • Supporting iwi, hapū, whānau and community groups with eDNA kits to monitor and improve our collective understanding of local waterways.
What's planned	1. Support for Māhaki Mahinga Kai to undertake Te Mana o te Wai ki Tairāwhiti and taiao mahi culturally contextualised to the Waipaoa Catchment. 2. Support Ngai Tawhiri to undertake a NOF process for the Waikanae Stream. 3. Support Te Whānau a Iwi to develop a Taruheru Catchment Management Plan.

Options

18. Council's Freshwater Planning workstream already aligns with or has given effect to many of the recommendations of the Poipoia report. Importantly, Te Tiriti Compass has crystalised our commitments to partnership through all the work staff do at Council. With this framework in place, Council continues to grow its ability to create, maintain and strengthen relationships under Te Tiriti. Te Mana o te Wai ki Tairāwhiti recommendations are one important dimension of a much larger, evolving conversation between Council and Tāngata Whenua.

19. With this in mind, there are two broad options regarding how to implement Te Mana o te Wai recommendations contained in the review report:

    a) No further implementation. Many of the recommendations have already been incorporated into the freshwater planning approach. Additionally, our Te Tiriti Compass provides an adequate basis for Te Tiriti-based obligations going forward, including those related to freshwater management.

    b) Continue with the planned actions as outlined in Table 1 of this report. This option would support Council's work on freshwater planning as well as create opportunities to cultivate and maintain our obligations to Te Tiriti through a topic of mutual interest and importance. This option would be seen as giving effect to Council's Te Tiriti Compass. Foreseeably, these actions would continue in the future, along with Council's commitments to implement them.

Option	Benefits	Costs	Risks
No further implementation.	• Less resourcing (staff and budget).	• Less opportunity to explore and evolve Treaty partnerships around freshwater management. • Loss of momentum and capacity building for Tāngata Whenua.	• With freshwater management being a significant issue for this region, Council may risk coming into strong conflict with iwi and hapū over freshwater matters.
Continue with planned actions as outlined in Table 1 of this report. (Preferred option)	• Continued growth in Tāngata Whenua capacity to participate in freshwater management and related resource management issues. • Increased capacity supports and strengthens Council's freshwater management functions. • Supports Te Tiriti relationships.	• Ongoing resourcing and capacity requirements.	• Government changes to NPS-FM may create uncertainty around the relevance or application of Te Mana o Te Wai. Refer to Risk section below.

20. Considering the costs, benefits and risks of both options, we recommend continuing to implement the recommendations of Poipoia's Te Mana o Te Wai report. This supports meaningful participation of Tāngata Whenua in freshwater decision-making. This will ultimately support Council's environmental management functions through future engagement, local employment, environmental monitoring and restoration, and decision making. Importantly, this work will support Council's relationships with iwi and hapū and our obligations under Te Tiriti o Waitangi.

ASSESSMENT of SIGNIFICANCE - AROTAKENGA o **NGĀ** HIRANGA

Consideration of consistency with and impact on the Regional Land Transport Plan and its implementation
Overall Process: Low Significance
This Report: Low Significance

Impacts on Council's delivery of its Financial Strategy and Long Term Plan
Overall Process: Low Significance
This Report: Low Significance

Inconsistency with Council's current strategy and policy
Overall Process: Low Significance
This Report: Low Significance

The effects on all or a large part of the Gisborne district
Overall Process: High Significance
This Report: High Significance

The effects on individuals or specific communities
Overall Process: High Significance
This Report: High Significance

The level or history of public interest in the matter or issue
Overall Process: Medium Significance
This Report: Medium Significance

21. The decisions or matters in this report are considered to be of Medium significance in accordance with Council's Significance and Engagement Policy.

TREATY COMPASS ANALYSIS

K**āwanatanga**

22. The recommendation to review and assess current formal relationships and/or agreements between Council and hapū and iwi, such as Treaty Settlements and Joint Management Agreements (JMAs), against the principles of Te Mana o Te Wai is a step towards meeting kāwanatanga in our region.

Rangatiratanga

23. The recommendations that aim to enable and resource whānau, hapū and iwi acknowledges Tāngata Whenua priorities by ensuring they are supported to uphold self-determination in their respective tribal areas. Resources such as financial support targeting the growth of technical and regulatory skills and knowledge in hapū and iwi will contribute to sustainable futures.

Oritetanga

24. The recommendations for internal Council work culture ensures that staff and elected representatives understand the cultural context of the region and the steps that Council needs to take towards meeting ōritetanga.

Whakapono

25. Te Mana o Te Wai is a concept derived from te ao Māori – representing a paradigm shift of priorities from economic drivers to environmental drivers, where local expressions of Te Mana o Te Wai (the hierarchy of obligations and the six principles) of whānau, hapū and iwi are enabled through the recommendations that also meet tino rangatiratanga.

TANGATA **WHENUA/MĀORI** ENGAGEMENT - **TŪTAKITANGA** TANGATA WHENUA

26. Poipoia Ltd facilitated three workshops with iwi technicians from the Iwi Technical Trial to wānanga Te Mana o Te Wai and the freshwater planning process to date. The three workshops were held from September to October 2023 and focused on how Te Mana o Te Wai could be applied to each iwi. The iwi technicians also provided feedback on their participation in the freshwater planning process to date. These workshops informed the proposed recommendations in the final report.

27. The review also took into account past whānau, hapū and iwi submissions to Council on the Regional Freshwater and Waipaoa Catchment plans and freshwater resource consents.

COMMUNITY ENGAGEMENT - **TŪTAKITANGA** HAPORI

28. No wider community engagement was undertaken by Poipoia Ltd in preparing the report.

29. While it is important for Council staff and elected representatives to understand Te Mana o Te Wai, it is also equally important for our wider communities to understand Te Mana o Te Wai. This is one of the recommendations under 'upskilling Council work culture'.

CLIMATE CHANGE – Impacts / Implications - **NGĀ REREKĒTANGA ĀHUARANGI** – **ngā** whakaaweawe / **ngā** ritenga

30. Te Mana o Te Wai changes the way we think about water and how we use water. Protecting and prioritising the health of freshwater bodies will become a greater challenge with climate change. The 2020 NIWA report projected the following effects of climate change for Tairāwhiti:

    a) The availability of freshwater (i.e. source of freshwater) will be affected by higher temperatures, more 'hot' days, changing rainfall patterns and intensity.

        - Demand of freshwater for various activities are similarly impacted by the same pressures on the availability of freshwater, but with different effects, for example:
            - *Horticulture* – increased temperature may lead to changes to plant development stages and some crop types becoming unsuitable for the region in the future; rainfall reductions and more severe droughts leading to the need of more irrigation.
            - *Ecosystems* – Higher water temperatures increase the risk of invasive species spreading and subsequently threatening indigenous species.
            - *Human health* – Harmful algal blooms in areas of aquatic recreational hotspots due to change in water temperature can lead to human health issues.
            - *Infrastructure and built environment* – Risk to potable water supplies due to changes to rainfall, temperature, drought, extreme weather events and sea-level rise.

CONSIDERATIONS - HEI WHAKAARO

Financial/Budget

31. Te Mana o Te Wai Review of the Regional Freshwater and Waipaoa Catchment plans was completed through the TRMP Review Programme budget allocated in the 2021 – 2031 Long Term Plan.

32. Staff will consider how to raise staff capability to engage in culturally mana enhancing ways with Tāngata Whenua beyond the life of the freshwater programme. The financial implications will be considered on a case-by-case basis.

Legal

33. Council has the statutory requirement to uphold Te Tiriti o Waitangi. Evaluation of the proposed recommendations against Te Tiriti o Waitangi is done through Te Tiriti Compass Framework. They are outlined in the Treaty Compass Analysis above.

34. Council's **Tairāwhiti** Piritahi: Fostering **Māori** Participation in Council Decision-Making policy sets out four key approaches to meet Council's statutory requirements in section 81[4] of the Local Government Act (LGA) 2002. Section 81 requires Council to consider and enable opportunities for Māori to contribute to Council's decision-making process, including building Māori capacity and capability for participating in the decision-making process. Achieving the four approaches set out in Tairāwhiti Piritahi intends to meet the statutory requirements in section 81.

[4] Local Government Act 2002 No 84 (as at 01 July 2024), Public Act 81 Contributions to decision-making processes by Māori – New Zealand Legislation

Giving effect to Te Mana o Te Wai

35. All councils are required to develop new freshwater plans that give effect to the NPS-FM 2020. This includes giving effect to Te Mana o Te Wai, the central concept which recognises the importance of water to all life.

36. Te Mana o Te Wai sets out a hierarchy of obligations which requires prioritising the health and wellbeing of water first. The second priority is the health needs of people (such as drinking water) and the third is the ability of people and communities to provide for their social, economic and cultural well-being.

37. While Te Mana o Te Wai was introduced in the NPS-FM 2014, the hierarchy of obligations and the six principles (relating to the roles of Tāngata Whenua and other New Zealanders) were introduced in the more recent NPS-FM 2020.

POLICY and PLANNING IMPLICATIONS - KAUPAPA HERE me **ngā** RITENGA WHAKAMAHERE

38. The proposed recommendations are also expected to meet the following outcomes identified in Tairāwhiti's Spatial Plan (**Tairāwhiti** 2050):

    a) Outcome 1: A driven and enabled **Tairāwhiti**, where Council works with and provides support for iwi, hapū and local stakeholders to promote and enable change in the region.

    b) Outcome 2: Resilient communities, where Council secures and protects long-term water availability for all our communities, including the use of surface water storage.

    c) Outcome 5: We take sustainability seriously, where Council recognises the threat of climate change on the future of our region and ensures planning will enhance Tairāwhiti's natural and built environment for our future generations.

    d) Outcome 6: We celebrate our heritage, where Council supports mana whenua in the exercise of kaitiakitanga over the environment and showcasing the multiple benefits of the Tairāwhiti's rich dual heritage.

    e) Outcome 8: Delivering for and with **Māori**, where Council and iwi build and maintain strong partnerships that ensure our region's taonga are restored and protected for generations to come.

RISKS - **NGĀ TŪRARU**

39. Reputational risk. The NPS-FM 2020 requires Council to give effect to Te Mana o Te Wai. It also requires Council to engage with and actively involve Tāngata Whenua in all levels of freshwater management, including decision-making processes. The risk of not further investigating the proposed recommendations and subsequently implementing the recommendations, is the lost opportunity of building meaningful relationships with Tāngata Whenua that continue beyond the plan review and forming a unified commitment to managing taonga sustainably.

40. Legislative risk. The Government has signalled that it intends to make amendments to the NPS-FM 2020. Earlier repeal legislation extended the date that councils are required to notify freshwater plan changes, by three years to 31 December 2027. The recent Resource Management (Freshwater and Other Matters) Amendment Act 2024 came into effect on 25 October 2024, which prohibit regional councils from notifying freshwater planning instruments before either the date of the new NPS-FM is published, or 31 December 2025, whichever date is sooner. This was taken to the 27 November Sustainable Tairāwhiti Committee (Report 24-319).

41. Work on regional freshwater plan provisions and other catchment plans is unaffected by the new timing requirements as they are not planned for notification until mid-2026.

42. At this stage it is uncertain what kind of changes the replacement NPS-FM will include. It may include amendment of Te Mana o Te Wai and possibly the removal of the Hierarchy of Obligations. If this is the case, there may be a perceived risk that time and money will be wasted on work that cannot be applied under a new NPS-FM.

43. The focus in the Freshwater Planning workstream to date has been on engagement and developing an evidence base to support good management options. The freshwater planning will come together in the second half of 2025 where we may be in a position to align with proposed changes to the NPS-FM.

44. Staff consider the work done under the existing NPS-FM to be hugely valuable and believe it will be applicable under any new policy framework. Our rationale has always been to focus on the fundamentals of planning:

    a) Sustaining korero with Tāngata Whenua and our communities about the importance of freshwater and what is important to them.

    b) Understanding the freshwater challenges and issues that are relevant to our region.

    c) Undertaking technical work and research to better understand those issues, and

    d) Identifying different management options.

45. These fundamentals respond to our regional context and are ultimately reflected in policy.

ATTACHMENTS - **NGĀ TĀPIRITANGA**

1. Attachment 1 - 2023 Poipoia Tairawhiti Te Mana o_te Wai Review of Regional Freshwater Plan and Waipaoa Catchment Pl [24-299.1 - 33 pages]

Poipoia

Tairāwhiti Te Mana o te Wai Review of Regional Freshwater Plan and Waipaoa Catchment Plan

Report prepared by Poipoia Ltd for Gisborne District Council

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Executive Summary

Poipoia Ltd has undertaken a review of the Gisborne Regional Freshwater Plan and the Waipaoa Catchment Plan to provide Gisborne District Council (GDC) and Tairāwhiti iwi as assessment on how the Plans can give effect to Te Mana o te Wai. Te Mana o te Wai is the fundamental concept of the National Policy Statement for Freshwater Management 2020 (NPS-FW 2020). The review was completed through a desktop review of the current plans as well as workshops with iwi representatives to discuss their experiences navigating the freshwater planning process to date. This report provides recommendations on how the Plans can be aligned to give effect to Te Mana o te Wai which is now a requirement for all freshwater management. Whilst the report provides detailed recommendations on giving effect to Te Mana o te Wai, the nature of the recommendations have been summarised as follows:

- Greater recognition of Te Tiriti of Waitangi within planning documents to remind decision-makers and water users of Tiriti obligations. A Tiriti lens should be applied across all workstreams that give effect to Te Mana o te Wai.
- Alignment with provisions with the Natural and Built Environment Act 2023 (NBA) and explore opportunities to transition and transform plan content that is consistent with Natural and Built Environment Plans, particularly as Tairāwhiti has been identified as a potential Tranche 1 region for NBA implementation.

Defining Te Mana o te Wai

- Council enable and resource hapū and iwi to define and articulate their interpretation of Te Mana o te Wai within their rohe. This will include working within each iwi to determine their preferred internal process to achieve this, the agreed engagement protocols and outcomes. In particular ensuring that there are bespoke processes and where there is agreement for collaborative processes amongst hapū and iwi. This process should not be rushed, and it is recommended that Council work with hapū and iwi to develop a 6-month work programme for defining and articulating Te Mana o te Wai within their respective rohe or takiwā.
- Council work with hapū and iwi to determine culturally safe engagement practices within their respective rohe or takiwā.

- Sustainably resourcing hapū and iwi to engage with Council. Most engagement is carried out on a voluntary basis which restricts meaningful engagement due to the limited capacity within whānau, hapū and iwi.
- Council invests in building capacity and capability of hapū and iwi to participate (and eventually lead) Te Mana o te Wai driven kaupapa. This will be required across all levels of participation.
- Resourcing or supporting projects that aim to contribute to the body of mātauranga-a-whānau, mātauranga-a-hapū and mātauranga-a-iwi. This should be prioritised as local definitions of Te Mana o te Wai should be driven by mātauranga at place.

Council Approach to Te Mana o te Wai

- Council provide Te Mana o te Wai training for their staff. Training programmes could be designed and/or delivered in collaboration with hapū and iwi. Such training programmes should cover Te Mana o te Wai within the NPS-FM and the context in which it applies to the Water Services Reform and any other relevant workstreams. Develop internal guidance for staff on Te Mana o te Wai.
- Council develop and deliver Tiriti o Waitangi training for operational staff and governance. Such training should focus on requirements and examples of good and honourable Tiriti partnership at all levels of the freshwater management system.
- Upskilling operational staff and governance on cultural context within the region, including Te Tiriti o Waitangi, Tiriti Settlements, Nga Rohe Moana o Nga Hapu o Ngati Porou, Iwi Management plans and other existing agreements (e.g. Ngati Porou Joint Management Agreement).
- Council develop communications strategy for wider community on Te Mana o te Wai and the role of hapū and iwi on articulating and giving effect to Te Mana o te Wai.
- Review formal relationships and/or agreements between GDC and hapū and iwi. Consider whether in their current state they can give effect to the Principles of Te Mana o te Wai where relevant.
- Consider an agreed process to monitor the relationship and the direction of workplan(s) developed between hapū, iwi and Council.

- Council work with whānau, hapū, iwi (including Māori Landowners) to determine consistent use of terms describing iwi Māori groupings e.g. tangata whenua, mana whenua, whānau, hapū and iwi etc. Inappropriate and/or inconsistent use of the above terms has led to confusion amongst iwi Māori. Once determined appropriate wording, keep consistency throughout all planning documents.
- The use of Māori kupu and concepts are done through working with hapū and iwi to ensure its incorporation is culturally appropriate. Definitions of Māori kupu that are included in the interpretation section should enable whānau, hapū and iwi to articulate such concepts in accordance with their local tikanga and kawa. Ensure alignment of definitions with the principles of Te Mana o te Wai where they are included in the interpretation chapter.
- Re-align policy and standards with the hierarchy of obligations of Te Mana o te Wai. This will include recognizing and providing for whānau, hapū and iwi relationships, values and uses of wai.
- Water bodies should be managed in their entirety and in a manner that maintains and improves mauri.
- Actively involve tangata whenua (to the extent they wish) across all levels of freshwater management. This will include recognising and providing for current barriers to tangata whenua participation.
- Work with whānau, hapū and iwi (including Māori Landowners) to develop cases studies and guidance for best practice.
- Provide for multiple mechanisms for whānau, hapū and iwi (including Māori Landowners) participation in freshwater management. Including (but not limited to):
    - Direct inclusion within polices, standards and rules.
    - Hapū and Iwi Planning Documents.
    - Cultural Values Assessments (CVA's) and Cultural Impact Assessments.
- Identify the role of tangata whenua in assessing and monitoring impacts on the relationship, values and use of water, particularly where mauri or other Māori concepts are included within the plan.
- Confirm review process for existing consents to align with Te Mana o te Wai, including hapū and iwi involvement.
- Explore the appropriate use of rāhui in managing water quantity and discharges.

- Develop process for hapū and iwi to identify wāhi tapu and appropriate management of sites when considering activities.
- Develop process for management of activities within or adjacent to statutory acknowledgment areas.
- Engage hapū and iwi endorsed technicians to participate in the freshwater planning process including the NOF. This could include direct participation with Council or resourcing technicians to advise and support hapū and iwi in parallel engagement processes.
- Council enable, support and resource hapū and iwi to meaningfully engage in the NOF process. Including providing hapū and iwi the opportunity to develop positions prior to engaging with Council and other stakeholders.

The review of the Regional Freshwater Plan and Waipaoa Catchment Plan is a significant workstream that impacts all whānau, hapū and iwi (including Māori Landowners) within Tairāwhiti. Hapū and iwi will require significant support to facilitate engagement on this kaupapa. It is essential that engagement is carried out in a meaningful way, which will most likely require multiple parallel processes to achieve the outcomes sought by all. Hapū and iwi will need to determine how they engage internally and externally. It is essential that hapū and iwi have the opportunity to develop their positions amongst themselves before entering collaborative groups. Council must recognise that hapū and iwi will engage where their capacity and priorities align. Pragmatic approaches will need to be considered to ensure meaningful engagement. Iwi and hapū may not have the capacity to engage on all Council workstreams due to competing interests. Where Council engages technicians or advisory groups to inform the regional freshwater plan and related catchment plans, iwi and hapū should have the opportunity to review recommendations and provide input into final recommendations to Councillors.

This report expands further on the recommendations provided above. Our final recommendation is that Council, hapū and iwi consider these recommendations and meet to determine how they would like to implement recommendations going forward.

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1 Introduction

The Gisborne District Council (GDC) and the Iwi representatives who are a part of an Iwi Technical Trial – Ngāi Tāmanuhiri, Rongowhakaata, Te Aitanga ā Māhaki, and Ngati Porou have engaged Poipoia Ltd (Poipoia) to undertake a Te Mana o te Wai review of the Gisborne Regional Freshwater Plan and Waipaoa Catchment Plan. This review has been prepared by Poipoia to provide information to tangata whenua on ways in which they may want to consider applying Te Mana o te Wai within the Gisborne Regional Freshwater Plan and Waipaoa Catchment Plan. Whilst the focus of the report is on these two plans, the information will be useful for the other Catchment Plans that are under development.

1.1 Scope

The scope of this report includes the following:

1. Review the two plans in terms of the degree to which they recognize and give effect to Te Mana o te Wai under the NPS-FM 2014 and 2020. This includes:
    a. Identifying components of the plans that are not well aligned with Te Mana o te Wai and outlining why there is misalignment.
    b. Recognising components of the plans that are more successfully aligned with Te Mana o te Wai, that could potentially be retained or amended.
2. Provide constructive and practical recommendations as to how Council's freshwater plans can be improved through the plan review to better recognize and give effect to the fundamental concept of Te Mana o te Wai.
3. Provide recommendations on how to support mana-enhancing partnerships with iwi and hapū where appropriate.
4. Review the Waipaoa Catchment plan and provide recommendations on how the NOF may be applied through early engagement with hapū and iwi.

A review of current iwi participation agreements is out of scope for this particular report.

2 Methodology

Te Mana o te Wai represents a paradigm shift. It speaks to the need to re-balance and approach freshwater management from first principles as articulated by the hierarchy of obligations which puts te mauri o te wai at the heart of all decision-making.

We have conducted a desktop review of the Gisborne Regional Freshwater Plan and Waipaoa Catchment Plan to assess alignment or misalignment with the Principles of Te Mana o te Wai and the Hierarchy of Obligations as set out in the NPS-FM 2020.

The National Objectives Framework (NOF) is essential to the implementation of the NPSFW as it sets the necessary values, outcomes, and specific attributes required to meet the hierarchy of obligations and local definitions of Te Mana o te Wai and enable long-term visions to be realised. Hapū and iwi involvement in working through the NOF will be crucial to achieving the paradigm shift required to give effect to Te Mana o te Wai. We have reviewed the Waipaoa Catchment plan and provided recommendations on how the NOF may be applied through meaningful engagement with hapū and iwi.

Alongside the desktop review, we facilitated three workshops with iwi representatives to wananga Te Mana o te Wai and the Gisborne Regional Freshwater Planning process to date. These workshops were carried out over the following dates:

- 17 August 2023.
- 21 September 2023.
- 24 October 2023.

These workshops were attended by iwi technicians from Rongowhakaata, Te Aitanga ā Māhaki, and Ngāi Tāmanuhiri. The workshops focused on Te Mana o te Wai and how it could be applied within the respective iwi. The iwi technicians provided insightful feedback on their participation in the freshwater planning process to date, which has informed many of the recommendations provided in this report.

The review and recommendations also take into account past whanau, hapū and iwi submissions received by GDC regarding the Gisborne Regional Freshwater Plan and freshwater consents.

3 Te Mana o te Wai

At its simplest, the principle of Te Mana o te Wai reflects the paramountcy of the health and wellbeing of wai, this concept comes from Te Ao Māori. Te Mana o te Wai was included in the National Policy Statement on Freshwater (NPS-FW) in 2014 and advanced in 2017. The latest version of the NPS-FW (2020) includes Te Mana o te Wai as the fundamental concept, which is relevant to all freshwater management and not just the specific aspects of freshwater management referred to within the NPS-FW. As the fundamental concept of the NPS-FM 2020, it must apply to everyone who participates in the system, and there is an expectation that there should be a trickle-down effect to all those who are participants in water use and management.

3.1 Principles of Te Mana o te Wai

The principles of Te Mana o te Wai provide an important platform for building strong and effective partnerships between hapū, iwi and councils in order to work together to give effect to Te Mana o te Wai.

The six principles are:

a. **Mana whakahaere:** the power, authority, and obligations of tangata whenua to make decisions that maintain, protect, and sustain the health and well-being of, and their relationship with, freshwater.
b. **Kaitiakitanga:** the obligations of tangata whenua to preserve, restore, enhance and sustainably use freshwater for the benefit of present and future generations.
c. **Manaakitanga:** the process by which tangata whenua show respect, generosity, and care for freshwater and for others.
d. **Governance:** the responsibility of those with authority for making decisions about freshwater to do so in a way that priorities the health and well-being of freshwater no and into the future.
e. **Stewardship:** the obligations of all New Zealanders to manage freshwater in a way that ensures it sustains present and future generations.
f. **Care and respect:** the responsibility of all New Zealanders to care for freshwater in providing for the health of the nation.

These principles must inform the NPS-FM 2020 and its implementation. Whilst definitions are included of principles a-c, whānau, hapū and iwi will have their own definitions and applications of those principles in respect to their waterbodies within their rohe. These rights and obligations have been established through whakapapa. The definition of the principles above should be considered as guidelines only, and implementation must allow for local expression of these principles at the whānau, hapū and iwi levels.

3.2 Hierarchy of Obligations

Te Mana o Te Wai represents a paradigm shift. It speaks to the need to re-balance and approach freshwater management from first principles – what does the water need to be healthy and well; what does the water need to sustain itself? Once that is provided for, then we are able to determine what is available (both in terms of quality and quantity) for essential human health needs (the second right) and the social, economic, and cultural well-being of people and communities (the third right). This is reflected in the hierarchy of obligations of Te Mana o te Wai.

In practice, the application of the hierarchy of obligations would shift priority of economic drivers to environmental drivers when it comes to decision-making. This will require transformation of existing decision-making frameworks and plans to progress and achieve Te Mana o te Wai outcomes.

3.3 Mauri

The fundamental concept of Te Mana o te Wai includes the protection of mauri. Mauri is a concept that comes from Te Ao Māori. Mauri is not a concept that can be used or defined by those who do not have whakapapa to the particular waterbody. The use of Mauri within planning documents should be done in collaboration with hapū and iwi that it is used appropriately and to ensure the implementation and monitoring of mauri can be carried out in accordance with the local tikanga and kawa.

As mauri is a central part of Te Mana o te Wai, local and central government will need to provide adequate resourcing to enable hapū and iwi to develop Mauri tools appropriately.

3.4 NPS-FM 2020 Policies

As the fundamental concept, Te Mana o te Wai must be applied to all policies within the NPS-FM 2020. However, for the purposes of this report, we have particularly focused on the following:

- **Policy 1: Freshwater is managed in a way that gives effect to Te Mana o te Wai.** Further to this, the National Objectives Framework (NOF) must have Te Mana o te Wai imbedded into its fabric and throughout its implementation. The entire concept of Te Mana o te Wai, including the hierarchy of obligations, the six principles, and the interpretation and application of these as defined by whānau, hapū and iwi regarding the waterbodies within their rohe, must also be given effect to in all freshwater management.
- **Policy 2: Tangata whenua are actively involved in freshwater management (including decision-making process), and Māori freshwater values are identified and provided for.** Tangata whenua are expected to be at all levels of water management. This policy requires that Māori freshwater values are identified and provided for. It is important for hapū and iwi to define how this occurs. This will require resourcing from the councils to enable hapū and iwi to hold their own wānanga with their own experts to determine and articulate their values in a way that is most appropriate for them. Figure 1 provides an overview of how to provide for active tangata whenua involvement.

Figure 1 - Providing for Active Tangata Whenua Involvement

3.5 NPS-FM 2020 Implementation

Part 3: Implementation

Part 3 of the NPSFM 2020 sets out how local authorities are to implement the NPSFM 2020 and breaks this down into three subparts.

SUBPART 1 APPROACHES TO IMPLEMENTING THE NATIONAL POLICY STATEMENT

3.2 TE MANA O TE WAI

(1) Every regional council must engage with communities and mana whenua to determine how Te Mana o te Wai applies to water bodies and freshwater ecosystems in the region.

(2) Every regional council must give effect to Te Mana o te Wai, and in doing so must:

- actively involve tangata whenua in freshwater management (including decision making processes), as required by clause 3.4; and
- engage with communities and tangata whenua to identify long-term visions, environmental outcomes, and other elements of the NOF; and
- apply the hierarchy of obligations, as set out in clause 1.3(5): (i) when developing long-term visions under clause 3.3; and (ii) when implementing the NOF under subpart 2; and (iii) when developing objectives, policies, methods, and criteria for any purpose under subpart 3 relating to natural inland wetlands, rivers, fish passage, primary contact sites, and water allocation; and
- enable the application of a diversity of systems of values and knowledge, such as mātauranga Māori, to the management of freshwater; and 12 National Policy Statement for Freshwater Management 2020; and
- adopt an integrated approach, ki uta ki tai, to the management of freshwater

(3) Every regional council must include an objective in its regional policy statement that describes how the management of freshwater in the region will give effect to Te Mana o te Wai.

(4) In addition to subclauses (1) and (3), Te Mana o te Wai must inform the interpretation of:

- this National policy statement; and
- the provisions required by this National Policy Statement to be included in regional policy statements and regional and district plans.

Figure 2 - NPS-FM Implementation: Te Mana o te Wai

Figures 2 and 3 outline provisions within the NPS-FM regarding implementation, particularly focusing on Te Mana o te Wai and Tangata Whenua involvement.

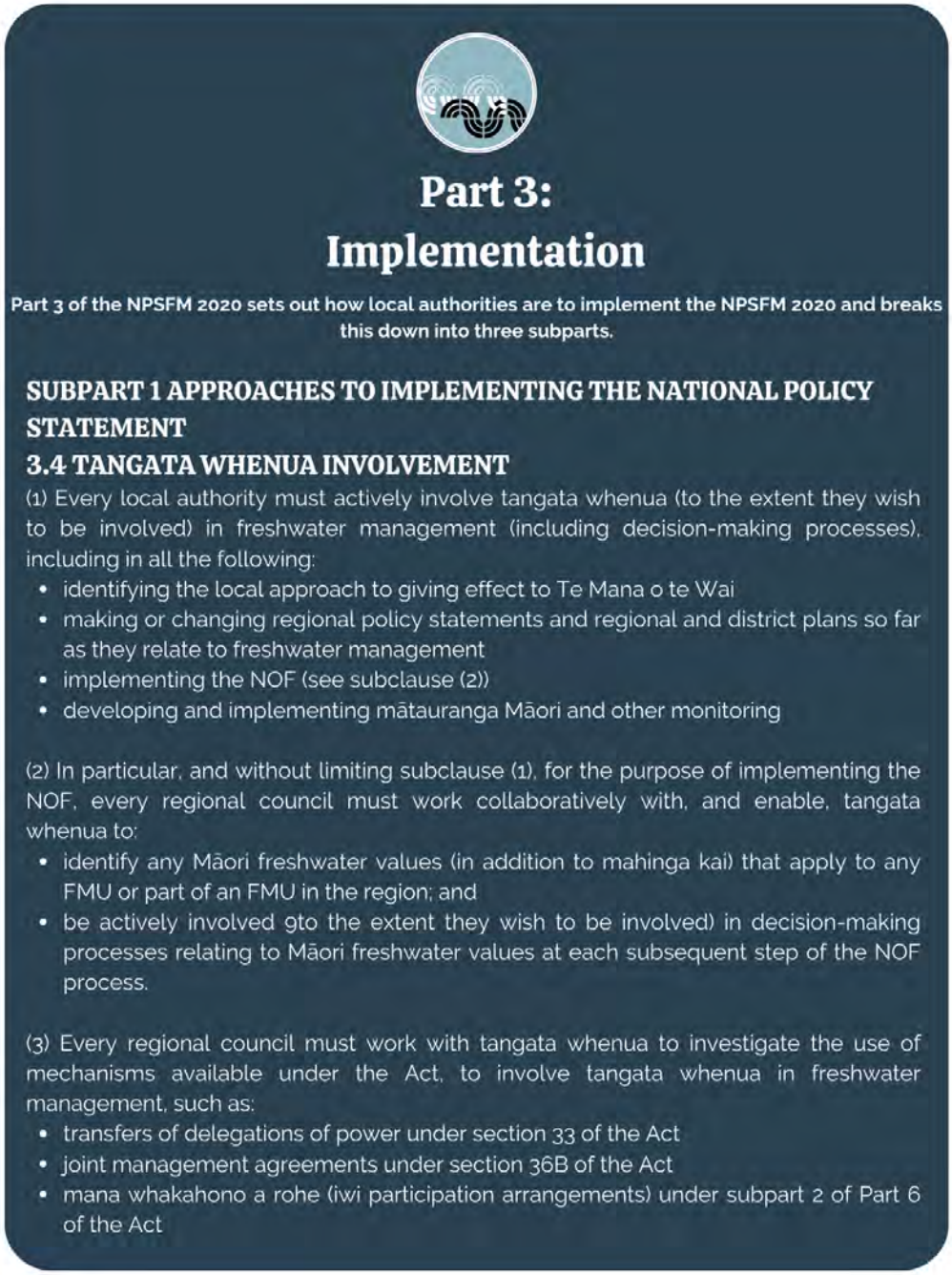

Figure 3 - NPS-FM Implementation: Tangata Whenua Involvement

Council support for hapū and iwi to define and articulate their interpretation and implementation of Te Mana o te Wai is essential. As the fundamental concept of the NPS-FM, Te Mana o te Wai should guide the planning process rather than being done at the end. As the review of the Regional Freshwater Plan and Waipaoa Catchment Plan has already begun, this will have to be completed alongside the review process.

This will require Council to transform their partnership approach in order to correctly implement the NPS-FM. This may include resourcing hapū and iwi to engage amongst themselves initially to determine preferred engagement style, outcomes and information management. It is likely that hapū and iwi would require a series of wānanga to define and articulate their interpretation of Te Mana o te Wai. Council will need to work with hapū and iwi to determine what support they require and realistic timelines to achieve this.

3.6 Recommendations

3.6.1 Tiriti o Waitangi

- Uphold the principles of Te Tiriti o Waitangi. This should include a direct korero with the iwi as to what their principles are and how best these can be shared and agreed. A Tiriti lens should be applied across all workstreams that give effect to Te Mana o te Wai. Greater recognition of Te Tiriti o Waitangi within the Regional Policy Statement and Freshwater Regional Plan to remind decision-makers and water users of Tiriti obligations. In effect, this exercise will provide greater certainty, deeper understanding of how to uphold existing Te Tiriti settlements and explore how the Natural and Built Environment Act 2023 (NBA) provides a higher level of expectation with the Te Tiriti clause being strengthened. Te Mana o te Wai will require early engagement, deeper collaboration and an understanding of sharing decision-making to better protect wai and enabling hapu kaitiakitanga. This is ultimately important for the waters, but also the decision-makers and water users understanding the important role of Te Tiriti in all activities around water.

3.6.2 Natural and Built Environment Act 2023

- Tairāwhiti Iwi continue to advocate to be included as a Tranche 1 Region for implementation of the NBA. As this has also been included as a recommendation within the Outrage to Optimism Report[1], it is recommended that the review of the Gisborne Regional Freshwater Plan and associated Catchment Plans consider alignment with provisions set out within the NBA and the transition into a Natural and Built Environment Plan.

[1] https://environment.govt.nz/assets/Outrage-to-Optimism-CORRECTED-17.05.pdf

- The following be explored within the review of the Gisborne Regional Freshwater Plan and Catchment Plans:
    - Give effect to the principles of te Tiriti o Waitangi.[2]
    - Uphold Te Oranga o te Taiao[3]
    - System Outcomes – particularly the relationship of iwi and hapū, and the exercise of their kawa, tikanga Māori (including kaitiakitanga), and mātauranga Māori in respect of their ancestral lands, water, sites, wāhi tapu, wāhi tupuna, and other taonga, are recognized and provided for.[4]
    - Decision-making principles – particularly the responsibility and mana of each iwi and hapū to protect and sustain the health and well-being of te Taiao in accordance with the kawa, tikanga Māori (including kaitiakitanga), and mātauranga Māori in their rohe or takiwā.[5]
    - Freshwater Allocation Matters.[6] – Considering how hapu and iwi will co-design allocation plans and how they link with the current legislation to enable conversations on freshwater allocation with iwi.

3.6.3 Hapū and Iwi Interpretation of Te Mana o te Wai

- Council enable and resource hapū and iwi to define and articulate their interpretation of Te Mana o te Wai within their rohe. This will include working within each iwi to determine their preferred internal process to achieve this, the agreed engagement protocols and outcomes. In particular, ensuring that there are bespoke processes and where there is agreement for collaborative processes amongst hapū and iwi. These should not be determined by Council, but by hapū and iwi. Part of this process will be to collectively agree with the rest of the community how the 'joined up approach' can be progressed that puts water at the heart of the discussion needed for Te Mana o te Wai to be achieved.
- Council work with hapū and iwi to determine culturally safe engagement practices within their respective rohe.

[2] Section 5 of Natural and Built Environment Act 2023.

[3] Section 3 of Natural and Built Environment Act 2023.

[4] Section 6, Clause 12 of Natural and Built Environment Act 2023.

[5] Section 8, Clause 2 of Natural and Built Environment Act 2023.

[6] Section 100 of Natural and Built Environment Act 2023.

- Sustainably resourcing hapū and iwi to engage with Council. Most engagement is carried out on a voluntary basis which restricts meaningful engagement due to the limited capacity within whānau, hapū and iwi.
- Council invests in building capacity and capability of hapū and iwi to participate (and eventually lead) Te Mana o te Wai driven kaupapa. This could include training, information sharing e.g. monitoring data, or resourcing appointed hapū or iwi representatives to participate in freshwater management. Active tangata whenua involvement should cover all sectors of the water management system not just planning or strategy setting. This will require Council support to build hapū and iwi capacity and capability across all levels of all participation.
- Resourcing or supporting projects that aim to contribute to the body of mātauranga-a-whānau, mātauranga-a-hapū and mātauranga-a-iwi. This should be prioritised as local definitions of Te Mana o te Wai should be driven by mātauranga at place. Projects could include (but not limited to):
    - Literature reviews or collating existing information/archives.
    - Kaumatua interviews.
    - Cultural mapping wānanga.
    - Mahinga kai wānanga.
- Support hapū and iwi to determine requirements to establish the appropriate place and use of mātauranga Māori across the system and how it will be unique to each hapū/iwi. Common values and concepts may be identified and included in these plans, however the interpretation and implementation of that mātauranga will most likely be different across the rohe.
- Support hapū and iwi to have space to develop their own positions before being required to enter into wider collaborative groups.
- Resourcing specialist independent advice to support whānau, hapū and iwi to participate in areas where they may not have specialist skills i.e. technical or legal advice.
- Council work with hapū and iwi to determine their preference (and required support/resourcing) for the preparation of hapū or iwi planning documents articulating their interpretation of Te Mana o te Wai. Hapū and iwi could consider the following tools:
    - Value statements.
    - Position statements.
    - Hapū and Iwi Management Plans or Te Mana o te Wai Statements.

  The final product may differ for each hapū and iwi depending on how much work they have done to date. These documents should be treated as living documents that are further

developed with time. This will most likely be the case due to the pace at which the Regional Freshwater Plan review is progressing.

- For iwi/hapū with existing iwi management plans, consider support for amending iwi management plans or developing a clear position statement on the particular expectation of the hapū and iwi in regard to Te Mana o te Wai. This could include specific sections on:
    - How hapū and iwi understand Te Mana o te Wai.
    - How to best engage with hapū and/or iwi.
- The process of defining and articulating Te Mana o te Wai should not be rushed. We recommend that Council work with hapū and iwi to develop 6-month work programme for defining Te Mana o te Wai. This work should be initiated immediately if Te Mana o te Wai is to be integrated across all levels of the system.

3.6.4 Council Approach to Te Mana o te Wai

Organisational culture change will be required to implement Te Mana o te Wai. The following recommendations have been provided for GDC to consider implementing within the organisation to support transformative change.

- Council provide Te Mana o te Wai training for their staff. Training programmes could be designed and/or delivered in collaboration with hapū and iwi. Such training programmes should cover Te Mana o te Wai within the NPS-FM and the context in which it applies to the Water Services Reform and any other relevant workstreams. Consider existing tools and guidance on Te Mana o te Wai, including the following prepared by Poipoia:
    - Te Mana o te Wai Training Programme.[7]
    - Te Mana o te Wai Audit Tool. [8]
- Council to develop and deliver Tiriti o Waitangi training to their staff. Such training would focus on requirements or examples or good and honourable treaty partnership at all levels of the freshwater management system. Training should be provided at both governance and operational levels. Council should consider developing and/delivering such training in collaboration with iwi.
- Council upskilling themselves on cultural context within the region. This would include an understanding of Te Tiriti o Waitangi, reviewing Tairāwhiti Iwi Treaty Settlements, Nga Rohe Moana o Nga Hapu o Ngati Porou, Iwi management plans, and other agreements (e.g. Ngati

[7] https://ourlandandwater.nz/wp-content/uploads/2022/11/TMOTW-Training-Programme-Councils.pdf

[8] https://ourlandandwater.nz/wp-content/uploads/2022/11/TMOTW-Audit-Tool.pdf

Porou Joint Management Agreement). This could be carried out as a training programme developed and delivered in collaboration with iwi and hapū. Iwi and hapū inductions could be an option for Council Governance and operational staff.

- Council develop internal guidance for staff on Te Mana o te Wai, including the statutory requirements regarding Te Mana o te Wai and any learnings from the local context. This guidance should also cover Te Tiriti o Waitangi and confirm the role of the GDC Māori Responsiveness Team in supporting Council to give effect to Te Mana o te Wai.
- Council communications strategy for wider community on Te Mana o te Wai and the role of hapū and iwi on articulating and giving effect to Te Mana o te Wai.

3.6.5 Iwi/hapū/Council Relationship:

- Review formal relationships and/or agreements between GDC and hapū and iwi. Consider whether in their current state they can give effect to the Principles of Te Mana o te Wai where relevant.
- Consideration of implementation plans developed in partnership with hapū and iwi for giving effect to Te Mana o te Wai and greater NPS-FM requirements.
- Consider an agreed process to monitor the relationship and the direction of workplan(s) developed between hapū, iwi and Council.
- Council work with hapū and iwi to develop guidance for determining roles and responsibilities for respective iwi Māori groupings (e.g. hapū, iwi, Māori Landowners etc) across the freshwater management system. This should include both governance and operational roles.
- Council work with whānau, hapū, iwi (including Māori Landowners) to determine consistent use of terms describing iwi Māori groupings. For example, there is currently inconsistent use of the following terms within legislation, policy and plans:
    - Tangata whenua.
    - Mana whenua.
    - Whanau, hapū and iwi.
    - Māori Landowners.

  Inappropriate and/or inconsistent use of the above terms has led to confusion amongst iwi Māori. Once determined appropriate wording, keep consistency throughout all planning documents (e.g. Regional Policy Statement, Regional Freshwater Plan and Catchment Plans).

3.6.6 Decision-Making

- Review existing Treaty Settlements and other arrangements to ensure these are given effect to when developing partnership models for decision-making.
- Access to the Making Good Decisions course to encourage more Tairāwhiti iwi members to participate in shared decision-making.

4 Regional Policy Statement

Te Mana o te Wai must inform all freshwater management, including the Regional Policy Statement (RPS). The RPS will require a reframing to align with Te Mana o te Wai, including the principles and hierarchy of obligations.

4.1.1 Hapū and Iwi Cultural Requirements for Freshwater

Currently, Section B6.1 of the RPS covers Hapū and Iwi Cultural Requirements for Freshwater. This section refers to requirements for sustaining the mauri of a water body. This section focusses more on impacts to ecosystem health and lacks both wairua and whakapapa aspects of mauri. When Māori concepts are included in policy, they often lose the cultural richness of those concepts. Often decision-makers lack cultural context and are left unguided to interpret, incorporate and apply Māori concepts. The inclusion of Māori kupu and concepts (e.g. Mauri) must be included with the consideration of how such concepts are implemented and monitored on the ground. Only whānau, hapū and iwi (including Māori Landowners) can assess mauri of their wai. The assessment of mauri and requirements to maintain and restore mauri will differ for each water body. The use of Māori kupu and concepts within planning documents must enable whānau, hapū and iwi articulation and application of such concepts within their takiwa.

Sustaining mauri is mentioned in Section B6.1, however this should be strengthened to focus on protecting mauri to align with Te Mana o te Wai as the fundamental concept of the NPS-FW. The protection of mauri would mean that freshwater is managed so that there is no further decline in mauri. This means activities must occur in a manner that protects, maintains or restores the mauri of wai. Mauri can only be assessed by whānau, hapū and iwi at place, the use of mauri in policy in plans must be done so in a manner that enables this. It is not the Councils role to assess mauri.

Overall, it is important to highlight hapū and iwi cultural requirements for freshwater in the RPS. However there seems to be a lack of follow through in how these are provided for in the objectives, policies and methods within the RPS.

4.1.2 Significant Resource Management Issues for Freshwater

Section B6.2 of the RPS outlines the Significant Resource Management Issues for Freshwater. Overall, the environmental issues are well summarised within this section. A review of these issues should be carried out to assess how they align with the principles of Te Mana o te Wai, with a particular focus on how each of these issues impact the relationship between whānau, hapū and iwi (including Māori Landowners) and their relationship and interaction with wai within their takiwā.

Issue 6: Recognising Tangata Whenua Values – will need reviewing to align with Te Mana o te Wai. The NPS-FW now requires active tangata whenua involvement and the identification of Māori Freshwater Values. This section should therefore be strengthened to focus on providing for active tangata whenua involvement and giving effect to values identified by whānau, hapū and iwi (including Māori Landowners). An assessment of current barriers to tangata whenua involvement in freshwater management should also inform the review of this section.

4.1.3 Freshwater Objectives

Every regional council must include an objective in its regional policy statement that describes how the management of freshwater in the region will give effect to Te Mana o te Wai (clause 3.2(3)). This clause is integral to the implementation of the NPS-2020. This objective should be drafted in collaboration with hapū and iwi and should take into account their local articulation and application of Te Mana o te Wai.

4.2 Recommendations

4.2.1 Te Mana o te Wai

- A new "Te Mana o te Wai" section be added as the first section of the RPS as the fundamental concept for freshwater management to guide the interpretation and implementation of the RPS must be carried out in a way that gives effect to Te Mana o te Wai. This section should be drafted in collaboration with hapū and iwi. This section should include the following:
    - Interpretation of Te Mana o te Wai as articulated by hapū and iwi.
    - Working with whānau, hapū and iwi (including Māori Landowners) on how to give effect to Te Mana o te Wai.
- Review Section B6.1 – Hapū and Iwi Cultural Requirements for Freshwater, in collaboration with hapū and iwi. Seek feedback from on whether this section remains relevant, or if this could feed into the recommended Te Mana o te Wai section above. Further points for consideration when reviewing this section could include:

- Does this section accurately capture the cultural and geographic contexts of the entire region?
- Are there specific requirements within the different hapū and iwi boundaries?
- How would these requirements be provided for?

- The use of Māori kupu and concepts are done through working with hapū and iwi to ensure its incorporation is culturally appropriate.
- Council to confirm with hapū and iwi which Māori kupu are included in the interpretation section and how they are defined. Definitions of Māori kupu that are included in the interpretation section enable whānau, hapū and iwi to articulate such concepts in accordance with their local tikanga and kawa. Ensure alignment of definitions with the principles of Te Mana o te Wai where they are included in the interpretation chapter.
- Where Māori kupu are included in the RPS or plans consider using a glossary as guidance for decision-makers and water users only, with the premise that local interpretation and application would be determined by whānau, hapū or iwi locally.

4.2.2 Significant Resource Management Issues for Freshwater Management

- Review the current issues identified to determine if they need updating to reflect the cultural and geographic contexts within the region.
- Engage with whānau, hapū and iwi (including Māori Landowners) to determine how these issues can be articulated in a manner that also addresses the impact of these issues on the relationship and interaction they have with their wai. This will create better alignment with the principles of Te Mana o te Wai.
- Update Issue 6 – Recognising Tangata Whenua values to provide for active tangata whenua involvement (including decision-making) and values identified by whānau, hapū and iwi (including Māori Landowners). Include current barriers to tangata whenua involvement in freshwater management and how these will be addressed.

4.2.3 Freshwater Objectives

- Include objective on how to give effect to Te Mana o te Wai and how it will inform freshwater management within the region. This objective should be drafted in collaboration with hapū and iwi.

- Review and update all existing freshwater objectives to align with the principles of Te Mana o te Wai and hierarchy of obligation, particularly objectives 5 and 6. Reframing the objectives to provide for the health and wellbeing of the waterbodies before enabling use.
- Freshwater bodies should be recognized and managed in their entirety to provide for their interconnectedness. This could be recognized in objective 3.
- Te Mana o te Wai recognizes the importance of protecting the health and mauri of wai. This applies to all wai, therefore scheduled waterbodies should not be prioritised above others. Objective 4 should be amended accordingly.
- Te Mana o te Wai protects mauri, therefore freshwater objectives should ensure that water is managed in a manner that does not result in a decline in mauri. Activities must be managed to maintain, protect and restore mauri.
- Freshwater objectives referring to tangata whenua values should be updated to provide for Māori freshwater values and environmental outcomes determined by whānau, hapū and iwi (including Māori Landowners).

4.2.4 Policies and Methods

- Review and update all policies to reframe with a Te Mana o te Wai lens. This will include the following:
    - "Actively involve tangata whenua (to the extent that they wish)" rather than "engage and collaborate". Distinguish the specific involvement and engagement requirements for tangata whenua, rather than being categorized as "all relevant stakeholders".
    - Give effect to the relationship of iwi and hapū with freshwater. Te Mana o te Wai already recognizes that hapū and iwi have a relationship with freshwater, therefore the RPS needs to be strengthened to maintain, protect and sustain such relationships.
    - Giving effect to Kaitiakitanga as a principle of Te Mana o te Wai is integral to give effect to Te Mana o te Wai. Policies can be strengthened to provide for this.
    - Providing mechanisms for iwi and hapū to exercise kaitiaki roles and obligations would be a minimum requirement for enabling Te Mana o te Wai. Policies and methods should address current barriers to tangata whenua involvement and be strengthened to support capacity and capability building for hapū and iwi to participate in freshwater management.
    - Policies and methods should provide for whānau, hapū and iwi (including Māori Landowners) to articulate, apply and assess Māori values at place e.g. assessing mauri, and carry out their kaitiaki obligations in accordance with local tikanga and kawa.

- Work with hapū and iwi to develop case studies to inform best practice.
- Update monitoring policies and methods to enable the application of mātauranga a whānau, mātauranga a hapū or mātauranga a iwi at place.

5 Regional Freshwater Plan

Reframing regional wide freshwater provisions with a Te Mana o te Wai lens will require redefining the narrative of how freshwater is managed within the region. This will require a fresh outlook on restoring and preserving the balance between water, the wider environment and the community. It is an opportunity to redefine the current narratives around cultural, social and economic interactions with water.

5.1 Recommendations

5.1.1 Policies and General Standards

- Update to align with the hierarchy of obligations. Many of the policies have regard to the extent to which the change or activity would adversely affect safeguarding the life-supporting capacity of freshwater and associated ecosystems (or of a similar nature). These policies should be reframed to put the health of the water first. Focus should move away from avoiding adverse effects and enabling activities that provide for ecosystem health and mauri.
- Update to align with the principles of Te Mana o te Wai. The first three principles of Te Mana o te Wai provide for tangata whenua rights and obligations to protect and sustain the health of freshwater as well as their relationship and interaction with freshwater. To provide for this within the policy, Council should address the following:
  - Policies should consider environmental effects and the impact of such effects on whānau, hapū and iwi (including Māori Landowners) relationship, values and use of the particular waterbody and associated ecosystems.
  - The impact of an activity on whānau, hapū and iwi (including Māori Landowners) should be considered for all activities.
- Actively involve tangata whenua to determine how the principles of Te Mana o te Wai are provided for within policy and standards. This will include consideration on how they are worded directly into policy, standards and rules, but also confirming the appropriate use or reference to the following:
  - Hapū and Iwi Planning Documents.
  - Cultural Values Assessments (CVA) and/or Cultural Impact Assessments (CIA).

- Confirm which activities require CVA's or CIA's and provide guidance to both decision-makers and applicants through the process. Where this cannot be done within the review process, include a reference to planning documents as a place holder once hapū and iwi have confirmed positions.
- Identify the role of tangata whenua in assessing and monitoring impacts on the relationship, values and use of water, particularly where mauri or other Māori concepts are included within the plan.
- Confirm review process for existing consents to align with Te Mana o te Wai, including hapū and iwi involvement.

5.1.2 Water Quantity and Allocation

- Water Quantity and Allocation policies currently do not align with the hierarchy of obligations. To align with the hierarchy of obligations, water permits should only be considered where the ecosystem health of the water body and associated ecosystems is maintained or improved.
- To give effect to Te Mana o te Wai, water permits must be managed in a manner that maintains or improves mauri.
- The allocation of water should also align with the principles of Te Mana o te Wai. This will include hapū and iwi interpretation and application of these principles.
- The Gisborne Municipal Water Supply now falls within the second tier of hierarchy obligations, therefore it must be managed in a manner that protects the health and well-being of freshwater and associated ecosystems. Operating the Gisborne Municipal Water Supply without minimum flows directly conflicts with Te Mana o te Wai. The following recommendations have been provided to align with Te Mana o te Wai:
    - Introduce minimum flow levels within the Te Arai that protects the health and well-being and mauri of Te Arai.
    - Collaborate with iwi and hapū to review hydrological, cultural and ecological monitoring required from 2017 to set minimum flows for Te Arai.
- All minimum flows must be determined to maintain and/or improve ecosystem health rather than avoiding adverse impacts.
- When setting minimum flows, waterbodies should be considered in their entirety including interconnected ecosystems.

- Enable, support and resource whānau, hapū and iwi (including Māori Landowners) to determine positions and expectations on reasonable and efficient water use. Explore how such positions and expectations are realised through:
    - Policies and standards included within the Regional Plan.
    - CVA's and CIA's.
    - Resource Consent Conditions.
    - Hapū and Iwi Planning Documents.
- Provide for whānau, hapū and iwi (including Māori Landowners) relationships, values and uses of water when determining water allocation policies and standards, particularly relating to:
    - Over allocated water bodies.
    - Water restrictions.
    - Transfers of water.
    - Assessment criteria.
    - Auditing.
    - Reasonable use.
- Explore the use of cultural flows and cultural allocation to provide for whānau, hapū and iwi (including Māori Landowners) relationships, values and uses of water within their rohe or takiwā.
- Work with hapū and iwi (including Māori Landowners) to develop case studies to inform water quantity and allocation matters. This could explore the following:
    - Cultural flows and allocation.
    - Reasonable and efficient use practices.
    - Setting minimum flows and limits.
- Enable, support and resource hapū and iwi to monitor water quantity and allocation matters that align with their local tikanga, kawa and mātauranga Māori.
- Consider the application of rāhui in managing water quantity and allocation matters for the protection of the well-being and mauri of wai.
- Include provisions to audit and monitor Council commitments to work with hapū and iwi in managing water quantity and allocation.

5.1.3 Water Quality and Discharges to Land and Water

- Re-align water quality and discharges policies and standards with the hierarchy of obligations. Discharges must be managed in a manner that protects the health, well-being and mauri of water.

- Assess and provide for the impact of discharges on drinking water sources, particularly non-municipal drinking water sources.
- Re-align policies and standards with principles of Te Mana o te Wai. Particular focus should be on providing for whānau, hapū and iwi (including Māori Landowners) relationships, values and use of water.
- Promote water sensitive design for discharges to provide for health, well-being and mauri of water bodies.
- Discharges must be managed in a manner that maintains or protects the mauri of water.
- Work with whānau, hapū and iwi (including Māori Landowners to determine culturally abhorrent practices and identify methods to manage, mitigate or phase out such activities in alignment with the hierarchy of obligations and principles of Te Mana o te Wai.
- Work with hapū and iwi (including Māori Landowners) to develop case studies to inform water quality and discharge matters. This could include:
    - Water sensitive design.
    - Setting limits and targets.
    - Mātauranga Māori informed monitoring methods.
    - Best practices that align with Te Mana o te Wai for the various land uses within the region that result in discharges.
- Develop stronger provisions for the management of diffuse discharges, exploring best practices that align with Te Mana o te Wai to be adhered to.
- Explore the appropriate use of rāhui in managing discharges.
- Include provisions to audit and monitor Council commitments to work with hapū and iwi in managing water quality and discharges.
- To provide for integrated management, explore how the Regional Freshwater Management Plan links with other land provisions that impact water quality.
- Confirm review process for existing consents to align with Te Mana o te Wai, including hapū and iwi involvement.

5.1.4 Activity in the Beds of Rivers and Lakes

- Waterbodies are managed in their entirety when considering activities in the beds of rivers and lakes.
- Re-align policies and standards with hierarchy of obligations and principles of Te Mana o te Wai. Fish-passage, habitat protection should be provided for before enabling activities within the beds of rivers and lakes.

- Activities in the beds of rivers and lakes consider whānau, hapū and iwi (including Māori Landowners) relationship, values and use of respective waterbodies.
- Develop process for hapū and iwi to identify wāhi tapu and appropriate management of sites when considering activities in the beds of rivers and lakes.
- Develop process for management of activities in the beds of rivers and lakes in statutory acknowledgement areas.
- Provide greater management for values and environmental outcomes identified by tangata whenua and community through the NOF. This may include enabling catchment specific provisions within catchment plans to greater align with the cultural and geographic contexts within the region.
- Council enable, support and resource hapū and iwi to develop best practice standards for activities within the beds of rivers and lakes.
- Confirm review process for existing consents to align with Te Mana o te Wai, including hapū and iwi involvement.

6 Waipaoa Catchment Plan

The NOF will be largely implemented through various catchment plans. The Waipaoa Catchment Plan was developed under a previous version of the NPS-FW and will require updating to align with updated provisions in the NPS-FM 2020, including giving effect to Te Mana o te Wai. It is expected that hapū and iwi will be actively involved (to the extent that they wish) throughout every step of the NOF. Figure 4 outlines a suggested engagement process between Council and hapū and iwi throughout the NOF. This should be considered alongside previous recommendations, noting that hapū and iwi should be provided with appropriate time and resources to meaningfully engage in the NOF. This will most likely require hapū and iwi having the opportunity to determine how they engage and having the opportunity to determine internal positions before collaborating with others.

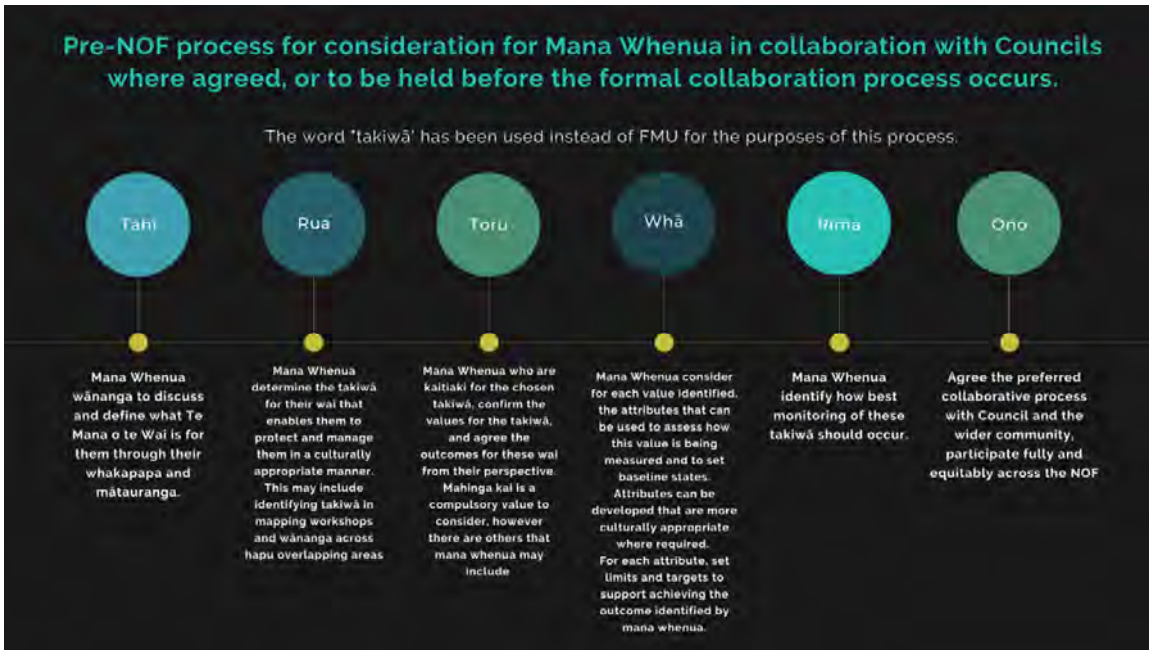

Figure 4 - NOF Engagement Process

6.1 Recommendations

- Council enable, support and resource hapū and iwi to meaningfully engage in the NOF process, using the process in Figure 4 as a guide – however noting that hapū and iwi may determine their preferred process for engagement.
- Although FMU's have been identified in the current Waipaoa Catchment Plan, Council will need to work with hapū and iwi to confirm whether these FMU's are appropriate as the NPS-FM 2020 has been strengthened since the development of the current Waipaoa Catchment Plan.
- FMU identification will require a process where hapū and iwi can determine what the characteristics of an FMU would look like. This should take into account whakapapa and relationships with overlapping hapū and iwi.
- Hapū and iwi are actively involved (to the extent that they wish) in identifying FMUs, long term visions, values and environmental objectives, limits and targets.
- Council enable, support and resource hapū and iwi to participate in monitoring including mātauranga Māori monitoring methods.
- Engage hapū and iwi endorsed technicians to participate in the NOF. This could include direct participation with Council or resourcing technicians to advise and support hapū and iwi in parallel engagement processes.

7 Other Recommendations

- Where Council is working with advisory groups for the regional freshwater plan and catchment plans, such as the Freshwater Advisory Group (FWAG), iwi and hapū have the opportunity to review recommendations and provide input into final recommendations to Councilors.
- Iwi and hapū meet with Council to wānanga the recommendations provided in this report and determine how they would like to implement recommendations going forward.

8 Conclusion

Te Mana o te Wai requires Councils to transform traditional frameworks of managing freshwater. Without an effective Te Tiriti Partnership between hapū, iwi and Councils, Te Mana o te Wai will falter. Significant investment in building strong relationships with hapū and iwi, identifying barriers to hapū and iwi participation and increasing capacity and capability across the system is essential to ensuring water is managed in a manner that gives effect to Te Mana o te Wai. This will require significant time and resources to ensure engagement is carried out in a meaningful way.

Te Kaunihera o Te Tairāwhiti
GISBORNE
DISTRICT COUNCIL

24-317

Title: 24-317 Waingake-Pamoa Joint Steering Group Strategic Direction

Section: Liveable Communities

Prepared by: Amy England - Regional Biodiversity Transformation Manager

Meeting Date: Thursday 12 December 2024

Legal: No	Financial: No	Significance: Medium

Report to COUNCIL/TE KAUNIHERA for decision

PURPOSE - TE TAKE

The purpose of this report is to seek Council's approval of the Waingake-Pamoa Joint Steering Group Strategic Direction and endorsement of the "*Local Government Acquisitions of Maraetaha 2 Lands*" research report.

SUMMARY - HE **WHAKARĀPOPOTOTANGA**

The decisions or matters in this report are considered to be of Medium significance in accordance with the Council's Significance and Engagement Policy.

RECOMMENDATIONS - **NGĀ TŪTOHUNGA**

That the Council/Te Kaunihera:

1. Approves the Waingake-Pamoa Joint Steering Group Strategic Direction.
2. Accepts and endorses the *'Local Government Acquisitions of Maraetaha 2 Lands'* research report as a shared understanding of the history of the Maraetaha 2 whenua.

Authorised by:

Kerry Hudson - Acting Director Liveable Communities

Keywords: Maraetaha Inc, Waingake, Pamoa, Mangapoike

BACKGROUND - HE **WHAKAMĀRAMA**

1. The Proprietors of Maraetaha No 2 Section 3 and 6 Incorporated (Maraetaha Inc) represent the interests of the shareholders of Maraetaha Incorporated who are mana whenua of the land known as Maraetaha, including land currently owned by Gisborne District Council and currently known as Waingake, Pamoa and Mangapoike.
2. The land forms a critical part of Tairāwhiti's water supply system, hosting three supply dams, pipeline, and related infrastructure.
3. Since 2020, Council and Maraetaha Inc have been working in partnership to deliver the Waingake Transformation Programme. The partnership was formalised in 2022 with the signing of a Memorandum of Understanding (MOU) and establishment of a Joint Steering Group (JSG) between Council and Maraetaha Inc.
4. One of the key objectives of the partnership is to promote, pursue and advance the cultural, environmental, economic, spiritual and social wellbeing and prosperity of mana whenua, hapū, iwi and citizens of Tairāwhiti through the protection, enhancement and development of Maraetaha whenua, specifically Pamoa and Waingake.
5. When developing the MOU, there were differences in each party's understanding of how Council came to acquire the land within the water supply catchments. Together, we wanted to clearly understand how Council came to own the 17 parcels of land within Tairāwhiti's water supply catchments, and how these were progressively acquired from the early 1900s.
6. To understand the history of the whenua, the JSG commissioned research by local researcher Jane Luiten. Jane is an historian who holds a BA Hons (First Class) degree from the University of Waikato. She has over 30 years' experience in historical research, primarily relating to the colonisation of Aotearoa New Zealand though the lens of Waitangi Tribunal enquiries. Jane's research includes commissions for the Waitangi Tribunal, Māori Land Court and the Crown Forestry Rental Trust. She has also researched and written on the role and impact of local government.
7. The report, titled *Local Government Acquisitions of Maraetaha 2 Lands*, is attached.
8. Concurrently, the JSG has co-developed a Strategic Direction(attached) to guide the work of the partnership towards helping to realise the key objectives of the MOU. The Strategic Plan outlines the vision, mission, principles and goals for an enduring and empowered partnership which contributes to reconciliation and meaningful participation in decision-making processes.

DISCUSSION and OPTIONS - WHAKAWHITINGA **KŌRERO** me **ngā KŌWHIRINGA**

9. The *Local Government Acquisitions of Maraetaha 2 Lands* report clearly identifies that most of the Council-owned lands which make up Tairāwhiti's water supply catchments were previously Maraetaha No 2 Section 3 and 6 whenua (Figure 1). This includes parts of the Mangapoike Dams, the Waingake Waterworks Bush, the former Pamoa Station and the land within the boundaries of Patemaru Station where the Water Treatment Plant is located.

10. The Maraetaha whenua and bodies of water have made, and continue to provide, an enormous contribution to the economic and social wellbeing of industry, businesses, and community through reticulated supply of high-quality potable water.

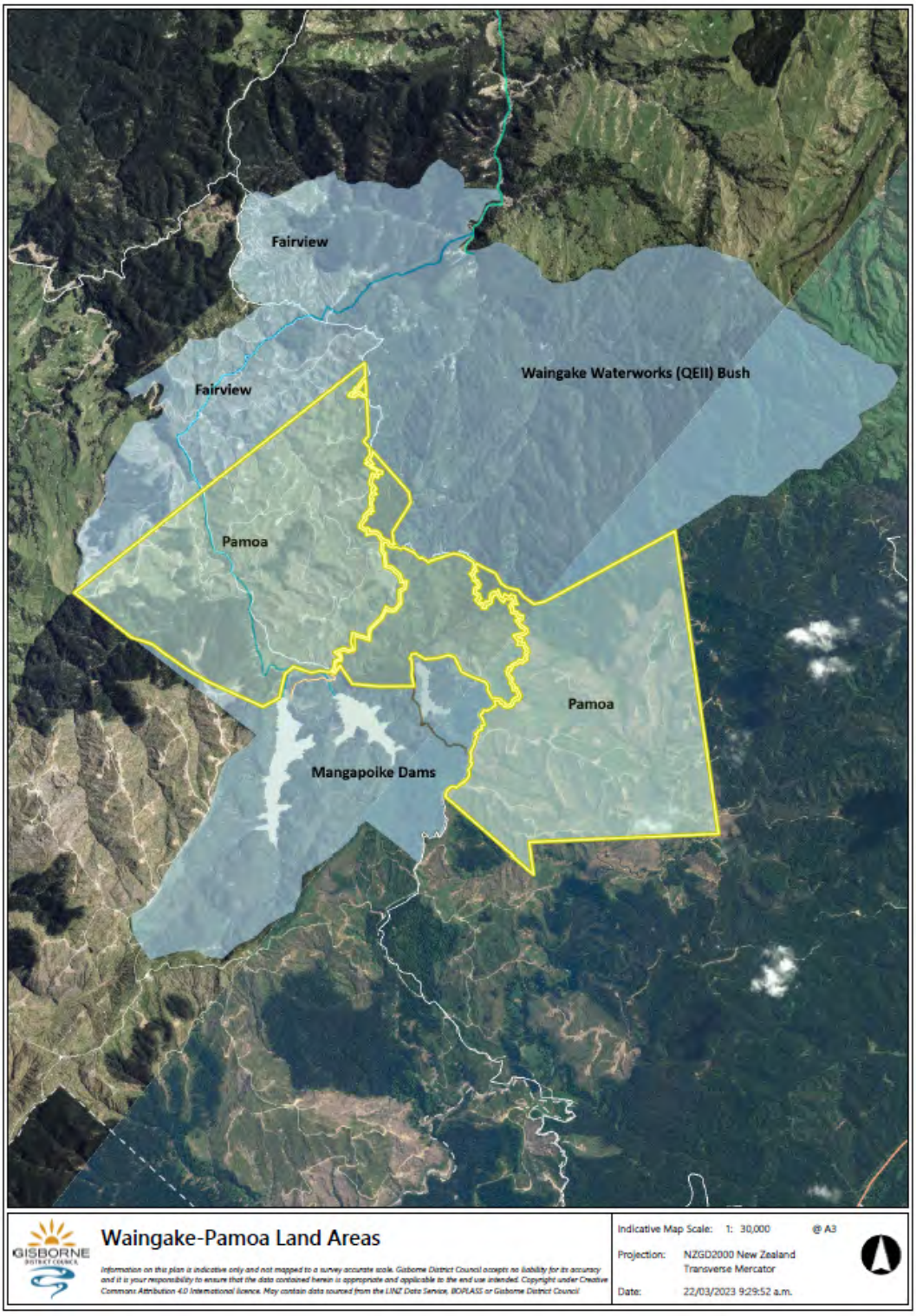

Figure 1: Map of Council owned land within our water supply catchments.

11. Despite this significant contribution, mana whenua have been disconnected and excluded, both from the whenua and from relevant decision-making. Ongoing disconnection has had enduring impacts on the cultural, economic, and social wellbeing of the descendants and shareholders of Maraetaha No 2 Section 3 and 6 whenua, who are members of Ngāi Tāmanuhiri.

12. The 2022 Memorandum of Understanding between Council and Maraetaha Inc has enabled a positive, practical, and future-focussed relationship to develop. The relationship continues to evolve and has been strengthened through a shared commitment to restoring a resilient water supply following the severe weather events of 2023.

13. The Strategic Direction recognises the evolution of Council's partnership with Maraetaha Inc and the understanding that there are matters of mutual interest and importance beyond the delivery of the Waingake Transformation Programme. The Strategic Direction was co-created to represent the shared aspirations of mana whenua and Council in their entirety and will guide us as partners into the next phase of collaboration.

14. The JSG has approved the Strategic Direction, as has the Maraetaha Inc Board of Trustees. Together, the JSG now recommends that Council approves the Strategic Plan so that it may be implemented and operationalised by the JSG and Council staff.

15. The next step is for the JSG to collaboratively develop a workplan to implement the Strategic Direction. This process will involve identifying shared priorities, engaging with relevant teams across Council, and working within established resource and budgetary constraints. The workplan is expected to be reviewed and updated annually to ensure alignment with the Long-Term planning process. The JSG will come together early next year to start this process.

ASSESSMENT of SIGNIFICANCE - AROTAKENGA o **NGĀ** HIRANGA

Consideration of consistency with and impact on the Regional Land Transport Plan and its implementation
Overall Process: Low Significance
This Report: Low Significance

Impacts on Council's delivery of its Financial Strategy and Long Term Plan
Overall Process: Low Significance
This Report: Low Significance

Inconsistency with Council's current strategy and policy
Overall Process: Low Significance
This Report: Low Significance

The effects on all or a large part of the Gisborne district
Overall Process: Low Significance
This Report: Low Significance

The effects on individuals or specific communities
Overall Process: Medium Significance
This Report: Medium Significance

The level or history of public interest in the matter or issue
Overall Process: Low Significance
This Report: Low Significance

16. The decisions or matters in this report are considered to be of Medium significance in accordance with Council's Significance and Engagement Policy.

TREATY COMPASS ANALYSIS

Kāwanatanga

17. The approval of the Strategic Direction will fully enable Council and mana whenua to share decision-making on matters of mutual interest and importance. It recognises the functions, roles and responsibilities of mana whenua and allows for these to be incorporated into planning, policy and delivery of outcomes.

Rangatiratanga

18. The progressive acquisition of these lands by local government has led to the inability of Maraetaha Inc to exercise Tino Rangatiratanga. They have been excluded from meaningful participation in decision-making and have had no control over outcomes related to activities on the whenua.

19. The formation of the JSG in 2022 was the first step towards understanding mana whenua aspirations for rangatiratanga. The Strategic Direction identifies these aspirations as a series of goals and objectives and presents a tangible opportunity to put these aspirations into action together.

20. The Strategic Direction identifies mechanisms to support and resource Maraetaha Inc for equitable participation in matters relating to their ancestral lands. A key goal of the plan is to work towards Mana Motuhake, such that Maraetaha Inc are empowered and their rights to self-determination are upheld.

Oritetanga

21. After discussions within the JSG a first cut of the Strategic Direction was drafted by Trustees from Maraetaha Inc and shared with the JSG for feedback and comment. Trustees from Maraetaha Inc have also been involved in reviewing and commenting on the drafting of this paper, thus showing a willingness to work collaboratively and to work in true partnership.

22. As the historic research into land acquisition at Waingake-Pamoa shows, Council has not traditionally acted in good faith towards Maraetaha Inc. The loss of their lands has led to intergenerational harm, with social, cultural and economic consequences.

23. It was following the decision to transition 71% of the land within Pamoa Forest back to native vegetation and the establishment of the Waingake Transformation Programme, that the partnership with Maraetaha Inc was established.

24. The Strategic Direction provides a pathway for Council and Maraetaha Inc to develop actions to address past and existing inequity and includes a specific goal relating to equity and social justice.

25. The adoption of the Strategic Direction will be of interest to other iwi and hapū groups within Tairāwhiti. Whilst the decision to approve the Strategic Direction will not affect other iwi directly, it will demonstrate Council's commitment to working in partnership and to giving effect to Te Tiriti across our mahi.

Whakapono

26. Council has worked in partnership with Maraetaha to develop all aspects of the approach to the relationship. The historical research piece also brings factual light to the way in which the kawa, tikanga, and belief systems of those landowners has been impacted by historical actions.

27. The Strategic Direction provides the basis for an approach in the future that is fully cognisant and provides for the expression of whakapapa, identity and culture by the JSG and in turn the beneficiaries of Maraetaha Incorporated.

28. The ability to work in a way that incorporates the provision of whakapono has been laid. It will fall upon current and future partners to ensure this continues in a fashion that meets the expectations of a Treaty-based relationship.

TANGATA **WHENUA/MĀORI** ENGAGEMENT - **TŪTAKITANGA** TANGATA WHENUA

29. Maraetaha Inc are leading engagement with their Trustees, shareholders, whanau and wider community, including with Tāmanuhiri Tūtū Poroporo Trust.

30. There has been no additional or wider tangata whenua engagement on this matter.

COMMUNITY ENGAGEMENT - **TŪTAKITANGA** HAPORI

31. There has been no community engagement on this matter.

CLIMATE CHANGE – Impacts / Implications - **NGĀ REREKĒTANGA ĀHUARANGI** – **ngā** whakaaweawe / **ngā** ritenga

32. There are no additional climate change considerations arising from this report.

CONSIDERATIONS - HEI WHAKAARO

Financial/Budget

33. The JSG is supported with budget allocated to the Waingake Transformation Programme within the Three-Year Plan. This includes funds for the remuneration of JSG members, and funds to support the activities of the JSG and subsequent actions developed to enact the the Strategic Direction.

34. On approval of the Strategic Direction, the JSG will begin to develop the Governance Workplan for 2025 and will allocate budget accordingly based on agreed priorities.

Legal

35. There are no legal matters arising from this report.

POLICY and PLANNING IMPLICATIONS - KAUPAPA HERE me **ngā** RITENGA WHAKAMAHERE

36. The Strategic Direction presented by the Joint Steering Group aligns with Council's Piritahi Tairāwhiti policy for fostering Māori participation in Council decision-making. Specifically, the Strategic Direction aids us in developing and maintaining a more collaborative partnership, working towards mutual outcomes. It is a document which enables us to support co-designed and co-located projects and processes.

37. The Strategic Direction is consistent with the vision for community wellbeing outlined in Tairāwhiti 2050 Spatial Plan, and Outcome 8 of the Spatial Plan to deliver for and with Māori. Outcome 8 seeks to ensure our region's resources/taonga are restored and protected for future generations by building and maintaining strong partnerships.

RISKS - **NGĀ TŪRARU**

38. There is no provision for ongoing financial support of the JSG beyond the Three-Year Plan, but there is expectation from Maraetaha Inc that ongoing resourcing of this relationship agreement will be enduring and that at least an equivalent level of support will be provided in coming years. Council staff and Maraetaha Inc will work together to determine the ongoing resourcing requirements and make recommendations on how these could be supported beyond the Three-Year Plan.

NEXT STEPS - **NGĀ** MAHI E WHAI AKE

Date	Action/Milestone	Comments
February 2025	Governance workplan developed.	JSG to determine priority actions.
April 2025	Report to Council leadership.	Recommendation for ongoing resourcing of the JSG.

ATTACHMENTS - **NGĀ TĀPIRITANGA**

1. Attachment 1 - Local Government Acquisitions of Maraetaha 2 Lands - FINAL Report 050724 (A 3389664) [24-317.1 - 219 pages]
2. Attachment 2 - Waingake-Pamoa Joint Steering Group Strategic Direction 2024 [24-317.2 - 2 pages]

Gisborne's Local Government Waterworks Acquisitions of Maraetaha 2 lands

(a report commissioned by the Waingake-Pamoa Joint Steering Group)

Jane Luiten, May 2024

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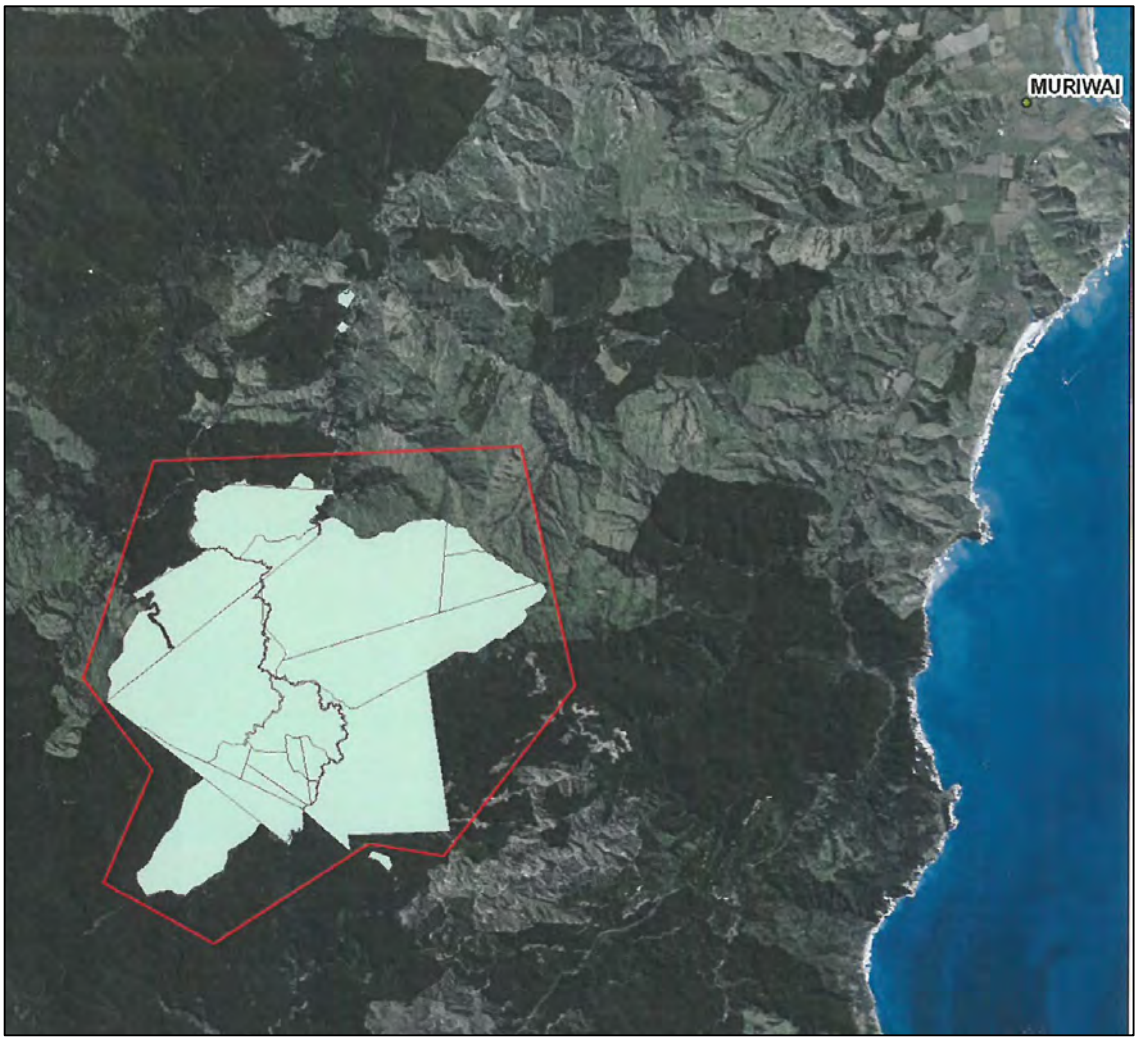

Figure 1: GDC waterworks holdings[1]

[1] GDC, #A589651 Research Waingake Catchment document bank, p.30.

Introduction

For more than a century, Gisborne has drawn its water from the high-country of Maraetaha, from catchments at the headwaters of the Te Arai and Mangapoike Rivers. The lands of Maraetaha run to the coast, forming the bulk of the tribal rohe of Ngai Tāmanuhiri. Formerly known as Ngai Tāhūpō, Ngai Tāmanuhiri mana is based on their sixteenth century tupuna, Tāmanuhiri, a contemporary of similarly illustrious rangatira, Rongowhakaata and Kahungunu, whose descendants are immediate neighbours.[2] Through strategic war, alliance and intermarriage, for over 400 years the descendants of Tāmanuhiri have maintained their mana as a distinct people within tribal rohe that extend from Paritū to Koputūtea, and inland to Paparatu. As Ngai Tāhūpō, their ancestral connection to Maraetaha lands extend back even further.[3]

The water supply began in the early twentieth century as an intake placed in the Te Arai River within an 1,000-hectare catchment cloaked in native forest, referred to in this report as the Waingake Bush Catchment or, as it came to be known, Waingake Waterworks Bush. From the intake, the water was piped six kilometres along Te Arai Valley (the 'Bush-line' pipe) to the headworks at Waingake (first a settling tank and now a treatment plant), and from there piped the 29 kilometres to town. From the late 1940s, the Waingake Waterworks Bush supply was augmented by impounding the waters in the neighbouring Mangapoike catchment (see Figure 2). The 'Clapcott Dam' was the first of three dams developed within what this report refers to as the 'Mangapoike Dams Catchment', some 438 hectares acquired by local government in 1947 as a waterworks reserve. The water from the reservoir was piped 4.5 kilometres via the 'Dam-line' towards Waingake Waterworks Bush, into which it discharged. Since the 1970s, two more dams have been commissioned and the Dam-line completed to the bush catchment intake. The whole system is primarily gravitationally fed, although booster stations have been introduced to supplement flow. In the aftermath of Cyclone Bola in March 1988, Gisborne District Council acquired the land lying between the two water supply catchments – then farmed as Fairview and Pamoa Stations – with the ostensible goal of protecting the Dam-line from future weather events (see Figure 3).

[2] Peter McBurney, 'Ngai Tamanuhiri: Mana Whenua Report', (CFRT, 2001), Wai 814 #A30. Tāmanuhiri was born on Maraetaha and was in turn descended from early voyagers Paikea and Tahupōtiki, younger brother of Porourangi and eponymous ancestor of Ngai Tahu.
[3] 'He tahu tenei no te po', see whakapapa of tipuna Hine Te Whatu to Reia, who predated Tahupōtiki by six generations. McBurney, pp. 106-108.

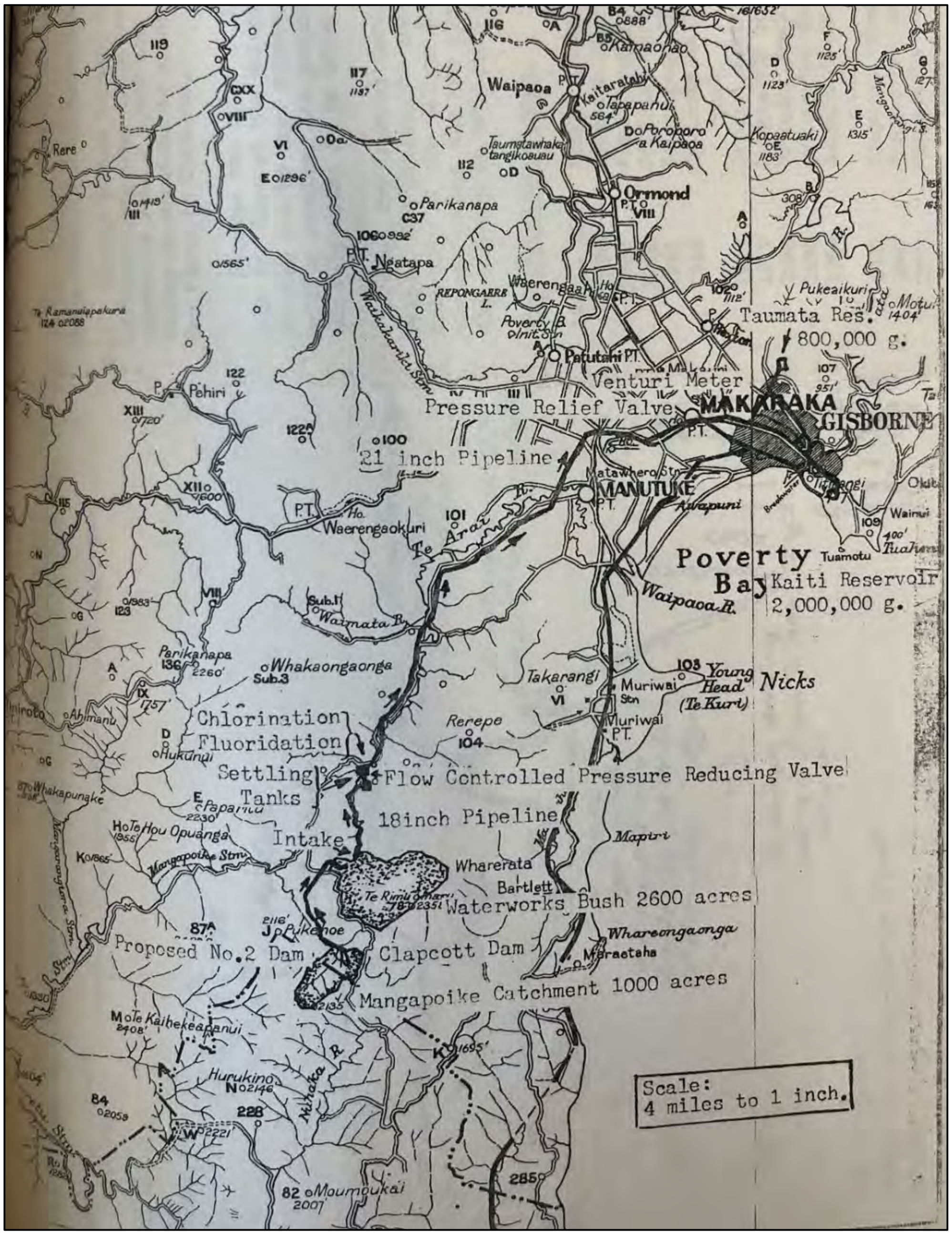

Figure 2: Gisborne Water Supply Locality Plan, 1965[4]

[4] City Engineer Harold Williams' 1965 locality plan, D/24/4D 54/02 Water Supply Te Arai Bush Catchment 1960-1968.

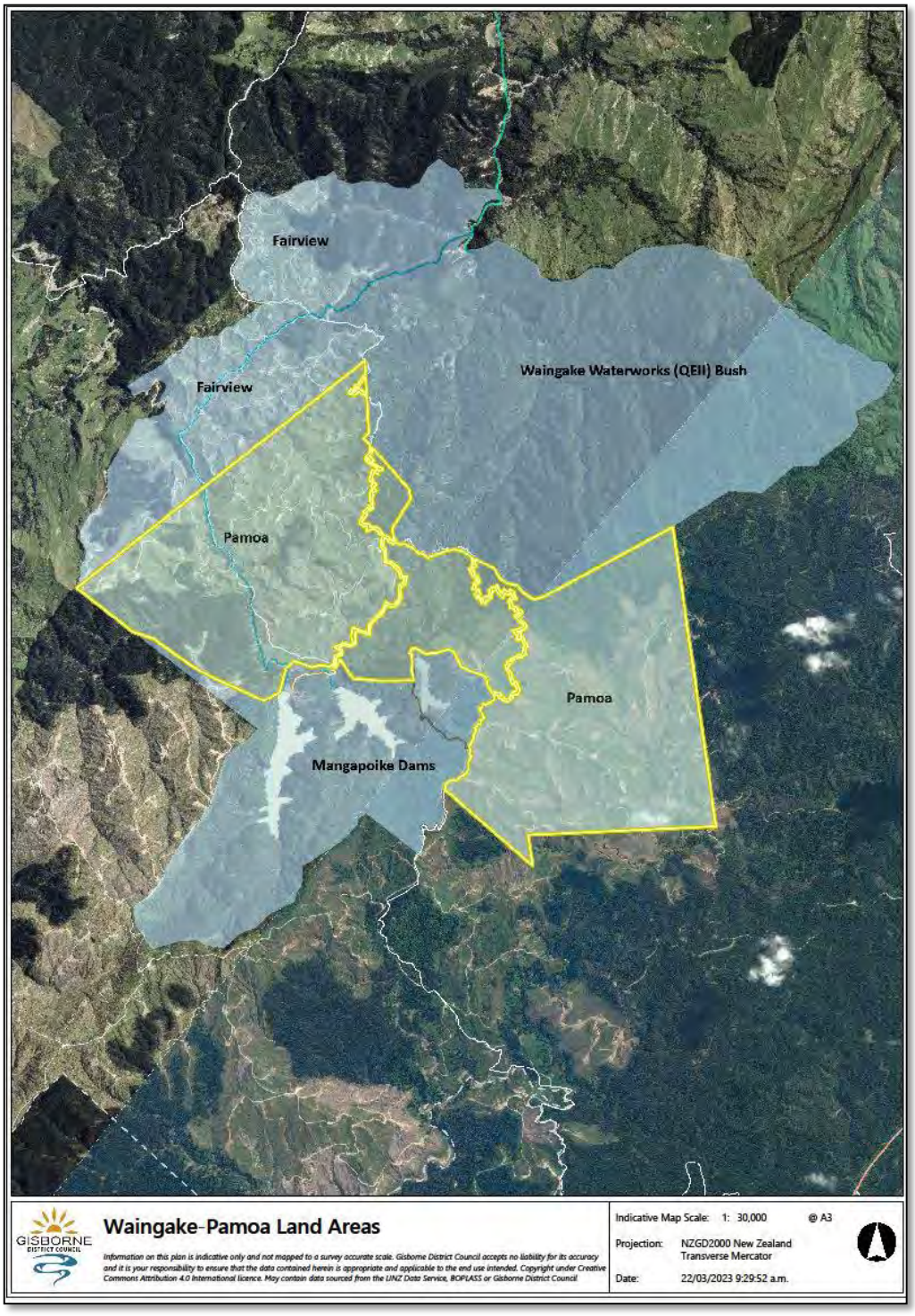

Figure 3: GDC land held for waterworks purposes[5]

[5] Gisborne District Council. Not all waterworks acquisitions are depicted.

Project scope

This report is primarily concerned with the history of twentieth century local government acquisitions for Gisborne's waterworks purposes. It was commissioned by the Waingake-Pamoa Joint Steering Group to better understand the circumstances behind the local body acquisitions of Maraetaha 2 lands. The Joint Steering Group was established under a Memorandum of Understanding reached in June 2022 between Gisborne District Council and the Proprietors of Maraetaha 2 Section 3 and 6 Incorporated (Maraetaha Incorporated), which recognises that the incorporated shareholders hold mana whenua over the council's waterworks holdings and seeks to manage future development of the land in partnership.[6]

To an initial tally of 13 'waterworks' titles comprising around 3,200 hectares, three more have been since identified, another 15 hectares or so. Details of these titles are set out in the Appendix. Although the bulk of these acquisitions were made from Māori-owned Maraetaha 2 lands, the research project was not limited to this criterion. The resulting report encompasses *all* waterworks-related acquisitions – those from general land and those from land blocks other than Maraetaha 2. Doing so not only results in a comprehensive history of the council's waterworks holdings, but also enables comparisons to be made between differential local body practice, if any, with respect to the acquisition of Māori and general land.

The 1991 sale and purchase of Pamoa Station is of particular interest, referred to, for example, in the 2022 Memorandum of Understanding. Maraetaha Incorporated's enduring sense of grievance about this transaction is multi-layered: the element of compulsion behind the negotiations, the loss of ownership of a last vestige of tribal lands, the obliteration of the tribal farming enterprise by subsequent commercial afforestation. The circumstances surrounding the sale and purchase – obtained primarily from council records – are set out in some detail, in the hope that this provides clarity for the Joint Steering Group moving forward.

For the partnership embodied by the Waingake-Pamoa Joint Steering Group, these local body waterworks acquisitions demand to be understood within the wider context of Ngai Tāmanuhiri's experience of colonisation, and the whakapapa of both Maraetaha Incorporated and the Gisborne District Council. Ngai Tāmanuhiri were not directly involved in the local sovereignty battle of 1865 in Tūranganui, but their coastal Maraetaha lands were nonetheless included in the resulting 1868 Poverty Bay Deed of Cession. Further inland, title investigation of Maraetaha 2 in 1882 spelled the end of any collective control over dealings with the block and the beginning of liability attached to the new title, in the way of registered survey liens. From the early 1890s, the 16,670-acre block represented a blank swath ripe for 'settlement',

[6] Tāmanuhiri Tūtū Poroporo Trust (TTPT), as the Ngai Tāmanuhiri Iwi Post Settlement Governance Entity, recognises Maraetaha Incorporated's mana whenua status and fully supports the Memorandum of Understanding.

the government's purchasing ambitions from this time competing with those of the Carroll-Pere Trust to use the block proceeds to satisfy Bank of New Zealand debt. The resulting Validation Court partition in 1896 divided the spoils of Maraetaha 2 between these contenders, sweeping Ngai Tāmanuhiri's existing title aside. Gisborne Borough Council's 1905 purchases of the Waingake catchment within Maraetaha 2 for waterworks was transacted with the East Coast Trust Lands Board, in whom by this time Ngai Tāmanuhiri's remaining lands were statutorily vested. For the next 50 years, these trust lands were farmed by the East Coast Commissioner. Ownership and control were restored to the Proprietors of Maraetaha 2 Sections 3 and 6 (Maraetaha Incorporated), in 1954.

For its part, Gisborne District Council has its beginnings in the government's military conquest and occupation of Tūranganui from 1865, on which Pākehā settlement was grafted. Early local government from 1870 took the guise of a Highway Board and, from 1873, a seat on the Auckland Provincial Council. Gisborne Borough Council was formed in 1877, a year after local government was extended nationwide. City status was achieved in 1955. In 1989, in another nationwide local government reform, the Gisborne City Council was merged with the county councils of Te Tairāwhiti – Cook, Waikohu, Uawa and Waiapu – to become the Gisborne District Council, a unitary authority with both district and regional government responsibilities.

Elsewhere, I have shown local government to be the 'busy fingers of colonisation': not only following Pākehā settlement as it expanded into the Māori hinterland, but actively facilitating such settlement into every last hill and vale.[7] Funded primarily from direct property tax – rates – local government has been characterised by self-interest and parsimony, with ratepayers unwilling to finance works of no direct benefit to them. One of the significant aspects of Gisborne's waterworks story is the longstanding tension between maintaining a pristine water supply and delivering a 'return' from the council's waterworks properties. From early times, local government has been empowered to take land required for local public works. Given the colonial context, however, of issue is the extent to which Māori have been excluded from the 'public' interest. Historically, there has never been a role for hapū in local government and for a raft of structural reasons, Māori participation throughout the twentieth century has been minimal.

The challenge for this research project has been one of maintaining focus on the primary research task – twentieth century local body waterworks acquisitions – while also conveying the wider historical context in which they sit. The story of waterworks acquisitions without the broader fate of Maraetaha 2 would be to tell but half the story. Much of this history is incredibly complex. Reducing this complexity to

[7] Jane Luiten, 'Local Government on the East Coast', (CFRT, 2009).

contextual background poses the converse risk of rendering it meaningless. It has been a difficult balance to strike.

In addition to informing future co-management, co-governance and land ownership discussions, the Joint Steering Group envisaged the research might prove useful for other projects, illuminating mātauranga Māori and tikanga relating to this whenua, for example, and the identification of place names and wāhi tapu. The shortcomings of the report in this respect reflect the sources that were consulted. A closer study of Native Land Court minutes (with respect to the 1891 Puninga Block partition for example) *may* have resulted in more information, but the court records that were consulted disclose little evidence of such matters. This report is not informed by oral history, either past or present.[8]

Methodology

Ngai Tāmanuhiri participated in the Waitangi Tribunal's Tūranga District Inquiry in 2001-2002 and the alienation of Maraetaha 2 was the subject of specific claim. The Tribunal published its report in 2004. Much of the research produced for that inquiry is of direct relevance to this project and was consulted in the first instance. Initial assumptions that this report would be confined to such secondary sources to illuminate aspects of the colonial context gave way to a closer study of primary sources. My experience is that the devil often lies in the detail, and the reward of scrutiny fresh insight into received historical narratives. The negotiations surrounding the 1896 Validation Court proceedings which ended Ngai Tāmanuhiri's control and ownership of Maraetaha 2 are a case in point. Concerned as the Waitangi Tribunal was with the wider inquiry district, its conclusions about Ngai Tāmanuhiri's endorsement of the out of court arrangement fail to fully grasp the forces working against them.[9] This report does not pretend to be the definitive history of such events, but it felt important to reexamine the details where this was possible. To this end, primary records at both Archives New Zealand and the Māori Land Court Tairāwhiti were consulted.

[8] Other than the stories (unrecorded) of life at Waingake shared by Maraetaha Incorporated Chair, Bella Hawkins. For mana whenua, readers are referred in the first instance to McBurney, Wai 814 #A30. Two oral projects containing kōrerō from Ngai Tāmanuhiri individuals are referred to by Brian Murton but have not been consulted for this project, Brian Murton, 'The Economic and Social Consequences of Land Loss for Ngai Tamanuhiri 1860-1980', (CFRT, 2001), Wai 814 #A35, pp. 12-13. The first, undertaken in 1984-1985 for the Muriwai School Centenary, is held by the Tairāwhiti Museum. The second is the Ngai Tamanuhiri Whanui Oral History Project, location unknown. Murton writes that much of this material remains the intellectual property of the individuals involved. Extracts from both can be found in Murton's Document Bank, Wai 814 #A35(a), volume F.
[9] Waitangi Tribunal, *Tūranga Tangata*, Wai 814, vol. 2, p. 575.

The Waitangi Tribunal has generated a great deal of research on public works takings in general which has also proved useful. With respect to the local body acquisitions, existing work by GDC staff – the title documents compiled by Nadine Proctor in 2015 and the synopsis prepared by undergraduate intern Karepa Maynard provided a useful springboard into the archives held by Gisborne District Council. These archives provide the principal source of information about the history of acquisitions. Where possible, relevant leads have also been pursued into central government files held by Archives New Zealand, both in Auckland and Wellington. Newspaper and official gazette sources were also consulted.

A draft report was circulated to the Joint Steering Group in March 2024 for comment. In addition, a site visit to council's waterworks properties at Waingake and Mangapoike was made in company with Maraetaha Incorporation chair, Bella Hawkins and Gisborne District Council's programme manager, Amy England, which has proved invaluable to the final report.

There are always ethical issues that arise in writing historical reports about events that involve individuals, often without their knowledge or consent. Care has been taken to include personal evidence made by or about such individuals only to the extent that it informs the narrative.

This research project was optimistically scoped at 10 weeks. It has taken considerably longer to complete.

Report structure

For the reasons set out above, that of striking a balance between the immediate kaupapa of the research project and the need to contextualise the waterworks takings within the experience of colonisation, the report is divided into three parts.

Part One serves as a brief introduction to the story of Maraetaha 2, the way title was engineered and ownership and control taken from Ngai Tāmanuhiri until the second half of the twentieth century. The narrative largely summarises the 'Back stories' set out in greater detail in Part Three and in the interests of easy reading, references have been curtailed to a minimum. What remained of Ngai Tāmanuhiri lands were returned in 1954 to incorporated owners as working farms. Two of these, Patemaru and Pamoa Stations, neighbour the waterworks catchments and have accommodated waterworks infrastructure over the years. Local government ambition to obtain and plant in forestry a 'pipeline corridor' through Pamoa Station in 1988 led directly to the sale and purchase of the farm in 1991.

Part Two sets out the circumstances of the local government waterworks acquisitions within the development of the city's water supply over time. Tracing this development has been a necessary part of the project, providing the framework within which to explore the circumstances of each land transfer. The scheme began with the Waingake Waterworks Bush (from 1903) and expanded with dam construction within the neighbouring Mangapoike catchment (from 1942). Local government ownership was restricted to the water catchments, the associated pipeline infrastructure constructed on private property without legal authority. In the case of the Bush-line, the pipeline replacement of the 1960s and access road fell outside an existing 1906 easement. In the case of the Dam-line, the Gisborne Borough Council constructed the pipeline through Pamoa and Fairview Stations without obtaining any formal easement whatsoever. Ambitious plans for further dam construction at Puninga (from 1971), gave way in the 1980s to the more mundane (and affordable) goal of improving the existing supply. The desire to formalise the existing arrangements with respect to the pipeline infrastructure gave way, after Cyclone Bola, to the unquestioned prerogative – spurred on by government afforestation funding – to secure a 'pipeline corridor' through Fairview and Pamoa Stations. In both cases, council pressure to obtain the corridor eventuated in the sale of the wider property.

The acquisitions follow a loose chronological sequence: those procured in the 1960s for the bush catchment, for example, follow the discussion of the Mangapoike Catchment Scheme, rather than being dealt with in the discussion of the earlier catchment.

Those primarily interested in the nuts and bolts of the twentieth century waterworks acquisitions might stop here. To fully appreciate what these acquisitions represent in terms of mana whenua, however, readers are encouraged to continue. Part Three sets out the colonial context in which the acquisitions sit as a series of 'Back stories', beginning with early nineteenth century title determination and dealing in detail with the trust arrangements which led to the initial sale of the Waingake bush catchment to the Gisborne Borough Council. Project constraints have meant that the back stories are not as full as they might be. They are nonetheless sufficient to show the dispossession and disempowerment that Ngai Tāmanuhiri have experienced with colonisation, a one-way attrition of tribal lands and tribal mana. Miss the backstories and miss, too, the patterns of colonial systems that continue to shape indigenous fortunes: more than one generation of Ngai Tāmanuhiri have found themselves in impossible situations and been forced into painful decisions for reasons entirely beyond their control.

One of these Back stories, 'the understanding of neighbours' explores the implications (other than the on-going attrition of land) of living next door to the city water supply, in terms of fencing, pest control, and access. As outlined in Part Two, Council's underlying presumption that the public interest of water supply

trumped those of affected property owners was manifested in myriad ways, most of all by the license taken with respect to the waterworks infrastructure on private land. Council's investment in road maintenance, the received rationale for such license, appeared to exempt it from even the formalities of consultation or consent to its activities. Back story #9 examines the one-sided and tenuous nature of these 'co-operative relations' or 'the common understanding, unrecorded, of all parties'. Two other Back stories explore the competing tensions to keep the water supply pristine on the one hand, and to obtain revenue from the catchments on the other, through commercial afforestation. The extent to which environmental factors were subordinated to economic return will be instructive for the Waingake transformation programme.

An Executive Summary has been included as an appendix.

Author

I am an historian of Pakehā descent based in Tūranga/Gisborne. I hold a BA Hons (First Class) degree from the University of Waikato and have over 30 years of experience in historical research, primarily relating to the colonisation of Aotearoa through the lens of Waitangi Tribunal inquiries. Over that period, I have completed substantial research commissions on a range of issues, both for the tribunal and for the Crown Forestry Rental Trust, including the role and impact of local government. I have on occasion also undertaken historical research for the Māori Land Court and local bodies. More recently I have become engaged in Te Tiriti o Waitangi education.

I have been engaged to undertake this historical research as an independent contractor and the conclusions I have come to are my own.

Acknowledgements

In addition to the work of historians engaged in the 2004 *Turanga Tangata* inquiry, this report has benefitted from the compilations of GDC documents undertaken by staff.

Several people have been particularly helpful with access to records: Bella Hawkins with respect to Maraetaha Incorporated documents, Archivist Mahea Tupara and fellow staff at GDC archives for council records, and Team Member Godfrey Pohatu at the Māori Land Court, Tairāwhiti. Amy England has been helpful and responsive throughout. Ngā mihi nui ki a koutou katoa.

I am also grateful to Bella and Amy for their time to show me around the waterworks whenua in April, and again to Bella for sharing her experience of this whenua.

In 2004, the Waitangi Tribunal concluded its two-volume report on the Tūranga District inquiry by highlighting the need to expose the stories of colonisation to the light of day in the interests of achieving reconciliation, commenting that: 'Nowhere is this need greater than in Turanga.'[10] The Waingake-Pamoa Joint Steering Group is to be commended for commissioning this report to inform the partnership for Waingake transformation programme moving forward. This in turn has been largely guided by Steering Group member and former GDC Chief Executive Judy Campbell. The opportunity to learn about my own backyard has been a privilege, for which I am extremely grateful. Tēnā koutou katoa.

[10] Waitangi Tribunal, *Tūranga Tangata*, vol. 2, p. 740.

Part One: Maraetaha 2 Overview

In 1909, Wiremu Wirihana Kaimoana and 48 others of Ngai Tāmanuhiri petitioned Parliament about the dispossession of their ancestral homeland:

> The majority of your petitioners are landless and of those who have land, some own very little for their support.
>
> Of the 22,100 acres of Maraetaha 2 awarded by the Native Land Court to your petitioners or their parents in the year 1882, not a single acre has been handed to your petitioners, who have neither sold nor leased any portion thereof, saving the 4,810 [acres] to the Crown. Your petitioners have been wilfully deprived of and wrongfully dealt with in the matter of their lands.
>
> The East Coast Commissioner has absolutely no sympathy for your petitioners and they have no power whatever over him.[11]

The sequence of land loss outlined in the petition began with the illegal transfer of Maraetaha 2 to the New Zealand Native Land Settlement Company in 1882, the Validation Court's 1896 vesting of land in the Crown, the 1902 statutory vesting of the balance in the East Coast Native Trust Lands Board without the owners' knowledge or consent, and the Board's subsequent land sales, including those to the Gisborne Borough Council for waterworks. All these occurrences are set out in the Back stories of Part Three. Of the £24,622 2s received by the Board from the proceeds of these sales, the petitioners continued, not a single penny had been paid over to the owners. Ngai Tāmanuhiri sought an inquiry into their dispossession, the sales proceeds paid over to them, and the removal of commissioner control over the unsold portions.

Colonisation is the appropriation of a place or domain for one's own use. Outside of war and land confiscation, appropriation in New Zealand was achieved in the latter nineteenth century through tenurial reform which at once transformed hapū mana within tribal rohe to land blocks defined in straight lines and individual interests. The colonial framework kept the value of tribal land low, placed the burden of cost of obtaining title on the tribal landowners, and denied to them any power to deal with their lands other than selling or leasing their individual interests. Reduced to pauperism by the end of the nineteenth

[11] Wiremu Wirihana Kaimoana, Hori Te Awarua, Rangituanui Tamihana, Raihana Te Aopapa and others, Petition 227/1909 (English only), R22402667 MA1 1909/740. The petitioners also pointed to the £1,488 expenditure on block administration up to 31 March 1907 and the converse lack of investment in land development, as well as the 1906 legislation affecting the trust lands, again enacted 'without the knowledge or consent of your petitioners.'

century, the inability of hapū to turn their lands to 'productive utilisation' became the rationale for expropriating what was left of it.

In the context of the nineteenth century, purchasing tribal land for Pākehā occupation (and subdividing it into surveyed parcels with road access) was called 'settlement', the only debate being whether public or private enterprise should get priority. Within Te Tairāwhiti from 1879, however, a third player entered the settlement game: under the leadership of Wi Pere and William Rees, local iwi dared to imagine that they could engage in land settlement for their own benefit. Ngai Tāmanuhiri were among those who entrusted their early titles to the pair to regain control over the fraudulent and litigious transactions for their titled lands. The 'trust lands' were to be developed and managed in each case on terms decided by committees of owners. The dream turned quickly to despair: within a year, the trustees had sold most of Ngai Tāmanuhiri's coastal Maraetaha Block and mortgaged the balance. Ten years on, tribal leader Hemi Waaka and others petitioned Parliament about the trustees' dealings with their lands (see Back stories #1 and #2). After handing over the land to the Trust, Waaka told the Native Affairs Committee in 1891, '… we never received a single benefit. The result is lamentation and weeping and vain repining at what has occurred.' [12]

Maraetaha 2

Ngai Tāmanuhiri's application to the Native Land Court for title to their inland rohe was made on the heels of the Maraetaha sale, the Rees-Pere Trust now transformed into the New Zealand Native Land Settlement Company. The original claim for Maraetaha 2 by Hemi Waaka and 13 others in March 1881 encompassed what was left of the tribal rohe: a surveyed parcel of some 35,067 acres. It emerged from the contested hearing in March 1882 as six blocks. In addition to a reduced Maraetaha 2, separate orders were made for the blocks of Te Puninga, Tarewauru, Ranginui, Rangaiohinehau and Tiraotane (see Figure 4). In addition, partitions were made within Maraetaha 2 itself – 2A, 2B and 2C – for those found to be entitled but who did not claim as Ngai Tāmanuhiri (see Back story #3).

[12] Hemi Waaka, 31 July 1891, 'Minutes of evidence in connection with Petitions relating to the New Zealand Native Land Settlement Company', AJHR 1891 Session II, I-3A, p. 14.

Figure 4: Maraetaha 2 (16,670 acres) and neighbouring titles, 1882 [13]

Ngai Tāmanuhiri were found by the court to be entitled to all six blocks. The claim had been argued and won in court on hapū lines, the tribal understanding reflected in the lists of owners that were handed in. Legally, however, Maraetaha 2 now belonged to 153 individuals. The multiple court orders were necessarily provisional, to be confirmed once the separate land blocks were surveyed. Even so, the new titles were to be inalienable (except with the consent of the Governor), meaning they could not be sold or mortgaged or leased longer than 21 years.[14]

The subdivisional survey to reflect the court orders was undertaken in April 1886, resulting in a second survey bill in early 1888. Maraetaha 2's portion of the original 1881 survey was £448 6s 3d, and its share of the survey 'for Hemi Waaka & others' five years later, £68 15s 6d. Charging orders for both amounts were obtained from the Native Land Court in September 1888.

[13] Moka Apiti, 'Ngai Tamanuhiri GIS Map Booklet, Wai 814 #E28, Map 3a, see also ML 287 in Back story #3.
[14] The restrictions on the provisional order are not minuted and nor have I been able to find the order on file. However, the restrictions are referred in separate correspondence 22 years apart, the first occasion the following year when Hami Te Hau applied to have the restrictions on Maraetaha 2 removed, Keith Pickens, Wai 814 #A19, p. 119; the second in 1905, when the owners of Maraetaha 2 Section 5 similarly applied for the removal of restrictions, R22402223.

Over the next decade, the land blocks surrounding Maraetaha 2 were partitioned, and much of them sold. Maraetaha 2, however, remained intact, the 16,670-acre block a thick swath of forested green on the county cadastral plan (see Figure 5). The road approaching from the south was still some years off, meaning that county rates for the block were not yet levied. Every year from 1888, however, interest on the survey lien continued to mount.

Crown purchase, from 1891

Under the Liberal government and the mantra of 'close settlement', in the 1890s the State once again took over the market in Māori land, curtailing private dealing in 1892 and banning it altogether in 1894. Existing restrictions against alienation no longer applied to State purchase. Land, as such, was not transacted, but rather individual interests in any block – at prices dictated by the government monopolist when Māori socio-economic circumstances were at a low ebb. Once the pool of willing sellers in any block was exhausted, the Crown then applied to the Native Land Court to have its purchased interest partitioned into acreage.

While the larger issues arising from such opportunistic purchasing went unexamined, close attention was paid to the minutiae of each purchase: relative interests in any block required to be defined, trustees for minors' interests appointed, and those of the deceased succeeded to. Government land purchase officers worked closely with Native Land Court staff to achieve the sales. In the case of Te Tairāwhiti, for a time the registrar of the Native Land Court and the government's local land purchase officer were one and the same: both roles held by John Brooking.[15]

[15] John Brooking immigrated from Devon in 1857 and was engaged in the government military attack at Waerenga a Hika. Brooking began working as clerk and interpreter in the Native Land Court in Gisborne in 1875, moving to the Land Purchase Department in 1879. In 1886, Brooking was appointed Registrar of the Native Land Court in Gisborne. He was engaged as a Crown land purchase officer from September 1893 to January 1894, when his purchasing duties were taken over by Wheeler. *The Cyclopedia of New Zealand [Auckland Provincial District]*, 1902, available online at nzetc.victoria.ac.nz

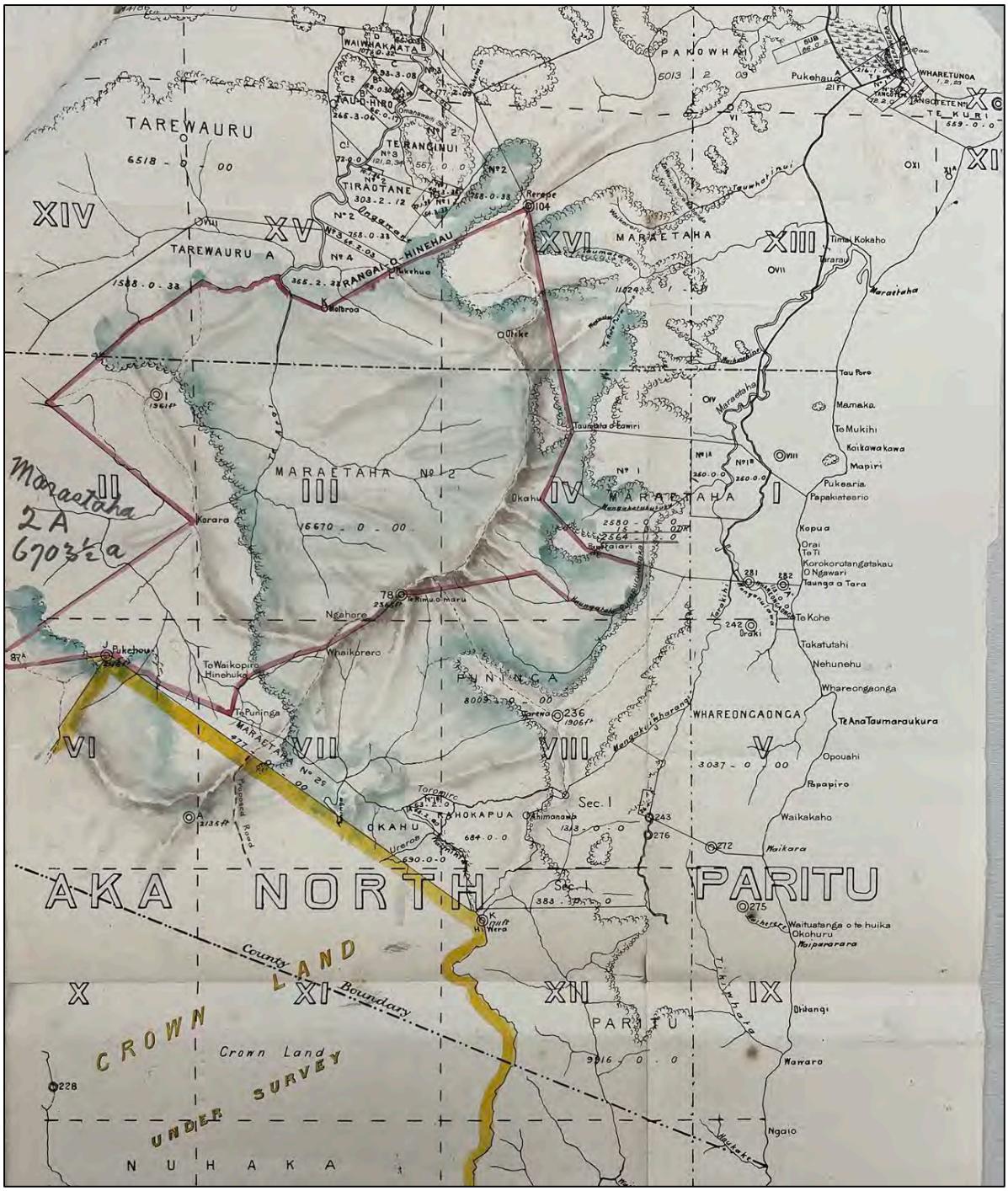

Figure 5: Maraetaha 2, 1891 [16]

[16] Enclosed with Barnard to Chief Surveyor, Napier, 23 June 1891, in R23905920.

The sketch of Maraetaha 2 in Figure 5 above was sent to Surveyor General Percy Smith in the winter of 1891, in response to his query about the block's 'capabilities for settlement if any'. Brooking began purchasing interests in Maraetaha 2 in September 1894, at the fixed price of 3s 6d per acre (one-fifteenth of the price part of the land fetched on the open market ten years later). On this basis, the gross price of the 16,670-acre block was £2,917 5s, from which the survey charges plus interest were deducted, giving a net price of £2,244 19s 3d. Despite protest from Ngai Tāmanuhiri that the relative interests in Maraetaha 2 had yet to be defined, the government purchase proceeded on the basis that the individual shares were equal, each share worth £20 15s 8d. Over the next 11 months, Brooking purchased almost 31 of the 108 shares in the block, equating to 4,759.5 acres of land.

Validation Court partition, 1896

Crown purchasing in Maraetaha 2 was abruptly halted in August 1895, however, by the application of Members of Parliament Wi Pere and James Carroll to the Validation Court for title to the block. In the wake of the failed New Zealand Native Land Settlement Company, the pair had formed a trust three years before to salvage the encumbered Māori trust lands. Recourse to the Validation Court, established in 1894 primarily with the East Coast trust lands in mind, aimed to spread the burden of debt over a wider land base.[17] Crown purchasing upset such plans.

The non-sellers of Maraetaha 2 found themselves stuck between a rock and a hard place. Piecemeal government purchasing ran counter to their collective resolve of land retention and left hapū no closer to affording land development for their own benefit, let alone paying the growing survey debt. Moreover, the attrition of the tribal estate could not be gauged: owners at Muriwai could not be sure who had sold, or how many, or how much. The Land Purchase Department kept such details to itself and continued purchasing, impervious to protests that the relative interests had never been defined.

On the other hand, Pere and Carroll's claim to the Validation Court for title would bring Maraetaha 2 into the trust lands portfolio, which had proved ruinous for Ngai Tāmanuhiri in the recent past. Pere and Carroll's claim was based on a fiction: a company liability amounting to £690 arising from an alleged agreement by the owners at the point of title determination in 1882 to assign Maraetaha 2 to the New

[17] Propelled by Solicitor William Rees, the proceedings were largely successful: between 1894 and 1897, the Validation Court vested 180,388 acres of Māori freehold land in the Caroll-Pere Trust, including 11,000 acres of Maraetaha , (see Back story #5).

Zealand Native Land Settlement Company, the company undertaking to pay the cost of survey. Entertaining this fiction in 1896 promised a way out of the current impasse: to stop further objectionable government purchasing in the first instance, and to develop and manage the balance left to the non-sellers, with provision for meeting existing and future liabilities. Ultimately, Ngai Tāmanuhiri were party to the out of court arrangements which lead to the Validation Court orders, although immediate petitions by the owners, directed both at the Crown's purchase and the trust arrangement, speak to the duress they were working under (see Back story #5).

The trustees' claim to title could not be dealt with until the Crown's purchased interest had been defined. Carroll and Pere eventually agreed to the Crown's demand for 4,760 acres, a bitter pill for the aggrieved non-sellers at Muriwai. The location of the Crown's share, too, was arbitrarily decided by the district surveyor and only altered at the last minute, when the owners objected in court. After further negotiation, Maraetaha 2 Section 1 of 4,760 acres on the north-western edge of the block was ordered to vest in the Crown. Within this area, 50 acres under cultivation on the Te Arai River was to be reserved for the owners.

The Validation Court then turned to the trustees' claim to title, rubberstamping arrangements reached at Muriwai (see Figure 6). The balance of Maraetaha 2 left to the non-sellers was to be cut three ways. A 4,000-acre partition called Te Puru (Section 4) was to vest in Carroll and Pere and to bear the whole of the liability over Maraetaha 2, leaving the other two partitions unencumbered, with Hemi Waaka appointed as third trustee. Three thousand acres was to be farmed by the owners themselves (Section 3) and a 4,000-acre partition to provide them a lease income (Section 6).[18] Block Committees for all three partitions were passed in court without objection.

Still smarting from the Crown purchase which had cost them 28.5 per cent of the block, the non-sellers appear to have used the opportunity in 1896 to define their relative interests. Any such arrangements, however, were not recorded by the Validation Court. On the contrary, it was later held that the 1896 vesting orders superceded the 1882 title, requiring the beneficial ownership and relative interests in Sections 3, 4 and 6 to be determined all over again, in 1912 (see Back story #7). Similarly, the block committee members, though recorded in the minutes, were not part of the resulting court decrees vesting what was left of the tribal estate in the three men. The former restrictions on alienation were dropped.

Maraetaha 2 Section 1 was subsequently subdivided into Crown leaseholds, one of which was held by Selwyn Smith and farmed as Fairview Station.

[18] Evidence of Hemi Waaka, 14 May 1896, cited in Macky, Wai 814 #F11, p. 206.

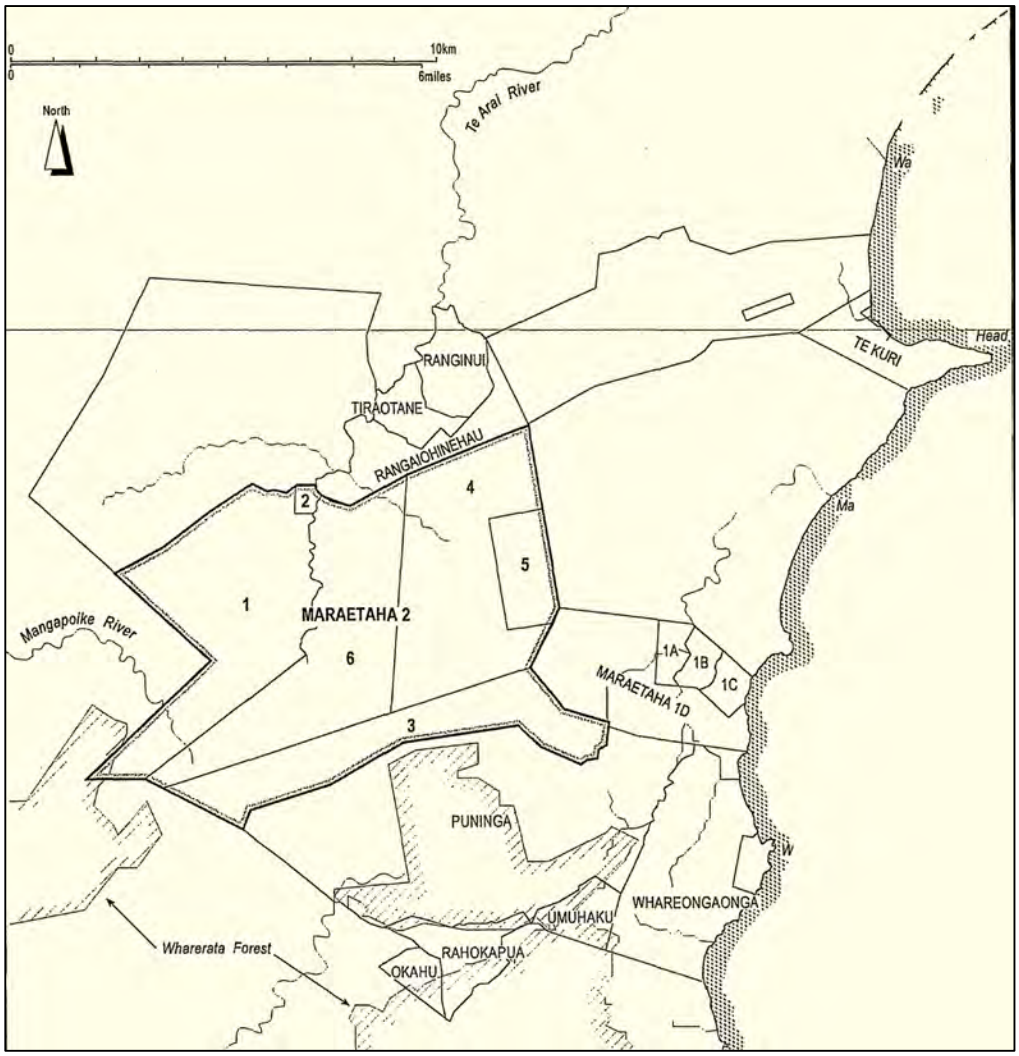

Figure 6: Validation Court partitions of Maraetaha 2, 1896. [19]

East Coast Commissioner control, 1902-1954

Now deemed part of the trust lands estate, Maraetaha 2 Sections 3, 4 and 6 were transferred to the East Coast Native Trust Land Board when Parliament intervened in the heavily indebted trust, by way of the East Coast Native Trust Lands Act 1902. In effect, in exchange for a two-year reprieve from further mortgagee sales, the board took over from the trustees as receiver, tasked to redeem the Bank of New Zealand mortgage by 'realising' trust lands – through lease or sale.

[19] Pickens, Wai 814 #A19, Figure 10.

In the six years between the Validation Court proceedings and the 1902 vesting legislation, the liability attached to Maraetaha 2 Section 4 as a 'Specific Security' mortgaged to the Bank of New Zealand had grown from the £690 survey lien to a staggering £11,433. Section 4 was among the first parcels to be sold by the newly established board, in January 1904, at the market value of £15,967. The block was on-sold to Henry White within the year and farmed as Te Puru Station.[20] In the spring of 1905 the board also sold parts of Sections 3 and 6, together some 2,299 acres, to the Gisborne Borough Council for waterworks (see Figure 7). Neither of these Maraetaha 2 blocks had been encumbered by debt. Indeed, at the time of sale, the trust lands' entire BNZ debt had already been repaid. The owners were not party to the transactions. Nor were the net proceeds of the sales distributed by the East Coast Commissioner for a further decade.

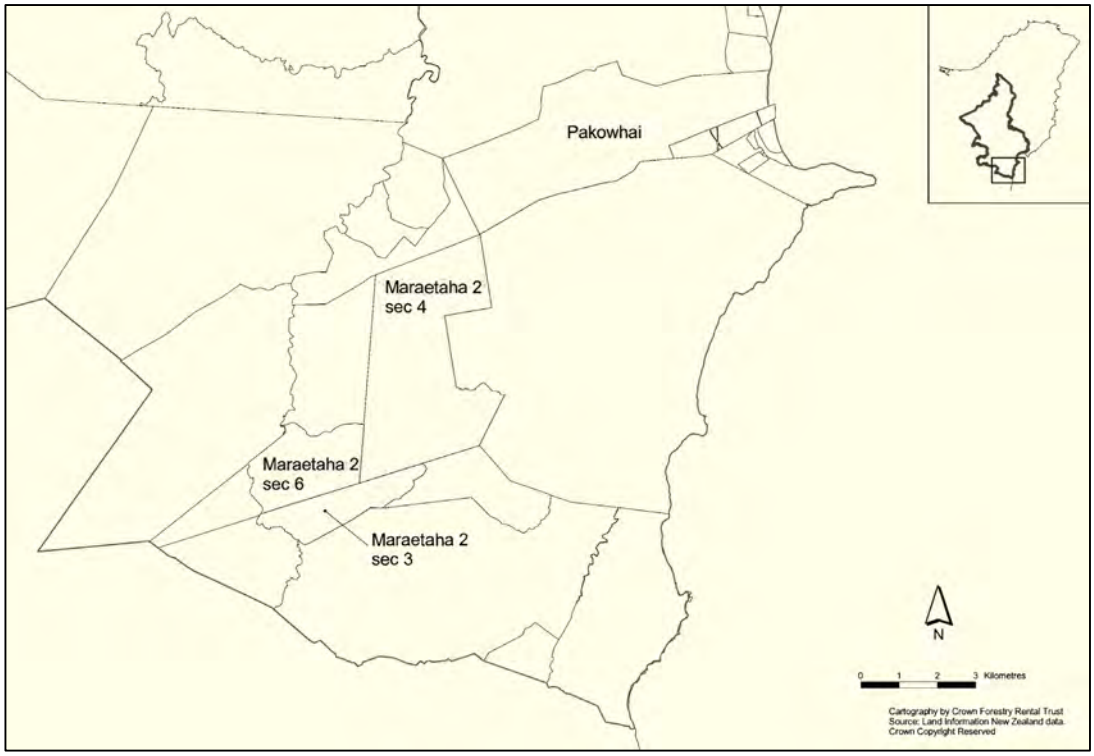

Figure 7: East Coast Native Trust Lands Board sales of Maraetaha 2, 1904-1905[21]

[20] It would be another 54 years, after the East Coast Commissioner's tenure had been wound up, before the net proceeds from the sale were distributed, and after yet another court determination of owners, in 1958. Orr Nimmo relates that claimed monies from Section 4 were paid to the Proprietors of Maraetaha 2 Sections 3 and 6, less the legal costs allowed by the court. The East Coast Maori Trust Council proposal in 1965 to pay unclaimed monies amounting to £1,109 to the Muriwai Māori Committee for the benefit of the marae were vetoed by the then Minister of Māori Affairs, Ralph Hanan, who insisted the unclaimed monies be paid instead into the Māori Education Fund. Orr Nimmo, Wai 814 #A4, pp. 313, 334; see also 7.4.
[21] Wai 814 #E28, Map 4c.

The following year, fresh legislation replaced the three-member board with a single East Coast Commissioner (see Back story #6).[22] The same enactment empowered the Validation Court to apportion the repaid debt equitably across all the trust blocks. Resolving the internal debt as between the separate block accounts (with some in credit and others in debit) became the rationale for, and indeed the preoccupation of, continued commissioner control for the next 50 years, working against any petition that the trust lands be returned to the owners. The net profit from the sale of Maraetaha 2 Section 4, for example, had been applied to repay debt that was more properly the liability of Mangatu 5 and 6.[23] The financial interdependence of the trust lands meant that, as Ngai Tāmanuhiri petitioned in 1909, the owners had not received a penny from the sale. Nor would they for another half century (see Back story #6).

In addition to managing the internal 'Scheme of Adjustment', the East Coast Commissioner increasingly engaged in leasing and farm development, the latter requiring further borrowing. Patemaru Station was begun in 1916 on the northern part of Maraetaha 2 Section 6, following the petition in favour of development by Pere Waaka and 18 others.[24] Incumbent owner/farmer Tiemi Wirihana was forced to make way for the initiative.[25]

From 1921, the eastern 1,156-acre end of Maraetaha 2 Section 3 was leased internally to Te Kopua Station (Maraetaha 1D) and developed at the expense of Te Kopua's block account.[26] Around the same time, the western ends of both Section 3 and Section 6 were leased to AS Gibson for 21 years. Gibson farmed the land, together with adjoining Puninga sections he owned, as Pamoa Station. When the lease expired in 1944, he continued to occupy under a temporary grazing lease from the commissioner until 1950.[27]

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[22] Section 22, The Maori Land Claims Adjustment and Laws Amendment Act 1906. Gisborne Borough Councillor and Board member John Harding was appointed East Coast Commissioner but died shortly after. Thomas Coleman, a Gisborne accountant who had been secretary of the Board, took over until his death in 1920. The 'scheme of adjustment' provided in the same 1906 Act was his initiative, see East Coast Commissioner to Under Secretary Native Department, 5 November 1909, in R22402667.
[23] Coleman to Under Secretary Native Department, 19 December 1913, R22402667.
[24] Petition 375/1915 of Pera Waaka and 18 Others, 18 May 1916, MA 1/1916/449 in Murton, Wai 814 #35, pp. 69-70.
[25] Murton writes that Tiemi Wirihana (aka Jimmy Wilson) began farming on Maraetaha 2 Section 6 in 1897, and eventually developed about 1,400 acres under grass, (citing McBurney 2000, p. 79.), Murton, Wai 814 #A35, p. 118. In 1909, Wirihana was warned by East Coast Commissioner TA Coleman that he would not be allowed to continue to farm the multiply-owned land, that the commissioner could not 'allow him or anyone else to exercise rights of ownership to such an extent to the probable disadvantage of the other owners'. In 1916 Wirihana purchased Hamiora Mangakahia's interest in Maraetaha 2 Sections 3 and 6 for £711, which was shaved off as a 59-acre parcel from Section 6. Maraetaha No 2 Pre-Consolidation Titles for No 2 Sections 3 and 6, Box 299, Māori Land Court Tairāwhiti.
[26] Murton, Wai 814 #A35, p. 74.
[27] Ibid, p. 75.

By the 1950s, the bulk of the 121,788 acres in Te Tairāwhiti administered by the East Coast Commissioner was farmed in seventeen stations. The financial justifications against returning the trust lands to owners no longer held and in 1953, the owners of the various trust estates were incorporated.[28] The following year the trust lands were returned, and control of farming operations taken over by management committees confirmed by the Māori Land Court. One of the closing acts of the East Coast Commissioner in 1953 was to purchase Gibson's freehold Puninga titles so that Pamoa Station, too, could be returned as a viable economic unit.[29] Both farms were returned to the Proprietors of Maraetaha 2 Sections 3 and 6, known today as Maraetaha Incorporated. Title consolidation in 1968 rationalised existing holdings and gave them new names. The holdings comprising Patemaru Station were now Maraetaha 2 Section 7. Those farmed as Pamoa Station became Maraetaha 2 Section 8.[30] A third parcel, Maraetaha 2 Section 9 of 1,178 acres, comprised the eastern balance of former Maraetaha 2 Section 3 (the Gisborne Borough Council's 1905 purchase of the Waingake bush catchment having severed the block in two) and repurchased Puninga parcels. The consolidated block lacked legal access and proved impractical to farm.[31]

Maraetaha Incorporated farms, 1954 - 1991

As set out in this report, Patemaru and Pamoa Stations were both affected by the city's waterworks. The Bush-line from the intake to the treatment plant at Waingake ran through Patemaru Station. Gisborne Borough Council obtained an easement for the works from the East Coast Commissioner shortly after the sale and purchase of the Waingake bush catchment. Over the years, however, the legal easement bore increasingly less resemblance to the actual pipeline and the access road that served it.

Part of Pamoa Station was taken in 1947 by Gisborne Borough Council for the Mangapoike Dams Catchment. Another portion was lost in 1973, when the catchment was extended for the Mangapoike 1A Dam. The 1988 aerial photo of the farm depicted in Figure 8 conveys the extent to which the farm encircled the dams or, alternatively, the bite of local government acquisitions for waterworks (71.5 acres in 1947 and 105 acres in 1973/1983) into the pastoral property.

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[28] Section 3 of the Maori Purposes Act 1953.
[29] The East Coast Commissioner had first to overcome the Acting Minister of Maori Affairs' presumption that public money was at stake: 'There is no question of the Crown's purchasing European land for Maori farmers. In effect, the transaction is a private one between Mr Gibson and the owners of the Maraetaha Blocks, who have the money required, but while the legal title remains in the East Coast Commissioner the consent of the Minister of Maori Affairs is required', Under Secretary Maori Affairs to Acting Minister of Maori Affairs, 17 July 1953, R19527803.
[30] Murton, Wai 814 #A35, pp. 149-150.
[31] Pickens, Wai 814 #A19, p. 131; Minutes of AGM, Muriwai, 6 October 1990, Maraetaha Incorporated documents.

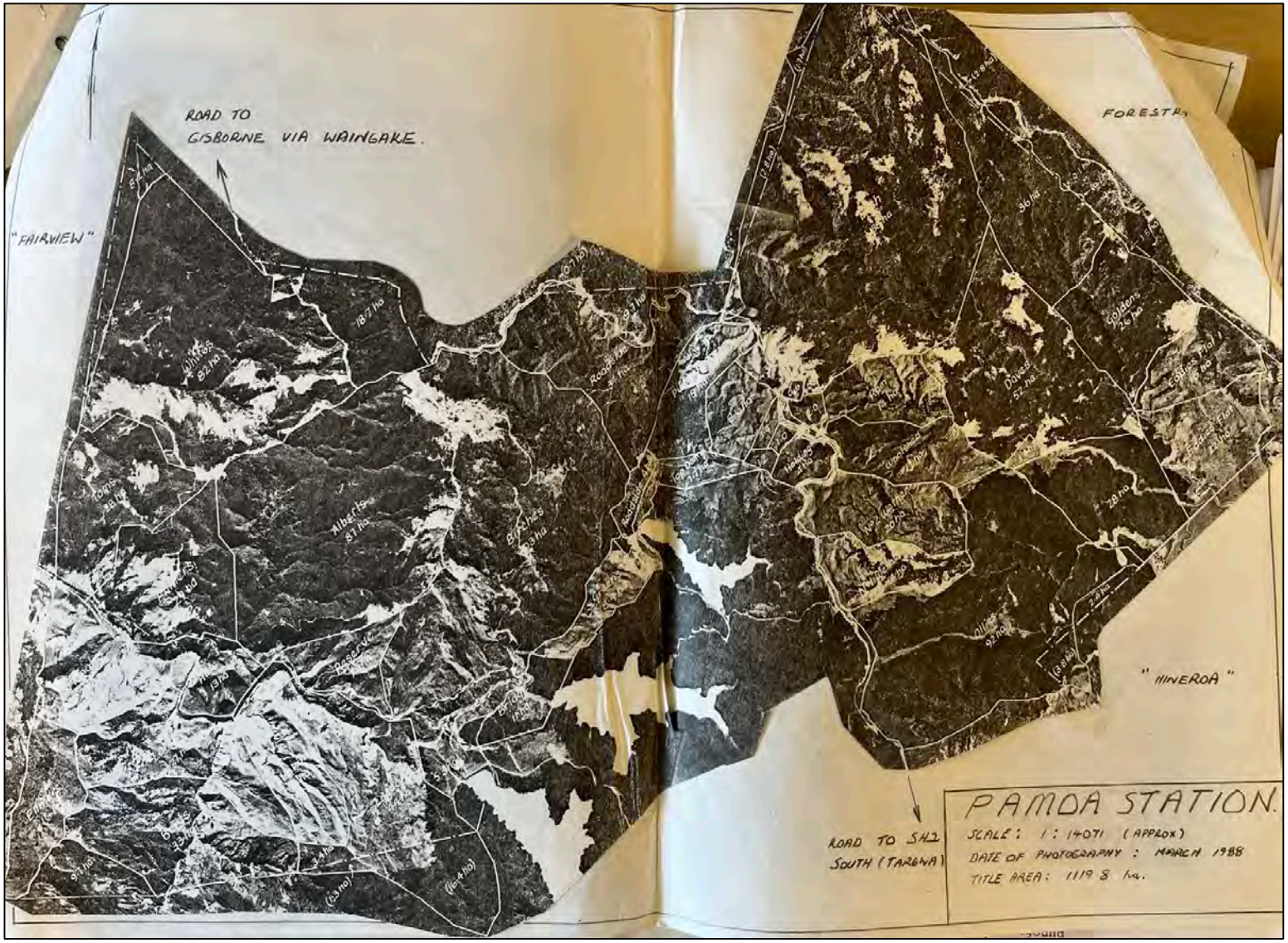

Figure 8: Pamoa Station, 1988[32]

[32] With Lewis & Wright, 'Detailed Valuation Report. Pamoa Station', November 1989, 01-290-10 vol. 2.

Sandwiched as it was between the council's two water supply catchments, from the late 1940s, Pamoa Station also accommodated the Dam-line that ran through the property – without any corresponding formal easement. From 1971, the eastern half of Pamoa was included in Gisborne City Council's plans to develop the Puninga catchment as a further water supply reservoir. After Cyclone Bola in 1988, local government ambitions to possess and plant the 'Dam-line corridor' in forestry eventually led to the sale of the property, in 1991.

Figure 9: Pamoa Station homestead, 1988[33]

[33] Ibid.

Figure 10: Pamoa Station cottage on Tarewa Road, 1988

The current chairperson of Maraetaha Incorporated, Bella Hawkins, grew up at Waingake. Her father, the late John Hawkins, managed both Patemaru and Pamoa Stations in the 1980s and he features prominently in this report. Bella Hawkins relates that in addition to meeting the bottom-line of farming expenses including debt repayment and improvements to the farming asset, the incorporation's farming operations also supported the Muriwai Marae, paying for the marae's insurances and providing meat for tangi. Of relevance to the contentious issue of hunting within the council's waterworks catchments discussed in Back story #9, Bella Hawkins relates that her father was also instrumental in setting up a pig hunters' club among the whānau of Muriwai, both for pest control and for kai. Hunting was a way of connecting whānau to the land.

Farming enabled the shareholders of Maraetaha Incorporated to retain ownership of the land. As the last vestiges of their tribal lands, however, Patemaru, Pamoa and Te Kopua Stations were always much more to the incorporated proprietors than productive farming units. By the 1980s, pastoralism was an

increasingly marginal prospect in the hill-country, the downturn in rural farming reflected in the transition of neighbouring properties to commercial forestry.

Part Two: Local Body Waterworks Acquisitions

From early times, local government has been empowered to take land required for a wide range of local public works. The basic principles and protections guiding such compulsory taking – of notice, hearing of objections, paying compensation and the right of re-purchase – were in place by the latter nineteenth century and have been maintained, more or less, in subsequent public works legislative iterations since.[34]

Land to be taken for public works had first to be surveyed, and the survey plan of the taking made available for viewing. Notice of the intended taking had to be gazetted and twice publicly notified, giving affected persons a 40-day window to object in writing. Notice also had to be served in writing on the affected owners and occupiers. Any 'well-grounded' objections were to be heard by the taking authority. Once any objections had been considered, the local authority was required to forward an authorised plan, the details of the taking, and a statutory declaration that all was in order, to the Governor for proclamation. From the day named in the proclamation, the land vested in the local authority, the proclamation to take effect once it was gazetted.

Different rules applied to Māori land titles. Under the Public Works Act 1894, the same general taking procedures theoretically applied to Māori freehold land, but in practice multiply owned Native Land Court certificates of title were seldom registered and few local bodies held ownership details of Māori land. The inequity was validated in the Public Works Act 1928, which specified that the general notice provisions no longer applied to Māori owners and occupiers unless their titles were registered under the Land Transfer Act 1915.[35] For most, this meant that the only notice of an impending taking was that published in the *Kahiti*, the Maōri-language government Gazette, but even this was not crucial: the failure to do so did not invalidate the taking. The limited notice with respect to Māori freehold land had obvious implications for lodging objections. It was not until the Public Works Act 1981 that the general provisions for taking were applied to general and Māori land alike.

[34] The Public Works Act 1928 was an important consolidation which remained in place for half a century. The Public Works Act 1981 that replaced it has been similarly long-lived. For a comprehensive analysis of public works takings affecting Māori land, see Waitangi Tribunal, *The Wairarapa ki Tararua Report 2010*, Wai 863, vol. 2, chapter 8.
[35] Public Works Act 1928, s.22(3).

Compensation was payable to those adversely affected by public works takings, with statutory guidelines since at least 1894 prescribing how compensation was to be assessed, by a compensation court especially constituted for this purpose. Once again, however, differential treatment with respect to Māori landowners and occupiers prevailed until 1981. In the case of Māori freehold land, compensation was instead determined by the Māori Land Court, upon application of the local authority within no later than six months of the taking. Unlike the Compensation Court, the Native Land Court was given a wide discretion with respect to compensation. The judges of this court were not expert valuers.

'Taking' land for public works is a compulsory acquisition using powers under Public Works legislation. Affected parties may object but cannot stay the expropriation. For the expediency of any proposed work ultimately rests with the taking authority, having satisfied itself that no private injury will result for which compensation will not provide. Since the Public Works Act 1894, there has been provision for local government to enter into agreements with landowners to takings, termed 'settlements', enabling shortcuts in the taking procedures. 'Settlement' occurs within the framework of compulsory taking but involves a negotiated agreement as to terms (the amount of compensation, for example, but also in some cases a reduction in area, continued access, or continued occupation). Alternatively, local government could purchase the land required outright, obviating the public works taking procedures altogether. Like 'settlement', the extent to which these transactions are 'willing' needs to be tempered by the prospect of compulsory acquisition in which they occur. The waterworks acquisitions detailed in this report were achieved all three ways.

How local government wields its powers with respect to public works is ultimately political. Taking Māori land was less controversial in the first half of the twentieth century than it proved in the second. A comprehensive analysis of public works takings affecting Māori land was undertaken by the Waitangi Tribunal for its 2010 *Wairarapa ki Tararua* report.[36] It found that while acquisitions from general land early on tended to be negotiated, the opposite was true for land owned by Māori, reflecting an 'official' view prevailing from the 1930s to the 1970s that it was 'impossible' to notify or negotiate with Māori owners, and that compulsory purchase was therefore 'easier'.

Of the 20 land transfers considered in this report, local government used its taking powers outright in five cases, all before 1950. Four of these involved Māori freehold land. Eight of the 20 acquisitions were achieved through direct sale and purchase agreements, which means they were not treated as takings at all. Three such transactions were made with the East Coast Commissioner (or the predecessor Trust Lands

[36] Waitangi Tribunal, *The Wairarapa ki Tararua Report 2010*, Wai 863, vol. 2, chapter 8. In that inquiry, the Tribunal echoed previous findings that the compulsory acquisition of Māori land for public works can be justified in Treaty terms only in exceptional circumstances, where the national interest is at stake and there is no other option, p.743.

Board) in whom the Māori land being taken had been vested in trust. Although the waterworks acquisitions present a comparatively small sample, they tend to support the Tribunal's observations of a local government inclination for negotiated settlements rather than a straightforward reliance on its taking powers, a preference which has only increased over time and which, since the 1950s, has come to include Māori landowners. The expediency of negotiation, however, still sits within the larger public works reality in which power is weighted in favour of the local body rather than the property owner.

Figure 11: The source of Gisborne's water, 1993 [37]

[37] The photo was taken by DOC Senior Conservation Officer the late Chris Ward as part of his effort in the early 1990s to save the 'Pamoa corridor' between the Mangapoike and Waingake Catchments (depicted by the dotted red line) from commercial forestry (see Back story #10). The view over the Clapcott dam looks northwest over the former Pamoa Station. B/18/6C 3 vol. 2.

Gisborne City draws its water from the high country of Maraetaha (shown in Figure 11). The view is northwest, towards Tūranganui in the distance. The water supply began in the early twentieth century as an intake from the native bush catchment shown towards the top right of the photo, Waingake Waterworks Bush. From the intake at the bottom of the catchment, the supply drained over six kilometres along the Te Arai Valley via the 'Bush-line' to the headworks at Waingake before it was piped the 29 kilometres to town. The initial bush catchment was purchased in 1905; an easement for the Bush-line and access obtained the following year; and land for the headworks taken in 1913. Since then, local government has purchased the remaining areas of Waingake catchment and obtained another treatment plant site near the original headworks.

In 1947, to augment supply, the Gisborne Borough Council used public works legislation to obtain land at the headwaters of the Mangapoike River for an ambitious, multi-dam project: the Mangapoike Dams Catchment.

A second photo from 1971 shows the system from the reverse angle, looking south-west to Morere and Nuhaka (see Figure 12). In addition to the location of the Dam-line, the photograph highlights the importance of the Waingake bush catchment remnant in an otherwise ravished landscape, and the implications of the Bush-line and proximity of the headworks at Waingake on Patemaru Station. Note the location of the 'No. 2 reservoir site': the photo was part of a larger feature article promoting the Gisborne City Council's ambitious plans for water supply development, recently released in a comprehensive report prepared by long-serving City Engineer Harold Williams.[38]

Two more dams within the Mangapoike catchment went ahead in the 1970s. One of them, the Mangapoike 1A or Sang Dam, was built outside the existing council holding, requiring further land acquisition. The Gisborne City Council also acquired Puninga Station at this time, with future impounding of the Puninga catchment waters in mind. The acquisition of land lying between Gisborne City Council's two water catchments – Fairview and Pamoa Stations – occurred in the aftermath of Cyclone Bola, in March 1988, with the ostensible goal of protecting the Dam-line from future land erosion damage. The report now turns to detail each of these acquisitions in turn.

[38] A2973061 Gisborne City Water Supply with Proposals for Augmentation and Improvement with Recommendations for Long Term Development Policy - Gisborne City Council - 2 Feb 1971 ('Gisborne City Water Supply Report, 1971').

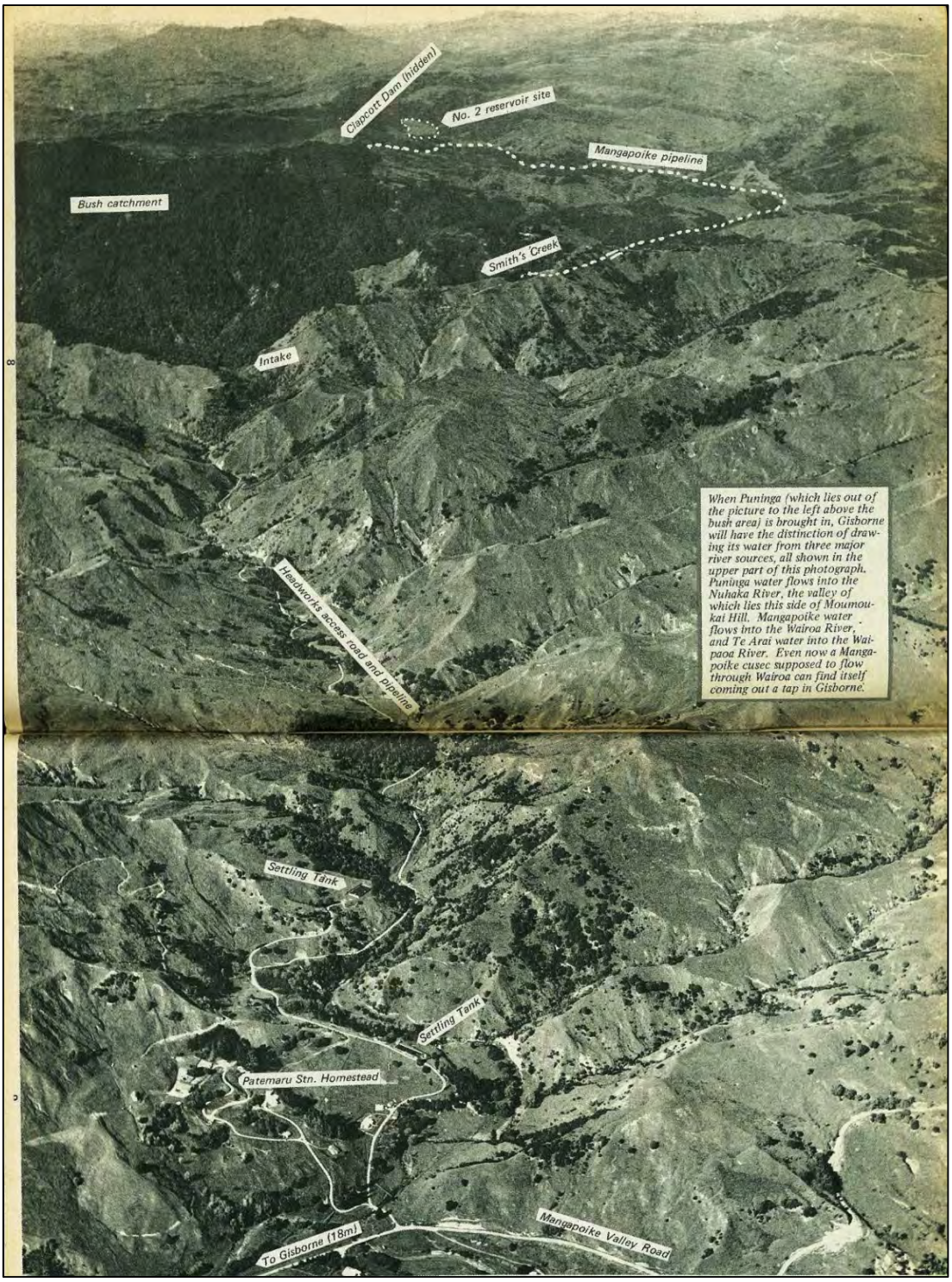

Figure 12: 'Where the Water Comes From', 1971 [39]

[39] *Gisborne Photo News*, 24 March 1971.

Purchasing Waingake bush catchment, 1905

Twenty-five years after its incorporation in 1877, the Borough of Gisborne was still without a water supply. Residents relied on what they collected, the rainwater 'sweltering in their tanks all summer'.[40] Typhoid and enteric fever outbreaks were not uncommon. Much of the inertia to invest in a permanent water supply seemingly lay in the shortcomings of available options, coupled with the parsimony of ratepayers.[41] In 1903, the council's decision to finally commit to a scheme at Waihirere was checked by further engineering advice that the catchment there was not large enough and that a concrete dam would be at risk from earthquake.[42]

It was at this point that the headwaters of Te Arai River were first identified as a potential source, indeed 'without exception the most suitable source for a gravitational high pressure supply … in the district'.[43] Consulting engineer Leslie Reynolds had been impressed by the large watershed, 'all bushed and free from slips' but he had initially discounted the option in his December 1903 report because of the cost – estimated at £88,000 – of piping the water the 20.5 miles to town. Robert Hay's second opinion in 1904 was as equally enthusiastic. The Te Arai headwaters presented an ample, permanent supply of pristine water from a back country catchment that could be kept free from pollution. No headworks of any magnitude would be required and therefore all earthquake risk eliminated. Hay's estimate of the cost was lower than that of Reynolds, and on a par with the proposed scheme at Waihirere.[44]

A ratepayers' poll in favour of the borough council borrowing £75,000 for waterworks reticulation, plus a further special loan of £10,000 to acquire the water catchment at the head of Te Arai River was carried in December 1904. The loan was raised in early March 1905.

[40] *Poverty Bay Herald*, 17 March 1898.
[41] In 1898, for example, the borough council again rejected a proposal to dam the Waihirere Stream above the falls, touted as the best option at the time, voting against borrowing £20,000 for the scheme.
[42] The land at Waihirere acquired by the council for waterworks became security for a loan of £20,000 for water and drainage works, Gisborne Harbour Board Amendment Act 1903, Section 6.
[43] 'Gisborne Water Supply, Mr. Leslie H. Reynolds's Report', 30 December 1903, in Reports on the Water Supply for Gisborne, NZ, 1911-1936[sic], A2961153, GDC. Te Arai River headwaters were not one of the 17 options canvassed in the earliest extant engineer's report of 1901, that of R L Mestayer, 'Gisborne Water Supply', June 1901.
[44] Mr Robert Hay's Report on Water and Drainage for Gisborne NZ, January 1904, A2961148, GDC.

> To-morrow evening the burgesses of Gisborne will be called together once again to discuss loan proposals, having for their object the obtainment of a water supply for Gisborne. Many such meetings have previously been held, but never before have they been attended by such favoring circumstances as those that give hope that to-morrow's meeting will see the initiation of a step forward in the progress of the town, for which we have waited all too long. Upon previous occasions there has always been a strong opposition to loan proposals, arising from doubts held in the minds of some as to the reliability of the source and probable efficacy of the scheme submitted for the consideration of the ratepayers. Councillors themselves have held these doubts, and never before has the Council been so unanimous upon the question of water supply as it is at present. A source has been discovered which all agree contains an adequate supply for Gisborne for many years to come, and which is at a sufficiently high elevation to provide a high-pressure water supply for the town. The water has been analysed, and has been found free from impurities and thoroughly suitable for domestic use. The source has the advantage that the watershed is situate in virgin country, and observation has proved that even in times of excessive rainfall the stream is not subject to discoloration. Without the slightest hesitation the whole of the members of the Council are able to honestly recommend the Te Arai stream to the ratepayers as the most suitable locality in the district from which water may be obtained for the town. Nor will the cost be found to be excessive.
>
> *Poverty Bay Herald*, 22 November 1904

The ‘discovery’ of the Te Arai source on Maraetaha 2 coincides neatly with the appointment of the East Coast Native Trust Lands Board in March 1903. Maraetaha 2 was Māori land, one of numerous land blocks within Te Tairāwhiti caught up as collateral damage from the New Zealand Native Lands Settlement Company ruin, and now statutorily vested in the Trust Lands Board under the bespoke East Coast Native Trust Lands Act 1902 (see Back stories #5 and #6).

Parliament had intervened in 1902 to ensure the debt owing to the Bank of New Zealand was paid back from the ‘realisation’ of the trust lands in Te Tairāwhiti, but in a more profitable way than mortgagee sales so that some lands would be retained for the beneficial owners. The three-member East Coast Native Trust Lands Board comprised men closely involved in local government. Board Chair, Te Hapara sheepfarmer James Macfarlane, had chaired the Cook County Council up until May 1902. John Alfred Harding was a current Gisborne Borough Councillor. Walter Shrimpton, from out of town, chaired the Hawkes Bay County Council. All three men, as the media put it, were ‘well versed in native land matters’ and the ‘good results … confidently expected from their administration’ the newspaper report alluded to were explicit: ‘It is expected that a large area of native land will soon be put on the market.’[45] Indeed,

[45] *New Zealand Mail*, 25 March 1903, p. 5. The 3000-acre Maraetaha 2 Section 3, part of which the council subsequently purchased, was in fact advertised for tender in June 1904. *Poverty Bay Herald*, 10 June 1904, p. 3.

Maraetaha 2 Section 4 was one of the first transactions executed by the board in January 1904, the 3,142-acre block sold for £15,967.

The sale and purchase of the Waingake catchment for the town's waterworks in the spring of 1905 neatly dovetailed the interests of the parties involved. Gisborne Borough needed a water supply; the Trust Lands Board had lands to 'realise'. The transfer to the borough council of Maraetaha 2 part Section 6 (1,349 acres) was registered on 17 August 1905 and that of part Section 3 (950 acres) on 25 September 1905.[46] In all, the council acquired 2,299 acres of the Waingake forested catchment for £4,598, or £2 per acre. This is slightly less than the Board's 1905 reported valuation of the land, and considerably below the amount fetched from the 1904 sale of the adjoining Te Puru block (Maraetaha 2 Section 4) by public auction.[47]

Board control effectively removed the trust lands from the existing legislative regime applying to Māori freehold land. As the board itself put it, the statutory intervention envisaged 'a strong executive, untrammelled by vexatious restrictions and technicalities.'[48] By way of comparison, Maraetaha 2 Section 5 (being 857 acres partitioned for four owners in 1896 to extract their interests from the trust) was also transacted at this time. Unlike the straightforward transaction between the commissioner and the council, however, doing so required satisfying the Native Minister that the terms were fair and that the vendors would not be left landless as a result. Notwithstanding that all these Maraetaha 2 titles were based on similar Validation Court decrees, the sale and purchase of Section 5 also perversely required a gazetted proclamation, on the recommendation by the District Māori Land Council, lifting the restrictions against alienation.[49]

Even with its comparatively free rein, there are several anomalies about the Board's sale and purchase to the borough council. Section 9 of the 1902 Act reads as if only lands subject to mortgage were able to be sold or leased. Both Maraetaha 2 Sections 3 and 6 were unencumbered. Moreover by this time, not only had the sale of Section 4 more than satisfied the liability charged against Maraetaha 2 trust lands, but the Board had also paid back the entire debt owed by the combined trust lands to the BNZ. At bottom, the sale of the catchment to the Gisborne Borough Council was unwarranted in terms of the Board's

[46] GS41/277 and GS42/3.
[47] In the Board's 1905 Report, the 3000-acre Section 3 was valued at £5000 and the 4,000-acre Section 6 at £10,000. AJHR 1905, G-9, p. 5. On these values, the price would have been @£4,797 10s. The year before, the sale of the 3,142-acre Te Puru block realised £15,967. Maraetaha 2 Section 5 was also transacted at this time, the 857.5-acre block sold to Alice White for £2,350 or £2 15s per acre. R22402223.
[48] 'Interim Report of the East Coast Native Trust Lands Board', 29 October 1903, AJHR 1903, G-9, p. 2.
[49] Notwithstanding that the Validation Court decrees were issued without restrictions and that Maraetaha 2 Sections 3, 4 and 6 were deemed to be free of such restrictions, Alice White nonetheless had to apply for the removal of restrictions over Section 5. It took officials in Wellington over a year to process the application, R22402223.

ostensible role of debt repayment. Further, the Board was required under Section 12/1902 in each case to obtain the prior agreement by written deed of the block trustees as to its powers (to sell, or lease or subdivide or improve).[50] In its report dated 1 September 1905, a fortnight *after* the sale of the land, Maraetaha 2 Section 6 was included in a schedule of lands which the trustees 'have not yet conveyed to the Board.'[51]

In the partition arrangement forced upon them in 1896, Ngai Tāmanuhiri had deliberately set aside these lands for their own use and occupation, freed from any liability in a bid to arrest the alienation of their land by forces outside of their control (see Back story #5). The Board's sale and purchase to the borough council for waterworks purposes proceeded over the heads of the beneficial owners. As set out in Part One, the alienation to the borough council was one of a raft of issues in a petition to Parliament in 1909: both the alienation of the land without their knowledge or consent, and the fact that the owners had never received the proceeds from the sales.

The borough council's waterworks acquisitions cut the parcels in two, which had implications for future utilisation (see Figure 13). The eastern end of Section 3, for example, was later farmed with adjoining land as Te Kopua Station. The lack of access to the parcel resulting from the 1905 waterworks sale and purchase remained an issue that was raised again more than 80 years later in the context of the negotiations over Pamoa Station.

Gisborne accountant Thomas Coleman was secretary to the East Coast Native Trust Lands Board and took over as East Coast Commissioner in 1906. Coleman did not dispute the account of alienation set out in Ngai Tāmanuhiri's petition. He explained that the board had simply done what it had been statutorily established to do. While it was true the owners had not received a penny of the £24,622 received from sales, the board had paid £10,291 9s 3d to discharge the mortgage over Section 4, and 'considerable sums' besides for rates, surveys, legal and sales expenses.[52] The 'waterworks' proceeds had not been distributed, the East Coast Commissioner continued, because 'the owners in the Maraetaha Block have never been ascertained.' The alleged *tabula rasa* of ownership highlights once again the trifling regard for Ngai

[50] As set out in Back story #5, Hemi Waaka, together with Wi Pere and James Carroll were trustees for both blocks. Amending legislation in 1903 changed Section 12 so that now the deeds of agreement required a *majority* of trustees to agree. In April 1902, before the statutory intervention, Hemi Waaka and Otene Pitau took legal action against the BNZ to prevent the sale of Maraetaha 2 Section 4 and to have the Bank render accounts of the expenses charged against the land. *Poverty Bay Herald*, 5 April 1902, p. 2. Waaka did not live to see the Board's sale of Sections 3 and 6, the tribal leader died the previous year, in November 1904 (*Wanganui Chronicle*, 16 November 1904, p. 4).
[51] 'Report, Balance-Sheet, and Statement of Accounts of the East Coast Native Trust Lands Board', AJHR 1904 G-6 p. 3.
[52] East Coast Commissioner to Under Secretary Native Department, 5 November 1909, R22402667.

Tāmanuhiri's property rights in the Validation Court, particularly against the impact of Crown purchasing and Ngai Tāmanuhiri's preoccupation with the relative interests of non-sellers (see Back story #5).

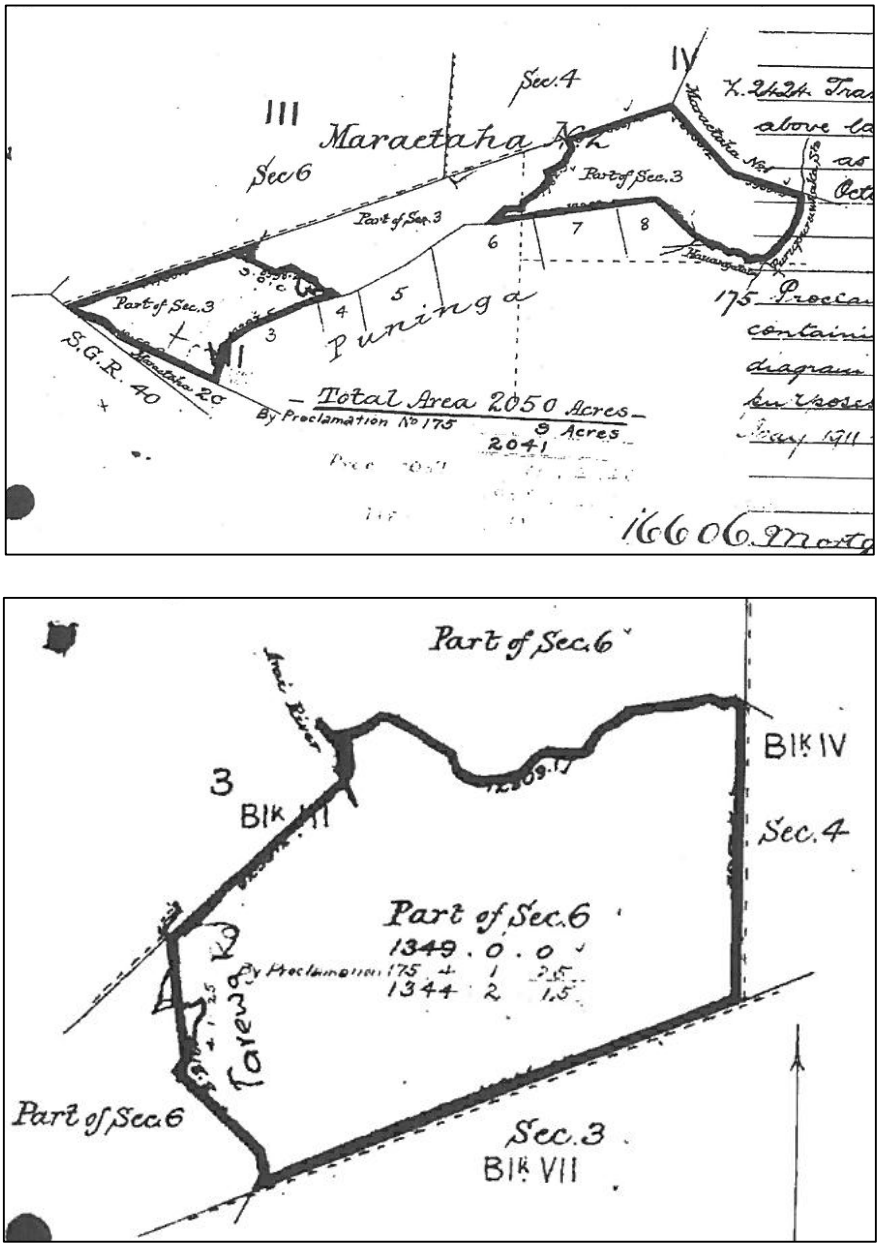

Figure 13: GBC's waterworks purchases of parts Maraetaha 2 Section 3 and 6, 1905 [53]

[53] GS3B/642 and GS3B/805.

Coleman applied to the Native Land Court for the definition of relative interests in Maraetaha 2 Sections 3, 4 and 6 in March 1909, four years after the sale and purchase. The application was finally heard by Judge Nobel Jones, in June 1912, after an inquiry held by a committee of owners themselves earlier that year (see Back story #7).[54] The net proceeds were finally distributed to the individual beneficial owners over 1913-1914, once the appeal of the case had been dismissed.

Today the 1905 purchases that make up the bulk of the Waingake Waterworks Bush are still held by GDC in two titles (see Figure 14).

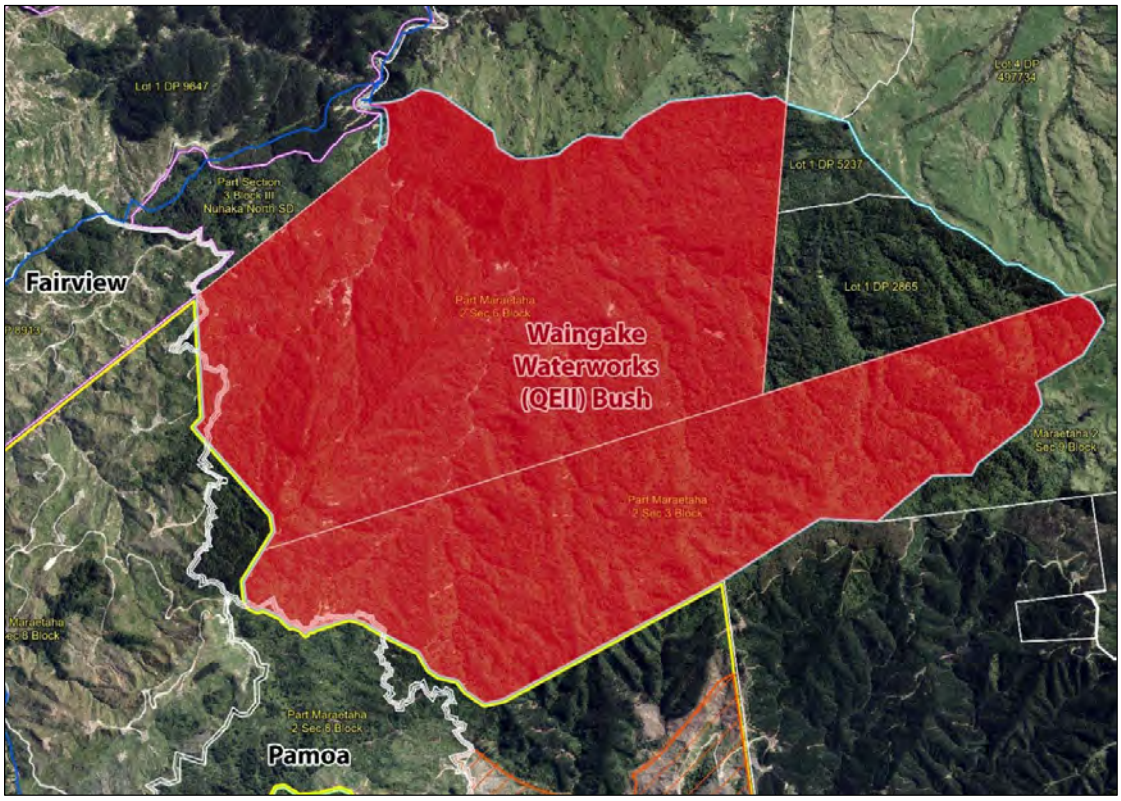

Figure 14: Waingake Waterworks Bush, purchased 1905[55]

[54] Jones acted for Ngai Tāmanuhiri owners in the Validation Court proceedings in 1896, objecting to the inclusion of the Te Puninga Block in the Trust's claim. In his appeal on behalf of the owners to Native Minister Seddon to intervene, Jones had described the outcome of the Validation Court proceedings as 'a great wrong', unaware at this point of the government's own role in the dealings. Jones to Native Minister, 24 June 1896, R24568388. The minutes of the 1912 definition of relative interests are wholly illegible. Fortunately, Jones gave a detailed account of the proceedings to justify dismissing the appeal of the decision the following year. Application Block file Maraetaha Box 119, Māori Land Court Tairāwhiti.

[55] Part Maraetaha 2 Section 6 (GS3B/805), 'Current Title 9'; part Lot 3 DP1371 (GS3B/642), 'Current Title 12' in #A589651 Research Waingake Catchment, GDC.

Obtaining the Bush-line easement, 1906

In addition to selling the Gisborne Borough Council the Waingake bush catchment, a year later the East Coast Native Trust Lands Board signed a memorandum of transfer conveying to the council, for 10 shillings, 'the perpetual right to erect place construct and maintain a line of pipes' through the balance of Maraetaha 2 Section 6, together with the 'full free and perpetual right' of access to the pipeline, and the right to disturb the soil for any pipeline works. In doing so, council was to take care – to cause as least disturbance as possible, to leave stock undisturbed, to close gates, and to resow in grass any disturbance to the soil.[56]

On the accompanying plan, the pipeline followed the Te Arai River almost six kilometres from the new waterworks reserve to Rangaiohinehau 4B (see Figure 15). This became known in time as the 'Bush-line'. A one-chain road reserve also ran the length of the left bank of the river through the property.[57]

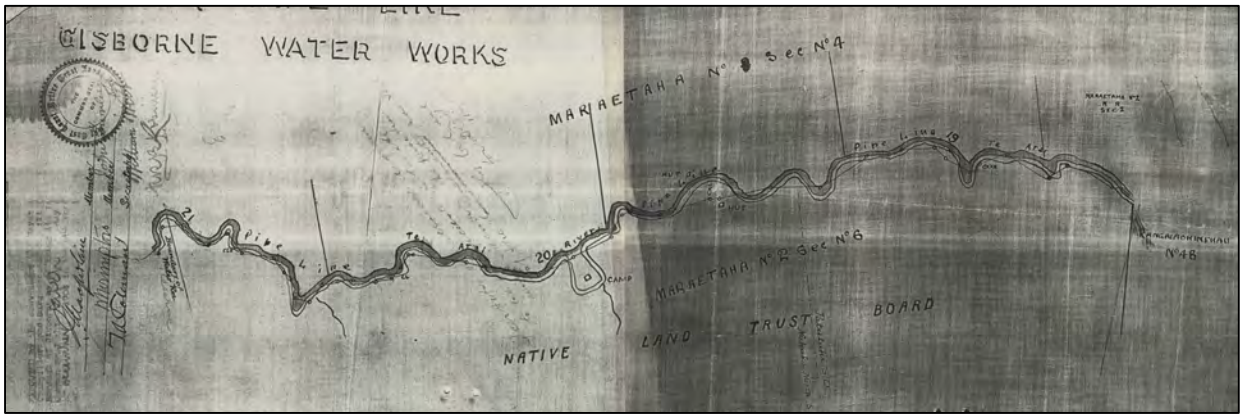

Figure 15: The Bush-line easement, 1906[58]

In May 1911, 17 acres was taken from the balance of Maraetaha 2 Sections 3 and 6 by the general government for the Te Arai-Mangapoike Road. The road taking also affected other titles in the vicinity, including the catchment parcels purchased by the Gisborne Borough Council.

[56] Memorandum of Transfer T13434, dated 20 November 1906, WW015/1-4, GDC.
[57] 'Plan of Gisborne Waterworks Pipe Line through Maraetaha No 2 Sec.6 & Sec.3', WW15-6, GDC.
[58] 'Main Pipe Line Gisborne Water Works', dated 5 December 1905, WW 015/5. City Engineer Harold Williams later recounted that in 1911, nearly half of the Bush-line had to be replaced after being washed away in a flood. Gisborne City Water Supply Report, 1971, p. 3.

Taking for Waingake headworks, 1913

In 1913, the Gisborne Borough Council used the Public Works Act 1908 to take land for headworks at Waingake, including housing for the waterworks foreman and blacksmith and a holding or 'settling' tank for the removal of sediment from the supply.[59] The notice of intention to take was gazetted in September 1912, giving any objectors until 21 October to do so.[60] The notice was forwarded to the Native Department for translation in September 1912, which suggests it was also published in the Māori-language *Kahiti*.[61] The proclamation taking 14 acres 30 perches (5.741 hectares) of Part Rangaiohinehau 4B1 for waterworks purposes and vesting the land in the Gisborne Borough Council was gazetted almost a year later, dated 11 July 1913 (see Figure 16).[62]

Affected landowner Tiemi Wirihana lodged a claim for compensation to the borough council after the fact, in October 1913. As noted in Part One, Wirihana was a beneficial owner of the Maraetaha 2 trust lands who had been moved off his farm development on Maraetaha 2 Section 6 by the East Coast Commissioner. He had purchased Rangaiohinehau 4B1 through the Native Land Board for £10 per acre. His solicitor HJ Finn claimed that the council had taken all the available flat land in the block, considerably reducing the value of the balance. Wirihana claimed compensation of £484: £284 for the land taken at £20 per acre, and £200 for being 'injuriously affected' by the taking.[63] The claim was referred to the borough council's Finance Committee 'with power to confer with the Council's solicitor.' By the end of the month, the town clerk was directed to ascertain the value of the land.[64]

[59] Shown on 'Te Arai Stream rough traverse old intake to settling basin', WW018, GDC.
[60] *New Zealand Gazette* 1912, p. 2727.
[61] R22404483. The archive file contains the cover letter only, without any details.
[62] *New Zealand Gazette* 1913, p. 2164.
[63] *Poverty Bay Herald*, 1 October 1913, p. 4.
[64] *Poverty Bay Herald*, 29 October 1913, p. 7.

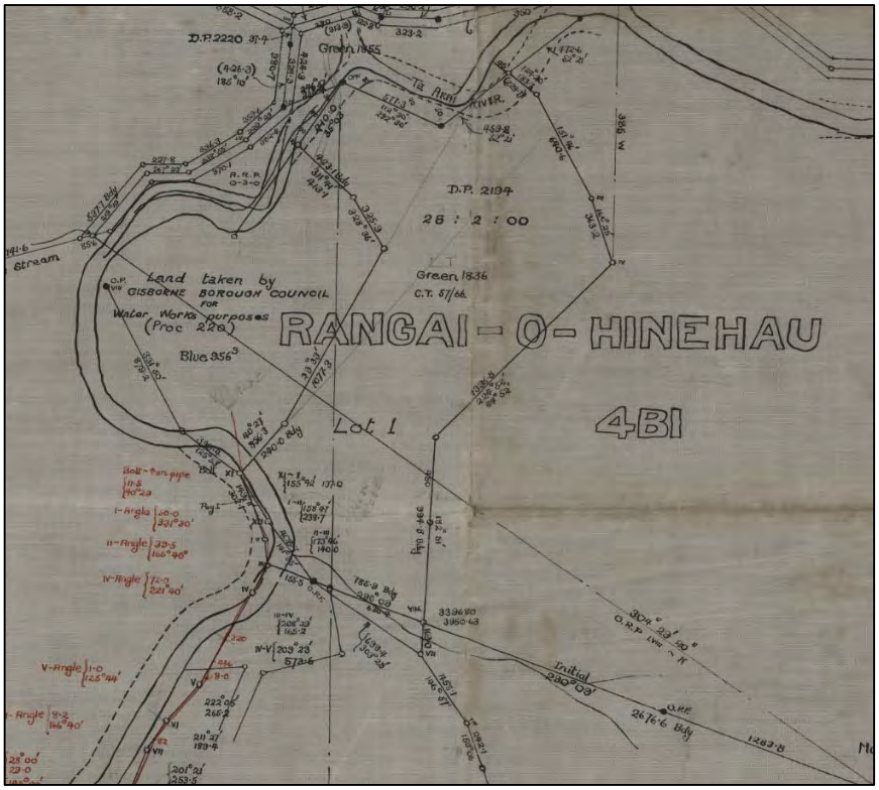

Figure 16: Waingake headworks site, taken 1913[65]

The compensation claim was considered by the Native Land Court in December 1913.[66] The minutes of the case are difficult to decipher. Finn appeared for the claimant Tiemi Wirihana, the discussion in court seemingly focussed on Wirihana's tenure. His purchase of Rangaiohinehau 4B1 from the Native Land Board may have been recent (the certificate of title for the parent Rangaiohinehau 4 block records the waterworks taking, but not the transfer of 4B1 to Wirihana).[67] The end result, however, was that the court ordered compensation at £280, the amount the borough council's solicitor had signalled the council was prepared to accept. Tiemi Wirihana was deemed by the court to be the person entitled to receive the compensation as the registered proprietor of the land.

[65] Being part Rangaiohinehau 4B1 (GS3A/1045), Plan of Te Arai Pipeline, 1950, WW15, GDC.
[66] 39 Gis 48-49, 19 December 1913.
[67] CT 32/237 (28 May 1894).

Purchasing Waingake bush catchment, 1925

As early as 1911, consulting engineer H Metcalf had recommended that council acquire the balance of the Waingake catchment.[68] Twenty-five years after his initial water supply report in 1903, fellow consultant Leslie Reynolds lamented the dribble the summer flow of the Te Arai headwaters had become in areas which had been denuded of bush.[69]

Such thinking probably accounts for the Gisborne Borough Council's purchase, in 1925, of a further 263 acres (106.3716 hectares) on the eastern slopes of the Waingake Bush Catchment from Henry White (see Figure 17). The land was part of White's Te Puru Station on Maraetaha 2 Section 4: Ngai Tāmanuhiri land which had been sold at auction by the East Coast Commissioner in 1904 to pay off the trust lands debt. In 1904, the 3,142.5-acre Section 4 had fetched £15,967, more than £5 per acre. The 1925 purchase cost the Gisborne Borough Council £1,783 10s 6d, suggesting Henry White was paid market value for the catchment addition.

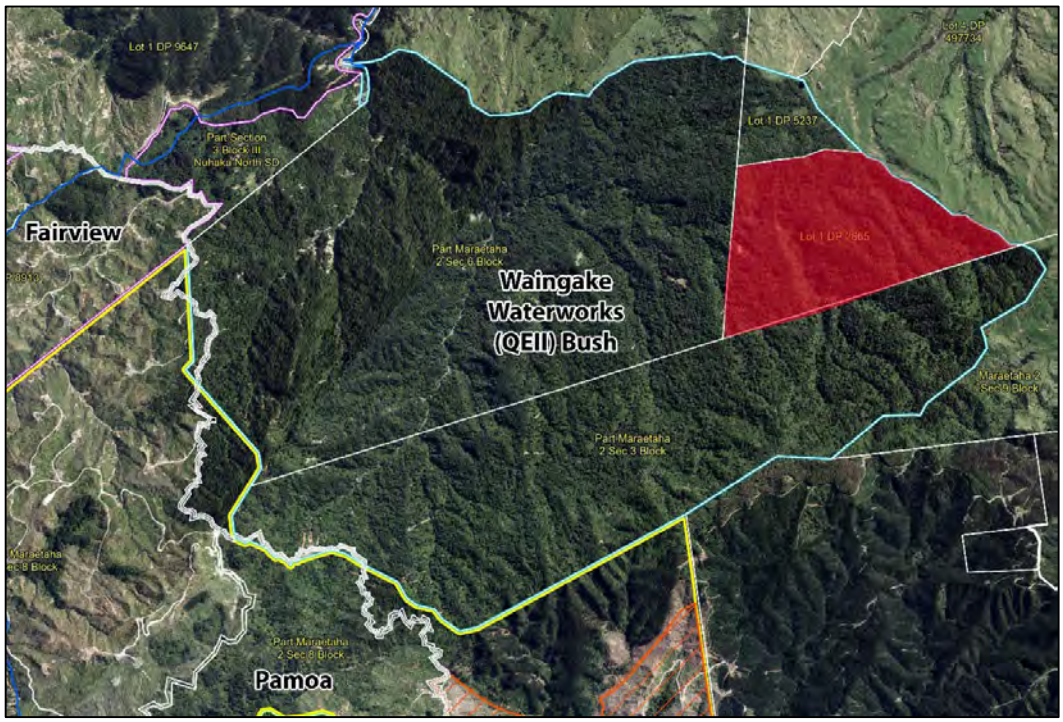

Figure 17: Waingake bush catchment, purchased 1925[70]

[68] H Metcalf, 'Report', September 1911, in Reports on the Water Supply for Gisborne, NZ, GDC.
[69] 'Report by Leslie H. Reynolds', 1 February 1927, in above.
[70] Lot 1 DP 2865 (GS2D/102) 'Current Title 11', GDC, #A589651 Research Waingake Catchment

From 1917, water was harvested from the Mangapoike River to augment the borough supply over summer. The water was lifted by pump almost 100 meters to a tank on the divide between the Mangapoike and Te Arai catchments and then directed by pipe to cascade into the Waingake Waterworks Bush via Smith's Creek. By 1927, bush felling had reduced the flow of the Mangapoike headwaters and once again, the borough council was confronted with the need to supplement the town water supply through the summer months. Damming the Waihirere stream was again considered and discounted. In 1939, a pilot treatment of water from the Waipaoa River failed to gain Health Department approval.[71]

[71] Gisborne City Water Supply Report 1971, p. 4.

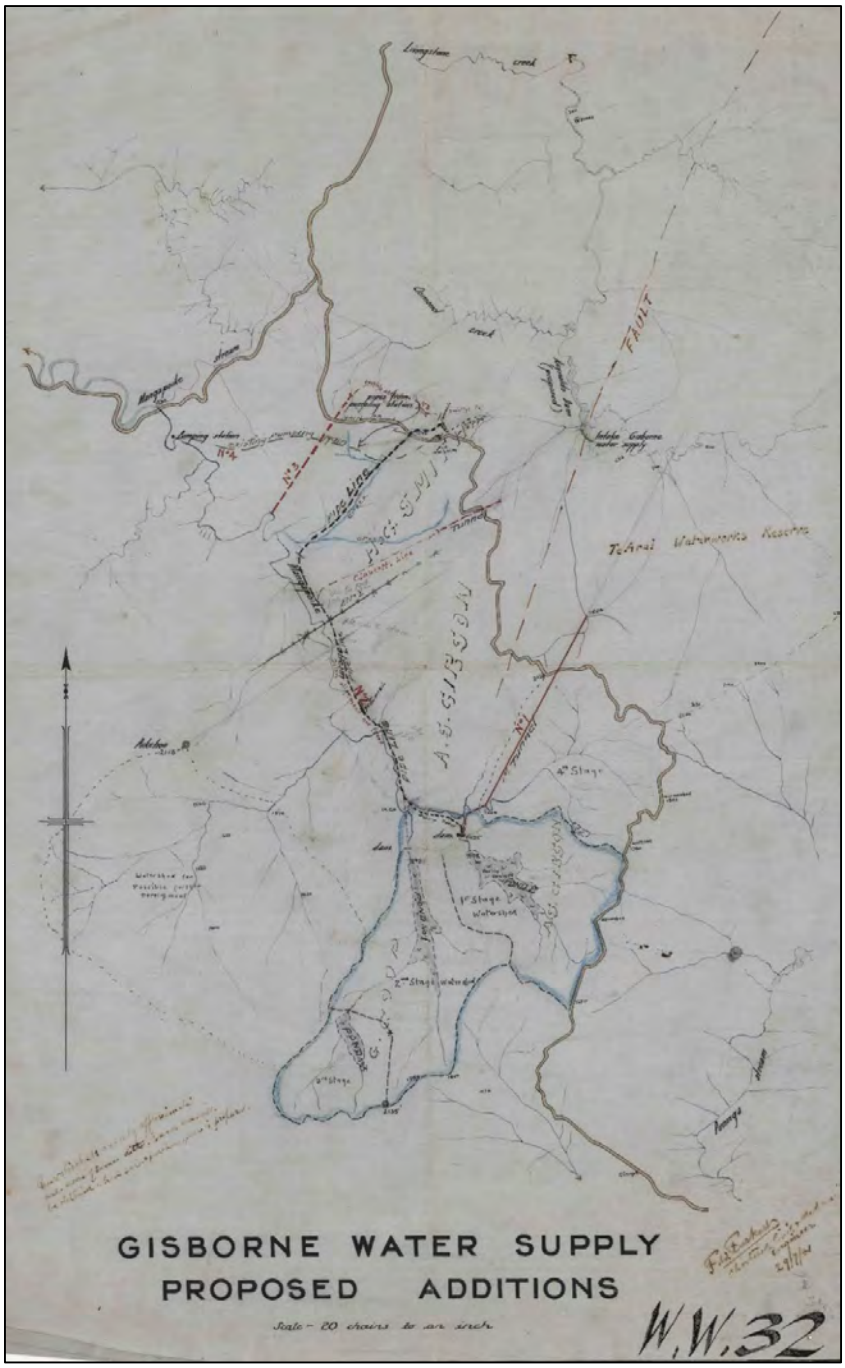

Figure 18: Proposed Mangapoike Dams Catchment, 1941[72]

[72] WW032 Catchment Area Additions (Proposed) 1941, GDC. The plan shows the position of the existing pipe line from the Mangapoike River to the saddle at Smith's Creek, and the proposed tunnel through to the Waingake Bush Catchment.

Taking Mangapoike catchment, 1947

In 1941, borough engineer GF Clapcott proposed what became known as the Mangapoike Catchment Scheme: to augment the Waingake supply by impounding the 'ponds' of the Mangapoike headwaters, the stored water to be gravitationally piped, whenever required, into the bush catchment at Waingake. Within a proposed 1000-acre catchment of the open grass high country, three reservoirs were planned (see Figure 18).[73] Not only would the initial dam and pipeline project meet immediate needs, but the scheme also promised an abundance for future growth at relatively low cost.

To implement the scheme, Gisborne Borough Council proceeded to acquire over 1,082 acres of the Mangapoike catchment under the Public Works Act 1928. The area to be taken was surveyed in May 1944 (see Figure 19 below). Within the Gisborne Land District, six properties were affected, including a further 71.5 acres of Maraetaha 2 Section 3 (see Table 1). Half of the catchment fell into the Hawkes Bay Land District and was dealt with in a separate taking (from Small Grazing Run 40). The notice of intention to take the land was gazetted on 26 July 1945, the affected parties given 40 days to lodge any objection. The fact that 'Native owners' were listed for the Māori land titles affected on the survey plan of the taking strongly suggests these owners did not receive individual notice.

Table 1: Lands to be taken for Mangapoike Catchment Dams, 1947[74]

	Parcel	a	r	p	Owner/Occupier
1	Part Puninga 3A2	10	2	16.3	Māori land, leased by AS Gibson
	Puninga 3B1	58	0	35	Māori land leased by AS Gibson
	Part Puninga 3B2	125	3	18	Owned by AS Gibson
	Part Section 3 Maraetaha 2	71	2	28	East Coast Commissioner, leased by AS Gibson
	Part Maraetaha 2C	209	1	7.2	Owned by Margaret Coop
	Part Maraetaha 2C	38	1	29	Owned by Margaret Coop
	Section 3R	1	0	13.8	road
	Total	**515**	**0**	**27.3**	
2	Small Grazing Run 40	566	2	5	Crown land, leased by Edward Coop
	Total	**1082**	**2**	**32.3**	

[73] Ibid, p. 7.
[74] *New Zealand Gazette* 1945, p. 961.The ownership details are taken from SO 4299.

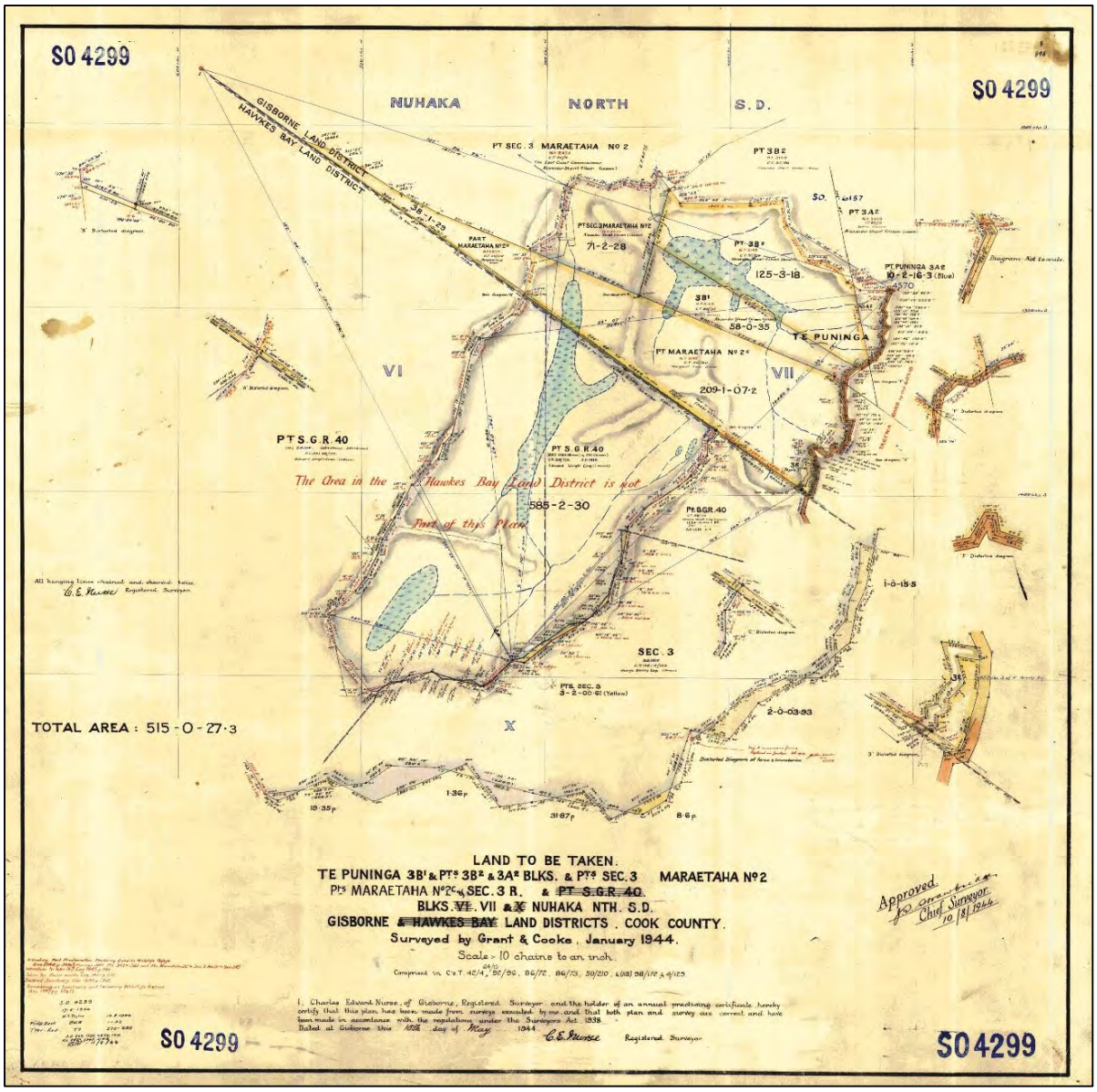

Figure 19: Land taken for Mangapoike Catchment Dams, 1944[75]

[75] SO 4299.

Three objections from affected landowners were reported in the local newspaper in August: two 'from Maori owners in the locality … based on the alleged deprivation of water rights', the third from Edward Coop, occupier of the 4,500-acre Crown leasehold, Small Grazing Run 40. Compensation, the article went on, was to be assessed 'by the usual procedure'[76]

Coop's formal written objection set out the adverse impacts the taking would have on farming operations and the value of the remaining grazing run.[77] In separate correspondence a fortnight later, his solicitors challenged the taking on legal grounds, arguing that the Public Works Act 1928 restricted the taking of Crown land subject to Crown lease.[78] Legal opinions were quickly obtained which reassured the borough council of its authority to take the Crown leasehold, but new issues were identified. According to the Under Secretary of Public Works, while a Crown lessee had no greater protection against expropriation by a local body from a public work than any other lessee, the Crown's interest in the same land could not be taken compulsorily: rather, an agreement between the local body and the Crown under Section 32 of the Public Works Act 1928 was required instead.[79] In March 1946, the Commissioner of Crown Lands duly agreed to the setting apart of the area within Small Grazing Run 40 for water conservation purposes, provided £462 was paid as compensation to the Receiver of Land Revenue, Napier.[80]

More than a year after his written objection, Edward Coop attended the borough council meeting to argue his case against the taking in person, claiming that compensation could not make up for the reduction in value of the remaining run, and suggesting a smaller area be taken.[81] Clapcott informed the meeting that the boundary of the proposed taking had since been altered to meet Coop's concerns about access. In the newspaper report of the meeting, Coop's opinion that Gisborne would obtain more than enough water from the Mangapoike catchment without resorting to taking his farm was countered by Mayor Bull's statement that the land was to 'only be formally taken', that is, that Coop could 'probably' continue to use

[76] *Gisborne Herald*, 29 August 1945, p. 6.
[77] EW Coop to Town Clerk, Gisborne Borough Council, 17 August 1945, R21068323. In particular, Coop maintained that the taking would separate most of the remaining run from the road frontage, depreciate the value of improvements on the remaining run; make his lease interest less saleable; necessitate a sale of livestock at high prices making him liable for increased income tax; render it impossible to renew the lease; deprive him of several thousands of fencing posts on the land to be taken; and increase fire risk.
[78] Duncan Cotterill & Co to Town Clerk, Gisborne Borough Council, 4 September 1945, R21068323. The argument was based on the interpretation of Crown land in the 1928 Act, which excepted Crown leasehold lands from the meaning of 'Crown land' (which could be taken under Section 13(a)).
[79] Under Secretary Public Works to Town Clerk, Gisborne Borough Council, 10 December 1945, R21068323.
[80] Commissioner of Crown Lands, Napier District Office to Town Clerk, Gisborne Borough Council, 26 March 1946, R21068323.
[81] Coop's written objection, dated 24 September 1946, stated that the only site for a homestead and farm buildings was the small road frontage which would be cut off from the rest of the grazing run by the taking, R21068323.

the land for another 20 years, until the second proposed dam was built.[82] The motion to proceed with the taking was passed and a sub-committee appointed to negotiate a settlement with the Coops.

The paperwork was forwarded to Wellington for proclamation in November 1946. Enclosed (although returned to the borough council and no longer on file) were letters from solicitors Coleman & Coleman, setting out the written objections of their clients Hori Taipihi and a Mrs Pohatu to the taking. In his covering letter to the Under Secretary of Public Works, the town clerk explained:

> In reference to the objections raised by Mr Hori Taipihi and Mrs Pohatu these objectors did not appear to voice their objections in person, they did, however, call upon me personally and after I had explained that the taking of their land would not in the case of Mr Taipihi deprive the balance of his land of a water supply as this land is situated on the other side of the water shed, and in Mrs Pohatu's case that the Council proposed taking the whole of 3B1 Block, both objectors agreed that it was no use pursuing their objections further.[83]

The taking proclamation was temporarily held up by the borough council's failure to pay the Crown the £462 of compensation demanded. This was received in April 1947.[84] The takings were gazetted in June 1947, the proclamations declaring the land at once taken for waterworks and vested in the Gisborne Borough.[85]

A memorandum of settlement between the Gisborne Borough Council and the Coops was reached on 10 November 1948, relating to both Small Grazing Run 40 leased by Edward and the 249 acres taken from Part Maraetaha 2C owned by Margaret. Compensation for both was £7000, to be paid on 30 November 1952, without interest. Curiously, given the delayed payment, under the terms of agreement, Edward Coop could continue to occupy SGR 40 for an annual rental of £434, until such time as the borough council required the land for waterworks. At the point it entered possession, council was to fence off the waterworks reserve.[86]

Coop leased back the council land for the following five years, the payment amounting in all to £2,604. He died in 1954. The leasehold of the balance of SGR 40 was converted into freehold and Coop's successors continued to occupy part SGR40 rent-free. In 1960, the Gisborne City Council sued his estate

[82] *Gisborne Herald*, 25 September 1946, p. 4.
[83] Town Clerk, Gisborne Borough Council to Under Secretary Public Works, 19 November 1946, R21068323.
[84] Under Secretary Lands and Survey to Under Secretary Public Works, 19 February 1947; 22 April 1947, R21068323.
[85] *New Zealand Gazette* 1947, p. 778. The registration of the borough council's title to SGR 40 was held up for a further six months by the District Land Registrar, who questioned the wording of the proclamation with respect to the Crown's interest in SGR40. R21068323.
[86] Memorandum of Settlement, November 1948, C/13/7B R26/01 Waterworks Reserve – Waingake, 1956-1968.

for overdue rental, which was finally settled in 1963. The settlement required the Coops to vacate at once.[87] Preliminary work on Dam No. 2, the Williams Dam, was begun in 1965.

Gisborne Borough Council's application for the assessment of compensation for the Māori freehold land titles in Table 2, part Puninga 3A2 and Puninga 3B1, was heard by the Māori Land Court in July 1949.[88] Owners Miriama Pohatu and Mate Herewini were present. Council valuer F Ball provided the Lands & Survey Department's 1946 land valuations of £48 5s for the 10 acres 2 roods 16 perches of part Puninga 3A2 and £177 5s for the 58 acres 35 perches of Puninga 3B1. These values, Ball assured the court, were relative to the value of the adjacent areas that had been taken. The amounts were rounded to £50 and £180 respectively by the court and the court order made for £230 compensation plus £6 costs of distribution: the compensation payable to the Maori Land Board for distribution to the owners.

The above minutes infer that the other parties affected by the takings were also compensated but the details have not been located. Given the East Coast Commissioner's track record, it is likely a settlement was negotiated for the 71 acres 2 roods 28 perches of Maraetaha 2 part Section 3 taken on this occasion.

The 1947 Mangapoike catchment takings are today held by the GDC in two titles (see Figure 20).

[87] Deed of Compromise, 1963, in C/13/7B R26/01.
[88] 71 Gis 23, 9 July 1949.

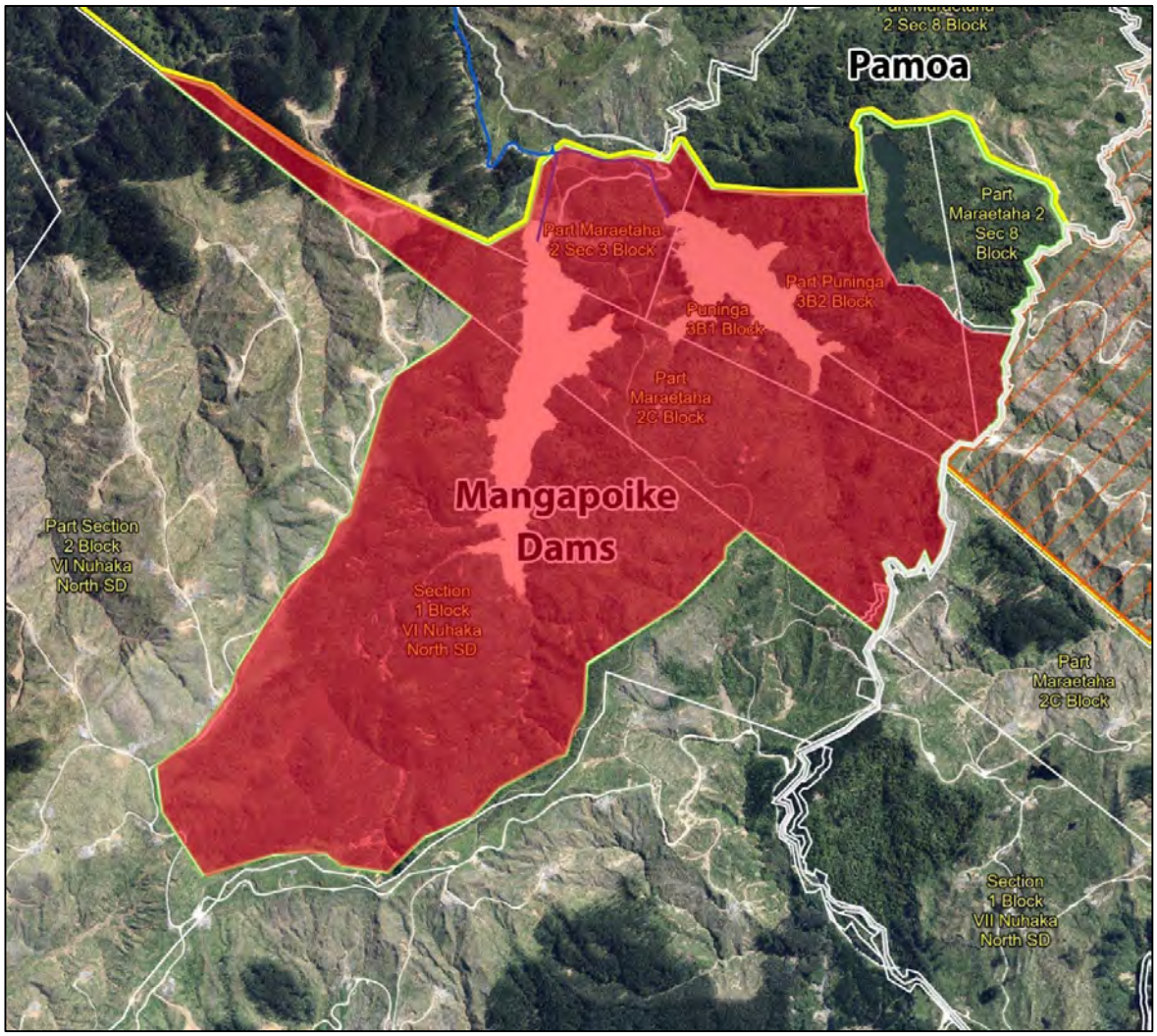

Figure 20: Mangapoike Dams Catchment, taken 1947[89]

The first, 'No. 1' or 'Clapcott' Dam in the Mangapoike Catchment Scheme was located on the lands within the Gisborne Land District. Construction was completed in 1948. The concrete arch dam impounded 246 million gallons of water from a 368-acre catchment of scrub and grass, the reservoir itself covering 58 acres. In May 1949, the same lands were declared a sanctuary under the Animals Protection and Game Act 1921-22.[90]

[89] Puninga 3B1, Section 3R, part Puninga 3A2, part Puninga 3B2, part Maraetaha 2C, part Maraetaha 2 Section 3 (GS97/32), 'Current Title 8'; Section 1 Block VI Nuhaka North Survey District (HB119/109), 'Current Title 7', #A589651 GDC.
[90] *New Zealand Gazette* 1949, p. 1215.

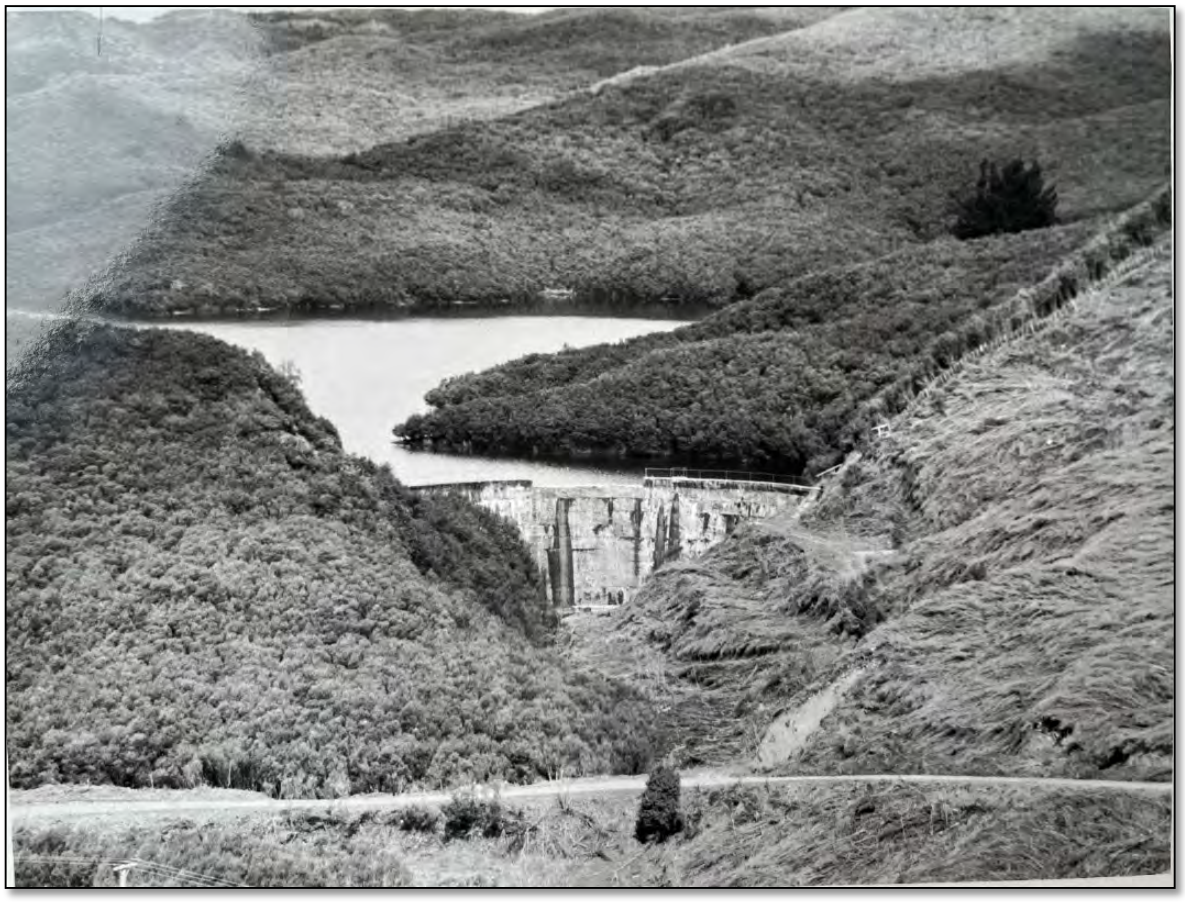

Figure 21: No. 1 Clapcott Dam, 1982. [91]

Water was piped from the Clapcott Dam 4.5 kilometres to the ridge saddle between the Mangapoike Valley and the Waingake catchment (the 'Dam-line'), where it discharged into the natural water course of Smith's Creek as the earlier Mangapoike River outlet had done, the combined waters cascading 200 meters to the bush intake a mile away.

The Dam-line transversed Pamoa Station, vested in the East Coast Commissioner and leased to AS Gibson at this time, and the neighbouring Fairview Station to the north, a Crown leasehold held by Selwyn Smith. Early plans to lay the pipe underground were soon abandoned due to cost. Instead, the 17-inch pipeline ran overland. Unlike the pipeline easement of the early twentieth century, the Gisborne

[91] Clapcott Dam, N.106 – 162138, September 1982 in D/24/6B 55/02 Water Supply 1980-1983, GDC.

Borough Council did not move to register a legal easement for the Dam-line at this time. As set out below, the initial overture to occupier AS Gibson about road access through Pamoa Station also referred to an easement 'for other works', but nothing further came of it. The cost of the requisite survey may have been a factor. Nor was the pipeline fenced off. Rather, for the next 40 years the council elected to depend on the 'goodwill' of its neighbours, not only to host the pipeline but to put up with ongoing monitoring, maintenance and even replacement.

Takings for access, 1949, 1951

To build and maintain the No. 1 Clapcott Dam, the council also required access from Tarewa Road through Maraetaha 2 part Section 3, the leasehold AS Gibson held from the East Coast Commissioner. In October 1942, early on in the project, the borough council approached Gibson for permission to construct access through his leasehold property and for an easement for 'other works pertaining to the water supply.'[92] Gibson agreed, on condition that the council provide a gate at the Tarewa Road end, to be kept securely closed at all times; that no trees be felled or timber removed; and that no dogs be brought on to the property. Having gained Gibson's permission, the town clerk then wrote to the East Coast Commissioner, James Jessep, 'as owner of the property' for permission to build a road through the farm. Jessep, too, agreed.[93] Work on the access road began soon after.

Almost a decade later, and three years after the dam's completion, the Gisborne Borough Council formally acquired the road access. This was achieved through direct negotiation rather than the public works taking process. In May 1951, Deputy East Coast Commissioner Francis Bull signed a memorandum of transfer conveying the 10-acre surveyed road length within Maraetaha 2 Section 3 to the Gisborne Borough Council for £30.[94] Like the previous settlement of the original bush catchment, the land transaction with the commissioner occurred without reference to the Ngai Tāmanuhiri beneficial owners. There was no longer any need to negotiate with Gibson for he no longer occupied. Title to Lot 1 DP 4075 issued to the Mayor Councillors and Burgesses of Gisborne Borough for waterworks purposes on 29 June 1953 (see Figure 22 below).

[92] Gibson to Town Clerk, 30 October 1942, C/06/6C Water Works, 1952-1956.
[93] Town Clerk Jenkins to Jessep East Coast Commissioner, 24 November 1942, C/06/6C Water Works, 1952-1956.
[94] Memorandum of Transfer 44894, #A589651 Document Bank.

Figure 22: Access to Clapcott Dam, purchased 1951[95]

By this time, the borough council had also obtained title under the Public Works Act 1928 to a second access from Tarewa Road on the eastern boundary of the catchment. The taking of a further acre from Part Puninga 3A2 proceeded at pace. The survey completed on 16 August 1949 was approved by the Chief Surveyor on 8 September, the intention to take the land for the augmentation of the borough water supply signed by Town Clerk W M Jenkins and forwarded for gazettal the following week.[96] In early November, the *Gisborne Herald* reported that no objections had been lodged.[97] In the paperwork forwarded to the Under Secretary for Public Works for proclamation, Jenkins confirmed that no objections had been received.[98] On this occasion the borough council seems to have identified the four Māori landowners

[95] GS108/60 (19 June 1953) being Lot 1 DP 4075, 'Current Title 4' in #A589651 Research Waingake Catchment.
[96] *New Zealand Gazette* 1949, p. 2368.
[97] *Gisborne Herald*, 2 November 1949.
[98] Town Clerk Gisborne Borough Council to Under Secretary Public Works, 3 November 1949, R21068323.

involved; it is not evident whether they received individual notice. The proclamation taking Lot 1 DP 3892 of 3 roods 36.5 perches for waterworks was dated 23 December 1949.[99]

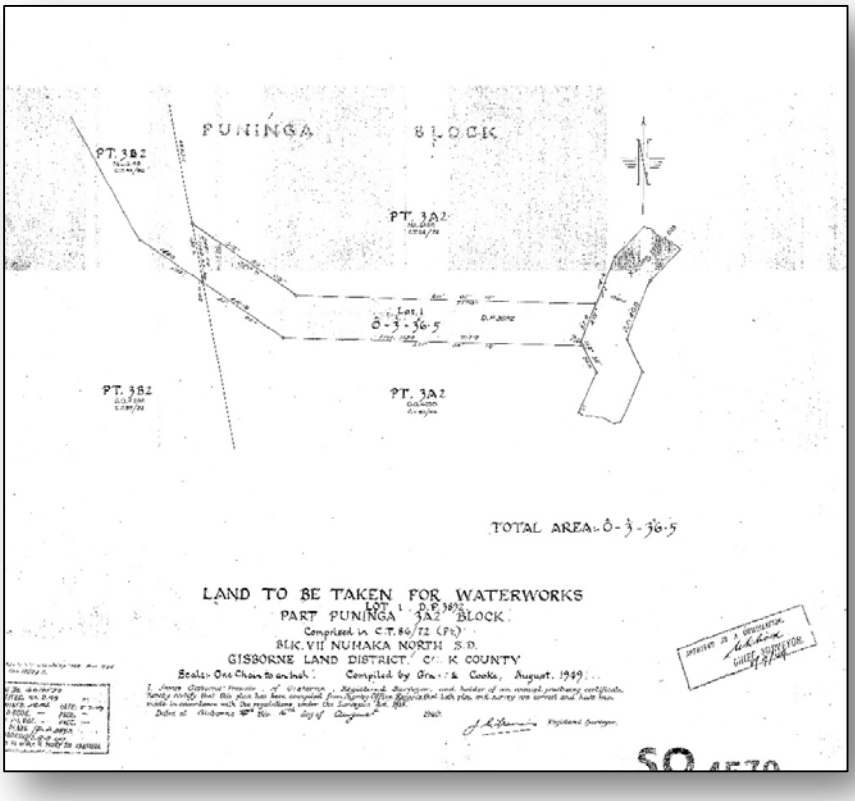

Figure 23: Access through Part Puninga 3A2, taken 1949[100]

The title to this access was subsequently amalgamated with adjoining land taken by the Gisborne City Council in 1983 for the Mangapoike 1A Dam (GS 4C/170 depicted in Figure 29).

Bush-line works, from 1962

Bringing the Clapcott Dam on tap from 1949 to supplement the summer supply quickly exposed the limitations in the carrying capacity of the system. There was now more than enough water, but the

[99] *New Zealand Gazette* 1950, p. 6.
[100] DP3892.

existing pipeline could not deliver it quickly enough. Loan monies amounting to £350,000 in the 1950s were directed to replacing the 15-inch 'City line' with enlarged, locally manufactured steel pipe. Further upstream, pending replacement of the 9-inch/15-inch Bush-line between the intake and the settling tank at Waingake, from 1957 water was pumped directly from the Te Arai River to the settling tank to compensate. Harold Williams (who signed off correspondence as HC Williams), began his long career as the city engineer at this time.

Five years into the job, in 1962 Williams proposed a more comprehensive solution to the ongoing supply issues at the Te Arai headworks, involving a further £220,000 Waterworks Pipe Loan. The improvements included the replacement of the Bush-line with new, 18-inch steel pipe; a metalled access road with concreted stream fords the length of the Bush-line to a new intake; a second, upper settling tank; a chlorination and control building; and the purchase of the Smith's Creek catchment.[101]

Both the replacement pipeline and the access road fell outside of the existing 1906 easement. By this time, Patemaru Station was no longer vested in the East Coast Commissioner, ownership and control having been restored to the incorporated proprietors. More than a decade later, the council's authority for the works outside of the legal easement was questioned by the Māori Land Court. Advised to investigate the issue in 1975, Williams reported that affected landowners had been written to in 1962 about the proposal 'to install other than on an easement' – but he could find no such letter to Patemaru Station.[102] The city engineer was not particularly concerned:

> Whatever the legal position, it must be recalled that the owners at the time were very pleased with what took place, a large sum of public money being spent to provide a metal road, concrete fords, cattle stops and other things through the properties traversed by the City pipe line, works which were of considerable value to the property and its farming operations.[103]

The engineer's report on expenditure in 1964 refers to £4,000 spent on slips and 're-metalling trenches' on the access road that year, plus £5,008 on fords and cattle stops.[104] By this time, the investment in the pipeline over the past decade had only increased Williams' concern for protecting the integrity of the Waingake Waterworks Bush. As he explained to the District Forest Ranger in February 1965:

> The bush is necessary to keep the water clear for the greater proportion of the year, thus eliminating the necessity for an expensive filtering system. The recently installed £350,000 pipeline from Waingake to Gisborne, and the £220,000 Te Arai pipeline replace scheme, at

[101] Gisborne City Water Supply Report 1971, p. 6.
[102] City Engineer HC Williams to Town Clerk, 11 February 1975, D/24/4D 54/03 Water Supply 1965-1975.
[103] Ibid.
[104] City Engineer HC Williams to Town Clerk, 12 October 1964, D/24/4D 54/02 Water Supply, 1960-68.

> present being installed, rely to a large extent on the existence and efficiency of the waterworks bush.[105]

Efforts to obtain Smith's Creek (detailed below), for example, were primarily motivated by concern about the impact of stock grazing by the water source. In December 1964, Williams expressed concern that the bush catchment was suffering from damage caused by goats, deer, pigs and possums.[106] Pest control and fencing the Waingake Waterworks Bush were prioritised in 1965. In February that year, Williams approached the District Forest Ranger for help with culling goats. He enclosed a cadastral plan of the waterworks catchments and surrounding properties to emphasise the impact of these neighbours on the health of the water catchment (see Figure 44 in Back Story #9). In March 1965, Williams sought their cooperation to eradicate goats. The following summer, council set about replacing the dilapidated boundary fencing, passing half of the cost on to the council's neighbours.

Purchasing Smith's Creek, 1967

Gisborne Borough Council had used Smith's Creek in the Waingake catchment to transport the water supply since 1927, first pumping water up to the saddle from the Mangapoike River and again as the discharge point for the Dam-line once the Clapcott Dam was commissioned. The grass catchment of Smith's Creek was part of Fairview Station, the cascade no doubt named after the longstanding Crown lessee, HG Smith. Council's attention was drawn to the health risks posed by channelling the water supply through a working farm soon after the No. 1 Dam began operation. In March 1952, Gisborne Medical Officer urged that:

> Every effort be made to gain control of the paddocks on either side of the watercourse known as Smith's Creek. These paddocks are at present used as grazing and animals and men have ready access to the water. In addition, the sides of these paddocks slope steeply towards the Creek …[107]

Even were the pipeline to be completed as far as the intake as planned, the Medical Officer went on, the considerable volume of water Smith's Creek fed into the catchment warranted control over the paddocks bordering the waterway. The Medical Officer proposed that Smith be approached about having the tributary catchment added to the waterworks reserve.

[105] City Engineer HC Williams to District Forest Ranger, 23 February 1965, D/24/4D 54/02 Water Supply, 1960-68.
[106] City Engineer HC Williams to Town Clerk, 3 December 1964, D/24/4D 54/02 Water Supply, 1960-68.
[107] Medical Officer to Town Clerk, 14 March 1952, C/06/6C Waterworks, 1952-1956.

Purchasing Smith's Creek was provided for in the pipeline improvement loans of the 1950s but it was a further decade before the council moved to obtain the land. In January 1962, Williams told Smith of council's plans to replace the Bush-line pipe, part of which ran on Smith's property, enclosing a plan of the 137 acres adjoining Smith's Creek required for waterworks purposes.[108] The Commissioner of Crown Lands had been advised, the city engineer explained, and further negotiations would be necessary to determine the value of the land and the exact location of the new boundary. Williams' update to the town clerk in November that year suggests that the city engineer considered the acquisition was imminent.[109] The ensuing delay suggests that Smith disagreed. Two and a half years later, in May 1964, Williams advised the town clerk that the boundary had been settled and that the 137-acre catchment could now be surveyed.[110] Williams still envisaged a purchase at this point but, as the Town Clerk made clear to the Commissioner of Crown Lands, the borough council would take the land if need be: 'What is envisaged is that a scheme plan should be prepared first to put the negotiations underway and if these cannot be concluded successfully a plan would be prepared for the necessary taking of the land.'[111] When the area to be taken was surveyed five months later, the taking proposition had reduced to 113 acres 30 perches.[112]

By July 1965, Smith had a counterproposal: in taking the grass catchment, Gisborne Borough Council should also acquire the entire 1,400 acres of Fairview Station. Williams turned the offer down:

> I convinced him council would not want to do this and would not in the foreseeable future ever aspire to purchase more of Fairview than it does now for catchment, reservoir or other purchase apart from wishing to retain its 18inch/15inch pipe line through it and to do the normal repair maintenance replacement and duplication necessary from time to time and in the future.[113]

Agreement was subsequently reached between Smith and the city council to take the land under Section 32 of the Public Works Act for a purchase price of £1,576, payable when the council obtained title, with council to pay all survey costs, legal expenses (including the cost of a new Certificate of Title for the

[108] City Engineer HC Williams to HTS Smith, 23 January 1962, D/24/4D 54/02 Water Supply, 1960-1968.
[109] City Engineer HC Williams to Town Clerk, 15 November 1962, D/24/4D 54/02 Water Supply, 1960-1968. Williams referred to 'the tributary area which has 137 acres in grass which is privately owned but about to be acquired by the Council.'
[110] City Engineer HC Williams to Town Clerk, 4 May 1964, C/13/7B R26/01 Waterworks Reserve – Waingake, 1956-1968.
[111] Town Clerk W Hudson to Commissioner of Crown Lands, 8 May 1964, C/13/7B R26/01 Waterworks Reserve – Waingake, 1956-1968.
[112] A652025 WW127 – Land Taken for Waterworks – Smith's Creek [T.A. Gillard] 1964, GDC.
[113] Williams to Town Clerk, 12 July 1965, D/24/4D 54/02 Water Supply, 1960-1968. Williams did not share Smith's opinion that the lower flats on the property would be a suitable dam site: '… as property is too low and dam too big and too expensive in terms of spillway requirement.'

balance land if necessary), fencing, a floodgate, and an easement for the passage of stock.[114] The accompanying plan of the taking showed a right of way of 1 acre 2 roods 34.5 perches. The provision for the right of way delayed proceedings for more than a year, the Commissioner of Works adamant that it was unlawful: 'the Public Works Act is not like the Land Transfer Act. If the Council want to create the easement, it should do so after the land has been taken.'[115] The city council conceded the point in June 1967 but by this time another hurdle required to be overcome. Smith had sold his leasehold in June 1966 and the Commissioner of Works now required evidence that the new owner EMJ Ellmers had consented to the taking. The sale and purchase agreement which referred to the city council taking was duly provided, together with the city council's reassurance to Ellmers since that it would not require vacant possession of the taken land before the end of the year.

In the event, the taking of 113 acres 30 perches (45.8053 hectares) from Parts Section 3 Block III under the Public Works Act 1928 was achieved in two proclamations. The first, dated 23 August 1967, declared that 'a sufficient agreement to that effect having been entered into', the leasehold interest in the land was taken for waterworks purposes and vested in the borough.[116] The second proclamation that day declared the Crown land set apart for waterworks purposes and vested in the borough.[117]

[114] Agreement dated 6 September 1965, in R17301688.
[115] Commissioner of Works to District Commissioner, 20 December 1966, in R17301688.
[116] *New Zealand Gazette* 1967, p. 1662.
[117] *New Zealand Gazette* 1967, p. 1665.

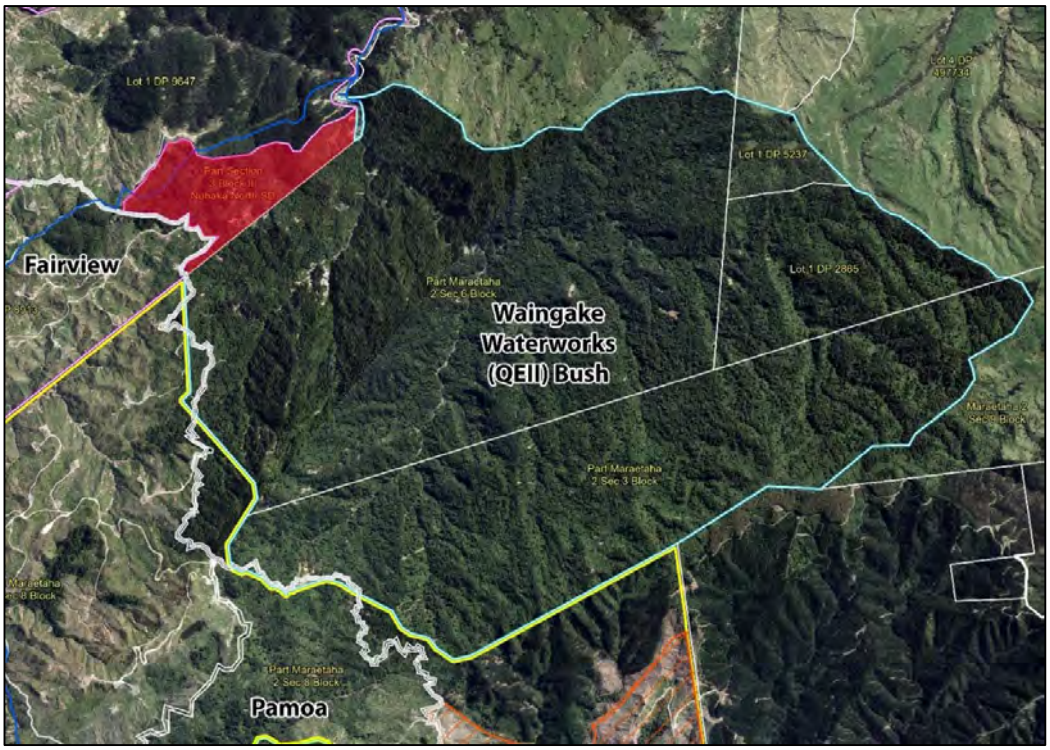

Figure 24: Smith's Creek catchment, taken 1967[118]

Purchasing Waingake bush catchment, 1966

In contrast to the protracted Smith's Creek taking, the borough council purchased the remaining portion of Waingake catchment at this time relatively quickly, via a negotiated purchase. Fencing the Waingake Waterworks Bush was underway when Williams recommended, in November 1965, that council purchase another 61 acres from Te Puru Station, a triangle of land at the north-eastern corner of the Waingake catchment (see Figure 25).[119] As the city engineer pointed out, in addition to improving the fence alignment, council purchase would remove the last area of stock country from the catchment. In relaying the council offer of £549, Williams suggested the town clerk explain to Trevor White that "the council's estimate for the 70 chains of new fence [along the existing boundary] … is approximately £900 of which

[118] Part Section 3 Block III Nuhaka North Survey District (GS1D/1499), 'Current Title 13' in #A589651, GDC
[119] Title to the 5069-acre Te Puru estate was now an amalgam of titles held jointly by four individuals, GS108/109 being Section 4R Block XV Patutahi, Maraetaha 2 Section 6(4?), Parts of Rangaiohinehau blocks and part Lot 2 DP 1419 in the name of Stanley White (1/2 share), Trevor White (1/4 share), Richard Gambrill and John Bain (1/4 share jointly). Title 11 in #A589651, GDC.

Te Puru's share will be about £450.'[120] In March 1966, Williams suggested that the fencing account for Te Puru Station wait until the purchase agreement went through.[121]

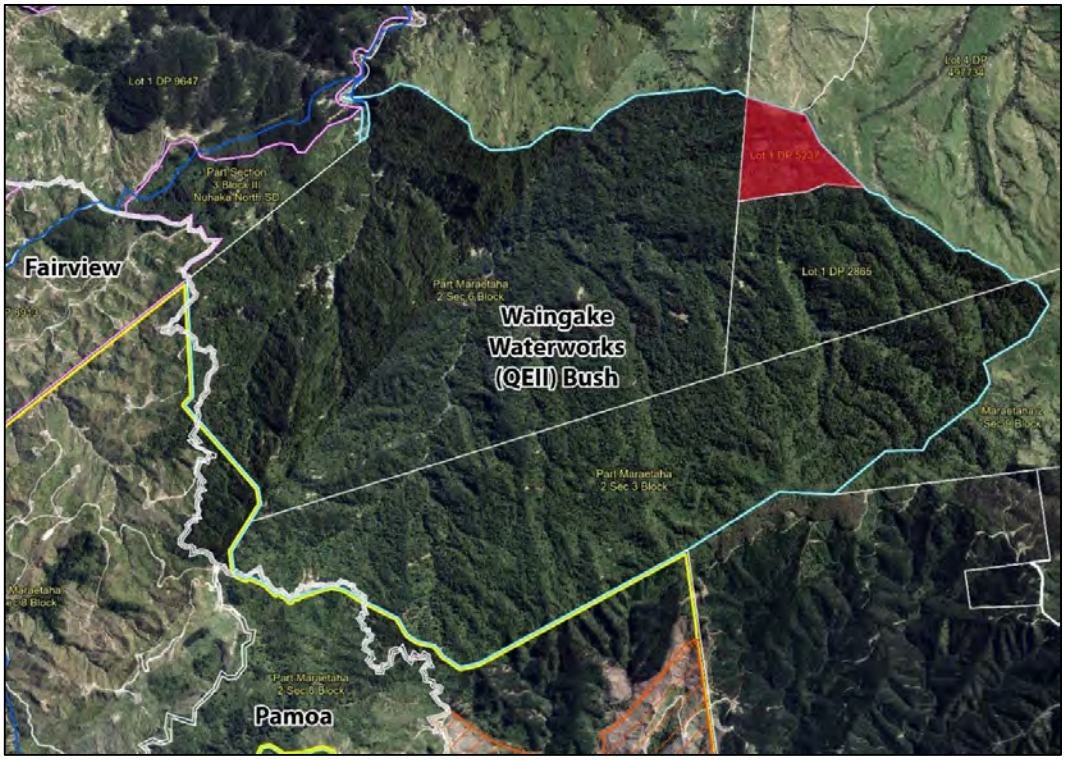

Figure 25: Waingake bush catchment, purchased 1966[122]

The sale and purchase of the 61 acres (24.6858 hectares) of Part Maraetaha 2 Section 4 went ahead on 11 November 1966. In 1981, council briefly entertained leasing the land to the New Zealand Forestry Service for afforestation in conjunction with the Mangapoike catchment area.[123] Nothing came of the proposal (see Back story #8).

[120] City Engineer HC Williams to Town Clerk, 19 November 1965, D/24/4D 54/02 Water Supply, 1960-1968.
[121] City Engineer HC Williams to Town Clerk, 15 March 1966, D/24/4D 54/02 Water Supply, 1960-1968.
[122] Lot 1 DP 5237 (GS1C/942), Current Title 10 in #A589651.
[123] City Engineer HC Williams to Town Clerk, 7 January 1981, D/15/1B W5/3/01 Mangapoike Lease to NZFS.

Taking Waingake upper settling tank site, 1967

Acquiring land for a second, upper settling tank in conjunction with the Bush-line replacement – required during periods of peak demand – occurred in tandem with the acquisition of Smith's Creek, in 1964. Williams initially envisaged a settling basin site of 9 acres.[124] Five months later when the site was surveyed, the area to be taken within Maraetaha 2 Part Section 6 – farmed as Patemaru Station – was 6 acres 3 roods 20 perches (2.7322 hectares).

By this time, administration and ownership of the former trust lands had been returned to the Proprietors of Maraetaha No 2 Sections 3 and 6. A GDC property register compiled in the 1980s records that the site was purchased from the incorporated owners on 7 November 1967, for $192.[125] The memorial schedule for Maraetaha 2 Sections 3 and 6 held by the Māori Land Court also refers to consideration of $192 for the land, with a different date of 14 June 1968.[126] No details about the negotiation have been discovered. The survey plan of the proposed taking was approved by the incorporation.[127]

[124] City Engineer HC Williams to Town Clerk, 4 May 1964, C/13/7B R26/01.
[125] No. 74 in 232-280 GDC – Council Property Registers; Historic Legal Docs ex G Brock vol. 4. Certificate of Title 2B/472 being Lot 1 DP5328..
[126] Maraetaha 2 Block File, Box 299, Māori Land Court Tairāwhiti.
[127] DP 5328.

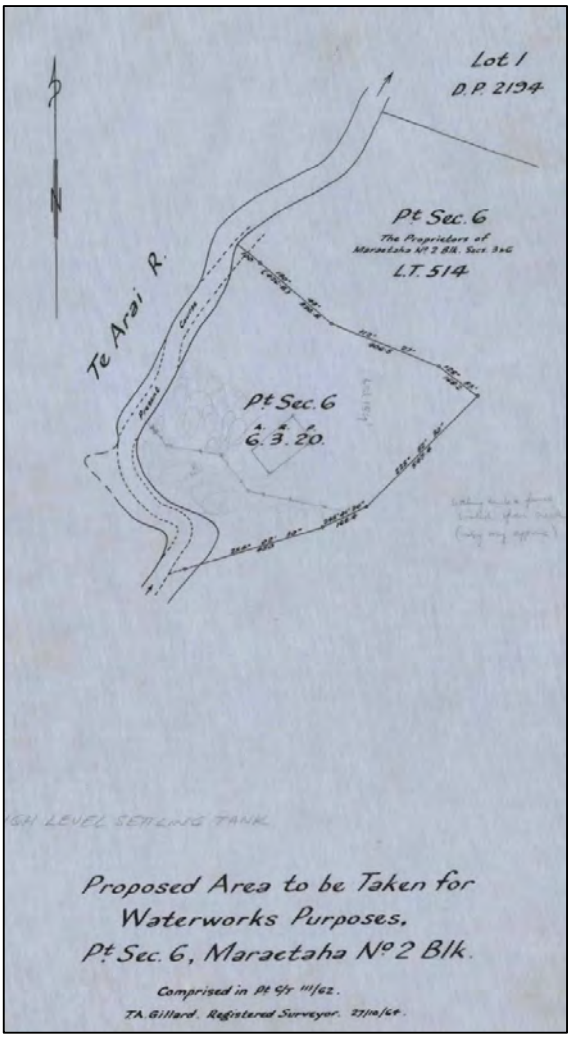

Figure 26: Upper settling tank site, 1964 [128]

The curious thing about this acquisition is that the site acquired in 1967 appears on earlier borough council plans of the pipeline, as if already commandeered for council purposes. See, for example, the 1928 survey by C Percy (Figure 27 below) and the tracing of the Te Arai Pipeline produced in 1950 (see Figure 16).

[128] WW128 Land Taken for Waterworks – Upper Settling Tanks 1964 (T A Gillard). Under new title GS2B/472 the land was relabelled Section 1 SO8617 and part Lot 1 DP5328.

Figure 27: Upper settling tank, taken 1967/68[129]

The current water treatment plant is located on this parcel of land.

Gisborne City Water Supply Report, 1971

Even as the Bush-line project drew to completion, the adequacy of supply was once again at issue. Drought over the summer of 1966 raised the prospect of Gisborne running out of water altogether by the end of March. The bush supply had been supplemented from Mangapoike mid-November as usual, Williams reported, but the reservoir had run dry mid-January. The city engineer blamed the 'embarrassment' on the unforeseen expansion of water-consuming industries in the city: Watties canneries alone used 43 per cent of the supply, and he recommended that the waterworks program be reshuffled and accelerated.[130]

The waterworks program at that time, based on Clapcotts' 1942 Mangapoike Catchment Scheme, projected the construction of a second dam within the council's Mangapoike catchment in 1967 and a

[129] GDC WW18 (1928). The title is GS2B/472 of 2.7822 hectares, being Section 1 SO8617 and part Lot 1 DP5328. This is the location of the water treatment plant.
[130] City Engineer, HC Williams, 11 February 1966, D/24/4D 54/02 Water Supply, 1960-1968.

third dam in 1993.[131] Proceeding with the development of the Mangapoike catchment made sense: the council already owned the land and had invested significantly in the pipeline and headworks. Preliminary work was begun on the No. 2 Dam in September 1965, a clay road cut to the site, the plans and specifications for the earth dam completed by mid-1969. The exercise, however, had made Williams re-evaluate long-term development. In February 1971, the city engineer presented council with a comprehensive report, outlining options for augmenting and improving the city's water supply.[132]

Like numerous engineering consultants before him, Williams had canvassed, and largely discounted, alternative water supply projects within the district: Repongaere Dam, Emerald Hills and Shanks Dam, Motu Dam, Motu Falls, Waipaoa River, Wharekopae Stream, and Waikaremoana.

[131] 'History of Waterworks' in D/24/4D 54/02 Water Supply, 1960-1968.
[132] 'Report on Gisborne City Water Supply with Proposals for Augmentation and Improvements and with Recommendations for Long Term Development Policy', February 1971 (Gisborne City Water Supply Report 1971).

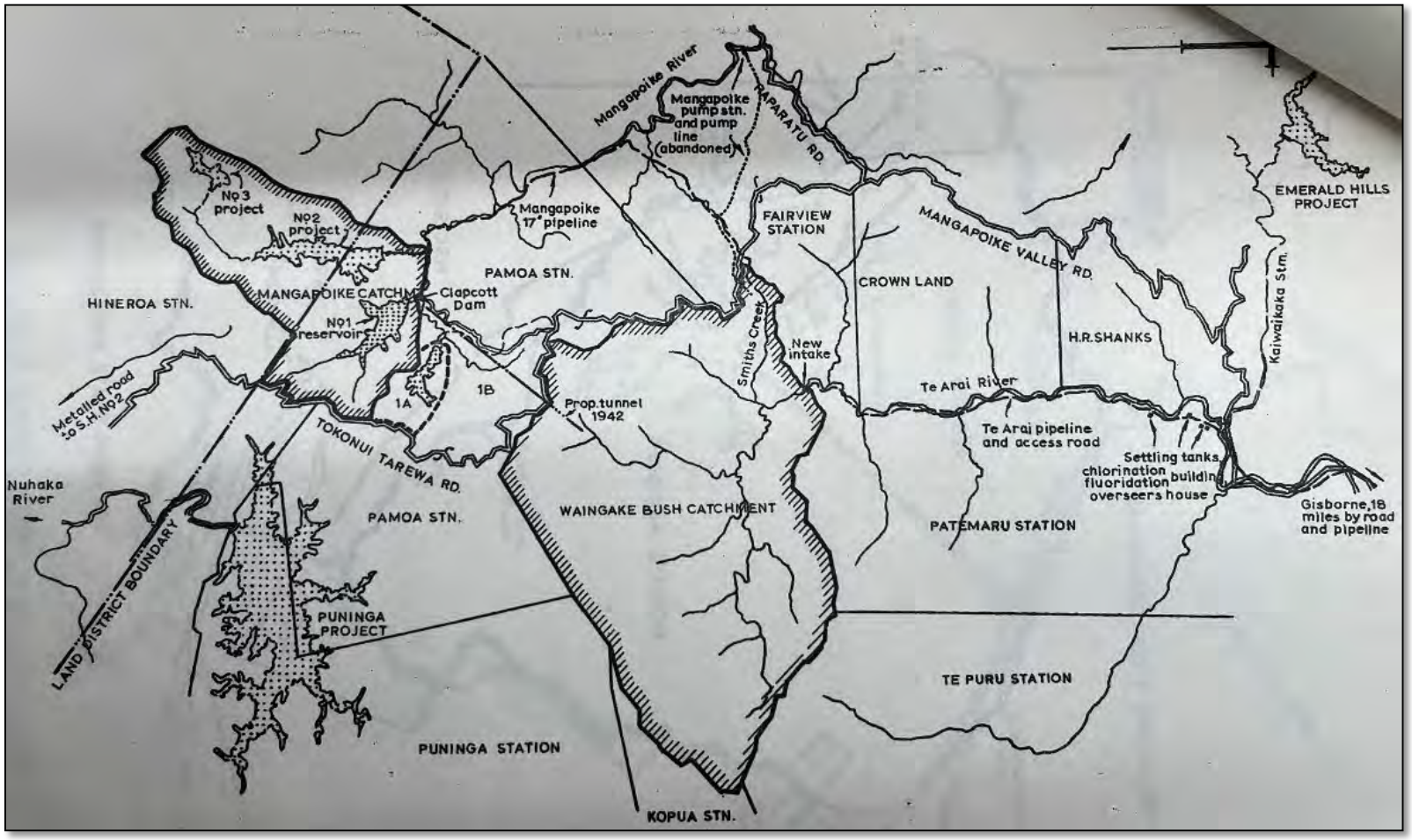

Figure 28: Proposed Water Supply Projects, 1971 [133]

[133] WW140 in Gisborne City Water Supply Report 1971, p.69.

With respect to the Mangapoike catchment, the options for future augmentation were not bound by the council's existing property. In addition to building the No.2 Dam as planned, 'required as soon as practicable', Williams outlined three further potential dam developments within the wider catchment. 'Mangapoike 1A Project', to the north-east of the existing Clapcott Dam, lay within Pamoa Station: a small 114-acre catchment that 'by good fortune' was separated from the No. 1 Clapcott catchment by a low saddle, meaning any stored water could decant freely into the existing No. 1 reservoir.[134] 'Mangapoike B Project' involved a 350-acre catchment between the Mangapoike 1A catchment and the Waingake Bush Catchment, again part of Pamoa Station 'immediately abutting the Pamoa Station homestead.' Williams explained that the 1B dam project offered little extra storage, its purpose being to replenish the Mangapoike reservoirs during future winter draw-off. Mangapoike No. 3 project was the third of Clapcott's 1941 dam projects, more properly part of the No. 2 catchment on land the council already owned and which, like Mangapoike 1A, could be developed to decant into the No. 2 reservoir (see Figure 28).

Damming the 926-acre Papatu catchment inland of Manutuke was also identified as an option. The project would require acquiring the land, 'partly private and partly Maori owned', retiring the area from farming, and planting it in forestry to arrest erosion. The attraction of Papatu lay in the integration of the project with the existing works at Waingake.

Lastly, the Puninga project proposed impounding waters within the Puninga catchment, the headwaters of the Nūhaka River, next door to the Mangapoike catchment. The 4,150-acre catchment of pasture and scrub-covered hills was part of the Puninga and Pamoa Stations. An 80-foot-high concrete dam, Williams postulated, would provide 4,020 million gallons, a lake two miles long, a potential playground for water sports and an addendum to the Wharerata State Forest – and all within easy road access of State Highway 2 over the Wharerata Hills. The water was to be pumped 150 meters up over the saddle into the Mangapoike 1A reservoir, joining the existing supply.[135]

Other improvements to the existing system explored by Williams included:

- Boosting and eventually replacing the 17-inch Dam-line with larger pipe. Williams was already aware of the risk erosion posed to the overland pipeline and the need to actively mitigate this. At the point of future replacement, particularly if the Puninga project went ahead, Williams argued that driving a tunnel from the Mangapoike to the Te Arai catchment might well prove cost-

[134] Ibid, p. 28.
[135] Ibid, p. 31.

effective. The Dam-line boosting project involved outfitting the pipeline with valves and pumps to boost the flow as required, from a master control point at Waingake.

- A Dam-line extension project, essentially closing the mile gap between the discharge at Smith's Creek and the intake at Waingake. In this way, Williams argued, when required, the dam water could be kept separate from that of the bush catchment which was periodically turbid. In the short-term, this would save the council the cost of filtration.
- Increasing the capacity of the 18-inch Bush-line with a second pipeline. Again, as an alternative to filtration, Williams suggested outfitting the Bush-line with an 'opacity monitored valve' to arrest the bush catchment supply in times of turbidity.

At the time of writing, the water supply at Waingake was chlorinated and fluoridated. The lack of filtration and water softening were seen as shortcomings: for 20 days in the year, Gisborne's water was discoloured and sometimes silty. The city engineer was mindful of the cost, however, involved with further water treatment. A 'micro-straining' plant might be necessary while the dam development was in progress, he conceded, in which case there was a suitable site 'immediately upstream of the Boosting Station on the Dam Pipeline.'[136]

Williams' 1971 report culminated in recommendations for future development. His preferred 'Scheme One' centred on continued development at Waingake, encompassing elements of the Mangapoike and Puninga projects outlined earlier in the report, shown in Table 2:

Table 2: Williams' 'Scheme One' for Augmentation, 1971[137]

Dam-line Boost	1971-72
Mangapoike No. 1A Dam	1971-72
Mangapoike No. 2 Dam	1972-73
Dam-line Extension	1973
Dam-line 'A'	1983-84
Puninga Stage 1	1986-87
Bush-line 'A'	1987-88
Puninga Stage 2	2013

[136] Ibid, p. 41.
[137] Ibid, p. 47.

Williams prioritised the 1A Dam project (requiring further land) to meet the immediate supply crisis because of the relative ease and cost of doing so as compared to the more complex and expensive Dam No. 2 project. The No. 2 Dam was nonetheless still considered an important component to the water supply, to proceed 'as soon as possible'. By the same token, Williams clearly considered that future development at Puninga would obviate the need for exploiting the lesser catchments within Mangapoike. To this end, he recommended that negotiations commence at once with landowners to acquire the land for Mangapoike 1A in the first instance, but also those affected by the Puninga project, noting that the same land owners – that is, Pamoa Station – were affected by both projects.[138]

An addendum to Williams' report reveals that he had begun exploring the potential of the Puninga catchment for forestry. Indeed, he reproduced the report received from the New Zealand Forest Service (NZFS) on the proposal just a fortnight before. Forester John Holloway had been encouraging about the council taking on forestry, enclosing information on the 'Forestry Encouragement Loan Scheme for Local Bodies'. He was also enthusiastic about the potential of expanding the Forest Service's Wharerata operations to the Puninga Catchment:

> The proximity of Wharerata Forest inclines me to wonder whether the two areas might not be more efficiently managed as one unit, especially as the economic unit size is rapidly increasing. While I cannot foresee the reaction from Forest Service Head Office, might the council consider selling the Puninga Block to the Service to be managed (under stated conditions) in conjunction with Wharerata, or alternatively consider some kind of a lease scheme? At the planting rate that has prevailed over the past 10 years Wharerata Forest should be completely planted by about 1983-1985. It appears to me that were the two areas managed as a single unit Puninga would provide valuable continuity of employment.[139]

In promoting 'Scheme One' to council, Williams was as equally excited about the prospect of a 'working arrangement' with the Forest Service:

> The City Council is reckoned to need only the full rights to water, servicing access and the perpetual protection of things which effect the use of and care of the water. Were such a venture able to be arranged, the view is taken that it would also provide for the use of the Puninga lake and its environs as a water recreational area.[140]

As set out below, a joint venture with NZFS gave the council the means to acquire the catchment. From Williams' confident response to Holloway, the city engineer's afforestation ambitions already extended well beyond Puninga:

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[138] Ibid, p. 65.
[139] NZFS Forester J Holloway to City Engineer HC Williams, 18 January 1971, D/24/4D 54/03 Water Supply 1965-1975.
[140] Gisborne City Water Supply Report 1971, p. 67.

> It does seem evident that my Council will very likely shortly evolve a determination to acquire the Puninga catchment … adjoining its existing water supply holdings. … I feel we can confidently anticipate that from such an acquisition discussions will arise on ways and means of utilising City Council waterworks interests for forestry as well, not only in respect of its proposed ventures but also the 1000 acres under Council ownership at its Mangapoike catchments.[141]

Gisborne City Council's subsequent afforestation proposals for the Mangapoike Dams Catchment is explored in Back story #8.

Purchasing / taking Mangapoike 1A catchment, 1973/1983

Williams' report was presented to council on 2 February 1971. Within weeks the town clerk advised the secretary of 'Pamoa Incorporation' about the council's immediate plans for Mangapoike 1A Dam:

> The Gisborne City Council is desirous of having the earthworks constructed … before the 1971 winter and therefore needs to make an immediate start with construction work to ease the threat to the City water supply for the forthcoming 1971/72 summer.
>
> The purpose of this letter is to seek confirmation that the owners will sell to the Council and also get the authority of the landowners to permit the Council's contractors to start earthworks at these two places without ado, it being agreed that a survey and sale of the land would follow as quickly as formalities can permit.[142]

The owners' attention was also drawn to the Puninga project recommendations, 'in that they have a bearing on other parts of the Pamoa Station property …' In closing, Hudson pressed, 'Your early attention to the request is sought earnestly in that the welfare of the City and its hinterland is intimately involved in the continuance of water supplies.'

The land – 105 acres of what was post-consolidation now labelled Part Maraetaha No. 2 Section 8 – was inspected ten days later for valuation purposes. The north-facing parcel was described as 'mainly easy hills, broken by gullies and swampy areas', 10 acres of which were clothed in light native bush and another 25 acres reverting to heavy scrub. The capital value came in at $2,600.[143] By September 1971, the city council's surveyor advised the town clerk that the survey plan of the area was ready for lodging at the Survey Office. Once it was approved by the Chief Surveyor, he explained, a schedule of boundaries

[141] City Engineer HC Williams to Senior Forester NZFS, 16 February 1971, D/24/4D 54/03.
[142] Town Clerk Hudson to Secretary Pamoa Incorporation, 9 March 1971, D/24/3D 53/01 Water Supply 1956-1975.
[143] Valuation report, 26 May 1971, in D/24/3D 53/01.

would be prepared and sent to the city solicitor, who 'then prepares the proclamation and takes the land accordingly.'[144]

The Mangapoike 1A Dam, also known as the Sang Dam (after dam designer Robert Sang) was built in 1972. However, the circumstances surrounding the council's land acquisition for the project remain ambiguous. The surveyor's advice in September 1971 cited above would suggest that the council intended taking the land under public works provisions. However, nothing further was done about it: the deposited plan of the acquisition was never registered and the taking was never proclaimed.

The issue was raised ten years later, in the context of afforestation proposals for the Mangapoike catchment (see Back story #8), when NZFS queries about ownership alerted Williams to the 'unfinished business'.[145] Later that year, the issue resurfaced, this time in the context of Maraetaha Incorporated's proceedings in the Māori Land Court which had been held up by another issue altogether: the fact that the council's works on Patemaru Station fell outside the 1906 pipeline easement. The judge had refused to sign the consolidation vesting order without further clarification. The incorporation's solicitor had shown Williams a plan, from which, the city engineer related to the town clerk:

> It is evident that … the Mangapoike No 1A catchment is still regarded by Maraetaha Blocks as its property whereas my understanding is that some time after 1971 the Gisborne City Council paid for the land although it is evident from Lands and Survey Dept records that the Council has no title to it yet. The Town Clerk had a memo from the staff surveyor of the time, Michalik, S231, 10 Sept 1971 indicating that the survey plan was to be sent to the City Solicitor, with the expectation that the Town Clerk would ensure that the plan was duly lodged and Gisborne City Council would duly acquire title to the land, land which I recollect following meetings between committees of the City Council and the committee of owners was settled, the price established and the money paid over. Perhaps that is in question?[146]

Williams could not recall what the settlement for the transfer was to be 'following the acquisition of the land.' For their part, the Proprietors of Maraetaha 2 Sections 3 and 6 were not disputing the acquisition: their concern was to avoid the expense of having to survey and legalise another easement, their solicitor suggesting that the issue might be resolved if the Gisborne City Council relinquished its rights under the pipeline easement altogether.[147] Once the vesting order was registered, the transfer of the catchment to the council could also be completed.

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[144] W Michalik to Town Clerk, 10 September 1971, D/24/3D 53/01.
[145] City Engineer HC Williams to Town Clerk, 7 January 1981, D/24/6B 55/02 Water Supply 1980-1983.
[146] City Engineer HC Williams to Town Clerk, 2 September 1981, D/24/4A 53/03 Water Supply 1981-1984.
[147] Michael Thomson, Nolan & Skeet to Chrisp & Chrisp, 20 November 1981; see also City Engineer HC Williams to Waterworks Engineer PH Pole, 26 August 1981, D/24/5A 54/05 Water Supply 1980 & 1981.

A further complication was that a supposed condition of sale had been an undertaking from the Gisborne City Council to fence the new boundary with Pamoa Station. This, too, had been overlooked for a decade.[148] By September 1982, the new manager of Pamoa Station wanted clarification as to the boundary to begin fencing. Frustrated by the ongoing ambiguity, Williams railed at his colleague:

> But the whole question of ownership, fencing obligation and all things to do with the 98 acres which I understand the GCC paid for ten or more years ago still awaits the Town Clerk's answers…
>
> We cant settle minor domestic things with the management of adjoining properties without the almost impossible situation which presently pertains for want of the data which must come from GCC.
>
> Did GCC pay for the land, is the SO plan legal? Whether the purchase, if indeed there has been a purchase, commit GCC to fencing.[149]

Title to Maraetaha 2 Section 8 issued to Maraetaha Incorporated in August 1982. The area taken for waterworks – a deduction of 39.6819 hectares (98 acres) – is depicted on the title.[150] The proclamation declaring the Gisborne City Council's waterworks acquisition on the basis that 'an agreement to that effect having been entered into' was dated 26 April 1983 and gazetted a week later.[151] For reasons which may relate to the title position pre-consolidation, the city council's acquisition of part Maraetaha 2 Section 8 was issued a year later as two titles (see Figure 29).

[148] See Town Clerk SF Martin to City Solicitor Chrisp & Chrisp, 14 January 1981, '... the northern boundary of the 42.5ha Mangapoike Catchment 1A is unfenced, a fence which I recall was made the subject of an agreement between Pamoa Station and the city council vesting the city council with the responsibility of carrying out such fencing.' D/15/1B W5/3/01 Mangapoike Lease to NZFS 1978-1986.
[149] City Engineer HC Williams to Town Clerk, 10 September 1982, D/24/4B 53/05 Water supply 1986.
[150] GS 4C/1184. The taking was referred to as 'Gazette Notice 149507.1', registered on the title on 27 May 1983.
[151] *New Zealand Gazette*, 5 May 1983, p. 1382.

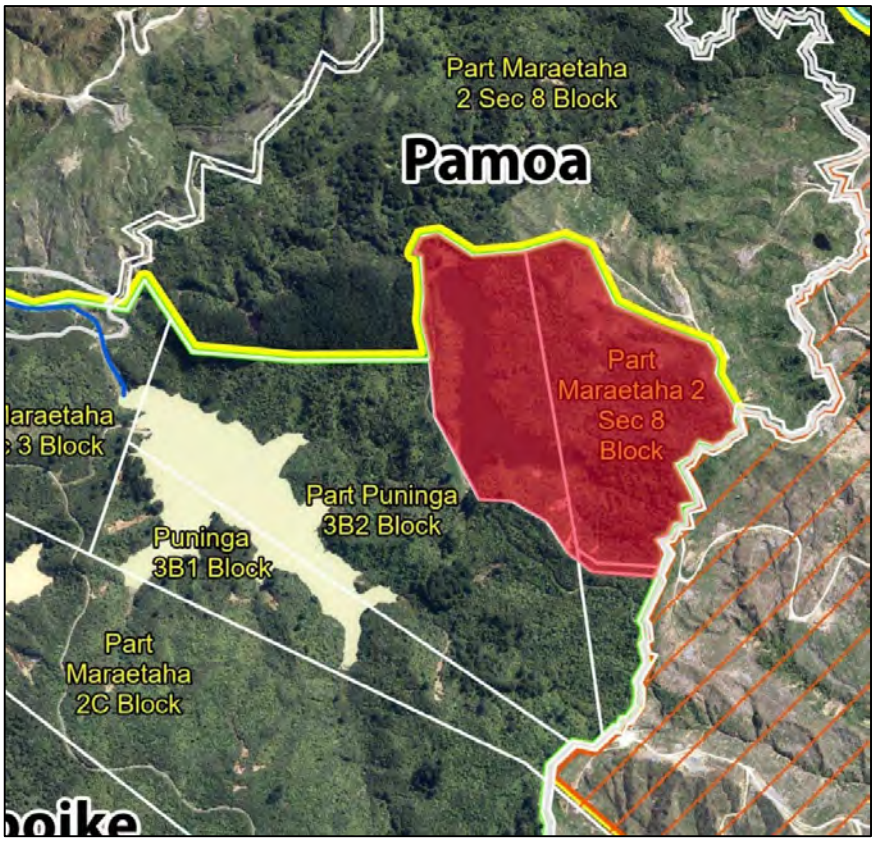


Figure 29: Mangapoike 1A catchment, taken 1973/1983[152]

Purchasing Puninga catchment, 1971

Gisborne City Council moved as equally quickly with respect to the proposed Puninga dam project, scheduled for 1986/87. Four weeks after Williams presented his vision to the council in February 1971, Mayor Barker handed plans of the 'new city water scheme' to Minister of Forests Duncan MacIntyre, suggesting the New Zealand Forest Service help the city council afforest the Puninga catchment, specifically Puninga and Pamoa Stations.[153] Undeterred by the Director General AP Thomson's non-commital response, town clerk W Hudson reiterated the request a fortnight later, advising Thomson that Puninga Station was on the market and best purchased quickly before recent road improvements increased land values. Would the Forest Service purchase the farm and allow Gisborne City Council to use the catchment? The city council's plans were simultaneously communicated by the Rotorua Conservator to Wellington, who endorsed the

[152] Lot 1 DP 3892 and part Maraetaha 2 Section 8 (GS 4D/170) of 17.8099 hectares, 'Current Title 5' in #A589651; part Maraetaha 2 Section 8 (GS 4D/171) of 22.2678 hectares, 'Current Title 6' in #A589651, GDC.
[153] Director General NZFS to Minister of Forests, 26 March 1971, R16134494.

prospect of extending the Wharerata State Forest, particularly as existing waterworks holdings might also be added to the venture. Both Puninga and Pamoa Stations, the Conservator enthused, though 'steep fairly broken country' were suitable for commercial afforestation. Pamoa Station, he continued, had two houses, a woolshed and outbuildings, 'all in satisfactory to good condition', adding: 'The owners of Pamoa Station are not known to be willing sellers at present but the Council is willing to acquire the property compulsorily if Puninga can be bought.'[154]

In May 1971, Williams applied to the Hawkes Bay Catchment Board for water rights within the Puninga Catchment, and was turned down because the project was so far off.[155] Another temporary setback that month was advice from the Director General that the Forest Service was too committed to take on further afforestation projects. Once again, the Conservator at Rotorua urged Head Office to reconsider, pointing out that Puninga afforestation would not go ahead until the mid-1980s.[156]

In June 1971, Gisborne City Council purchased Puninga Station.[157] The 3,600-acre property was purchased from S Lawry for $45,000, $4,000 over the government valuation. Barker immediately informed the Director General, once again extolling the merits of State Forestry involvement in the council's catchment plans which, he proferred, were not limited to the Puninga catchment:

> It is pertinent to point out that about 1000 acres of the adjoining Maori-owned Pamoa Station will ultimately be required as part of the waterworks reserve. In addition, the council already owns some 1000 acres of adjoining land so that, in total, approximately 5500 acres would be available for afforestation in one block.
>
> … Practically all of the 5500 acres is well fenced and readily accessible by roads and tracks thus greatly facilitating both planting and harvesting.
>
> The City Council does not want to enter into the forestry business, even though, in the long term, it could be a profitable enterprise. … Our only real concern is the protection of water rights and the provision of the attendant storage and access thereto.[158]

The 'obvious and logical procedure', Mayor Barker continued, was a 'mutually satisfactory agreement', with the Forestry Service either taking over ownership 'not necessarily immediately' (and taking over, too – before 1985 – the negotiations to purchase the required area from Pamoa Station), or leasing the land from the city council for afforestation 'with the usual provision for profit sharing'. Once again, the council's position with

[154] Rotorua Conservator to Director General AP Thomson, 30 March 1971, R16134494.
[155] City Engineer HC Williams to Town Clerk, 27 May 1971, D/24/4D 54/03.
[156] Director General to Town Clerk, Gisborne City Council, 13 May 1971; Conservator Rotorua to Head Office, 8 June 1971, in R16719620.
[157] The transfer was registered on 1 August 1971.
[158] Mayor HH Barker to Director of Forests, 16 June 1971, R16134493. Barker also spoke directly to the Deputy Director General.

respect to obtaining Pamoa Station was communicated through internal Forest Service channels: 'There is no urgency to acquire part of Pamoa Staton for some years as the waterworks development in the area is not anticipated till 1985, but because the Puninga property was on the market and there were other buyers GCC had to make the move.'[159] At the end of June, the Forest Service asked Gisborne City Council for a proposal in writing.

By September 1971, a draft 10-year lease of the former Puninga Station to the Crown, containing a binding provision for eventual sale and purchase, had been prepared. The council was to retain the dam site, the Crown to have the balance catchment including the lake bed. In addition to access to construct and maintain the dam, the city council also sought an easement over the entire property: 'to have the perpetual right to all the land only in respect of the creation of a new waterworks as if council were the owner of the land.' The yearly rental was to be $2,700 and the purchase price $45,000 – the price the council had just paid for the land.[160] The deed of lease was signed in March 1972.

The lease stipulated that the Crown purchase the land within 10 years. In fact, the Crown moved to purchase at once, but the transaction was held up by the 25-acre dam site deduction, which required to be surveyed.[161] Williams accompanied the council's surveyor to inspect the site in May 1974, when it 'became obvious that 25 acres was more than the need, at least as it affected the Puninga Block.'[162] In the event, the dam site contained just under 16 acres (6.44 hectares, see Figure 30).

[159] District Forest Ranger to Conservator Rotorua, 21 June 1971. R16719620.
[160] Williams to Town Clerk, 23 September 1971, D/24/4D 54/03.
[161] Director-General Forest Service to Minister of Forests, 14 March 1972; Commissioner of Crown Lands to Director General of Lands, 6 September 1972, R16134493.
[162] City Engineer HC Williams to Town Clerk, 3 May 1974, D/24/4D 54/03. Williams continued: 'It could well be that when a dam comes to be built a contiguous acre or so would also be required from the adjoining Okahu Block (Hineroa Station).'

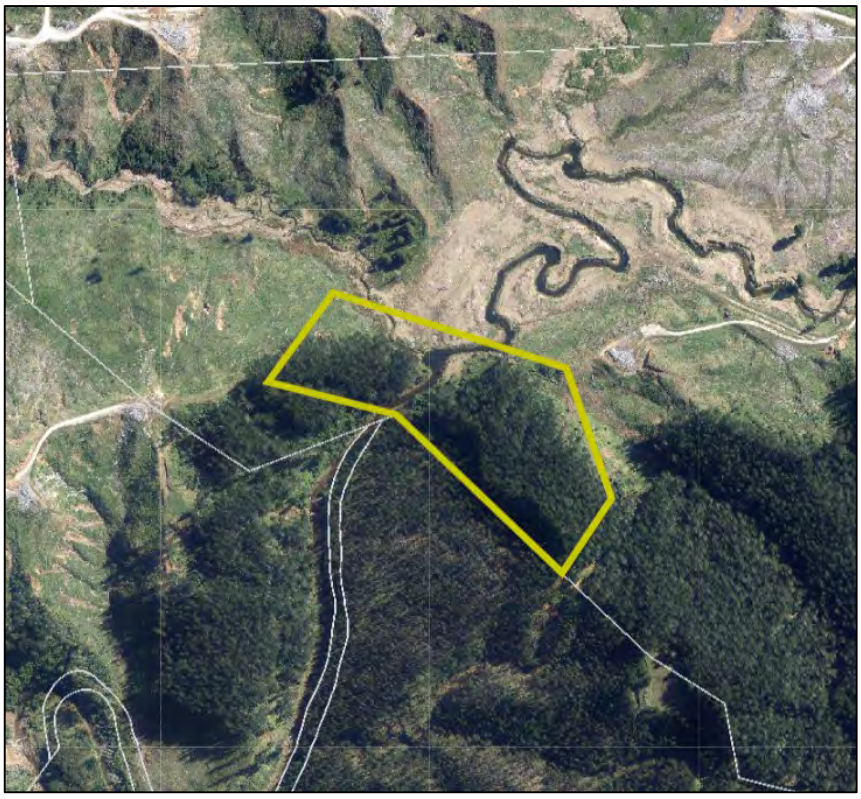


Figure 30: Puninga dam site, purchased 1971 [163]

To protect its interests in the future water catchment, the council's continuing rights over the watershed were set down in writing in May 1975: the right to use the land for water storage; the right to make and use road access to the dam site from State Highway 2 (from an existing farm track and a proposed 'dam construction road'); and the right, when the time came, to bring into operation bylaws controlling activities within the catchment. For the Crown's part, the agreement simply recorded that it would eventually develop and use the balance of the land for forestry purposes.[164] The State Forest acquisition was gazetted the same day.[165]

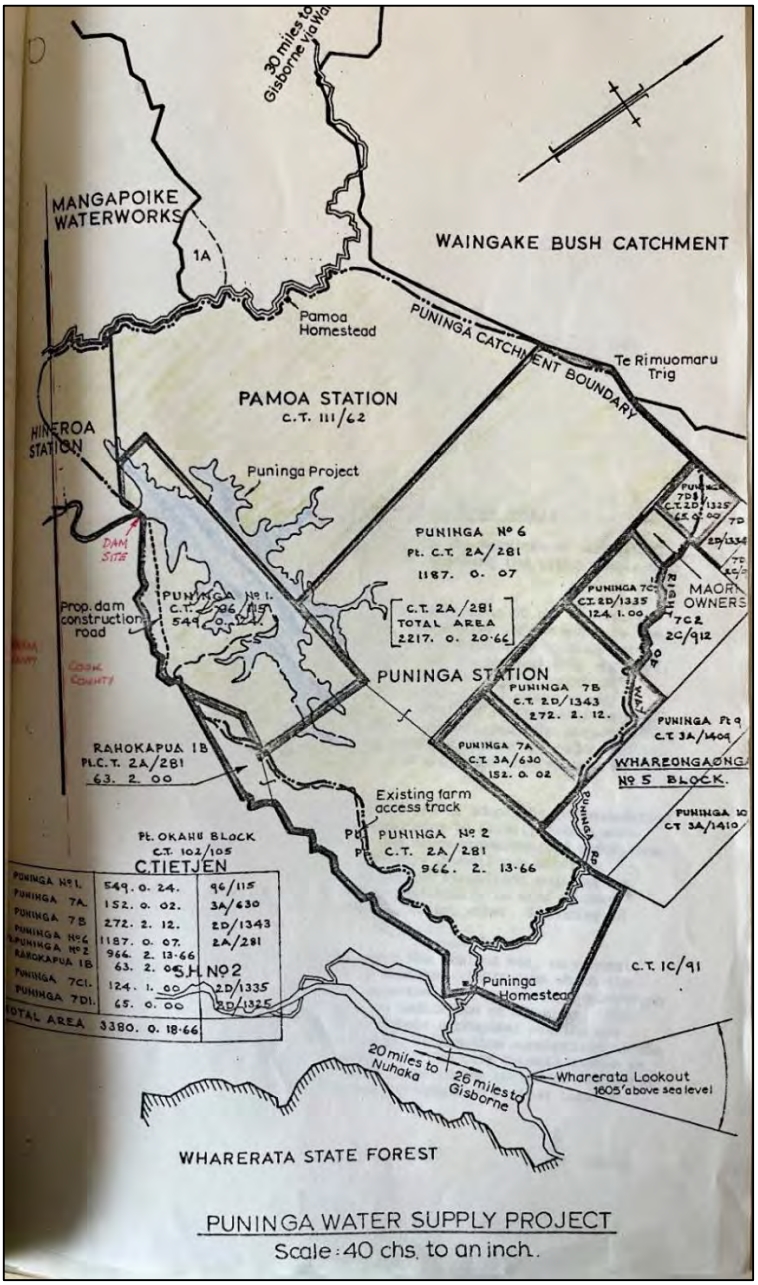
The Puninga project and Pamoa Station

The implications of the Puninga project for Pamoa Station were clear from the outset, referred to, for example, in the Gisborne City Water Supply Report 1971 and indicated on the plan prepared at the time

[163] GS5A/317 being Lot 1 DP 5806.
[164] Deed dated 13 May 1975, in D/24/5A 54/04 Water Supply 1976-1979. Williams was subsequently unhappy about the way NZFS viewed the agreement: in his view., the original purpose of the council's acquisition of Puninga Station as a 'multiple resource area' had been lost. See City Engineer HC Williams to Conservator of Forests, 17 October 1977, D/24/5A 54/04.
[165] *New Zealand Gazette*, 13 May 1976, p. 1075.

(see Figure 31). Correspondence between council and the Forest Service throughout 1971 was headed 'Afforestation of Puninga and Pamoa Stations.'[166] In a letter to the Medical Officer of Health in October 1971, Williams confidently included the '1000 acres presently owned by Maori owners reckoned to be acquired by Council by 1986' in his list of Gisborne City Council water supply catchment properties.[167] The city council, however, proved reluctant to press the issue, and indeed, attempted to hand over any compulsory taking to the Forest Service. A Forest Service file on the 'proposed acquisition or lease of Pamoa Station' was opened in March 1971: both the owners' reluctance to sell and the city council's recommendation of compulsory purchase as an 'integral part of its Puninga scheme' were noted, with the issue of Forest Service acquisition left to be reviewed annually.[168] That of November 1972 remarked that the Forest Service might 'be more readily able to negotiate with the owners of Pamoa Station than the city council as … the council has caused some local ill-feeling by the way it handled recent acquisition of a new Dump site.'[169]

[166] In NZFS file, R16134494.
[167] City Engineer HC Williams to Medical Officer of Health, 11 October 1971, D/24/4D 54/03.
[168] See for example File Note dated 12 November 1971 in R16134494.
[169] 30 November 1972, R16134494.



PUNINGA Nº1.	549. 0. 24.	96/115
PUNINGA 7A.	152. 0. 02.	3A/630
PUNINGA 7B	272. 2. 12.	2D/1343
PUNINGA Nº6	1187. 0. 07.	2A/281
PUNINGA Nº2	966. 2. 13·66	
RAHOKAPUA 1B	63. 2. 00	
PUNINGA 7C1.	124. 1. 00	2D/1335
PUNINGA 7D1.	65. 0. 00	2D/1325
TOTAL AREA	3380. 0. 18·66	

Figure 31: Puninga dam project and Pamoa Station [170]

In May 1978, having begun planting on Puninga Station, NZFS District Forest Ranger ER Kearns approached Maraetaha Incorporated about similar afforestation on Pamoa Station. The primary objective

[170] WW140, D/24/5B 54/06 Water Supply 1982-1983.

of afforestation in the catchment, Kearns maintained, was to protect and improve water quality of the future reservoir. All the land in the catchment including Pamoa, he urged, should be afforested. Were the owners willing to consider a long-term lease – of the catchment lands, or of the entire Station?[171] As the plan he enclosed with his inquiry shows, the Forestry Service proposal involved fully half of the working farm (see Figure 32).

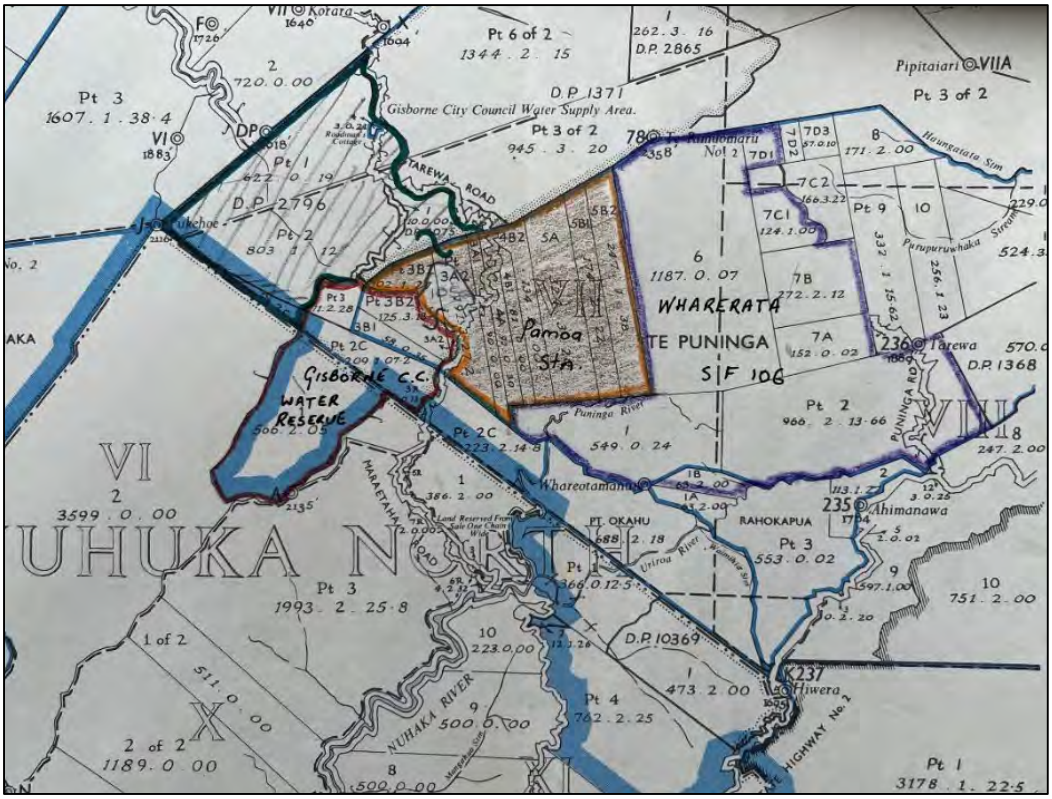


Figure 32: Proposed State forestry afforestation on Pamoa Station, 1978[172]

In February 1979, Kearns informed the Conservator of Forests in Rotorua that after considerable discussion, the owners had decided against afforestation.[173] And yet the prospect continued to linger. One year later, the Incorporation's answer relayed to Head Office was more emphatic: 'Pamoa Station have

[171] District Forest Ranger Kearns to James Harvey and Norman, 31 May 1978, R16719620. At 6 per cent of the unimproved land value, the annual lease income would amount to $3,600 for the catchment lands, or $7,500 for the whole Station.
[172] Plan enclosed in above, R16719620.
[173] District Forest Ranger Kearns to Conservator of Forests, 27 February 1979, R16719620.

withdrawn from all afforestation proposals. It is most unlikely that they they will ever consider selling their land or be interested in a leasing program in the foreseeable future.'[174]

The outcome was at odds with Gisborne City Council's water supply plans. In commenting on the forestry lease terms for the Mangapoike catchment in January 1981, for example, Williams highlighted the need to provide for the future Puninga project, specifically council's right to place a pipeline through the forestry leasehold. 'Although it is a minor matter in the total area of proposed forest it needs to be recorded in that a similar provision will come to be on the east side of the Tarewa Road between it and the proposed Puninga Dam, land which is presently part of Pamoa Station but destined to be afforested catchment at the time such a pump pipeline becomes necessitous.'[175] In his March 1982 financial update of the project, Williams reminded council that 31 per cent of the catchment had yet to be acquired for the works: 463 hectares of Pamoa Station and 54 hectares of Hineroa Station.[176]

The forestry proposal was revived by the Forest Service the following year. Under increasing pressure to keep the current workforce employed, District Forest Ranger Hockey again approached the solicitors for Maraetaha Incorporated:

> While actual dam construction is not for another 10-15 years, NZFS has completed development on Puninga area and is currently negotiating with council to afforest the Mangapoike Dam site. If the Pamoa owners had any inclination to dispose of or lease this area for afforestation, it would certainly be in this Depts (and probably the CC's) interest to acquire and develop it at the same time.[177]

NZFS interest in Pamoa Station was closely associated with its afforestation of the council's adjoining holdings within the Mangapoike catchment, lease negotiations for which had begun in 1976 and were still to be settled (set out in Back story #8). Hockey forwarded a copy of the above correspondence to his boss in Rotorua, explaining:

> We have not sought approval in principle for this [Pamoa afforestation] as I have no idea as yet, that the owners will be even interested. However, be advised that if they are, this will probably be the highest priority acquisition we will have in the District with its connotations of water supply for Gisborne City (an extreme regional priority at the moment) and use of unemployed labour as outlined in the Mangapoike proposal.[178]

[174] Hunter to Fischer, telegram, 25 February 1980, R16134494.
[175] City Engineer HC Williams to Town Clerk, 7 January 1981, D/15/1B W5/3/01 Mangapoike Lease to NZFS.
[176] City engineer HC Williams to town clerk, 2 March 1982, D/24/5B 54/06 Water Supply 1982-1983.
[177] Hockey for District Forest Ranger Gisborne to Lewis & Wright, 7 March 1983, R22669524.
[178] District Ranger Gisborne to Acting Conservator of Forests Rotorua, 7 March 1983, R22669524.

On the same day, the District Ranger also forwarded a copy of his correspondence to the city engineer. 'I am unsure as to the exact lengths the Council is prepared or able to go to, to acquire this land', Hockey wrote in his covering letter to Williams. 'Your comments are sought prior to a further meeting with the owners.'[179]

To add to the pressure from forestry, another drought in the summer of 1983 – headlined for example as 'Drought could bring the death of a city' – resurrected the Puninga dam project as the solution to Gisborne's water woes.[180] Williams' response to Hockey's inquiry in March 1983 sets out the opposition from the owners of Pamoa Station in more detail, positing this resistance within the context of the council's previous acquisition ten years before and providing insight into the besieged status of Pamoa Station from 1971:

> … the City Council's aspirations with respect to that part of Pamoa Station between Tarewa Road and the Puninga Lake and forestry development is one which has to follow from the discussions held with the owners of Pamoa Station at the time the City Council settled with the owners the purchase of what is now the Mangapoike 1A Catchment on the opposite or west side of Tarewa Road.
>
> On my recollection the Pamoa Maori owners did not want to negotiate over the sale of the area, more or less 400ha, reckoning that the Station wanted to farm the land until the time came when the City Council would want to exert itself with some firmness on excluding stock in the interests of that part of the Puninga Catchment being developed for the Puninga water supply if it came to be an extension of the City Council's water supply headworks. No formal arrangement exists with the Incorporation owning Pamoa Station, the matter of any subsequent public acquisition of the land being left until the circumstances at the time required a land transfer or some other arrangement which would ensure that that part of Pamoa Station could be managed as a 'water collection area'...
>
> It was said at the meeting between the appointed City Council Committee and the Incorporation owners that the Incorporation could at that time well contemplate either forestry on its own account limited by water-collection area conditions or leasing to the City Council, the New Zealand Forest Service or any other forestry enterprise within the same envelope of conditions. I recall at the time the Incorporation representatives making the statement that putting the 400 ha out of production for pasture farmland would more or less render the remainder of Pamoa Station uneconomic. At the same time an adjoining owner in Tarewa Road informed the City Council that in the event of Pamoa Station being broken up that adjoining owner would wish to enter the negotiation field for acquiring the remainder of Pamoa Station if the owners were agreeable to a complete disposal.[181]

[179] District Forest Ranger Hockey to City Engineer Gisborne City Council, 7 March 1983, R22669524.
[180] *New Zealand Times*, 17 April 1983, in D/24/5B 54/06.
[181] City engineer HC Williams to Town Clerk, 11 March 1983, D/24/5B 54/06.

By this time, Williams was advising those interested in the recreational potential of the Puninga Dam that the 'fate' of the affected part of Pamoa Station 'presently under Maori ownership' was as yet uncertain: 'as to whether it will finish up under forestry or under some form of controlled animal farming.'[182]

In November 1985, the Officer in Charge at Wharerata RH Saunders informed the District Ranger in Gisborne that he had recently been approached by his neighbours – Hineroa, Pamoa and Te Kopua Stations – about the possibility of a joint forestry venture with the Forest Service.[183] By this time, however, the Forest Service had terminated its lease negotiations for Mangapoike catchment with the Gisborne City Council (see Back story #8). There is no response to Saunders' query on file.

The Puninga scheme did not go ahead. Councillors baulked at the $27 million price tag and in May 1983 resolved to seek outside engineering advice to solve the city's water supply. The publicity over the Puninga dam proposal earlier that year had alarmed Nūhaka ratepayers downstream, the Hawkes Bay Catchment Board and Wairoa County Council, within whose territory the Nūhaka River flowed. Wairoa County Council had never been appraised of the city's plans in 1971, nor notified of its application for water rights at that time.[184] The city engineer's statement in 1971 that 'No one here can visualise anyone wanting to oppose the City Council's Water Right at Puninga, now or in 1986' proved flawed.[185] Williams summed up the obstacles throwing 'considerable doubt' on the Puninga project by December 1984 as 'difficulties which hinge upon land-ownership matters, the regional contest for water and the awesome cost of whatever is settled upon.'[186]

Constructing the Dam-line boost, Fairview Station, 1985

Towards the end of 1983, the engineering consultancy KRTA was engaged to audit, review and update the Gisborne City Water Supply Report 1971 recommendations. The resulting proposals submitted to council in June 1984 were modest improvements to the existing system, rather than anything fundamentally new. The principal recommendation made by KRTA to improve the existing system was to introduce boost pumping on the Dam-line to increase the flow capacity of the reservoir supply. The $700,000 proposal involved installing a 'boost station' (two pumps enclosed in a building) straddling the existing Dam-line a

[182] City Engineer HC Williams to District Advisor in Physical Education, 12 May 1983, D/24/5B 54/06.
[183] Saunders to District Ranger Hockey, 26 November 1985, R22669524.
[184] City Engineer HC Williams to County Clerk, Wairoa County Council, 11 July 1983; see also Williams to Secretary, Hawkes Bay Catchment Board, 3 June 1983, D/24/5B 54/06.
[185] City Engineer HC Williams to Secretary, Hawkes Bay Catchment Board, 17 June 1971, D/24/4D 54/03 Water Supply 1965-1975.
[186] City Engineer HC Williams to Worley Consultants Ltd, 19 December 1984, D/24/6B 55/03 1984.

kilometre away from where it crossed Tarewa Road, on Fairview Station. The tender for construction had been advertised when council belatedly thought, in June 1985, to first obtain 'a satisfactory arrangement between the City Council and the owners of the land.'[187] Williams broached Station owner Ted Ellmers in person shortly after, recording the 'understanding' that was reached:

> The City Council is ever conscious of the continuing indulgence of both EMJ Ellmers and the previous owner Mr Selwyn Smith in permitting the installation of a water-main carrying water from its Mangapoike Dams to its Waingake bush headworks across the land farmed by Pamoa and Fairview Stations. Presently that pipeline and the business of servicing it has come about and continues with no more status than the common understanding, unrecorded, of all parties.
>
> In my opinion, and I understand yours, something should be secured to obviate any possibility of your estate and its successors coming to regret what has so far come to be entrenched or generally informally arranged between yourself and Waterworks Engineer Mr PH Pole.[188]

Just what this 'something' might be 'to bring about some durable understanding' between the parties was still unformed. Williams explained to Ellmers that council would want to avoid the cost of surveying and obtaining a formal pipeline easement through Fairview Station. Ideally, he continued, a lease of the pump station area would satisfy council. The quid pro quo was to be a complementary water connection to the pipeline, requiring, too, tapping into the council's electrical supply to pump the water to the homestead, as well as 'road maintenance and such things'.[189]

To the town clerk, too, Williams argued that acquiring the land was 'quite unnecessary' as long as 'the needs of both the land-owners and the Council can be secured to cover the eventualities of a change of ownership or a change of heart' – directly alluding to the 'privileges' Ellmers would be prepared to accept in exchange for granting a leasehold. In Williams' view, this modus operandi had served council well:

> as the City Council is aware, neither the existing water supply 'bushline' or the previous Mangapoike pumpline and its pump station or any of the access road, gates and other things installed on Fairview and neighbouring stations thereabouts have come about with the sanction of any form of formal arrangement whatsoever. To date no problems have arisen and do not seem foreseeable.[190]

Williams was all too aware of the 'shortcoming' the council's latest development presented: 'metalling about 1km of the access road between the Tarewa public road the construction site, installing pipework

[187] City Engineer HC Williams to Town Clerk, 28 June 1985, D/24/4A 53/04 Water Supply 1985.
[188] City Engineer HC Williams to EMJ Ellmers, 28 June 1985, D/24/4A 53/04.
[189] Ibid.
[190] City Engineer HC Williams to Town Clerk, 28 June 1985, D/24/4A 53/04.

there, running overhead and underground electrics to the site and generally making free with the land-owners' farming operations with his approval all without documented proof of intention', and he wanted to be involved in resolving the matter 'in the most advantageous way appropriate to both parties':

> The Council's history of arrangements of that kind with the land-owners there, extends back forty years. It would be most regrettable if a wrong move was made with discord coming out of it.[191]

The city engineer, however, was out of step with his council. Having explored the legal options, in October 1985, Town Clerk SF Martin advised the council's solicitor that council would proceed with obtaining a legally binding right of access and use of the land:

> This would mean that the Council would have to undertake a full survey with its concommitant costs and obtain easements over the land for the purposes set out. A lease could then be obtained for [sic] Mr Ellmers in perpetuity which would bind him and his heirs and successors.[192]

The decision prompted an immediate appeal from Williams to delay any survey until matters had been first discussed with Ellmers, and that he be personally involved in any such settlement: 'It would be tragic if the Engineer's cordiality with Mr Ellmers was shaken.'[193] The town clerk capitulated: the survey was deferred and the pump station, with its electrics and plumbing, went ahead on Ellmers' property without securing any formal easement for it. Williams was satisfied with the outcome, advising Waterworks Engineer Peter Pole in January 1986, shortly before his retirement:

> That leaves it for me, or you, to continue some kind of discussion with Mr Ellmers on the basis that there is no such lease at all in that from this time on I can foresee no way in which Mr Ellmers or his successors can prejudice the continuity of the city water supply there. My impression is that Mr Ellmers would prefer his property to be free of any kind of encumbrance other than what he is bound to in law in terms of the Local Government Act 1974.[194]

Council staff, however, were not as sanguine about the capital investment on private land without the council's corresponding rights formalised in any way. Pole raised the issue with Williams' successor, John Warren, in May 1987. Ellmers had yet to take up the complementary water connection, although the waterworks engineer had reassured him of council's ongoing commitment to do so. The relationship between the Ellmers and the waterworks staff was a cordial one, Pole advised the city engineer: 'there is

[191] Ibid.
[192] Town Clerk SF Martin to Chrisp & Chrisp, 30 October 1985, D/24/4A 53/04.
[193] City Engineer HC Williams to Town Clerk, 30 October 1985, D/24/4A 53/04.
[194] City Engineer HC Williams to Waterworks Engineer PH Pole, 3 January 1986, D/24/4B 53/05 Water Supply 1986.

no cause for concern at the present time.' But he recommended the council obtain legal advice as to 'its real position' with respect to rights to the boost station and to take any necessary action promptly: 'Should the farm change hands any need to come to agreement with new owners could be frought [sic] with difficulty.'[195] City Secretary GC Brock was even more perturbed by the lack of any formal authority for the works on Fairview Station, including the pipeline. A legal challenge, as he saw it, would expose the council's position 'so vulnerable as to be an embarrassment and intolerable.'[196] He recommended the council negotiate a formal easement with the Ellmers, with care: 'This is a very delicate matter'.

Warren agreed to pursue obtaining formal easements for the council's existing waterworks, not only to secure rights over the capital investment on Fairview Station, but also over the unmetalled road and pipeline on Pamoa Station. As a first step, the landowners of both properties would be approached, and the legal and survey costs then estimated 'based on the agreed intention.' These preliminaries would take time, the city engineer predicted, the requisite expenditure falling into 1988/89.[197]

It is not evident to what extent the council's dialogue with Fairview Station and Pamoa Station had progressed when Cyclone Bola ripped through the district in March 1988. However, the commitment to formalise the council's existing use of private property with respect to the city water supply is important context for post-Bola acquisitions, the proposition with respect to the pipeline and associated works changing from that of a legal easement to one of outright sale and purchase.

Purchasing Fairview Station, 1989

Cyclone Bola arrived in the first week of March 1988, bringing the largest rainfall from a single storm in the history of New Zealand. Within Te Tairāwhiti the rain fell heaviest of all, causing widespread flooding. In the high-country of Waingake, slips wiped out the Dam-line, leaving Gisborne without water.

Central government provided around $80 million to the East Coast region to assist with cyclone damage, $8 million of which was tagged for a new East Coast Forestry Conservation Scheme, aimed at establishing forests to protect the worst affected lands from further erosion. Part of this money was also spent on restoring Gisborne's water supply, the repairs initially costed at $4 million. Preliminary repair work on the pipeline involved constructing access tracks. Priority was given to re-establishing supply,

[195] Waterworks Engineer PH Pole to City Engineer J Warren, 22 May 1987, D/24/4B 53/06 Water Supply 1987-1988.
[196] City Secretary GC Brock to City Engineer J Warren, 27 May 1987, D/24/4B 53/06.
[197] Waterworks Engineer PH Pole to City Secretary, 15 June 1987, D/24/4B 53/06.

expected in late June at the earliest. Protective works to restore the stability of the line were to be necessarily left for the spring.[198]

One month after the storm, Ted Ellmers approached council about purchasing Fairview Station.[199] The cyclone damage to the hill-country district had been considerable: Fairview Station was later estimated to have lost around 14 percent of its effective capacity area through erosion scars, as well as damage to fencing, floodgates, tracks and farm water supply.[200] The Dam-line through the property had been damaged and Ellmers claimed that the repair work to the pipeline would make the farm uneconomic, repeating opinions expressed by the city engineer and catchment board officers that the farm should be taken out of production. A week later, Ellmers named his price: $395,000, plus an additional $65,000 for, firstly, the 'extra stress, inconvenience, nuisance value and loss of productivity' from the recent pipeline repairs and for the need to relocate the stock yards and, secondly, 'to reciprocate the goodwill shown by Mr Ellmers over a long period of time without the formality of easements.'[201]

Council initially declined the offer, opting to pursue an easement over the Dam-line instead. By June, however, circumstances had changed. Gisborne City Council was appraised of the government's urgent afforestation program directed at future erosion prevention. The protection of water pipelines was specifically mentioned in the funding criteria. The Department of Conservation had been asked to find areas between 2,200-3,000 hectares within 80 kilometres of Gisborne that was available immediately, with no controversy over land use, and in no need of roading or other capital works.[202] With the exception of size, Fairview Station fit the bill. On 15 June, the possibility of using the scheme to retire and plant parts of Fairview Station to stabilise the pipeline was raised in negotiations between the parties.[203] Ellmers refused to consider anything less than the sale of the whole 509 hectares.

Even before the cyclone, the market in hill country farms had been depressed. Post-cyclone, the registered valuation obtained at this time concluded that what had once been a saleable economic unit was now marginal. The capital valuation of $250,000 undertaken in June 1988 was $110,000 less than the rateable value a year ago.[204] Council's immediate offer to purchase for $350,000 was based on the new valuation

[198] City Engineer HC Williams to City Manager, 14 April 1988, D/24/4B 53/06.
[199] EMJ Ellmers owned 2 of the 3 titles that made up the station, CT4D/846 and CT2B/277, together some 508.773 hectares. Andrew Ellmers elected to retain 4C/440 of 127.4759 hectares. Wilson Barber & Co to City Manager, 7 April 1988; 15 April 1988, D/24/4B 53/06.
[200] Valuation Report, 22 June 1988, D/24/4B 53/06.
[201] Wilson Barber & Co to City Manager, 15 April 1988, D/24/4B 53/06.
[202] Hensley, Coordinator Domestic and External Security to Bruce Willis, Department of Conservation Gisborne, 13 June 1988, D/24/4B 53/06.
[203] Lewis & Wright to City Manager Brock, 17 June 1988, D/24/4B 53/06.
[204] MW Grinlinton, Registered Valuer, Valuation New Zealand, 22 June 1988, D/24/4B 53/06.

plus an additional $100,000 on four grounds: the cost of relocation ($25,000), the inconvenience of the pipeline over the last 25 years ($25,000), costs arising from the urgent sale of stock ($25,000), and the risk associated with immediate sale on a very depressed market ($25,000).[205] Ellmers held out for $395,000 (the sum now including $75,000 of compensation, $25,000 of which was for 'Consideration for Previous Goodwill, re the Pipeline, and for Inconvenience and Property Damage due to Pipeline'), or $422,500 for immediate sale and full possession.[206]

Under pressure to move quickly, the following day Waterworks Engineer Bruce Apperley and City Engineer John Warren urged council that although the pipeline was now repaired, there remained a significant risk from future landslides. It was very important the valley through which the pipe ran was planted to reduce the risk.[207] At a special meeting that day, the council resolved to request funding assistance from central government for the purchase of Fairview Station to the amount of $250,000, and to provide 450 hectares of tree planting on the property (plus initial establishment costs and the first five years of maintenance). The shortfall in the property purchase price was to be met by the council, paid from the water augmentation fund.[208] The Deputy Mayor was authorised to continue negotiations.

Cabinet approved funding up to $340,000 from the 1988/89 Forestry Vote 'to assist with the cost of purchase and planting of highly erosion prone land to protect Gisborne City's Dam pipeline.'[209] Following an acknowledgement by the Ministry of Forestry that it was very unlikely the purchase of Fairview Station would proceed before the 1988 planting window closed, Apperley clarified with officials from both the Ministry of Forestry and the Domestic and External Security Coordinator about the use of the grant. According to the water systems engineer, both men recommended that council use the grant for the purchase of Fairview Station, and to fund afforestation from council coffers the following year. Apperley now suggested that afforestation on Fairview Station could be curtailed to 'about 175 hectares', rather than the full 500 hectares as initially proposed. There was more to this proposition than cost-cutting future council expenditure on forestry. Since at least June, the water systems engineer had been contemplating the afforestation of the entire Dam-line corridor, which encompassed 80 hectares of Pamoa Station. The 'Dam-line forestry' that took substance in the wake of Bola is detailed below with respect to the council's negotiations with Maraetaha Incorporated for their high-country station. Having secured government funding, council was now considering exchanging the Pamoa section of Dam-line corridor

[205] Waterworks Engineer B Apperley and City Engineer J Warren to City Manager, 24 June 1988, D/24/4B 53/06.
[206] Lewis & Wright to City Manager, 23 June 1988, D/24/4B 53/06.
[207] Waterworks Engineer B Apperley and City Engineer J Warren to City Manager, 24 June 1988, D/24/4B 53/06. The urgency arose from Cabinet's scheduled meeting for the planting program on 27 June. Minutes of an Emergency Meeting of the Gisborne City Council, 24 June 1988, in 01-290-10 Water Supply – Damline forestry, vol. 1, GDC.
[208] Ibid.
[209] Secretary of Forestry to Mayor, Gisborne City Council, 18 July 1988, 01-290-10, vol. 1.

for an equivalent area of Fairview. Apperley had evidently discussed the idea with the government officials. 'Both men' he relayed to the Deputy Mayor and the City Engineer in July 1988, 'were strongly supportive of the concept of buying Fairview and exchanging areas of the station with adjoining landowners to ensure the whole damline route is planted.'[210]

Negotiations for Fairview Station were recommenced on this basis. By September 1988, agreement had been reached to purchase the land for $330,000, on condition that the woolshed, yards, shearers' quarters and two acres, together with a separate 50-acre area, were to be surveyed out and retained by the vendor. Ellmers was to have the option to graze or lease any pasture, and the right of first refusal in the event of future sale.[211] The reduced price meant the entire purchase could now be financed by the government grant.

Gisborne City Council's resolution on 26 September to proceed with the purchase on these terms was couched within the wider Dam-line forestry proposal, which included ambitions to obtain further afforestation subsidies (discussed below) and was subject to confirmation that the $340,000 government grant could be used for the purchase.[212] Four weeks later, the Coordinator of Domestic and External Security rejected the proposition. GC Hensley clarified that the grant had been intended to fund the planting of 500 hectares at an estimated cost of $680 per hectare. Agreement that part of the grant could be used to 'close any small gap between the asking and offering price' for Fairview Station could not be construed, the coordinator remonstrated, as a willingness to pay the whole purchase price, nor to consider separate and additional government funding for afforestation.[213] Having missed the 1988 planting season, he went on, Gisborne City Council risked losing the grant altogether except that the financial year was now to be amended from 31 March to 30 June 1989. Approval could be sought to have the unspent monies carried over, so that the grant could be used for its intended purpose before 30 June 1989.

In November 1988, Gisborne City Council resolved to proceed with the purchase. Later accounts confirm that the acquisition was wholly funded by council from the water augmentation fund. The transfers of Ellmers' titles to the council for waterworks were registered in January 1989.[214] The date of council possession was moved forward from May to March, so that fencing and access roading in preparation for planting (the costs of which were covered by the government grant monies) could proceed.[215] In

[210] Waterworks Engineer B Apperley to Deputy Mayor B Crawshaw, City Engineer J Warren, 27 July 1988, 01-290-10 vol. 1.
[211] Wilson Barber & Co to City Manager, 20 September 1988, 01-290-10, vol. 1.
[212] Water Systems engineer B Apperley to City Manager, Council, 26 September 1988; City Secretary GC Brock to Neil Weatherhead, 28 September 1988, 01-290-10, vol. 1.
[213] Coordinator DESC G Hensley to Deputy Mayor B Crawshaw, 25 October 1988, 01-290-10, vol. 1.
[214] GS4D/846.
[215] Water Systems Engineer B Apperley to Wilson Barber & Co, 1 December 1988, 01-290-10, vol. 1.

accordance with the terms of sale and purchase, a 50-acre triangle of land running from the Tarewa-Tokonui Road to the Mangapoike River was transferred back to Ted Ellmers later in October (circled blue in Figure 33).[216]

As set out below in more detail, the government's funding parameters produced a flurried change of tack. Gisborne City Council now had just six months to spend the $340,000 grant on the 'Damline Protection Forestry'. One of the first actions to get the 500-hectare project underway was the first formal overture to Maraetaha Incorporated to exchange the dam-line corridor through Pamoa Station for an equivalent part of Fairview Station. The subsequent afforestation of Fairview Station was designed with this outcome in mind. Ellmers continued to occupy the station until tree-planting began, in June 1989, for grazing kept the grass low, which was ideal for planting.[217] Under the draft management and operations plan produced for council by forestry consultants PF Olsen & Company Limited by March 1989, two 'compartments' of land within Fairview Station (Compartments 4 and 6, together comprising 117 hectares), were to be left in pasture, tagged for the potential exchange of 'Compartment 5' in the plan: an 87-hectare pipeline corridor through Pamoa Station. A periodic grazing lease over 115 hectares at $2,000 per annum was granted to Ellmers from November 1989.[218]

The GDC's Fairview Station acquisitions have undergone minor changes since and are today held in two titles (see Figure 33).

[216] GS5B/186, being Lot 2 DP 7691., GDC, #A593623 p. 57
[217] Water Systems Engineer B Apperley to City Manager, Works Committee, 9 June 1989, 01-290-10, vol. 2.
[218] Property supervisor to Chief Executive, 15 March 1990, E/14/5A 01-290-32 Water Supply – Te Arai 1989. NB: a note on council's property register records the terms of the agreement for Ellmers to lease back 250 acres for one year at $2000 per annum, with a right of renewal for a further two years. 232-280 GDC – Council Property Registers Historic Legal Docs Ex G Brock, vol. 4.

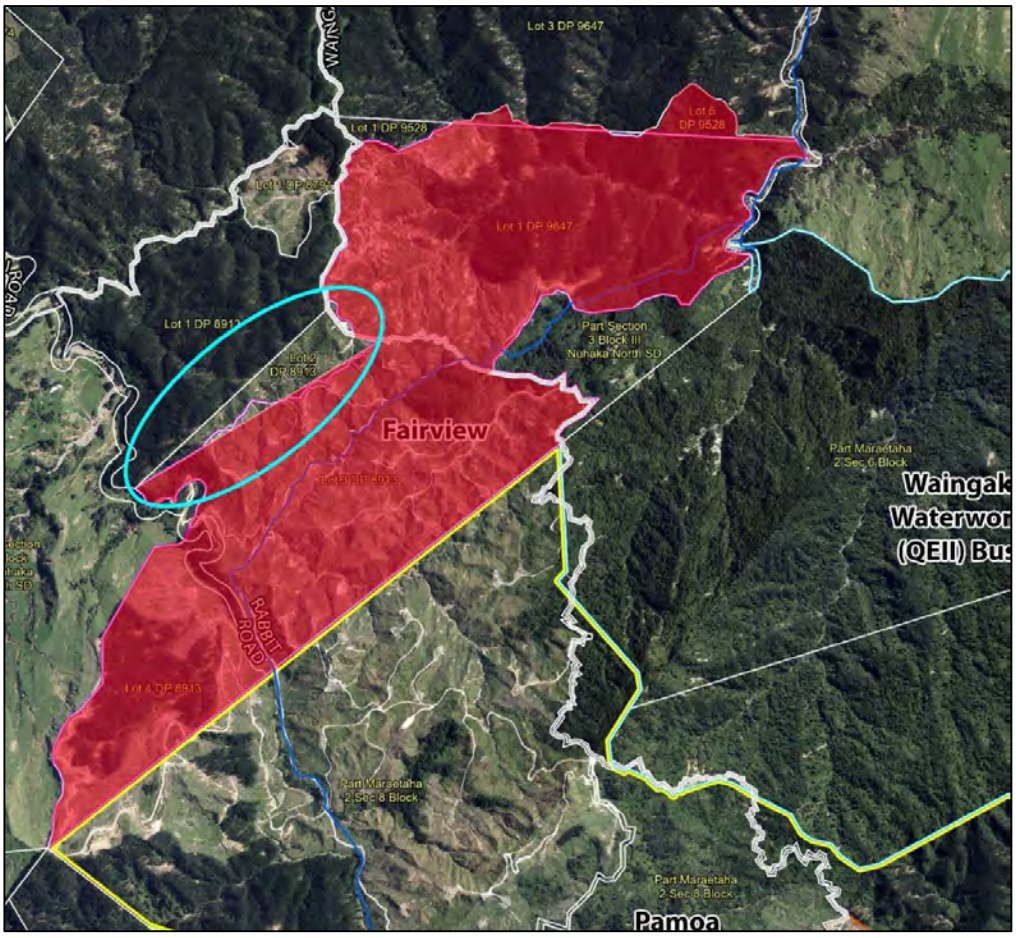


Figure 33: Fairview Station, purchased 1989[219]

Exchanging land for the treatment plant, 1988-1993

Patemaru Station was similarly adversely impacted by the considerable earthworks undertaken by Gisborne City Council to repair the Bush-line and the access through the farm. Seven weeks after the cyclone, city council engineering staff John Warren and Bruce Apperley met Station Manager John Hawkins and Maraetaha Incorporated chair Boy Kemp onsite to discuss the damage. Apperley and Warren agreed that the council was to:

- reinstate all fences damaged from the road access improvement and pipeline repairs.
- renew the gates along the access road to cater for the greater width.

[219] GS6A/589, 'Current Title 3'; GS6C/1054, 'Current Title 1', #A589651 GDC

- repair damage to the stock yard.
- install cattle stops on the access road at the property boundary.
- prepare and install signage warning public that the road was a private one, with access only by permission only from the manager of Patemaru Station.

The agreement afforded the opportunity to resolve issues that had been a growing source of tension, such as public access across the incorporation's land to the Waingake Waterworks Bush (see Back story #9). In consideration for the council's right to lay and use the pipeline through the incorporation's land and to enjoy ongoing access, the council also undertook to:

- only use the access road for maintaining the pipeline and for water supply head works.
- allow the incorporation to continue to draw electric power from the council's main supply for electric fencing, at no charge.
- continue to provide water for domestic supply of the two houses and shearers quarters, at no further charge.
- maintain the access road.
- have the access road and pipeline surveyed for the purpose of obtaining a formal easement.
- allow the incorporation access through and along the boundary of the waterworks bush reserve for movement of livestock between Te Kopua and Patemaru Stations.[220]

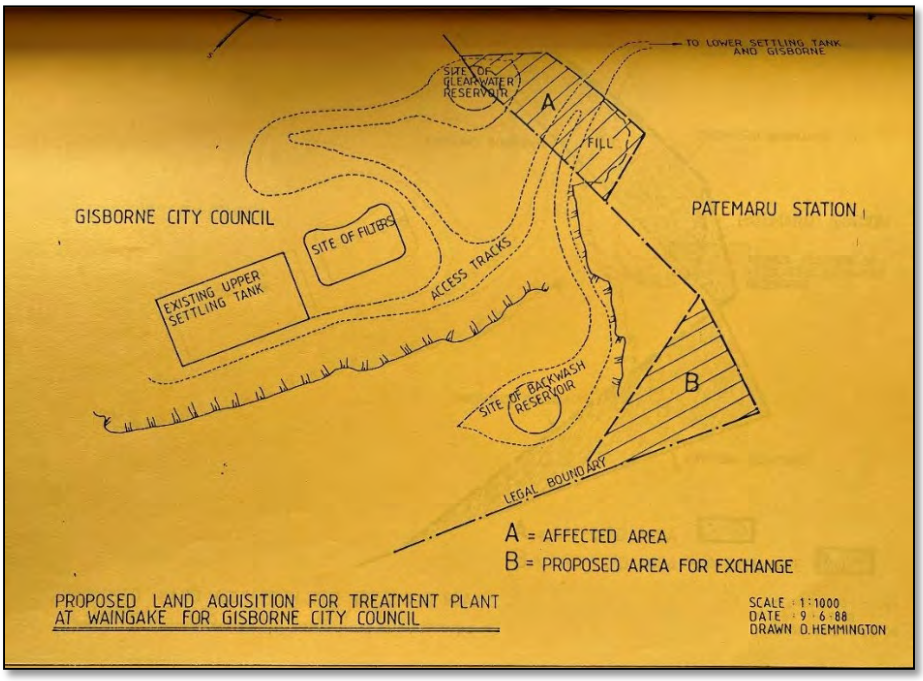
After decades of informal, unrecorded 'understandings' cultivated by the former city engineer with respect to the local body's waterworks infrastructure, the crisis of the interrupted water supply seems to have prompted council to formalise both existing and future arrangements – except that, once again, the only record of the agreement on file is that of Maraetaha Incorporated's solicitor, who confirmed the undertakings made on the day in writing a month later. The agreement at the end of April coincided with council plans for an interim treatment plant, which required another favour from the Patemaru Station owners.

The water supply repairs from Cyclone Bola included the construction of an interim treatment plant on the upper settling basin site to address the deterioration in water quality. The almost seven-acre site had been taken from Maraetaha Incorporated in 1967. Most of the proposed plant was situated on the council's property, but the clearwater storage tank site and associated access encroached on Patemaru Station. On 23 May, Water Systems Engineer Bruce Apperley phoned Station Manager John Hawkins about the proposed works and received the go-ahead.[221] A fortnight later, and five days before the council

[220] Nolan and Skeet to City Engineer, 23 May 1988, D/24/5D 54/10 Water Supply 1988.
[221] Waterworks Engineer B Apperley to J Hawkins, 24 May 1988, D/24/5D 54/10. Apperley recorded Hawkins' sentiment as: 'As you rightly said then, the City does not have much option but to go ahead with building a proper treatment plant at Waingake.' Apperley thanked the Station Manager on behalf of the council. 'Your help is much appreciated as we move out of this difficult time.'

opened the tender to construct the storage tank, Apperley raised the underlying land ownership issue with the city engineer, setting out four options: to continue the current informal use arrangement as per the access roads and pipeline; to survey and legalise an easement for the parcel of land; to survey and swap the land for an equivalent parcel of council land; or to purchase the parcel outright.[222] Warren at once sought authority from the council's Works Committee to begin negotiations with the owners of Patemaru Station to obtain 'permanent rights' for the construction of the clearwater storage tank.[223]

Over the next few weeks, as the works on the treatment plant progressed, the backwash reservoir was relocated so that it, too, now straddled the boundary with Patemaru Station. Moving the tank site saved the council spending $50,000 on a retaining wall.[224] This, too, was 'informally agreed with the manager of Patemaru' – on the hop.[225]



[222] Waterworks Engineer Apperley to City Engineer J Warren, 8 June 1988, D/24/5D 54/10.
[223] City Engineer J Warren to City Manager, Works Committee, 8 June 1988, D/24/5D 54/10.
[224] City Manager to Works Committee, 13 July 1988, 54/10 Water Supply 1988.
[225] Waterworks Engineer B Apperley to City Manager, Committee Finance and Administration, 9 September 1988, D/24/5D 54/10.

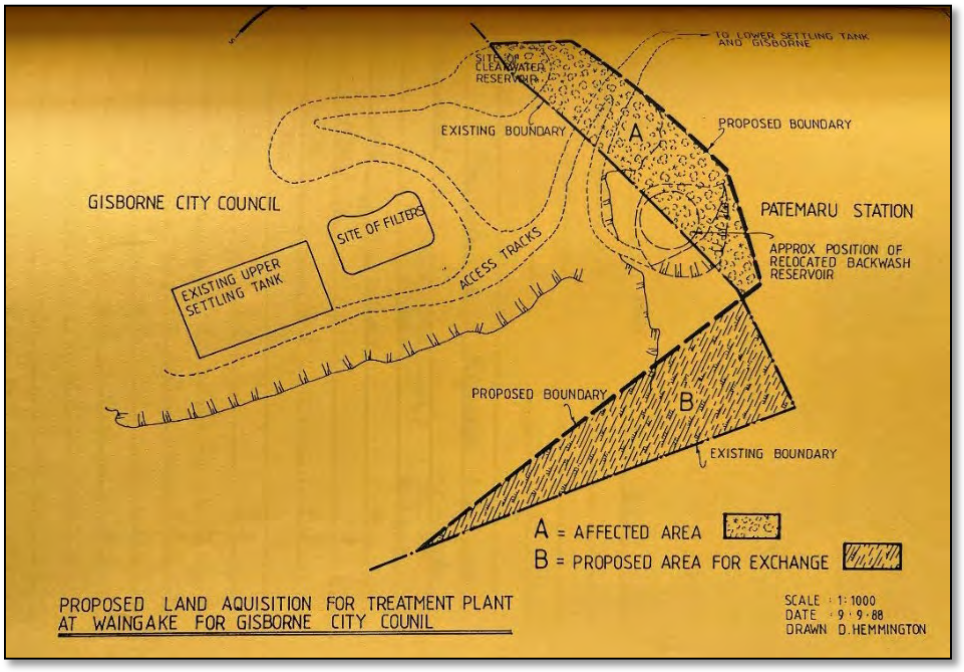


Figure 34: Proposed land exchange for treatment plant, 1988[226]

The council's encroachment was resolved by way of a half-acre land swap (2167 square metres), the initial exchange proposal for the clearwater storage tanks and access subsequently enlarged to accommodate the backwash reservoir as well (see Figure 34). In September 1988, Maraetaha Incorporated confirmed their agreement to the exchange on condition that the council met all survey and legal costs.[227]

Council only moved to legalise the land exchange in May 1991, the housekeeping prompted, perhaps, by its planting project of the pipeline corridor through Pamoa Station underway by this time (discussed below). As a preliminary, the plan of the proposed exchange area was sent to the chairperson of the 'Management Committee, Patemaru Station', for confirmation of the verbal agreement reached with Hawkins three years before. As it happens, council had constructed concrete drainage through the parcel to be transferred to Patemaru Station, which extended into the existing farm property. Council management was not seeking retrospective consent for the works, but rather agreement to ongoing council maintenance of the drainage system:

[226] D/24/6A 54/12 Water Supply 1988.
[227] Nolan & Skeet to City Manager, 2 September 1988, D/24/6A 54/12 Water Supply 1988.

> You will note that there are a number of concrete drainage channels etc installed on the slope above the treatment plant. While these are not in Council's land, they have been installed to provide much greater erosion resistance for the land above the plant. Their installation was discussed with and agreed to by Mr Hawkins. Can you please confirm that access by GDC for maintenance of the slope drainage system, including occasional survey of the slope is acceptable.[228]

Engineering & Works management were still troubled by the lack of council's legal standing with respect to its waterworks investment on Patemaru Station, closing the request with another: 'We are conscious that the access roads and pipelines within Patemaru are not the subject of defined easement or agreement between us. We want to tidy up this aspect of the relationship between GDC and Patemaru and will be writing to you separately on this matter later.'[229]

As related below, council's request to sanction the land exchange fell amidst growing dismay of Maraetaha Incorporated about council's conduct over the sale and purchase of Pamoa Station. At its monthly meeting in June 1991, the committee of management decided against executing the Pamoa sale and purchase documents, and withheld, too, any decision over the Patemaru land exchange. As the incorporation's solicitor explained to the council's solicitor: 'Although this [Patemaru Station] is a separate property it is owned by the Incorporation and the Committee has viewed this request as part of its overall dealings with the Council …'[230] It was alleged, in addition, that the council's earthworks at the treatment plant had left the site in a considerable mess.

The sale and purchase of Pamoa Station went ahead in December 1991 (set out below). By October 1992, the survey plan of the land exchange with Patemaru Station for the treatment station was approved by the Chief Surveyor, in preparation for gazettal.[231] In December 1992, after internal discussion about the legal form the land exchange should take, Turner sent Committee of Management Chair Boy Kemp the consent form to sign and return for gazettal purposes 'as soon as possible'. A file note from the Office of Crown Lands in March 1993 suggests the gazette notice was prepared and invoiced: the gazette notice itself has not been located.[232]

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[228] Acting Manager Engineering & Works WJ Turner per Regional Design Engineer Bruce Apperley to Chairman Management Committee Patemaru Station, c/- Ken Norman, James Harvey & Norman, 31 May 1991, F/28/4 SU06-001 Waingake Treatment Station, 1968-1993.
[229] Ibid.
[230] Nolan & Skeet to Chrisp Caley & Co, 2 July 1991, Maraetaha Incorporated records.
[231] SO 8617, in F/28/4 SU06-001.
[232] District Solicitor, DOSLI Napier P Graham to Gisborne District Council attn Mike Walters, 26 March 1993, F/28/4 SU06-001. Nor does the gazette notice appear on the title, GS2B/472.

Afforesting the Dam-line corridor, 1988/1989

As touched on above with respect to the purchase of Fairview Station, one of the immediate reactions to the widespread damage caused by Cyclone Bola was a rethink about land utilisation. In June 1988, the government announced investment in an urgent tree-planting program aimed at protecting erosion-prone land from future weather events. The protection of water pipelines was specifically mentioned in the funding criteria. The Dam-line had only just been repaired and the water supply to Gisborne restored, ten weeks after the cyclone and at a cost of $3.5 million. The publicity about government afforestation funding in mid-June prompted an immediate approach by local forestry consultant Kohntrol Forest Services to Gisborne City Mayor Hink Healey, touting for business: 'If the Government is prepared to subsidise forestry … then forestry investment becomes not only a socially rewarding option but also an investment which would reap considerable financial benefits for the city.'[233] As set out above, the announcement of government funding prompted Gisborne City Council's decision on 24 June 1988 to negotiate for the purchase of Fairview Station, and to apply to government to fund 450 hectares of afforestation. A week later, a second expression of interest in managing the afforestation project for the council was made by PF Olsen & Co.[234]

From the outset, the 'Proposed Damline Afforestation' included Pamoa Station. The materialisation of the 'Dam-line Corridor' by July 1988 exemplifies how, particularly in times of crisis, 'public works' proposals grew legs and became unassailable givens, without any reference to the landowners affected. Early plans from June 1988 were not based on a continuous 'corridor' through Pamoa Station as such (see Figure 35). A subsequent valuation undertaken for the city council revealed that the property had incurred only minor damage from the cyclone (discussed below) suggesting, one might think, the pipeline through Pamoa Station was not under imminent threat. From this time, however, Maraetaha Incorporated were faced with the reality of losing further land to the city's waterworks.[235] The following month, having secured $340,000 in grant monies for the 'Damline Forestry', Apperley reported that council approval was now required for the Fairview purchase, together with 'swaps and leases with adjoining owners.'[236] By this stage, the proposal had been broached with Pamoa Station Manager, John Hawkins, when Apperley and Mayor Hinkley had made a site visit to the waterworks in early July, when construction of the interim water treatment plant was underway. Apperley related the exchange to City Engineer John Warren:

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[233] Kohntrol Forest Services (JW Kohn) to Mayor, Gisborne City Council, 17 June 1988, 01-290-10 vol. 1.
[234] PF Olsen & Co (PA Keach) to Engineer, Gisborne City Council, 29 June 1988, 01-290-10 vol. 1.
[235] 'Areas at Mangapoike', undated file note; Apperley to Draughtman, 28 June [1988], 01-290-10 vol. 1. The area required from Pamoa Station for the protection of the dam-line (estimated at 80 hectares) was larger in fact than the 72 hectares required from Fairview Station.
[236] Water Systems Engineer B Apperley to Deputy Mayor, City Engineer, 27 July 1988, 01-290-10 vol. 1.

> While Mayor and I were visiting Dam-line yesterday we met manager of Pamoa Station John Hawkins. I asked him what the committee's decision was on our request for the clearwater reservoir site at Waingake. He said they agreed to allow us to use this land and that they were writing to us.
>
> We also briefly discussed possibility of swapping some of Fairview Station for the Damline corridor across Pamoa. I told him we still had not heard from government and that we were negotiating with Ted Ellmers. I said we liked the idea but until we knew more would not pursue it.[237]

Securing formal rights to the existing water supply infrastructure, it will be remembered, had been a matter of growing concern from the mid-1980s with the construction of the Dam-line boost station on Fairview Station. Post-cyclone, considerably more had been invested on land over which the council had no control. The importance of the water supply and the council's substantial investment in the waterworks infrastructure, which Apperley costed at $40 million, was the major rationale for the water systems engineer's recommendations in September 1988 with respect to the Dam-line forestry project.[238] The water systems engineer pointed out that global warming meant cyclones like Bola could be expected more frequently. Afforestation would not provide an absolute guarantee against future landsliding, but from year 6, the trees would provide much more protection than at present. The series of recommendations at the end of this report included approving the purchase of Fairview Station, in large part to enable the land exchange with Pamoa Station. Apperley reported that informal discussions with the station manager had indicated support for the exchange, which was desirable for two reasons: it would secure the Dam-line corridor in council ownership and it would release agricultural land from Fairview Station which council may not be interested in farming.[239] At this juncture, Apperley was working on the assumption that council could apply the government grant of $340,000 to purchase Fairview Station, rather than the afforestation of the high-country station as first proposed. Any afforestation of the Dam-line would instead be at the council's expense, and for that reason, kept to a minimum.[240] His recommendations included that government be requested to extend the 2 for 1 subsidy available for afforestation within the Waipaoa catchment to the Dam-line Forestry Project.

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[237] Apperley to City Engineer, 6 July 1988, D/24/6A 54/12 Water Supply, 1988.
[238] Water Systems Engineer B Apperley to City Manager; Council, 26 September 1988, 01-290-10 vol. 1.
[239] Ibid. Apperley recommended council staff work with the East Cape Catchment Board to finalise the required area for planting, then hold 'further discussions with the adjoining landowners to finalise any land exchange proposals.' At this point, when council believed it could
[240] Water Systems Engineer Apperley to Deputy Mayor; City Engineer, 27 July 1988, 01-290-10 vol. 1.

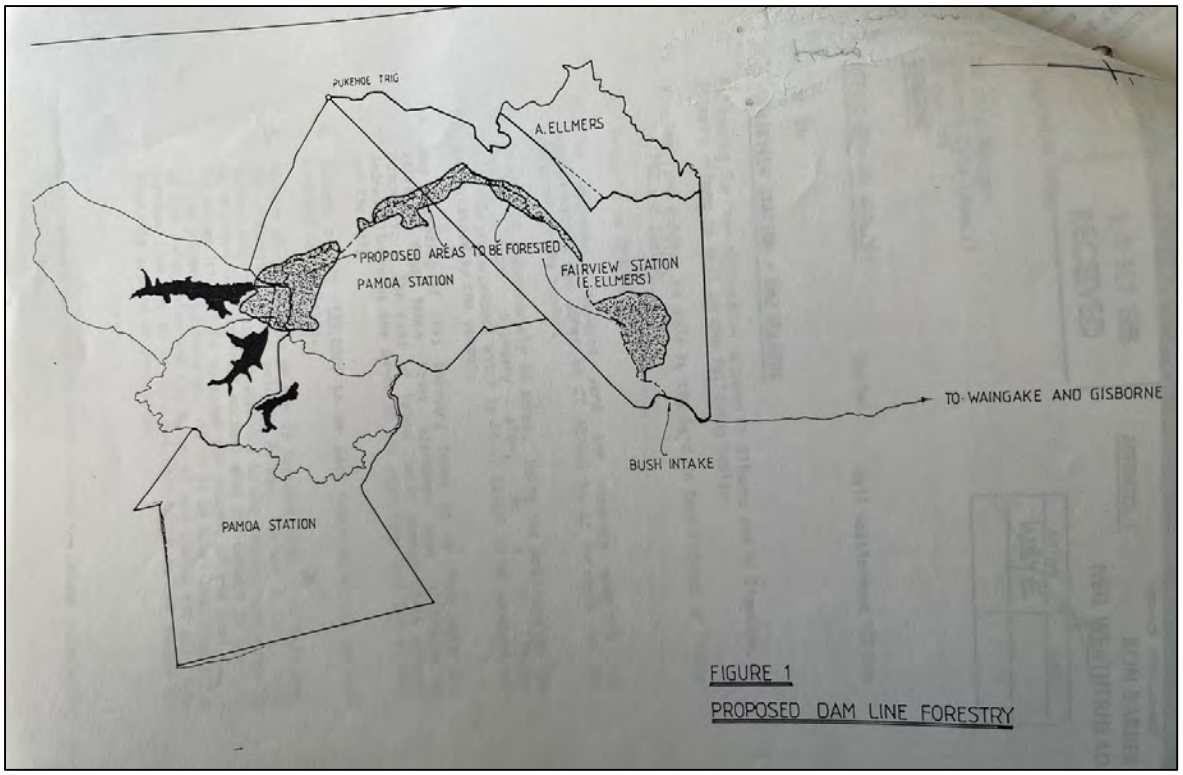

Figure 35: Proposed Dam-line Forestry, July 1988

As set out previously, government advice in October 1988 that the $340,000 grant had been primarily intended for afforestation and not land purchase, and was required, moreover, to be spent before June 1989, prompted a rapid turnabout. Gisborne City Council's decision in November 1988 to fund the purchase of Fairview Station itself signalled, too, a resolve to make the most of the afforestation grant, and quickly. The Dam-line forestry project still required a land exchange with Pamoa Station, but the funding now meant wider afforestation of Fairview Station was back on the table. As a result, the 'Damline Protection' through Pamoa Station was transformed into a broad, unbroken corridor, severing the farm in two. The more modest proposal of targeted protection planting in 1988 depicted in Figure 35 above had now blown out into a much more ambitious afforestation project, with a decidedly commercial component (see Figure 36).

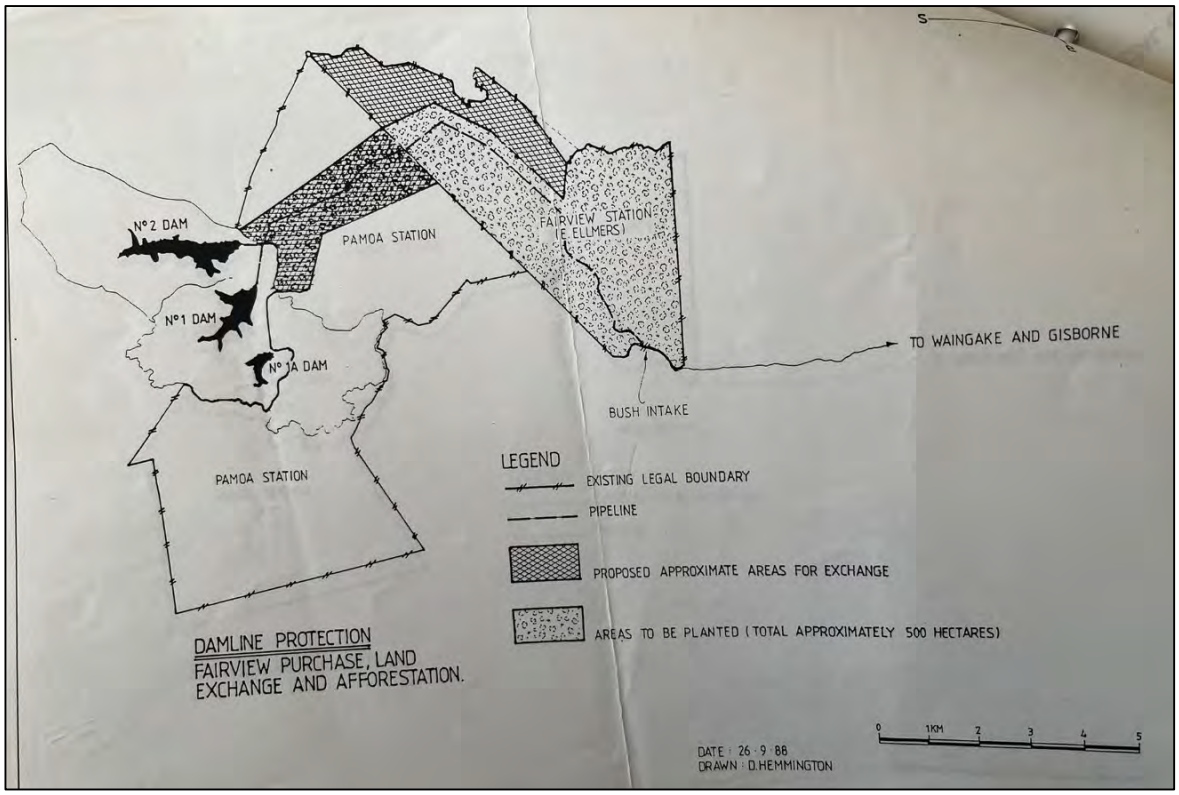

Figure 36: Proposed Dam-line Forestry, November 1988

The day after council's decision, Maraetaha Incorporated were formally requested, through their solicitors Nolan & Skeet, to consider a land exchange.[241] On 15 December, Bruce Apperley and Deputy Mayor Brian Crawshaw met with solicitor Dave McEwen together with the secretary of the incorporation's management committee. Arrangements were made for an onsite meeting to take place mid-January with the station manager and management committee chairperson, 'to define boundaries, stock access routes etc.'[242]

The onsite meeting arranged for January to discuss the exchange did not happen, although Apperley did obtain an undertaking from Management Committee Chair Rima Pohatu on 20 January to convene a committee meeting for that purpose.[243] On 2 February, Apperley tried again, putting the council's case for

[241] Nolan & Skeet to City Manager, 28 November 1988, 01-290-10 vol. 1.
[242] Water Systems Engineer B Apperley to City Manager; Council, 21 December 1988, 01-290-10 vol. 1.
[243] Water Supply Engineer B Apperley to Deputy Mayor; City Engineer, 20 January 1989, 01-290-10, vol. 1. Apperley reported the site visit did not go ahead 'because of some internal problems between John Hawkins and the management committee.'

'conservation planting' of the pipeline route through Pamoa to the chairperson in writing, for the benefit of the committee:

> The City and the region are critically reliant on this pipeline, and anything we can do to improve its security is good for everyone. That is our main reason for wanting to plant conservation forestry on the pipeline route. We also realise that having our pipeline on your land is a nuisance and we would prefer to own the pipeline corridor.[244]

The severance of the farm in two had clearly been an early concern. Apperley reassured the committee: 'We discussed possible difficulties with access to the remaining piece of Pamoa for stock management or production forestry. This could be handled fairly easily by fencing off one or two access routes across the pipeline corridor.' The engineer urged a prompt response:

> Provided the committee is agreeable in principle to our proposal we should discuss the details of boundaries and exchange areas on site fairly soon. Council is going to plant the pipe corridor on Fairview Station starting this May, and we would like to plant the strip that is presently part of Pamoa at the same time. This means we would like to prepare a forest management plan in late February and have access to start fencing it in late March or early April. If you could give us an early answer on our proposal this would be much appreciated.

Since the council's decision at the end of November 1988, the water systems engineer had indeed pressed on with the wider afforestation project. By December, trees had been ordered and tenders invited from several forestry consultants to manage the 500-hectare project. During January, Apperley accompanied three such consultants onsite to appraise the job.[245] The engineer was under considerable pressure: the uncertainty surrounding the land exchange only adding to the time constraints of the government funding. In their tender for the work, forestry consultants PF Olsen & Co considered that council had seriously underestimated both the time and costs associated with achieving the exchange of Māori-owned land and advised that planting in the current year would be limited to areas of pasture or scattered scrub: there was no longer time to roller-crush areas in regenerating scrub before the June cut-off.[246] In his February update to council, Apperley urged: 'It is very desirable that Council gain ownership of the pipeline corridor in Pamoa Station'.[247] PF Olsen & Co were engaged at once to produce a draft management plan

[244] Water Systems Engineer B Apperley to Chairman, Management Committee, Maraetaha Incorporation, 2 February 1989, 01-290-10 vol. 1.
[245] Water Systems Engineer B Apperley to Deputy Mayor; City Engineer, 20 January 1989, 01-290-10 vol. 1.
[246] PF Olsen & Co (PA Keach) to Gisborne City Council, 31 January 1989, 01-290-10 vol. 1. 'With Pamoa Station being in Maori ownership, in our experience, obtaining a consensus on the above issues will take considerably longer than if the land was in freehold European title.'
[247] Water Systems Enginner B Apperley to City Manager; Works Committee (public excluded), 13 February 1989, 01-290-10, vol. 1.

for the forestry venture which, too, was completed at speed within a fortnight. In the absence of any response from Maraetaha Incorporated, the forestry consultants were tasked to produce two plans: one including the Pamoa Station corridor, and one without.[248]

The interim Management and Operations Plan for the Dam-line Forestry provides an insight into the thinking of the time with respect to the environmental impacts of afforestation, by those engaged in the industry. The primary objective of the project, the plan maintained, was to protect, as far as possible, Gisborne's water supply – the main risk to the pipeline being from land slips. The protective benefits of plantation forest, it claimed, had been clearly demonstrated following Cyclone Bola: where trees were at least ten years old and had a close canopy and intertwining root mass, slips had been virtually non-existent, whereas neighbouring land without trees suffered severe erosion.

Yet 'conservation planting' was still argued to have commercial potential. Plantation forests planted primarily for erosion control on steep hill country, the plan continued, had the potential to generate significant revenue at harvest. However, if poorly established and tended, such plantings could become a liability: over-mature trees could topple, uprooting large blocks of soil with them. The second objective of management was therefore to establish and tend the trees to generate the maximum possible return on investment for Gisborne City Council. The 'two key objectives' of protection and commercial forestry, the plan asserted, were 'totally complementary'.[249]

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[248] Minutes of Special Meeting of Works Committee, 13 February 1989, 01-290-10, vol. 1.
[249] Interim Management and Operations Plan, 27 February 1989, p. 9, 01-290-10, vol. 2.

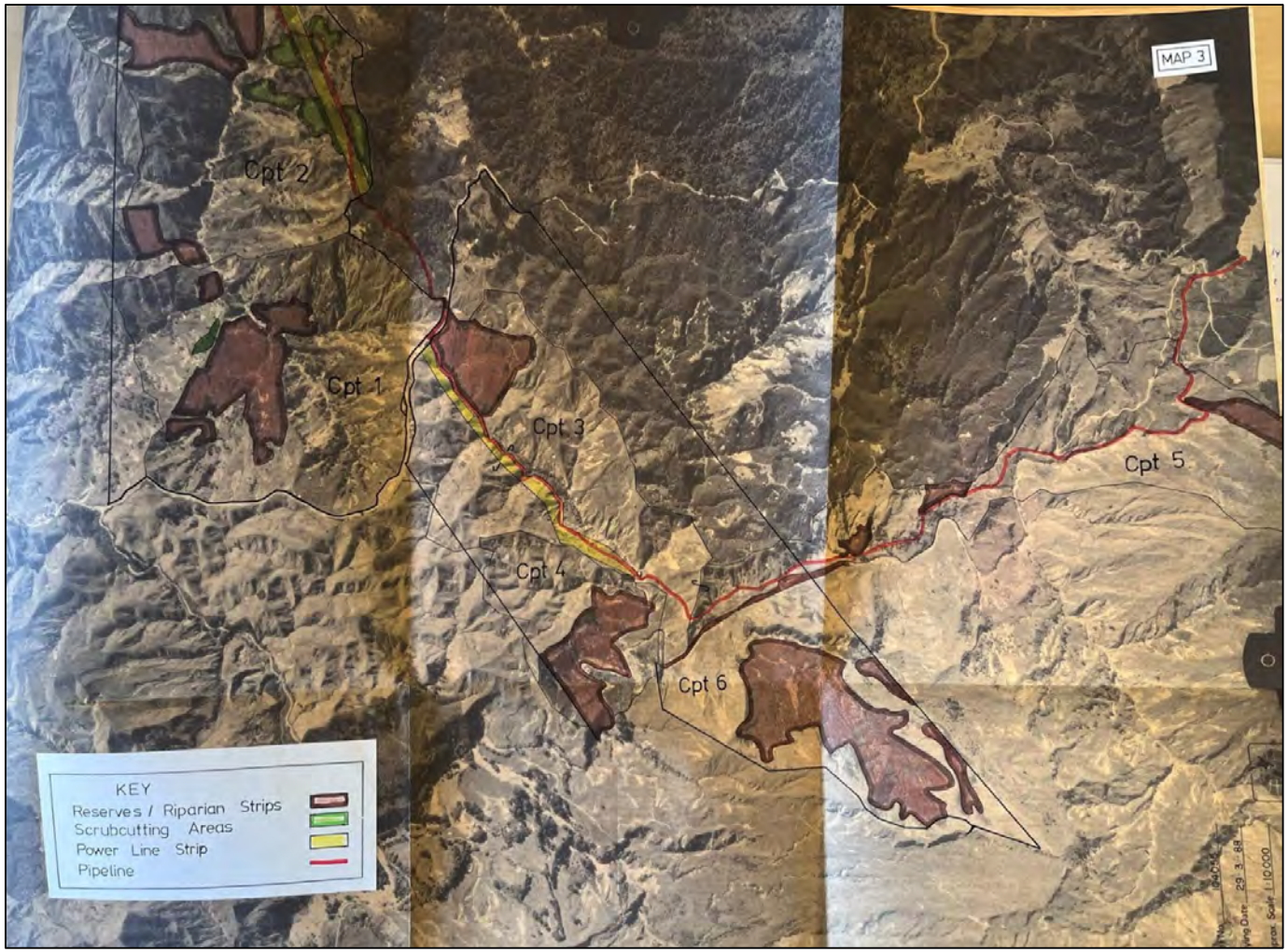

Figure 37: Proposed Dam-line Forestry, February 1989[250]

[250] Ibid.

The plan envisaged a fenced corridor of 418 hectares, of which 86 hectares of existing bush and scrub in gullies would be left as reserve, leaving 322 hectares of plantable area. The forestry consultants' solution to the uncertainty over the scope of the project broke the total area (including the corridor within Pamoa Station), into six compartments (see Figure 37). The Pamoa corridor, of 87 hectares, was Compartment 5, the boundaries of which, the plan maintained, were 'rational in terms of both damline protection and fence construction (new and existing).' Compartments 4 and 6 within Fairview Station, together comprising 117 hectares, were tagged for potential exchange with Pamoa Station and a variety of costed options canvassed, including swapping Compartment 6 (the Pukehoe block) for Compartment 5 (Pamoa Station) with a $20,000 cash incentive for Maraetaha Incorporated; swapping Compartments 4 and 6 for Compartment 5 with no such cash consideration; or defining Compartment 5 as a separate legal title altogether and obtaining a lease or forestry right.

Tender documents for planting and fencing were sent out in March, and estimates obtained for having Compartments 4, 5 and 6 surveyed. Having discussed the exchange with Pamoa Station Manager John Hawkins, Apperley told the forestry consultants that the plan might need tweaking to accommodate the farmer's concern about stock access to the Mangapoike River. The engineer was aware that Maraetaha Incorporated were exploring afforestation themselves at this time. The anticipated onsite meeting with the management committee took place in the third week of March, the substance of which was recorded in Apperley's follow-up letter.

Apperley clarified to the committee that the council intended to exchange 'clear land for clear land', with any adjustments in area to take in differences in land quality and ease of working to be left to a registered valuer. The engineer discounted the committee's suggestion that council take over 'the whole of the paddock on the left bank of the Mangapoike River', rather than fencing off the pipeline corridor. 'This appears to be a simple solution,' Apperley responded, 'but at this stage it is most unlikely that Council would be willing to purchase any more land for this project.' The areas of exchange he had pointed out, he continued, were the only areas not needed for pipeline protection. The parties had evidently discussed their respective forestry plans. Apperley coaxed:

> The areas that we have suggested for exchange should still fit quite comfortably within any forestry project by Pamoa Station. We would be prepared to allow you to use our access roading for planting and later on for transport of logs. The area of scrub within the larger triangular compartment [...] would be very easy to clear using tractor towed rollers. The whole block lies well to the sun and should grow trees very well.[251]

[251] Water Systems Engineer B Apperley to Committee of Management, Pamoa Station, 21 March 1989, 01-290-10, vol. 1.

Bruce Apperley thanked the committee again for meeting him, adding 'I am very much aware that we are all stewards of the land and I wish you wisdom in your decision making on Wednesday night.' He closed by reminding the committee that fencing was about to begin in April and planting in May: 'We expect at this stage that planting of the whole damline forestry project would take between a month and six weeks so we should be complete in mid June.'

At the end of March, council approved tenders for four kilometres of access track construction/repair; six kilometres of fencing; and the planting and subsequent spot spraying of 410,000 pinus radiata seedlings, all to be met by the government afforestation grant.[252] In April, Apperley updated the Ministry of Forestry and the Coordinator of Domestic and External Security about the progress, forewarning that the grant money might not be entirely spent by June. 'The only disappointment at this stage', the water systems engineer related, 'is that we have not managed to finalise our negotiations with the management committee of the maori incorporation block that part of the dam pipeline traverses.' Final details of the land exchange between the incorporation and the council, he went on, had still not been resolved, 'and it may be that planting of this area cannot be completed this season.'[253] The following day, the water systems engineer wrote again to Rima Pohatu, the chair of Maraetaha Incorporated. Pohatu had recently conveyed the committee's continuing concern about the impact of the corridor dividing the property in half and significantly reducing its value. Apperley now proffered the committee of management a joint forestry venture of sorts:

> The committee is aware of Council's desire to protect the pipeline from the dams and have our unwritten agreement over access etc. formalised.
>
> A possible way around this would be for:
>
> a) Pamoa to formalise with the City an easement along the pipeline route, for the purposes of access, pipe maintenance and pipeline upgrading.
> b) Pamoa and the City to jointly arrange planting not only of the pipeline protection corridor but also of the adjacent land.
>
> This would satisfy the desire of the committee to see the property planted and would satisfy Council's need to have the pipeline protected. PF Olsen Limited have told me that there are trees available and that the work could be done this season.

[252] Water Systems Engineer B Apperley to City Manager, Council, 29 March 1989, 01-290-10, vol. 1.
[253] Water Systems Engineer B Apperley to Coordinator Domestic and External Security G Hensely, 13 April 1989, 01-290-10, vol. 2.

> If Council plants the pipeline corridor it would be possible to arrange mutually acceptable terms for use of the land and eventual sharing of the profit at maturity.[254]

Apperley later disclosed that he was aware of Hikurangi Forest Farm's interest in purchasing Pamoa Station at this time. According to the water systems engineer, 'informal discussions' had been held with the forestry company 'with a with a view to arranging an easement down the pipeline route and ensuring that any planting and subsequent harvesting which was done would satisfy the requirement of the pipeline stabilisation programme and subsequent pipeline stability.'[255] In mid-May council staff were advised that Hikurangi Forest Farms was not proceeding with the purchase.

Maraetaha Incorporated responded at the end of May with a counteroffer to sell Pamoa Station to the Gisborne City Council. The context for the decision – the history of competing land use the city's water catchment posed to the detriment of the Pamoa Station landowners – seems to have come as a surprise to the water systems engineer. (Relating the development to Minister of Forestry Manager Gavin McKenzie a week later, Apperley wrote 'their attitude quite frankly has us a little puzzled.').[256] Apperley's remarks in the margin of the solicitor's letter are set out in italics below.

> The committee is concerned about the effect that the City Council water supply requirements have had and will continue to have on the ongoing operation of Pamoa Station.
>
> The committee has visited the area and considers that the present proposal to exchange land which was formerly part of Fairview Station for a portion of Pamoa Station would render Pamoa an even more difficult (perhaps impractical) property to operate as a commercial farming venture.
>
> The recent history of Pamoa is in effect a conflict between two types of land use with the farming operation having to take second place to the water catchment requirements.
> *Not correct. We have fenced off and own our catchments. Our ops. rarely affect farm ops. We in return have provided a) excellent access roads b) use of our properties as stock access routes etc.*
>
> The committee has always accepted that it had to have regard to the needs of the district's water supply but is now very aware that it also has a responsibility to the owners of the land.[257]

[254] Water Systems Engineer B Apperley to Chairman R Pohatu, Maraetaha Incorporation, 14 April 1989, 01-290-10, vol. 2.
[255] Water Systems Engineer B Apperley to City Manager; Works Committee, 7 July 1989, 01-290-10, vol. 2.
[256] Water Systems Engineer B Apperley to Manager, Ministry of Forestry, 6 June 1989, 01-290-10, vol. 2.
[257] Nolan & Skeet (D McEwen) to City Manager, 29 May 1989, 01-290-10, vol. 2.

The sale and purchase of Pamoa Station to the council, the incorporation's solicitor continued, would need to take into account:

> a. The fact that our client is being 'forced' to sell because of the circumstances it now finds itself in as a result of parts of its land being required for provision of the City's water supply at various times over the years.
> *Not correct, or were the dams originally Pamoa?*
> b. The inevitable inconvenience and cost to which our client has been put over many years as a result of the taking of parts of its land from time to time and the pipeline passing through its land.
> *Also inevitable benefits! Surely City compensated & paid legal costs?*

The last condition related to the provision of legal and physical access to Maraetaha 2 Section 9, which the incorporation claimed had been lost 'when land between what are now Sections 8 and 9 [the Waingake Waterworks Bush?] was taken for water reserve some years ago.' Any sale and purchase proposal, McEwen concluded, would require the approval of the shareholders at a general meeting before it could proceed.

Notwithstanding Apperley's rejoinders, City Engineer John Warren was open to the offer: 'At the right price the purchase of the property would further improve the security of the Council's water supply. Therefore, I recommend that we obtain a valuation for the property at the Council's expense so that negotiations can proceed.'[258] As a precaution, perhaps, Water Supply Engineer Dave Kelly at once advised disgruntled local pig hunters that the Waingake Waterworks Bush was now off-limits:

> Over the past few months there have been several instances of damage to fencelines and gates on boundary between bush catchment and neighbouring properties. The Gisborne City Council is at present negotiating with the neighbouring land owners for purchase of some areas of their land. Due to the sensitive nature of these negotiations it has been decided to ban all hunting in the area for the time being. It is hoped to lift this ban later this year.[259]

In the first week of June 1989, Apperley succeeded in having the bulk of the government afforestation funding carried over into the new financial year.[260] In his July update of developments to the Works Committee, the water systems engineer contrasted the current market value of Pamoa Station (estimated

[258] City Engineer J Warren to City Manager, 31 May 1989, 01-290-10, vol. 2.
[259] Water Supply Engineer D Kelly to Secretary, Poverty Bay East Coast Pig Hunters Club, 30 May 1989, E/14/4A 01-290-02 Water Supply – Bush Catchment 1989-1993. As related in Back story #9, the issue of hunter access to the council catchments through Maraetaha Incorporated land had been a growing source of aggravation for farm management.
[260] Water Systems Engineer B Apperley to Manager, Ministry of Forestry, 6 June 1989; Apperley to City Manager; Works Committee, 9 June 1989, 01-290-10, vol. 2. At this point, only some $15,000 of the $340,000 grant monies had been spent.

at $300,000) with the replacement value of the pipeline and associated works (around $3 million). Access to the dams, the damline boost pump station and the Dam-line in Pamoa itself, Apperley pointed out, was across Pamoa Station land, adding: 'We do not have easements for the roading or the pipeline at this stage.'[261] The engineer fell short, however, of recommending that council proceed with purchase at this point. Rather, he recommended that negotiations be authorised to gain access to and plant the Dam-line corridor through Pamoa, and to obtain formal access rights to the council's dams, pump station and pipeline.

Purchasing Pamoa Station, 1989-1991

The afforestation of Compartments 1, 2 and 3 within Fairview Station was completed by July 1989. As planned, Compartments 4 and 6 were left unplanted as a potential land exchange for Compartment 5: the Dam-line corridor through Pamoa. Little progress was made in negotiating the sale and purchase over the winter, possibly reflecting council's dismay at the check to its plans. At the end of September 1989, Apperley re-stated the position for the benefit of the council's negotiators, Mayor Healey and Councillors Brooking and McGreevy: 'The Damline pipeline is at significant risk from landsliding. The Council does not have formal legal access to it.'[262] The committee's rejection of the land exchange had prompted the engineer to reconsider leasing the corridor (with an estimated $20,000 capitalised rental to be held out as an inducement to Maraetaha Incorporation, as well as a stumpage share at harvest). In this report Apperley repeated the city secretary's opinion that long use gave council a 'prescriptive easement' over the corridor – but he pointed out that insisting on this might not be wise. 'It will be important for at least the first two to three years that stock are kept out of the young trees. This will require a considerable amount of co-operation from Pamoa's management. A leasing arrangement would assist in this respect.'[263] The 'least attractive alternative', Apperley maintained, was to buy Pamoa. In his September report, the property was valued at '$200,000+', with the engineer predicting that any purchase and sale, being Māori land, could take five years or more.

Forestry consultants PF Olsen & Co, on the other hand, saw considerable merit in the council purchase. In early October, Forest Manager NA Bunting recommended the council proceed with the sale and purchase. Hikurangi Forest Farms were again interested in purchasing the portion of Pamoa Station east

[261] Water Systems Engineer B Apperley to City Manager; Works Committee, 7 July 1989, 01-290-10, vol. 2.
[262] Water Systems Engineer B Apperley to Mayor, Councillor Brooking, Councillor McGreevy, 28 September 1989, 01-290-10, vol. 2.
[263] Ibid.

of Tarewa Road, which would enable the council to recoup some of up-front purchase cost from Maraetaha Incorporated. Planting the balance to the west in commercial forestry would not only save the council from having to fence off the corridor, it also made 'good commercial sense.'[264]

The following day, Deputy Mayor Brian Crawshaw, Councillors McGreevy and Brooking, and Bruce Apperley met with Rima Pohatu. Reference was made to alleged past 'controls' the Gisborne City Council had imposed on the development of Pamoa Station, which Apperley took to refer to the Puninga project of the 1970s. The chairperson also reiterated the incorporation's preference for sale rather than lease or exchange.[265] Either option, he reitereated, would require the support of shareholders. Once Pohatu had left the meeting, the proposal to on-sell part of the property to Hikurangi Forest Farms was agreed in principle.[266]

Local government restructuring in November 1989 saw the amalgamation of the city council and county councils of Te Tairāwhiti into the single unitary authority, the Gisborne District Council. John Clarke was elected mayor and former Cook County Manager Robert (Bob) Elliot was appointed Chief Executive of the new local authority. Even before the reconstituted council took over, Elliot advised the 'Chairman, Pamoa Station' that the incoming Gisborne District Council would honour any agreements come to with respect to the sale. 'You can also be assured that the present intentions of the City to protect formally access at all times to the water supply system within Pamoa will be continued and hopefully resolved to all parties' satisfaction as soon as practicable.'[267] After months of stasis, news that Hikurangi Forest Farms' interest in purchase would expire in January 1990 galvanised council staff back into action. In early November, Apperley engaged registered valuers Lewis & Wright to value the property, with separate values of the land east and west of Tarewa Road, as soon as possible.[268]

At the Annual General Meeting of Maraetaha Incorporated in November 1989, a resolution was carried authorising the committee of management to negotiate the sale of Pamoa Station, and approving the sale 'of all lands comprising Pamoa', on condition that the proceeds would be used to purchase another suitable area of land.[269] The steep hill-country station was a difficult farming proposition at the best of times. Station manager John Hawkins was thanked at the meeting for the satisfactory financial results

[264] PF Olsen & Co (NA Bunting) to Gisborne City Council, 4 October 1989, 01-290-10, vol. 2.
[265] 'Damline Forestry: Pamoa Station', minutes of meeting, 5 October 1989, 01-290-10, vol. 2. The minutes recorded that if an exchange was decided on, Station Manager J Hawkins had a different area of Fairview Station in mind.
[266] Ibid. Hikurangi Forest Farms subsequently advised that any purchase would need to happen by January 1990, or not at all.
[267] Chief Executive RDR Elliot to Chairman Pamoa Station, 27 October 1989, 01-290-10, vol. 2.
[268] Apperley to Lewis & Wright (Peter Lewis), fax, 7 November 1989, 01-290-10, vol. 2.
[269] Minutes of AGM of the Proprietors of Maraetaha 2 Secs 3 & 6, 18 November 1989, Maraetaha Incorporated documents.

he had achieved in spite of the 'extreme difficulties of the aftermath of Bola and drought conditions.' The proposed pipeline corridor, however, would effectively divide the station in two, significantly restricting farming operations. As the council itself later reported once it owned the land, farming efficiency was seriously compromised by the forested corridor that bisected the unit.[270] Exchanging the corridor for a portion of Fairview Station would not improve farming viability, and in any case, the access difficulties would remain.[271] Maraetaha Incorporated's anxiety about farming viability were keened by the recent mortgagee sale of Te Kopua Station to the Rural Bank.[272]

The (pre-Bola) government valuation of Pamoa Station in July 1987 was $350,000. The registered valuation obtained by Gisborne District Council in November 1989 for the 1119.8-hectare property was $310,000.[273] Cyclone Bola had caused moderate erosion, but the overall impact on Pamoa was deemed to have been comparatively minor. Rather, in addition to the general decline in the rural real estate market attributed to reduced returns, the withdrawal of government assistance and increasing interest rates, the reduction in value was linked to productivity. According to Lewis & Wright, 570 hectares of Pamoa Station were scrub-covered, nearly 60 per cent of the farm unproductive. The areas of clear pasture were not contiguous, making stock control difficult. The valuer did not make a connection between the scrub cover and the limited impact of Bola. Under 'workability', the valuation noted that over two kilometers of metalled tracks within the property were maintained by the Gisborne District Council 'in exchange for access to the City Water supply dams.'[274] As instructed, the valuation considered the property in two parts. The 'eastern' side, considered the 'easier' side with the main dwelling, woolshed, implement shed, sheep and cattle yards, was valued at $157,000. The western side, with the cottage, shearers quarters, stable, loading facilities and outyards was valued at $153,000, and considered marginal as a 'stand alone' pastoral property. The separate values, the valuer pointed out, were not current market value, but an 'allocation of values' extracted from the valuation of the entire property. Lewis & Wright maintained that the high cost of development and maintenance meant that it would be difficult to sell Pamoa Station as a pastoral block, whereas the relatively good access and medium to easy contour made it appealing for forestry.

At the close of 1989, Apperley had heard nothing further from Maraetaha Incorporated. In February 1990, he informed the Manager of Engineering & Works John Warren that Hikurangi Forest Farms were no longer interested in purchasing part of the property. In early April, Gavin McKenzie for the Secretary

[270] GDC 92/186, 3 April 1992, B/18/6C 'Acquisition of Pamoa Farm …', vol. 2.
[271] Minutes of meeting between Pamoa Station and GDC representatives, 26 June 1990, B/18/6C vol. 1.
[272] The unit being the third Ngai Tāmanuhiri holding (along with Patemaru and Pamoa Stations) returned to incorporated owners in 1954. Keith Pickens, 'Ngai Tamanuhiri Land Alienation Report', 2000, pp. 59-62.
[273] Lewis & Wright (PB Wright) to Chief Executive, GDC, 15 November 1989, 01-290-10, vol. 2.
[274] 'Pamoa Station. Detailed Valuation Report', with above.

of Forestry faxed Apperley a reminder that the residual $299,800 of Cabinet-approved funding would expire on 30 June and was unlikely to be carried over into another year. Apperley in turn apologised for being remiss in claiming for the work to date, some $190,000 worth of planting. The council was still waiting on an offer to sell, he informed McKenzie. 'Council is generally in agreement with paying for the land and there is still time to complete planting this season, maybe by June. At this stage we live in hope!'[275]

The council's file on the acquisition of Pamoa Station (begun in April 1990), opens with a Ministry of Agriculture and Forestry pamphlet about a two-year pilot program of government investment in sustainable land management within the Northern Hawkes Bay, Gisborne and East Cape, the 'FARM partnership', to begin 1 March 1991. One of the objectives of the $20-million fund was to assist the transition to forestry where current pastoral land use was not sustainable, including targetted funding to encourage afforestation where erosion control was a priority and in areas that were otherwise commercially unattractive. Gisborne District Council likely envisaged applying the government subsidy to afforest the balance of Pamoa Station outside of the corridor.[276] As well, from at least April 1990, council staff were aware that adjoining farmer Thomas Jex-Blake was interested in purchasing the portion of Pamoa Station south-west of the pipeline corridor.[277] As set out in the earlier discussion over afforestation proposals affecting Pamoa Station as a result of the council's Puninga Dam project, neighbourly interest in acquiring the western arm of the farm dated back to 1971. The prospect of sale to Hikurangi Forest Farms had fallen through, but on-selling part of the property remained an option.

In mid-May, Ken Norman of James, Harvey & Norman advised Elliot that the committee of management of Maraetaha Incorporated had agreed in principle to the sale of Pamoa. Apperley, too, had been tipped off, relaying the news to the chief executive the following day: 'After a fair amount of encouragement the management committee of Pamoa Station have made a decision to sell.'[278] A fortnight later, a formal offer was made, the asking price $360,000. Council were also asked to bear the associated costs of legal fees, stamp duties and relocation, together estimated at $25,000, and to grant the incorporation grazing rights on Pamoa Station until an alternative property had been found. Once again, the offer was couched as a reluctant sale, forced upon the incorporated owners by the council's latest incursion for the city water supply:

[275] Apperley to G McKenzie, fax, 6 April 1990, 01-290-10, vol. 2.
[276] Council was advised by Minister for the Environment Geoffrey Palmer in October 1990, within a month of the council's offer for Pamoa Station, that the 'specific operating details will be completed in close consultation with your council and other interested parties.' Palmer to Mayor GDC, 19 October 1990, B/18/6C vol. 1.
[277] T Jex-Blake to GDC, 19 April 1990, B/18/6C vol. 1.
[278] Apperley to Chief Executive, memo, 15 May 1990, 01-290-10, vol. 2.

> In the first instance let me say unequivocally that we have no wish to sell. My committee and indeed the shareholders feel that the decision to sell has been forced on us by Councils latest request to plant and afforestate the pipeline for protection purposes. The importance of these works to the continued and uninterrupted supply of water to our city is very much appreciated by my committee but we do not believe it should be done at our expense or to our disadvantage.[279]

Rima Pohatu again set out the negative impacts of the corridor for the owners: not only in fragmenting further the incorporation's holdings, but also in restricting farming operations and productivity (including cutting off access to the water supply of Mangapoike River) and reducing the property value in any future sale. The shareholders had only agreed to the sale, the chairperson continued, if the committee was able to acquire another property in a similar location and of similar productivity. Pohatu continued:

> My committee and the shareholders are mindful of the many previous dealings we have had with successive Councils nearly all of which have been in the form of land acquisition or exchanges. Our land holdings have been continuously eroded by the requirements of council over the years and our decision to sell has been taken with these thoughts in mind.

On receipt of the offer, Bruce Apperley, now Regional Design Engineer, at once faxed the Ministry of Forestry to advise them of the development, and to ask that the residual $130,000 afforestation grant for the damline forestry be carried over to the next year.[280] PF Olsen & Co were also alerted to the offer and a fortnight later produced an amended planting plan which increased the damline corridor by 14 hectares 'to make the most practical use of the existing fencing.'[281]

In his report to council days after the purchase offer, Apperley again drew attention to the value of the council's infrastructure on Pamoa Station: some four kilometres of pipeline and 10 kilometres of access roading, the replacement value of the pipeline alone estimated at $2 million and the cost to Gisborne City of *not* having the Dam-line supply projected at $20,000 per day. The council's offer of $330,000, he seemed to infer, was more than justified by the value of the water supply. Regarding the discrepancy between the asking price and the council's recent valuation, Apperley suggested a revaluation be obtained. Once again, he rejected the wider context of the sale and purchase as asserted by the vendors:

> During negotiations we should categorically deny that the Management Committee's decision to sell has been forced on to them by any request of Council.

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[279] Chairman R Pohatu, the Proprietors of Maraetaha 2 Section 3 & 6, to Chief Executive, 28 May 1990, 01-290-10, vol. 2.
[280] Apperley to G McKenzie, Ministry of Forestry, fax, 28 May 1990, 01-290-10, vol. 2.
[281] PF Olsen & Co to Chief Executive, GDC, 29 May 1990, 01-290-10, vol. 2.

> The comments about our earlier offers to lease or purchase only the pipeline corridor area (which did have the effect of partially isolating one portion of the farm from the other) are not relevant to the present discussion.
>
> We can agree that the sale of Pamoa Station should not be to the expense or to the detriment of the present owners.[282]

The vendors could be allowed to continue grazing Pamoa until another property was found, but not within the pipeline corridor which ideally would be planted this winter with the residual government funding. Council should also be aware, Apperley continued, that an adjacent landowner was interested in purchasing part of Pamoa Station as well as part of Fairview Station, now surplus to council requirements – the sale of which could offset the cost of purchasing Pamoa Station. The value of council's assets and the potential cost of damage from future weather events, the regional design engineer concluded, far outweighed the cost of the land and afforestation. His recommendation that negotiations for purchase begin at once nonetheless carried the rider that they be conducted: 'with a view to minimising the overall cost to Council …', both as to price and the associated legal and relocation costs.

The first formal, preliminary meeting about the sale and purchase of Pamoa Station took place on 26 June 1990 between Mayor Clarke, Councillor Musgrave, Bob Elliot and Bill Turner on the part of Gisborne District Council; and Rima Pohatu, John Hawkins, Andrew Warren, 'and three others' for Maraetaha Incorporated. It was noted at the outset that the GDC negotiators lacked authority to settle at this point. By this time, the council valuation had been updated to $325,000. The Dam-line afforestation and its negative impact on farming operations was traversed, as well as the 'Pamoa History' of ongoing local body encroachment behind the decision to sell: 'Rather than lease etc decided to vacate altogether rather than be approached again by council. … Reason for selling based on previous negotiations with Council and erosion of area (ie reduction, not soil loss)' – for the dams and also the original bush catchment.[283] The shareholders' decision – 'selling traditional Maori land' – the minutes record, had not been taken lightly. The vendors sought to retain grazing rights to the farm (bar the area of pipeline corridor which was to be planted) for a further 12 months while they looked for an alternative property. Council would be responsible for fencing off the planted corridor, with June 1991 set as the latest settlement date, again with planting in mind. Council declined the condition to provide labour to remove stock and chattels, and to pay for the entire costs of moving. It did, however, signal early agreement to the condition giving the incorporation first option to purchase or lease the land, should the

[282] Regional Design Engineer Apperley to Chief Executive; Council Secretary; Manager, Engineering & Works, 31 May 1990, 01-290-10, vol. 2.
[283] Minutes of meeting between Pamoa Station and GDC representatives, 26 June 1990, B/18/6C vol. 1.

council ever dispose of it. Council was also agreeable to formalising a right of way between Patemaru and Maraetaha 2 Section 9 through Pamoa Station in favour of the incorporation.[284]

In early August 1990, the Ministry of Forestry advised that the remaining $140,000 of government Dam-line afforestation grant would require Cabinet approval to carry over to 1990/91. Programme Manager Gavin McKenzie advised that the approval would be forthcoming but he warned that the funding window was closing: 'If the acquisition of the land and the planting is not completed by mid-June 1991 and claimed for in time to be paid by 30 June 1991 … the approval and allocation of finance will have to be considered lapsed.'[285] The news prompted another report and recommendation from Bruce Apperley and Bill Turner that the purchase of Pamoa Station proceed as soon as possible.[286]

The terms and conditions of the purchase and sale were discussed again on 21 September 1990, the council's offer confirmed in writing three days later.[287] A recent revaluation of Pamoa Station assessed the capital value at $340,000. GDC's 'maximum' offer of $350,000 included $10,000 for the transfer of stock and chattels.[288] Unlike Fairview Station, no consideration was offered to compensate for the decades of goodwill and inconvenience of hosting the pipeline. Settlement was to be on 31 May 1991 or earlier, when payment would be made in full. The incorporation would have grazing rights at no charge until then, even if settlement came earlier. The right of way through the property would remain as long as the incorporation owned the contiguous stations. The incorporation's right of first option to lease or buy back now carried the rider that any sale or lease would be commercially based, on terms determined solely by council. In closing, Chief Executive Bob Elliot expressed his appreciation to the proprietors 'for their patience and cooperative manner.'[289]

The substance of the deal was presented to the landowners at the Incorporation's AGM at Muriwai two weeks later:

> Re Pamoa sale. This was not ancestral land but had been purchased and there was a conflict of land use with the needs of the water works so that it made sense to negotiate to

[284] Ibid.
[285] Programme IV Manager McKenzie to Acting Manager Engineering & Works, 3 August 1990, 01-290-10, vol. 2.
[286] Regional Design Engineer B Apperley; Acting Manager, Engineering & Works W Turner to Chief Executive; Corporate Management Team, 31 August 1990, 01-290-10, vol. 2.
[287] Chief Executive RDR Elliot to Secretary Pamoa Station, 24 September 1990, B/18/6C vol. 1.
[288] 'Pamoa Station: Negotiations to Purchase', B/18/6C vol. 1.
[289] Chief Executive RDR Elliot to Secretary Pamoa Station, 24 September 1990, B/18/6C vol. 1.

> sell Pamoa to the Council at a reasonable figure and also to negotiate to lease back such portion of it as were available ... [290]

The committee was still holding out for a further $10,000 at this point, envisaging a settlement in early December. It also expected to negotiate to lease back part of Pamoa Station from 1 June 1991. At this AGM, the committee also obtained a mandate from the shareholders to sell Maraetaha 2 Section 9, the plan being to combine the proceeds from the sale of both properties to purchase a more suitable farming prospect.

Disagreement over the purchase price for the property meant that settlement did not proceed in December as envisaged by the owners. A nervous Apperley rang Hawkins in early November and was told that while the council's offer was not acceptable, it was 'close'.[291] In December 1990, the regional design engineer received a fax from the Ministry of Forestry, once again stressing that while Cabinet had indeed approved carrying over the grant monies for the current financial year, no further accommodation could be expected: 'Therefore your programme must be achieved, paid for, and claimed for before 20 June 1991, otherwise the approved funds will be lost forever.'[292] No longer part of the negotiating team, the increasingly worried design engineer kept asking for updates on the purchase progress throughout January 1991. It would take some time, Apperley impressed on his manager, to get the necessary fencing and access tracking in place in time for the planting which had to take place in May, so as to meet the funding deadline.[293] Turner suggested that Apperley go ahead with the fencing and access tracks, rather than wait for the purchase to be settled: 'hopefully Pamoa will not have any objections ...' In mid-February, the pair asked McKenzie if the council would be able to pre-invoice for release spot-spraying, which would not be achievable by the June deadline. Negotiations for the property were almost concluded, they explained: 'we are down to the last few thousand dollars on the price.'[294]

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[290] Minutes of AGM, Muriwai, 6 October 1990, Maraetaha Incorporated documents. The statement that the land was 'not ancestral' may relate to the purchase of the eastern half of the farm from Gibson in 1955, set out in Part One.
[291] Apperley to Turner, memo, 6 November 1990, 01-290-10, vol. 2.
[292] Programme IV Manager McKenzie to Regional Design Engineer Apperley, fax, 19 December 1990, 01-290-10, vol. 2
[293] Regional Design Engineer Apperley to Acting Manager: Engineering & Works Turner, 29 January 1991, 01-290-10, vol. 2.
[294] Regional Design Engineer Apperley; Acting Manager: Engineering & Works Turner to Secretary of Forestry, 18 February 1991, 01-290-10, vol. 2.

In fact, the week before, Chief Executive Elliot had agreed to meet the revised asking price of $355,000, promising settlement at once, free grazing until 31 June 1991, and a negotiated rental after that.[295] His letter of acceptance, however, contained the first hint of coercion:

> You will be aware that, should Council purchase Pamoa, it is intending to plant the pipeline corridor this season and unless we have ownership very soon then that opportunity will be lost; but also will no doubt go with it Council's desire for an early purchase as there will be no real incentive.[296]

In early March 1991, advised that the terms were acceptable and the purchase and sale contract in train, Elliot instructed the Engineering & Works Department within council to begin work on the pipeline project – to fence off the corridor in readiness for planting and to source the requisite trees – the afforestation to be completed by the end of June 1991. This completion date, he stressed, was critical to the full recovery of costs, the sense of urgency underscored by his directive to get the full coordination of all the departments within council involved from receipt of his memo.[297] Notwithstanding the prior agreement to the condition of sale giving Maraetaha Incorporated first option of lease or buy back, Elliot also advised that he would 'activate negotiations with the parties interested in purchasing parts of Pamoa and Fairview Stations' in order to 'rationalise Council's land holdings at Waingake as well as those other owners' properties.' The chief executive was referring to Thomas Jex-Blake who, since July 1990, had stepped up pressure on the council to sell him the unplanted portions of Fairview Station together with the portion of Pamoa Station west of the Dam-line corridor.[298] Ted Ellmers, who had first option, had also expressed interest in a buy-back of Fairview.[299]

The Pamoa sale and purchase agreement, forwarded by Maraetaha Incorporated's solicitor to the council on 19 March 1991, sat with the council's solicitors for two months and was returned to the incorporation's solicitors for execution in mid-June.[300] Maraetaha Incorporated's formal request six weeks earlier to negotiate terms to lease back the balance of Pamoa Station so that the lease would be in

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[295] Chief Executive RDR Elliot to Nolan & Skeet, 12 February 1991, B/18/6C vol. 1, see also Minutes of Committee meeting, 1 February 1991, Maraetaha Incorporated docs.
[296] Ibid.
[297] Chief Executive RDR Elliot to Acting Manager Engineering & Works, Manager Environment & Planning, 8 March 1991, B/18/6C vol. 1.
[298] In July, Jex-Blake had complained to GDC's Property Manager B Crosby, that Apperley had been giving him 'the run around' for the last 18 months about the sale and purchase of the part of Fairview Station known as Pukehoe. In his defence, Apperley explained that GDC required to keep the land for potential exchange with Pamoa Station. This no longer being the case, in July 1990 the regional design engineer had recommended that the surplus land be sold to Jex-Blake at registered valuation. Apperley; Turner to Chief Executive; Corporate Management Team, 24 July 1990, 01-290-10, vol. 2.
[299] Regional Design Engineer B Apperley; Acting Manager: Engineering & Works W Turner to Chief Executive; Corporate Management Team, 31 August 1990, 01-290-10, vol. 2.
[300] Concerns were raised by the council's solicitors that the agreement contemplated that on settlement, any land not used for waterworks protection would be available to the vendors for grazing.

place by 1 July appears to have gone unanswered. On 12 June, solicitors James Harvey Norman wrote again on behalf of Maraetaha Incorporated, requesting that the existing occupancy arrangement be extended to the end of the year.[301] The following day, 13 June 1991, GDC and Maraetaha Incorporated signed a deed of agreement, granting the incorporation the right of first refusal on all future lease or sales of Pamoa Station, to endure for 999 years.[302]

One week later, GDC Chief Executive Bob Elliot approached farm consultants Lewis & Wright for current land valuations for three areas recently fenced by council west of the Mangapoike River, with future sale in mind. 'Council is not in the business of hill country farming', the Chief Executive explained, 'and accordingly is keen to sell off those areas of land outside the corridor that are surplus to its water supply system and management.'[303] Area 'A' was the portion of Fairview Station, now council land, known as the Pukehoe Block. The land bordered Pamoa Station and since the disruption of the corridor afforestation project, Station Manager John Hawkins had approached Waterworks Engineer Bruce Apperley at least three times about leasing the land.[304] This was the land neighbouring farmer Thomas Jex-Blake was also after. Area 'B' was 148 hectares of Pamoa Station west of the Dam-line corridor that Jex-Blake was also interested in. Apperley had informed the chief executive just the week before about the competing expectations of Jex-Blake and Hawkins to occupy this area, the memo suggesting a preference for the former: 'I suggest a phone call to Thomas [Jex-Blake] re terms & conditions of resale, grazing rights etc is needed, sooner rather than later.'[305] Area 'C', of 11 hectares, fell within the pipeline corridor on Pamoa Station west of Mangapoike River at the head of the Williams Dam. This third request divulges the extent of the impact of the corridor on farming operations, *prior* to council ownership. The former 'Lagoon Paddock' comprising Area C was of medium/easy contour, Lewis & Wright duly reported, which before the council's tree planting contained good quality pasture.[306] On 3 July 1991, Elliot finally responded to Maraetaha Incorporated's request to extend the grazing provision. Council remained undecided about grazing, the chief executive advised, having yet 'to sort out those land areas that are surplus to our needs.' The position would be clarified within the next few weeks, Elliot promised, adding: 'if we do identify surplus lands from our Pamoa purchase then these will be first offered back to the previous owners as per our agreement.'[307]

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[301] James Harvey Norman to Chief Executive GDC, 12 June 1991, B/18/6C vol. 1.
[302] Deed of Agreement dated 13 June 1991, Maraetaha Incorporated documents
[303] Elliot, Chief Executive to Lewis & Wright, 24 June 1991, B/18/6c vol. 1.
[304] Apperley to Elliot, 24 June 1991, , B/18/6c vol. 1.
[305] Bruce memo to Elliot, 5 June 1991, B/18/6c vol. 1.
[306] Lewis & Wright to Chief Executive, 18 July 1991, B/18/6c vol. 1.
[307] Elliot, Chief Executive to KR Norman, James, Harvey & Norman, 3 July 1991, Maraetaha Incorporated documents.

Notwithstanding the deed of agreement, by June 1991 Maraetaha Incorporated were dismayed by the turn of events: the council's delay in meeting the conditional settlement (including grazing and lease-back arrangements) on the one hand, and the council's proprietary behaviour with respect to the pipeline corridor (the fencing and planting project), on the other. Council had met the afforestation funding deadline: the pipeline corridor planted and 'almost all fencing finished' by 26 June 1991 – before any settlement – when the last claim for $96,999 was submitted to the Ministry of Forestry.[308] But in the rush to destock and fence off the new planting, it had put Maraetaha Incorporation off-side. A week after receiving the sale and purchase documents back from council, at its meeting on 26 June 1991 the committee of management decided against signing.

The committee were primarily angry about the impact of the council's corridor project on farming operations – before any settlement and without so much as a deposit. Adding to the grievance about the resulting pressure on stock management, council had declined their requests to graze parts of Fairview Station and the Williams dam catchment, to tide Pamoa Station over the period of transition. Rumours of a potential lease of part of Pamoa Station itself to Jex-Blake also disturbed the committee. Given the council's delay in returning the settlement documents, Maraetaha Incorporated now sought a six-month extension of grazing rights, to 28 February 1992.[309]

The incorporation's request to further negotiate the conditions surrounding the sale and purchase in light of the above complaints was transmitted to council via solicitors Nolan & Skeet on 2 July 1991. A meeting was arranged for the following week, but the council's initial response to the complaints was uncompromising. Elliot maintained that the incorporation had misconstrued aspects of the sale and purchase agreement and included other issues that were non-related. The chief executive countered the claim that council had moved into possession before settlement had been completed by pointing out that Maraetaha Incorporated had consented to the pipeline corridor project prior to any works. Elliot was unapologetic about forging ahead prior to settlement: 'It was necessary for Council to have its pipeline corridor fenced off to enable the planting of pinus radiata seedlings and to give them some security. All planting had to be completed by end of June 1991.'[310] He denied that council had offered to lease part of Pamoa Station to another farmer and maintained that the issue of grazing rights to surrounding council properties was irrelevant. Grazing within the Williams Dam catchment was problematic for water quality reasons, but would be considered, post-purchase, in a 'co-ordinated fashion rather than ad

[308] Regional Design Engineer B Apperley; Acting Manager: Engineering & Works W Turner to Secretary of Forestry, 26 June 1991, 01-290-10, vol. 2
[309] Minutes of Meeting of Proprietors of Maraetaha 2 Sec 3 & 6, 26 June 1991, Maraetaha Incorporated documents.
[310] Chief Executive RDR Elliot to Henderson, Nolan & Skeet, 5 July 1991, Maraetaha Incorporated docs.

hoc.' For the same reason, Elliot held that extending the grazing provision in favour of the incorporation for another six months was not practicable at this time: 'Council is currently getting various sections of Pamoa and Fairview valued so that it can then determine which areas are appropriate for it to retain ownership or lease for grazing etc, or dispose of', again reassuring the incorporation that the processes for doing so with respect to Pamoa Station (the incorporation's first right of purchase) was part of the sale and purchase agreement. He summed up council's position:

> It must be understood that Council is only purchasing Pamoa Station in order to protect its large capital investment that passes through the property. We have already, with prior agreement of Pamoa, moved quickly to have the pipeline corridor planted to lessen the risk of erosion and damage to the pipeline. Now that the corridor has been identified and fenced we will soon be in a position to assess our real land needs in that area; in conjunction with Fairview and other lands. It is just not logical to address Council's interests in that area in a piecemeal fashion, particularly due to the considerable investment that Council has there.[311]

Grazing rights were a central concern at the meeting between parties three days later. In follow-up correspondence which was accompanied by cadastral plans of the areas in dispute, Elliot explained that Ted Ellmers' periodic lease of the Pukehoe Block had been part the sale and purchase agreement with him for Fairview Station. A periodic grazing licence over a small holding paddock within Fairview Station had been issued to a Mr Shanks. Elliot repeated that grazing within the dam catchments would not be permitted, expressing council concern about current farm practice of moving stock through the area.[312] Later that week, Elliot advised James Harvey Norman that council would permit the incorporation to graze Pamoa Station at no charge until the beginning of November and asked that the sale and purchase documents be completed as soon as possible.[313]

Maraetaha Incorporated remained dissatisfied by the outcome, particularly the way in which fencing the pipeline corridor had cut off access to grazing the western portion of the farm. Internal council correspondence over July 1991 confirms that stock trespass arising from the council's incomplete (and electric) fencing of the corridor planting continued to fester between the parties.[314]

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[311] Ibid.
[312] Chief Executive RDR Elliot to KR Norman, James Harvey & Norman, 10 July 1991, Maraetaha Incorporated documents.
[313] Chief Executive RDR Elliot to KR Norman, James Harvey & Norman, 16 July 1991, Maraetaha Incorporated documents.
[314] In mid-July, fielding another early morning call about trespassing stock, for example, Hawkins informed Apperley that the corridor fencing contracted to the Jex-Blakes had yet to be completed, alleging that they had been instead working on a new boundary fence *within* Pamoa Station. Apperley to Bob Elliot; Bill Turner, memo, 18 July 1991, 01-290-10, vol. 2.

At a committee meeting on 9 August 1991, the incorporation reaffirmed its commitment to sale, but not necessarily, it seems, to Gisborne District Council: 'The question of who to sell to remains.'[315] Two further conditions were identified before the committee of management would go ahead with the sale and purchase agreement. Firstly, that council fence the property so as to enable access to all the areas not required for pipeline protection, to the satisfaction of the vendors. Secondly, that the incorporation's grazing right be extended a further six months, to June 1992, for a negotiated grazing fee. Unfortunately, the end date of the leasing request was recorded in the minutes and subsequently communicated to council as June 1993 (a further 18 months), rather than June 1992, which met with a dim response.[316]

Elliot was not impressed with what he considered to be 'further demands placed on us when in fact we have not even ownership'. He reiterated that the council's 'real interest' was the security of the pipeline corridor, and that council had made it clear throughout that the balance farm lands would be disposed of as soon as possible by lease or sale: 'The Proprietors already have first option under both those scenarios.'[317] Elliot refused to consider any extension of grazing rights until the incorporation completed the sale and purchase. Then came the ultimatum:

> Accordingly if the Proprietors are not prepared to complete the necessary documents in accordance with the present criteria … then Council only has one other option and that is for it to take the land under the Public Works Act, particularly that required for the pipeline corridor.[318]

A month later, dismayed to learn that Pamoa Station was on the market, Elliot repeated that if the Proprietors of Maraetaha did not go through with the sale and purchase agreement, council would pursue the taking action over the pipeline corridor.[319] Elliot was also annoyed by ongoing stock trespass into recently planted areas. Apperley reported he had mustered cattle out three times and claimed significant numbers of seedlings had been lost, repeating suspicions that the heavy stocking near the recent planting was deliberate.[320]

The management committee's monthly meeting on 27 September 1991 was attended by the incorporation's solicitor BJ Henderson. Henderson's advice seems to have been based on the premise

[315] Minutes of Meeting of Proprietors of Maraetaha 2 Sec 3 & 6, 9 August 1991, Maraetaha Incorporated documents.
[316] The minutes were amended to reflect the six-month extension at the following meeting, see Minutes of Meeting of Proprietors of Maraetaha 2 Sec 3 & 6, 27 September 1991, Maraetaha Incorporated documents.
[317] Chief Executive RDR Elliot to BJ Henderson, Nolan & Skeet, 20 August 1991, Maraetaha Incorp documents.
[318] Ibid.
[319] Chief Executive RDR Elliot to Nolan & Skeet, 20 September 1991, Maraetaha Incorporated documents.
[320] Apperley to Elliot, memo, 23 September 1991, B/18/6C vol. 1.

that the council would move to take *all* Pamoa Station, not just the pipeline corridor. The solicitor maintained that a compulsory taking under Public Works legislation would remove the incorporation's ability to negotiate and cancel the incorporation's right of first refusal with respect to future disposal. Henderson recommended the incorporation proceed with the settlement. The committee agreed but resolved to try further negotiations with council at a face-to-face meeting. The secretary was directed to ensure the property was not listed on the market.[321]

Elliot's hurry-up fax on 10 October 1991 indicates that in addition to initiating taking procedures, the council would seek compensation and costs if the sale and purchase was abandoned.[322] At the meeting that subsequently took place between the parties on 22 October, Elliot agreed that Pamoa Station could continue to graze the balance of land outside the pipeline corridor free of cost until the end of February 1992. Moreover, council undertook to provide fenced access lanes in appropriate locations in consultation with Pamoa management to ensure grazing access to the parts of the farm severed by the planted corridor.[323] Henderson was asked to complete the sale and purchase as soon as possible and to convey council's appreciation 'for the understanding and attitudes of the Pamoa representatives during our long period of negotiations.'[324] The revised sale and purchase agreement was formally approved by the committee of management at their meeting on 1 November 1991. A new title to the block was issued in the name of the incorporation on 3 December 1991.[325] The transfer to the Gisborne District Council was registered on 21 January 1992.

[321] Minutes of Meeting of Proprietors of Maraetaha 2 Sec 3 & 6, 27 September 1991, Maraetaha Incorporated documents
[322] Elliot to Henderson, 8 October 1991, B/18/6C vol. 1.
[323] Chief Executive RDR Elliot to Nolan & Skeet, 22 October 1991, Maraetaha Incorporated documents.
[324] Ibid.
[325] GS5C/710 A589651 Research Waingake Catchment, pp.6-7.

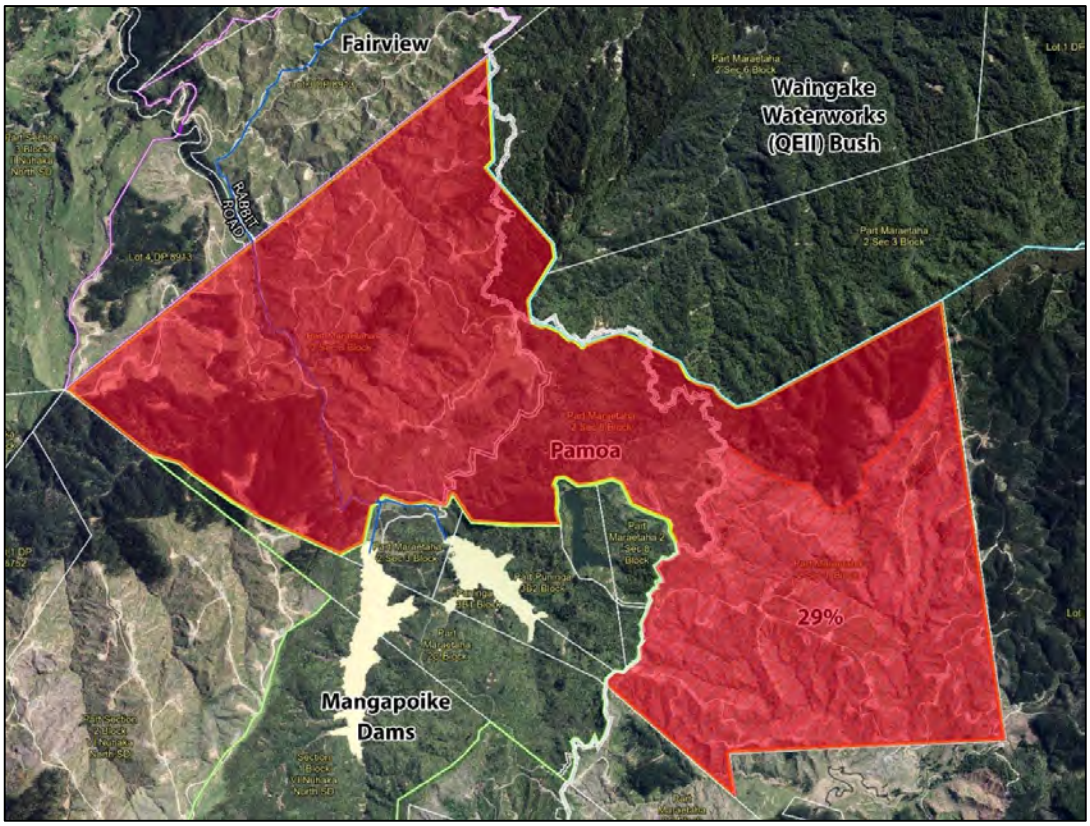

Figure 38: Pamoa Station, purchased 1991 [326]

Pamoa Forest, 1992

As part of the sale and purchase agreement, Maraetaha Incorporated had free grazing until 1 March 1992. The council's undertaking to provide fenced access through the pipeline corridor would have only fuelled the vendors' expectations of continued grazing, for a negotiated fee, of the balance after sale. Indeed, in late November 1991 the committee of management approached Elliot about the council's terms and conditions to lease back Pamoa so that 'everything can be put in place at the end of February 1992 as per the Agreement.' [327] On 3 February 1992, after further prompting by telephone, Elliot advised James Harvey & Norman that the subcommittee empowered to process the purchase and future options of Pamoa Station would be recommending that council sell the balance, on the basis that it had

[326] Part Maraetaha 2 Section 8 (GS5C/710) of 1119.7627 hectares, 'Current Title 2' in #A589651 GDC.
[327] James Harvey & Norman to Chief Executive Elliot, 19 November 1991, B/18/6C vol. 1.

no business holding pastoral land for farming purposes, and that selling was preferable to leasing.[328] Council's deliberations over the utilisation of Pamoa are set out below.

Maraetaha Incorporated's incremental periodic lease of its former property lasted until September 1992. Correspondence about the lease throughout this period suggests that the arrangement was not a priority for council. The belated rental quote up to 1 June 1992, for example, was based on the total area of Pamoa Station rather than the balance area outside the pipeline corridor. Nor had the free grazing agreed upon until 1 March been factored in.[329] The revised, corrected terms supplied by Elliot in April charged the incorporation for the month of February, the breach of the sale and purchase agreement immediately pointed out by the incorporation's solicitors, but for which the incorporation never received an invoice.[330] In July 1992, the incorporation requested another lease extension to mid-August: another property had been found but farm stock could not be shifted till then. Council agreed to the request on condition the rent due was paid. In mid-August, the incorporation's request to use the bottom yards on Pamoa Station until the 1993 planting season was declined a month later, on the grounds that negotiations were underway to have the area afforested.[331] On 1 September, the incorporation asked for another month. By the time Elliot responded, September was almost over. The chief executive apologised for the delay, retrospectively agreed to the extension, and advised that no further extension would be granted. The incorporation was given until 1 October 1992 – three days from the time of writing – to vacate all stock and property from the site.[332]

Notwithstanding the deed of agreement granting Maraetaha Incorporated first right of refusal in any future disposal, from the outset council had entertained proposals by neighbouring farmer Chris Jex-Blake to lease the area of Pamoa Station west of the pipeline corridor – the part of the farm Maraetaha Incorporated were aggrieved had been severed by the pipeline corridor. Chief Executive Elliot's alacrity to conclude the sale and purchase of Pamoa Station by October 1991 coincides with interest by Japanese forestry company Juken Nissho Ltd (JNL) in obtaining part of Pamoa Station east of Tarewa Road, which adjoined its existing forestry holdings within the former Puninga Station. Well before the

[328] Chief Executive RDR Elliot to James Harvey & Norman, 3 February 1992, B/18/6C vol. 1.
[329] James Harvey Norman to Chief Executive, 14 February 1992, B/18/6C vol. 1. The monthly rental amounted to $1,320.
[330] Chief Executive RDR Elliot to James Harvey & Norman, 1 April 1992, see also 'Note to the File', 10 July 1992, B/18/6C vol. 1; James Harvey Norman to Chief Executive, 7 April 1992, 01-290-10, vol. 2.
[331] James Harvey Norman to Chief Executive, 17 August 1992, B/18/6C vol. 1; Swainson, Manager: Services & Enterprizes to KR Norman, James Harvey & Norman, 25 September 1991 [sic, 1992], Maraetaha Incorporated documents.
[332] Chief Executive RDR Elliot to Proprietors of Maraetaha 2 Secs 3 & 6, 28 September 1992, B/18/6C vol. 1.

transfer to the council was registered, on 3 December 1991, JNL District Manager Sheldon Drummond confirmed the company's interest in purchasing around 473 hectares for future afforestation.[333]

Contrary to what the incorporation was told by GDC's chief executive in February 1992 – that council had no business in retaining pastoral land and of the subcommittee's recommendation to sell all but the pipeline corridor – Elliot was instead seriously considering afforestation at this time. Curiously, copies of the chief executive's advice to the Proprietors of Maraetaha 2 Sections 3 & 6 on this occasion was also forwarded to both the JNL District Manager and to neighbour Jex-Blake.[334] When Council met in February 1992, the ostensible options of retaining or selling the balance 1,043 hectares of Pamoa Station (the area outside of the pipeline corridor) for pastoral purposes were set out in the chief executive's introduction, the report also alluding to the 'limitations' of the sale and purchase agreement: the legal obligation to first offer the land to the previous owners should the council decide against retaining the property.[335] Under the rubric of 'Future Use', however, the sell/retain propositions were trumped by a third, hitherto unheralded option: that of 'retiring' the balance of total land holdings in both Pamoa and Fairview Stations to establish a commercial forest. Council's forestry consultants PF Olsen & Co, Elliot divulged, had been asked to report on the feasibility of afforestation. Retaining the combined 1,278 hectares for forestry, the report continued, could be a joint venture, particularly as two private forestry companies, Juken Nissho Ltd and Hikurangi Forest Farms, were developing commercial forestry on adjoining properties. Doing so would save council having to invest the considerable start-up capital required by the venture. Elliot's February report fell short of recommending that council proceed with a forestry joint venture, but nor was it the ringing endorsement of sale he had led Maraetaha Incorporated to expect seven days before. Selling would provide council with immediate capital return, the report concluded, which could be used to reduce water supply loan debt. 'If a longer term perspective is taken', Elliot continued, 'then a package could be readily developed for the commercial afforestation of the lands, with appropriate financial returns.'[336] The report was received, together with a Policy & Resources Committee resolution that 'the Chief Executive report on the possibility of retaining ownership of some or all of the land for afforestation with the financial implications thereof.'

Elliot reported six weeks later, and the issue was considered when council met – with the public excluded – on 16 April 1992. PF Olsen & Co had confirmed that afforestation of the council's combined Fairview/Pamoa holdings was an attractive investment. The 'Pamoa Forest' feasibility report now included the existing planted pipeline corridor as part of the wider potential afforestation project,

[333] District Manager JNL S Drummond to Chief Executive GDC, 3 December 1991. B/18/6C vol. 1.
[334] Chief Executive RDR Elliot to District Manager, JNL; T Jex-Blake, 3 February 1992, B/18/6C vol. 1.
[335] GDC 92/071 'Proprietors of Maraetaha No. 2 Sections 3 and 6 Purchase of Pamoa Station', 10 February 1992.
[336] Ibid.

notwithstanding the acknowledgment that this targeted afforestation had been undertaken using government grants to provide long-term stability to the water main. Of the total 'land bank' of 1,274 hectares available for planting, PF Olsen & Co considered 959 hectares (some 75 per cent) could be planted, the balance 244 hectares to be left as mature native bush or riparian reserves.[337] In Elliot's earlier reports, too, the planting within the pipeline corridor had been treated as part of the council's commercial forestry, which seems at odds with its primary role of pipeline stabilisation. More startling still, in his April 1992 report to council, Elliot's analysis of 'Option 1: Selling All The Lands' now included selling the pipeline corridor, despite the acknowledgment that the security of the water supply pipeline had been the council's 'original objective' in acquiring the land in the first place.[338] The security of the pipeline was no longer seen to hinge on council ownership: 'it would be a relatively simple arrangement to have any purchase agreement made conditional to include the ongoing security of the pipeline. In fact the principle [sic] contenders for purchase would no doubt be foresters.'[339] On this occasion, no reference was made to the previous owners' right of first refusal. Option 2, 'Retaining Ownership and Leasing All the Lands' favoured a forestry lease over a pastoral one, and a joint forestry venture over an annual rental forestry lease. Option 3, 'Retaining Ownership of All Lands and Afforesting' promised the greatest returns but also required considerable capital investment, which would need to be borrowed. The chief executive recommended that council pursue Option 3. The outcome of the meeting was a council resolution to complete a full financial analysis of Options 3, and to further explore the opportunity of developing a joint forestry venture.

Elliot continued to keep all options open. Not only were Juken Nissho Ltd courted about a joint forestry venture, but Chris Jex-Blake was also approached about the area west of the pipeline corridor, resulting in an offer of $135,160 for the 245 hectares of farmland. JNL preferred to purchase outright but was open to a joint venture. In the chief executive's update to council on 30 May 1992, he sought approval to further refine the forestry proposals with JNL. But he also recommended the council keep open options to sell all or part of the council's Pamoa/Fairview holdings including the pipeline corridor, or to lease the land.[340]

The complexities of the potential forestry enterprise were teased out over the next three months. In September 1992 KPMG Peat Marwick advised that council proceed, for tax purposes, by way of

[337] PF Olsen & Co Ltd, 'Pamoa Forest Afforestation Feasibility', March 1992. B/18/6C. NB: the areas by vegetation categories supplied in the report (1,274 hectares) do not add up with the areas of Fairview and Pamoa Stations included in the same report (1,760.059 hectares). I have not discovered any explanation for the discrepancy.
[338] GDC 92/186, 3 April 1992.
[339] Ibid, 4.5.
[340] GDC 92/288, 30 May 1992.

granting JNL a forestry right. That month the Minister of Forestry John Falloon forwarded information on the East Coast Forestry Project – a new government initiative announced in the latest budget offering tendered grants to encourage landowners to transition from farming to foresting erosion-prone land. In the last week of September, meetings began between GDC and JNL to identify the key issues in any joint venture. On 1 October 1992, Gisborne District Council resolved to grant JNL a forestry right over its Pamoa/Fairview holdings for a term of 31 years, with the first right of refusal for a further rotation of 31 years. The total area of 1,607.4071 hectares included the pipeline corridor. JNL were to be responsible for all aspects of forest management. GDC were to receive a minimum of 15 per cent of the harvest revenue, leaving Elliot to negotiate the actual sum once the financial modelling had been completed. The last recommendation related to Jex-Blake's offer to purchase the area west of the pipeline. Over the last six months of negotiation, Jex-Blake had increased his offer from $135,160 to $240,000. He was now told that council declined the offer: 'on the basis that it wishes to retain all its lands there for the long term interests and benefits of its ratepayers.'[341]

Throughout October 1992 a series of meetings took place between GDC and JNL to finalise the terms of the partnership: crop sharing percentages, roading issues, land and timber values and land. The GDC's pipeline corridor planting, for example, was deemed defective by JNL and required replanting.[342] Council's share was eventually settled at 16.75 per cent. Another issue arising from the negotiations was the impact of the joint venture on the Waingake Waterworks Bush that was now under a QEII Trust covenant. In mid-October, Elliot advised regional representative Richard White that council required access along the existing track within the covenanted land, to form log stacking and loading areas and to extract logs from the adjacent ridge. The Chief Executive reassured White that, where practicable, any large native trees would be preserved.[343] Following a site visit, it was clarified that council wished to upgrade the existing access track, to double as a fire break, and that it also sought permission to construct two platforms within the covenanted reserve closer to harvest, some 30 years hence. In the meantime, however, it was intended to clear these areas of native bush and plant up to the track in radiata pine, the forestry operations affecting an estimated 15 hectares within the reserve, but outside of the Waingake catchment. Making a virtue of necessity, GDC Manager: Services & Enterprises GC Swainson pointed out to White that by way of 'exchange', Council would be

[341] Chief Executive RDR Elliot to T Jex-Blake, 5 October 1992, B/18/6C vol. 2.
[342] Minutes of Meeting 'JNL/GDC Forestry Partnership', 19 October 1992, B/18/6C vol. 2. The meetings were attended by S Drummond and R Allen for JNL and by council staff RDR Elliot, D McKinlay and G Swainson, Mayor John Clarke, Councillor G Musgrave and Neville Hardy of Peat Marwick for the GDC.
[343] Chief Executive RDR Elliot to White, Regional Representative QEII Trust, 14 October 1992, B/18/6C, vol.2.

deliberately preserving 171.9 hectares of existing or regenerating bush within the wider afforestation project.[344]

Opposition to the joint forestry venture on environmental grounds began before the Forestry Rights Agreement and Management Plan between the parties was signed. The proposal for an ecological corridor and the council's counterproposal to extend afforestation to the Mangapoike Dams Catchment is set out in Back story #10. Elliot's report to council in January 1993 about the forestry rights agreement included the news that council would now have to *remove* the planted pine from the pipeline corridor, to prevent further damage to the pipeline.[345] Chris Jex-Blake obtained a periodic lease over 170 hectares of Pamoa Station west of the pipeline that year, before JNL moved in to plant the area.[346] The farmer's attempt to arrange alternative land in the vicinity for the GDC/JNL joint venture to enable him to purchase the land was declined in August 1993, not because of the right of first-offer encumbrance held by Maraetaha Incorporated, but because Jex-Blake's alternative was not considered worthwhile or feasible.[347]

In June 1994, a year into their joint venture, Gisborne District Council commissioned for $6,000 an artwork entitled 'Tairawhiti' as 'part of its recognition to the directors of Juken Nissho Ltd for their investment in the Gisborne region …' In remunerating the artist, Chief Executive Bob Elliot relayed that the council had been impressed by the work: 'It was particularly noted the relevance of your style and how you were able to signify through the painting a physical and spiritual relationship of this region to its history and culture.'[348]

Negotiating access and pipeline easements through Patemaru Station, 1991-1992

Gisborne Borough Council obtained a formal easement for the pipeline and access road along the Te Arai River a year after purchasing the Waingake bush catchment, in 1906. Subsequent development of the water supply infrastructure through what became Patemaru Station, however, (the Bush-line replacement and road upgrades of the 1960s, for example) had not been confined to the easement, with the result that much of it now fell without. As related previously, City Engineer Williams was unconcerned about council's questionable authority: in his view any imposition on private property was

[344] Services & Enterprises Manager Swainson to R White, Regional Representative QEII Trust, 10 November 1992, B/18/6C, vol.2.
[345] Report 93/296, 13 January 1993.
[346] District Manager JNL Drummond to Chief Executive Drummond, 4 August 1993, B/18/6C vol. 3.
[347] Ibid, Chief Executive RDR Elliot to District Manager JNL Drummond, 6 August 1993, B/18/6C vol. 3.
[348] Chief Executive RDR Elliot to S Adsett, 21 June 1994, B/18/6C vol. 3.

more than compensated by the council's expenditure on maintaining the access. The post-Bola agreement in April 1988 between Gisborne City Council staff and Maraetaha Incorporated representatives referred to a survey of the access road and pipeline, with the council's obtaining a formal easement in mind. This was not acted on. As noted above, renewed GDC interest to 'tidy up' matters with respect to a formal easement coincided with subsequent negotiations over the treatment plan land swap, in May 1991.

Gisborne District Council's engineering management met with Maraetaha Incorporated Chair Boy Kemp to this end in August 1992. Council was seeking a 20-metre-wide right of way over the existing road, to be left unfenced, and a 12-metre-wide pipeline easement to allow access for maintenance, repairs, and minor realignments, to be left unplanted. Once the new easements were in place, the original 1906 easement was to be cancelled. At the meeting, GDC representatives were reminded of the terms of the earlier 1988 agreement. Turner and Apperley undertook to keep the cattle stops clear, to notify farm management of private vehicles on council-related business using the access, and to continue to supply the farm's domestic water free of charge. The pair fell short of agreeing to maintain the access to the farmhouses and shearing quarters but agreed to explore the cost involved.[349]

Correspondence in 2003 and again in 2008 complaining of the council's lack of maintenance suggests that Gisborne District Council agreed to the 1992 request to maintain the farm access up past the farmhouses to the woolshed in exchange for access to the waterworks. This, in any case, was Maraetaha Incorporated's understanding of the 'long standing informal arrangement' in place.[350] The easement with respect to the pipeline and access, however, never appears to have been formalised.[351]

Reflecting on Gisborne's local body waterworks acquisitions

Local government acquisitions throughout the twentieth century to supply the public of Gisborne in water amount to 3,215 hectares and are summarised in Table 3 below. In 1987, the approximately 1,100 hectares in five titles comprising the Waingake Waterworks Bush became subject to a Queen Elizabeth II National Trust Conservation Covenant. One of the financial benefits to council of creating the open

[349] Engineering & Works Manager WJ Turner per District Design Engineer B Apperley to Chairman, Management Committee Maraetaha Blocks Inc, 9 September 1992, F/28/4 SU06.
[350] Secretary Maraetaha 2 Sections 3 & 6 Blks Inc C Nelson to N West, GDC, 12 February 2003; and to K Strongman, 15 April 2008, D/12/5A Patemaru Station Waingake Valley – Access Agreement, vol. 2.
[351] In response to queries in 2014, Council staff were unable to locate any such agreement, D/12/5A.

space covenant was a subsidy from the National Trust to have the remaining roadside perimeter of the reserve, some 4.7 kilometres, finally fenced off from stock.[352]

Table 3: Summary of Local Body Waterworks Acquisition

Method	Parcel	Land	Date	Area	Price / Compensation
Purchase	Waingake Bush Catchment	ECC (2 titles)	1905	928.702ha (@2,299 acres)	£4,598 (£2 per acre)
Taking	Waingake Headworks	Māori	1913	5.7414ha (14a 30p)	£280 (@£20 per acre)
Purchase	Waingake Bush Catchment	General	1925	106.3716ha (@263 acres)	£1,783 10s 6d (£6 15s 7d per acre)
Taking	Mangapoike Dams Catchment	Māori (2 titles)	1947	27.7209ha (@68.5 acres)	£230 (@£3 7s per acre)
Taking (Settlement)	Mangapoike Dams Catchment	ECC	1947	(28.8136ha (71.5 acres)	Unknown
Taking	Mangapoike Dams Catchment	General	1947	50.181ha (@126 acres)	Unknown
Taking (Settlement)	Mangapoike Dams Catchment	General (2 titles) /Crown	1947	329ha (@813 acres)	£7,000 (£8 12s 2d per acre)
Taking	Access	Māori	1949	0.4046ha (1 acre)	Unknown
Purchase	Access	ECC	1951	4.0469 ha (@10 acres)	£30 (£3 per acre)
Purchase	Waingake Bush Catchment	General	1966	24.6858ha (@61 acres)	£549 (offered) (£9 per acre)
Taking (Settlement)	Waingake Bush Catchment	General	1967	45.8054ha (@113 acres)	£1,576 (£13 18s 11d per acre).
Taking (Settlement)	Upper settling tank / Treatment plant site	Māori	1967	2.7822ha (@7 acres)	$192 ($27.43 per acre)
Purchase	Dam site in Puninga Catchment	General	1971	6.44ha (@16 acres)	n/a
Taking (Settlement)	Mangapoike 1A Catchment	Māori	1983	40.0777 ha (@98 acres)	Unknown ($2,600?)
Purchase	Fairview Station	General	1989	493.4088 ha (@1,219 acres)	$330,000 ($270 per acre)
Purchase	Pamoa Station	Māori	1991	1119.7627 ha (@2,767 acres)	$355,000 (@$128 per acre)

[352] Waterworks Engineer PH Pole to City Manager, 21 October 1986, D/24/5C 54/08 Water Supply 1985 & 1986. Pole objected to the 10 per cent subsidy offered by the Trust, maintaining that the reference to an 'equal share' more properly meant 50 per cent.

The breakdown reveals that two-thirds of the land acquired for waterworks, some 2,158.4 hectares, was Māori-owned. Of this, some 45 percent was acquired when the land was vested in the East Coast Commissioner in trust, meaning that the beneficial owners were entirely removed from the process. It is difficult to avoid the conclusion that the genesis of Gisborne's waterworks at Waingake and the East Coast Trust Lands Board control of Ngai Tāmanuhiri land was no coincidence, occurring as it did in an era where the transfer of tribal lands into Pākehā hands was deemed to be in the 'public interest'. The transaction served the ends of both, Ngai Tāmanuhiri's property rights having been already nullified by the series of events since gaining title, including Crown purchase, Validation Court proceedings and the statutory intervention of 1902.

Quite apart from the loss of land Ngai Tāmanuhiri had taken pains to protect in 1896, the 1905 sale and purchases for the water supply paved the way for further attrition of the tribal estate. As the experience of Pamoa Station reveals, any expansion or development of the town's waterworks was bound to impact on the catchment neighbours. Dam development within Mangapoike catchment from 1942 was but the first bite. Subsequent takings – both actual and imagined – hung over the high-country station located between the water supply catchments from 1971 and culminated in the Dam-line corridor which led to the 1991 sale and purchase.

Expansion of the waterworks scheme over time has not targeted Māori freehold land exclusively: around a third of the area represented in Table 3 was general land. But neither was regard paid throughout the twentieth century to the cumulative impact of public works appropriation against a shrinking tribal estate.

The waterworks acquisitions indicate a local body preference for negotiation over compulsory taking, a courtesy which was extended to Māori landowners after the last access taking in 1949. The mode of acquisition, however, did not alter the compulsory aspect of the waterworks. The 'settlements' are treated as 'takings' in Table 3 for this reason. Negotiated settlements might improve the terms in favour of affected property owners: in several instances in this report negotiation resulted in a slight reduction of the area to be taken, and provision for continued occupation and future access. But they could not stop the expropriation itself. What we know of the settlements discussed in this report suggest landowner' resignation to the taking after initial opposition: Coop in 1948 (post-taking) and Smith in 1967 (pre-taking). Selwyn Smith was, perhaps, most successful in delaying matters. The borough council's use of his land – to discharge first Mangapoike River waters and then Clapcott Dam waters into the Waingake catchment – dated from the end of the 1920s. The longstanding Crown leaseholder

succeeded in staying the taking of Smith's Creek for 13 years – from the first proposal in 1952 to the point of settlement in 1965. In that time, he also managed to reduce the taking from 137 to 113.5 acres. In this instance, the agreement reached with Gisborne City Council did not mean Smith was happy about it. Rather, the evidence suggests that his decision to sell Fairview Station nine months later was directly related to the taking.

Likewise, the degree to which any sale and purchase can be said to be 'willing' needs to be tempered by the prospect of compulsory acquisition in which they occur, even when it is not made explicit as in the case of Pamoa. Some of the purchases involved, like the additions to the Waingake Waterworks Bush in 1925 and 1966, appear to have been neutral, possibly because in both cases the council may have paid market value. Ultimately, however, as Maraetaha Incorporated learned, local government does have power to take land that cannot be otherwise purchased.

As touched on above, of all the landowners affected by Gisborne's waterworks, the East Coast Commissioner proved the most accommodating: witness the borough council's 10-shilling pipeline easement of 1906. Ngai Tāmanuhiri beneficial owners were not party to the initial transaction for the Waingake Bush Catchment and nor did they receive the proceeds of the sales for another decade. The £2 per acre purchase price in 1905 reduced even further, relatively speaking, to £3 per acre for the road access in 1951. In the case of the statutory trustee in whom Maraetaha 2 Sections 3 and 6 were vested, the sale and purchase agreements for waterworks did not represent the best possible deal for the private property owner but rather quite the reverse. Details of the 1947 acquisition from the Commissioner of a further 71 acres of Maraetaha 2 Section 3 have not been discovered but it is likely to have been another sale and purchase agreement at a bargain price.

In effect, the public interest at stake is as equally strong a compulsion in any public works negotiations as the stick of compulsory taking itself. The waterworks demands on Maraetaha 2 Sections 3 & 6 continued after the commissioner's reign ended. Throughout the 1970s and early 1980s, Maraetaha Incorporated were 'not known to be willing sellers': resisting overtures throughout this period to contribute half of Pamoa Station for the Puninga dam project until it proved necessary. The same reluctance, however, can be seen to have given way in times of crisis. The city council's 1971 demand for the Mangapoike 1A catchment, a fait accompli presented to the committee of management as a matter of urgency for 'the welfare of the City and its hinterland', seems to have been achieved through sale and purchase. The earlier 1967 taking of the seven acres within Patemaru Station for a second settling tank site may have been achieved the same way. In 1989, Maraetaha Incorporated were equally

clear about their reluctance to sell Pamoa Station. On this occasion, the public interest represented by the Dam-line corridor in the wake of Cyclone Bola brooked little room for challenge.

Although evidence of compensation or payment has not been found in every case, what has been found suggests local government did follow the letter of the law. In the case of Māori freehold land, application was made to the Māori Land Court to determine compensation. Crude comparisons of compensation paid on a per-acre basis (as shown in Table 3) may not be useful for any hard and fast conclusions: there are many factors that affect land values. Nonetheless, several observations can be made. With the exception of the 1913 taking for the headworks (for which Tiemi Wirihana engaged a solicitor to prosecute his compensation claim), the data suggests that council paid less for Māori land on average than for general land. Māori landowners generally seem to have been compensated at government valuation. It stands to reason that property owners given a chance to settle would achieve higher prices than compensation obtained through court, particularly if owners were not legally represented. With respect to the 1947 Mangapoike catchment takings, for example, the price per acre compensation for the Māori freehold titles involved (part Puninga 3A2 and Puninga 3B1 itemised together in Table 3) was less than half that paid by Gisborne Borough Council to settle with the Coops.

The other striking discrepancy in the per-acre price is that between Gisborne District Council's post-Bola purchases of Fairview and Pamoa Stations, the high-country stations sharing similar topography and purchased around the same time. Again, caution is recommended: the low valuations of both were attributed to different factors. In this case, however, the discrepancy in the purchase price was not related so much to valuation as to the council's differential treatment of the vendors. Ellmers was offered $100,000 over and above valuation as 'consideration' for other factors (including $25,000 recompense for hosting the pipeline). Maraetaha Incorporated, conversely, were ground down to the 'last few thousand dollars' – less than the price of a commissioned artwork – on the pretext that the council had 'no real incentive' to proceed with the purchase. Rather than any 'consideration' for past inconvenience or the myriad ways the incorporation had accommodated the waterworks over the years (including land acquisitions, hosting the Dam-line and associated access, and land exchange for the treatment site), the council refused to concede the incorporation's position that the impact of both past and present waterworks acquisitions factored in the sale and purchase.

In general, the compensation paid for the waterworks acquisitions reflects the characteristic parsimony of local government funded by ratepayers. The generous offer for Fairview Station was made under the impression that central government was to foot the bill. In the case of Pamoa Station, the proposed land exchange with Fairview saved the council from having to pay for the Dam-line corridor at all.

Throughout the history of Gisborne's waterworks, the amount spent on acquiring land for the works has been but a trifling component of the infrastructure itself. As much was pointed out by GDC's Regional Design Engineer Bruce Apperley in his argument to proceed with the Pamoa Station purchase. If, as Apperley argued, the replacement value of the Dam-line and associated works on Pamoa Station was $3 million, why was the council so hardnosed about meeting the vendor's offer? Local government parsimony may be but another facet of local government prerogative.

A striking manifestation of this prerogative can also be seen in the number of times the waterworks acquisitions were legalised after the fact or, indeed, not at all. Clapcott Dam construction – and the requisite access and associated Dam-line – began in 1942. The catchment was surveyed two years later when the proclamation of intention was gazetted, and not actually taken until 1947. The Dam Road through Pamoa Station, operative from around 1943, was not purchased until 1951. The Dam-line itself was never formally authorised, nor the existing easement over the Bush-line extended in the 1960s for the replacement pipeline and access. Similarly, agreement for Mangapoike 1A catchment post-dated the construction of the 1A Dam and was then overlooked for a further decade. The unquestioning prerogative of local government reflected by such behaviour persisted into the 1980s: the Dam-line Boost on Fairview Station underway in 1985 before council thought to consult the property owner; the interim treatment plant encroaching on Pamoa Station prompting another belated approach in 1988. Local government parsimony cannot fully account for such practice.

During his long tenure as city engineer, Harold Williams evidently believed and behaved as if the license taken by council over the private property that hosted the water supply infrastructure was mutually beneficial for the owners involved: that council investment in road maintenance, for example, more than made up for any inconvenience or unauthorised access. The perception has endured long after Williams' retirement. The terms sought by Ellmers in 1988 for his good will and the inconvenience of hosting the Dam-line for 25 years suggests that the property owner did not share this 'common understanding'. Council's relationship with its neighbours is explored further in Back story #9.

Of all the Maraetaha 2 acquisitions, it is the 1991 sale and purchase of Pamoa Station that still rankles most. The sale was directly related to the Dam-line corridor presented to Maraetaha Incorporated (the formal proposal once again only put to the management committee six months after an 'approach' to Station Manager John Hawkins) as an immutable given. The corridor acquisition entered public discourse in the aftermath of Bola as the trojan horse of 'Damline protection' – the focus on conservation afforestation – with considerably less attention paid to any public works taking involved. Government investment of some $3.5 million in fixing the pipeline may have sparked the initiative.

Certainly, the subsequent government funding for the 'Dam-line forestry project' fanned the acquisition into life: the scope of the project and the resulting impact on Pamoa Station determined by funding criteria and potential economic return, rather than the ostensible goal of protecting the pipeline.

With the benefit of hindsight, a pine plantation was not a good choice for pipeline protection, as Gisborne District Council learned soon enough. The decision points to the pitfalls, perhaps, of a unitary authority, which also arise in Back story #10 dealing with the subsequent forestry joint venture. It is deeply ironic that the very factor driving down the valuation of Pamoa Station – reduced productivity from regeneration – could have been the solution to Gisborne's water security. This startling possibility is supported by the Department of Conservation's 1993 proposal to extend an ecological corridor to the western end of the former Pamoa Station through which the Dam-line ran (see Figure 48 in Back story #10). Would a separate regional authority have provided more balanced oversight of any afforestation proposal to check the 'returns'-driven approach of the Corporate Management Team? Would a regional council have paid more attention to the existing protection afforded to the Dam-line by a property already covered in a large proportion of native regeneration? Would a regional council have turned to a forestry consultancy in the first instance for advice on 'protective afforestation'? How the trees were both to provide protective canopy and soil stabilisation *and* be harvested for future return remains unfathomable. That aside, the most striking aspect about the acquisition of Pamoa Station is the extent to which economic drivers determined council decisions, to the detriment of all concerned. The corridor need not have been a solid barrier, had council been less bent on maximising the government afforestation funding (again, with an eye on return). Land exchange may have been possible, had the options for Maraetaha Incorporated been less prescribed. The sale and purchase may have been less fractious, had council met the asking price, and sooner, so that settlement preceded possession.

Other aspects of the negotiations do not reflect well on council. Conduct to pander the sale ranged from the suspension of public hunting in the Waingake Waterworks Bush while the 'sensitive' negotiations were in train, to the legal undertaking entered in June 1991 granting Maraetaha Incorporation right of first refusal over future alienation of Pamoa Station – at a time Chief Executive Elliot was exploring the sale of parts of Pamoa Station to other parties. His October 1991 undertaking to provide fenced access lanes across the corridor to push the sale and purchase over the line seems to have been as equally empty.

One of the residual grievances about the Pamoa sale and purchase relates to the subsequent utilisation of the farm for a joint forestry venture (see Back story #10). In part, this may be related to council's decision to end the grazing tenancy before the incorporation was ready. It may also relate to the decision

to proceed with forestry rather than offer the land back as a pastoral concern, as the incorporation had been led to believe. The nub of the issue goes, once again, to the context of the Pamoa sale and purchase. Viewed in isolation, Gisborne District Council had merely acted on Maraetaha Incorporated's offer. It had not sought the whole property, but having obtained it, the joint forestry venture made the best return of the property for ratepayers. On the other hand, Maraetaha Incorporated consistently pointed out that the council's Dam-line forestry venture had forced them into selling Pamoa Station. On the pretext of 'public interest', without which the property would still be in incorporation hands, the council benefitted from a lucrative joint venture on one of the last vestiges of tribal land. The environmental costs of the decision are explored in Back story #10.

Part Three: Back Stories

Back story #1: Maraetaha Block

Maraetaha 2 is not to be confused with the coastal block with the same name. Under the 1868 Deed of Cession, the boundaries of the Poverty Bay district 'ceded' to the Crown extended south to Paritu, and the job of determining the customary title of 'loyal natives' within the ceded district given to the Poverty Bay Commission. Maraetaha was one of the first blocks to go before the commissioners, in July 1869. The coastal block initially straddled Te Kuri a Paoa but, in an out of court arrangement, the northern, disputed end was carved off into the separate block of Te Kuri, some 800 acres.[353] Maraetaha, of 13,798 acres, was awarded to Ngai Tahupō without further contest. Te Kuri was jointly awarded to Ngai Tahupō and Rongowhakaata the same day.[354] Crown title to these lands was granted in 1871 under the Poverty Bay Grants Act 1869 as joint tenancies, meaning that the listed owners held equal shares that could not be succeeded to. The grants were also free of any restrictions on lease or sale. Within months of the title investigation, Ngai Tāmanuhiri had leased Maraetaha to James Woodbine Johnson, a relative newcomer to the district and an in-law, on account of his marriage to Mere Hape.[355] Johnson's 1869 leasehold included a right of first refusal to purchase, which he used to advantage throughout the 1870s. In 1880, in an out of court arrangement between Johnson on the one hand, and William Rees and Wi Pere as trustees for Ngai Tāmanuhiri owners on the other, it was agreed that, for an additional £3,000 payment, Johnson would receive 10,700 acres of Maraetaha – the bulk of the block – in satisfaction of his purchases of Ngai Tāmanuhiri interests. A court order was made to this effect and the transaction subsequently validated by the Trust Commissioner.[356]

[353] The boundary between the two blocks was Orongo.
[354] Pickens, Wai 814 #A19, pp. 11-14. The Ngai Tahupō claim to the Poverty Bay Commission was headed by Mita Hamuera. William Graham, a surveyor by profession, was said to be acting as agent for the claimants.
[355] Pickens, Wai 814 #A19, pp. 35-36. Pickens recounts that Johnson chaired Cook County Council and represented the district on Auckland Provincial Council from 1873-1875. The Johnson pastoral enterprise on Ngai Tāmanuhiri lands involved his brother, George Johnson. Mere Hape is variously ascribed to Ngati Kahungunu, Rongowhakaata and Te Aitanga a Mahaki, as well as Ngai Tāmanuhiri. One of the daughters of this marriage, Miria Johnson, married Maui Pomare. The numerous Ngai Tāmanuhiri signatories to the lease are set out in Pickens, #A19, footnote 140 on p. 41.
[356] Pickens, Wai 814 #A19, pp. 44-45.

Back story #2: The Rees-Pere Trust

The trust arrangements Ngai Tāmanuhiri and other hapu within Tūranganui entered from 1879 were conceived to both retain possession of tribal lands for their own use and occupation, and to benefit economically from the influx of Pākehā settlement in the district. The two men spearheading the initiative, Wiremu Pere and William Rees, did not see these twin goals as inherently contradictory. In 1874, the unpopular Poverty Bay Commission was replaced by the Native Land Court, the resulting Crown titles now issued as tenancies in common under the Native Land Act 1873. Considered by some to be an improvement on the initial 'ten-owner rule' (where title to tribal lands had been issued to a maximum of ten individuals with full power to transact their individual interest), the 1873 Act required the Court to list *all* the tribal owners in a 'memorial' of title, with discretion to define the proportionate undivided share (the 'relative interest') of each.[357]

Under the 1873 Act, memorial lands could not be sold without the consent of all the owners (Sections 48-49), another improvement on the prevailing practice of piecemeal purchasing from individual owners. Where unanimity could not be reached, the interests of 'dissenting' non-sellers could be partitioned for any sale of the balance to proceed (Section 65). Such provisions in the interests of transparency and collective decision-making were lost on the East Coast, where fierce public and private competition within the emergent land market encountered stiff tribal resistance to sale. Here, not only did speculative dealings in individual interests and even advances paid for customary lands not yet brought to court continue unabated, but increasingly drastic tactics – involving alcohol and store debt – were used to obtain them. By 1876, District Officer Samuel Locke was reporting that land purchasing at Poverty Bay was in a 'fearful muddle'.

[357] Not everyone welcomed the legislation which, as historian Vincent O'Malley comments, took the individualisation of tribal lands to a new level. One of the most vocal critics was William Rees, who in 1884 argued that: 'A very gross act of cruelty and bad faith as well as folly was perpetuated by us when we compelled the Natives to hold their lands as individuals. The Treaty of Waitangi assured them of 'all their rights in their lands'. The chief right of all was the right of tribal ownership – but a tribe of five hundred persons is totally different from five hundred distinct and opposing claimants. It is the tribe which owns the land, and it is the tribe which, in justice, ought to have sole power to use it or to deal with it.' 'Memorandum on the Native Land Laws, by W.L. Rees', AJHR 1884 Session II, G-2, p.4, cited in O'Malley, *Agents of Autonomy*, p. 35. O'Malley, too, considers the 1873 Act to have been an even greater departure from customary Māori ownership, 'since it supposed that the proportionate interest of each individual could be defined and marked on the ground when all the weight of evidence pointed to the absurdity of such a suggestion.' *Agents of Autonomy*, p. 34. I have argued that the 1873 Act, and nineteenth-century Māori land legislation in general, is best understood in terms of the public-private contest over purchasing, rather than any consideration of Māori entitlement, J. Luiten, 'Nineteenth-century Land Alienation and Administration within the North-Eastern Bay of Plenty, Part Two: Lands 'a waho', Wai 1750, 2022.

Local efforts to re-establish collective control over the land market were led by Te Aitanga a Mahaki Rangatira Wiremu Pere.[358] Wi Pere was actively involved in the Repudiation Movement of the early 1870s, describing himself as a 'non-seller' at this time. More accurately, Pere was an early proponent of trusteeship, appearing before the Poverty Bay Commission in 1873 on behalf of Te Aitanga a Mahaki, Rongowhakaata and Ngai Tahupō, for example, to call for their ceded lands to be returned to a committee of twelve trustees 'with authority to allocate the Estate for the benefit of the three tribes.'[359] By 1876, Pere regarded the Native Land Act 1873 as a sham: 'though land is granted to persons and made inalienable still it is sold'.[360] From May 1877, Pere established and chaired the Turanganui-a-Kiwa komiti. Land retention was a core pillar of the organisation's overarching kaupapa to 'control our own destiny'.[361] The following year, he won the Te Arai seat in the Cook County election.

Wi Pere invited Member of Parliament William Rees to Tūranga in 1878, to act as a lawyer for the Māori community beset on all sides by litigation over their lands.[362] As Rees himself put it in 1879, the extent of fraud and litigation over land transactions made Gisborne 'stink in the nostrils of the people of the South …'[363] The Rees-Pere Trust was devised shortly after his arrival to establish order from the chaos. More than simply controlling further land alienation, the trust arrangement provided the legal entity tribal landowners otherwise lacked to develop their lands. The trust, working with a committee of owners in any one block, would decide what would be retained for their own occupation and use, and what would be developed for 'close settlement' – surveyed parcels for small farms and residential sections with road access and public reserves – for lease or sale. In effect, hapū were to enter the business of land settlement, and told that 'the money would flow into our pockets like water running out of a bucket.'[364]

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[358] Wiremu Pere (William Bell) was the son of Tūranga trader Thomas Halbert and Rīria Mauaranui, of Te Whānau-a-Kai and Rongowhakaata.
[359] O'Malley, Vincent 'Report for the Crown Forestry Rental Trust on the East Coast Confiscation Legislation and its Implementation', February 1994, p. 154.
[360] Wi Pere, Tangihanga title determination, November 1876, 3 GIS 145, cited in Rose Wai 814 #A17, p. 207.
[361] Rose, Wai 814 #A17, pp. 218-9. Another major concern was alcohol consumption. In common with the Repudiation Movement's emphasis on 'Kotahitanga' or tribal unity, Pere's concern for self-determination transcended his own backyard: he attended hui throughout the wider region to discuss the political issues of the day, his advice broadcast to a national audience through the Repudiation Movement's newspaper, *Te Wananga*.
[362] William Lee Rees, born 1836 in Bristol, immigrated to New Zealand via Australia, in 1866. He practiced as a Congregational minister before training as a lawyer. He was MHR for City of Auckland East between 1876-1879, taking over Native Minister John Sheehan's law practice in Napier in 1878.
[363] WL Rees, 'Reports of Meetings held, and addresses given, by Mr W.L. Rees in Poverty Bay and Tolaga Bay', (Gisborne, 1879), cited in Orr Nimmo, Wai 814 #A4, p. 9.
[364] Evidence of Raniera Turoa, 'Minutes of evidence in connection with petitions relating to the New Zealand Native Land Settlement Company, AJHR 1891 session II, I-3a.

Ngai Tāmanuhiri were initially taken with the scheme: five of the 14 blocks conveyed to the Rees-Pere Trust in 1878-1879 were Ngai Tāmanuhiri lands, including Maraetaha.[365] They were quickly disillusioned. In the case of Maraetaha, as outlined above, the out of court arrangement on their behalf resulted in the transfer of most of the block to James Woodbine Johnson. The Ngai Tāmanuhiri owners received none of the additional £3,000 Johnson paid as part of the settlement. In addition, the trust then mortgaged the balance. Ten years on, Hemi Waaka and others petitioned Parliament about the trustees' dealings with their lands. After handing over the land to the trust, he told the Native Affairs Committee, '… we never received a single benefit. The result is lamentation and weeping and vain repining at what has occurred.'[366]

The story of the East Coast Trust Lands is a long and complicated one which, as Ngai Tāmanuhiri's experience shows, did not end well for the hapū of Tūranganui. The Rees-Pere Trust had no capital to finance its property development. Surveying and stamp duties were expensive, but by far the biggest cost was that of buying out Pākehā who had already obtained land interests in any block. To the owners' dismay, the trust estate was mortgaged to pay for the enterprise and in 1881, in a bid to raise more capital, the trust was superseded altogether by a joint stock company, the New Zealand Native Land Settlement Company.

By 1884, the Company, too, was in financial strife and from 1888, a series of interventions were put in place to pay back the mounting debt without losing the entire trust estate. For our purposes, the Trust Lands story is important because 17 years after entrusting Maraetaha to Rees and Pere, Maraetaha 2 was partitioned and added to the trust estate by decree of the Validation Court, part of which was to be sold to meet the survey liability over the block. Six years later, the task of debt repayment was taken over by the government, Ngai Tāmanuhiri's remaining lands vested in the East Coast Trust Lands Board in 1902, and from 1905, in the East Coast Commissioner. The sale and purchase of parts Sections 3 and 6 – the Waingake catchment – to the Gisborne Borough Council for waterworks followed soon after.

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[365] Orr Nimmo, pp. 22-23. The Maraetaha Trust Deed, dated 11 February 1879, stipulated that the trustees were to dispose of the land only with 'the written consent of a majority of the [owner] Committee.' It was approved by the Trust Commissioner three months later, on 16 April 1879. The other blocks were Whataupoko, Kaiparo, Te Ahipipi, Te Wairau, Wharaurangi, Whakawhitira, Pakowhai, Te Kuri, Tangotete 1 & 2, Te Karaka, Matawhero, and Okahuatiu, Michael Macky, 'Trust and Company Management by Wi Pere and William Rees' (Issues 20 and 21)', Crown Law Office 2002, Wai 814 #F11, p. 43.

[366] Hemi Waaka, 31 July 1891, 'Minutes of Evidence in connection with petitions relating to the New Zealand Native Lands Settlement Company, viz., the petitions of Hemi Waaka and others …', AJHR 1891 Session II, I-3A, p. 14.

Back story #3: Maraetaha 2 title determination

Figure 39: Maraetaha 2 Block, 1881 [367]

Ngai Tāmanuhiri's inland hill-country remained undisturbed throughout the upheaval of the 1870s.[368] In March 1881, Hemi Waaka and 13 others on behalf of Ngai Tāmanuhiri applied to the Native Land Court

[367] ML 287.
[368] Reference was made during the 1882 title investigation to an attempt by one Rapata to survey the northern end of Tarewauru into a separate block for lease or sale to Pākehā, which was successfully opposed by Hemi Waaka

for title determination to Maraetaha 2.[369] The block survey plan was completed in record time four months later, by authorised Napier surveyor, Charles Reardon. Reardon's invoice of £858 5s 3d was based on the survey of 35,067 acres.[370] The resulting 1881 'Sketch Plan of Maraetaha No. 2' encompassed not only the 22,110 acres of Maraetaha 2 'proper' and the 8,400-acre Te Puninga Block to the south, but also the Tarewauru Block and other smaller blocks to the north, and the smaller areas of Okahu, Rahokapua and Umuhaka south of Te Puninga (see Figure 39). Both the promptness of the survey and its wide ambit suggest the New Zealand Native Land Settlement Company may have been behind the initiative (discussed below). Opposition to the survey had brought work to a standstill for 12 days in May.[371]

The claim to Maraetaha 2 on behalf of 'Ngai Tamanuhiri te iwi', which began in Gisborne on 1 March 1882, seems to have been the first occasion the hapū formerly referred to as Ngai Tahupō used this appellation for the purposes of title determination. Doing so, together with the scope of the claim, may account for the opposition it attracted: 27 people initially stood to challenge the application, including those within the Tāmanuhiri hegemony who nonetheless preferred to claim under the mana of their own tupuna and hapū.[372] These counter claimants eventually arranged themselves into nine camps.[373] Few disputed Ngai Tāmanuhiri's claim to Maraetaha 2 'proper', but the inland areas further north remained contested. Keita Kēnana (aka Kate Gannon, or Wyllie) preferred to claim Maraetaha 2 as Ngati Kahutia, but subsequently agreed to join the Ngai Tāmanuhiri case.[374] With respect to the northern blocks of Tarewauru, Te Ranginui, Te Rangaiohinehau, Tamarua and Tiraotane however, Kēnana conducted the

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and others of Ngai Tāmanuhiri. Waaka is said to have hosted a 'committee' at Muriwai to decide the issue of entitlement to Tarewauru, the decision going against Ngai Tāmanuhiri in favour of Rongowhakaata hapu Ngati Ngarueterangi and Ngati Te Aweawe. This may have prompted Ngai Tāmanuhiri's recourse to the Native Land Court.

[369] Those listed with Hemi Waaka were Hirini Ratu, Mita Puku, Te Whe, Pene Hokotupeka, Paora Kohu, Rutene Kewa, Heperi Nui, Hemi Mahuki, Himiona Riki, Matenga Reweti, Matene Kaipau, Te Maku Matutaera, Tiemi Wirihana me etahi atu, for the 'iwi Ngai Tamanuhiri'. Maraetaha Application file 1883-1950, Boxes 120-121, Maori Land Court, Tairawhiti.

[370] Certified survey costs of C Reardon, 4 February 1888, Application Files Maraetaha 1883-1950 Boxes 120-121.

[371] Ibid.

[372] Eru Pohatu claimed as Ngati Rangiwaho, Hoani Te Hau as Ngati Kahutia, Maora Tawera for both Ngati Kahutia and Tāmanuhiri.

[373] Keita Kanana for Ngai Tāmanuhiri, Ngati Kahutia, Ngati Aweawe, Ngati Ngarueterangi, and Ngati Tawhi; Raniera Turoa for Ngai Tahu; Paora Pere for Ngati Ruapane; Ropatini for Ngati Rangituanui; Riparata for Ngai Tupatu; Wiremu Paetarewa for Ngati Kahungunu and for Ngati Hauraki; Hirini Tipare for Ngati Pakarehi; and Petera Honatapu for Ngati Hineteau. 7 Gis 430-465.

[374] Keita Kenana (nee Halbert) was the daughter of trader Thomas Halbert and his fifth wife, Keita Kaikiri of Ngati Kaipoho of Rongowhakaata. Wi Pere was her half-brother. Kate's first husband was James Wyllie, with whom she had six sons and three daughters. After her husband's death in 1875, Kate married licensed interpreter Michael Gannon, with whom she had two sons and two daughters. In 1893 they moved to Auckland. Steven Oliver, 'Wyllie, Kate', *Dictionary of New Zealand Biography, Te Ara – the Encyclopedia of New Zealand*, https.//teara.govt.nz.

case for Ngati Te Aweawe and Ngati Ngarueterangi – both Rongowhakaata hapū – based on the conquest of these eponymous ancestors over Ngati Kahungunu and the occupation of their descendants over the five to six generations since. Kenana also conducted a case on behalf of Hemaima Ngarangikataia of Ngai Te Tawhi who claimed within Te Tira o Tane based on occupation. Riporata Kahutia similarly claimed Tarewauru as Ngati Tupatu, Tupatu being Ngarue's brother. Hirini Tipare claimed Tarewauru for Ngati Pakirehe, on the basis that this eponymous ancestor participated with Aweawe in the conquest. Pakirehe was Tupatu's son.

There were claims to smaller rohe through older tupuna: Raniera Turoa of Ngai Tahu and Paora Pere of Ngati Ruapani, for example. Ropatini Te Rito, by contrast, claimed the same rohe as the much more recent kin-group Ngati Rangituanui. Te Rito was scarcely opposed to the claimants' case, declaring boldly: 'Tāmanuhiri was the great ancestor who owned all the land from Wairoa to Turanga', but he nonetheless preferred to claim his piece of the tribal estate through Tāmanuhiri's descendant, Rangituanui.

To the south-west, Wi Paetarewa of Ngati Hauraki, while identifying as Ngati Kahungunu, nonetheless claimed within Te Puninga on Hauraki's whakapapa to Tāmanuhiri, which he maintained had allowed the hapū to take tuna from the streams there.

Conductor for the claimants Hemi Waaka resolutely claimed the whole for Ngai Tāmanuhiri. Tāmanuhiri, he told the court, inherited the land from Tahu, and his descendants had held it against allcomers ever since. Tarewa-uru (the hanging), he explained, was so-named by Paea, Tāmanuhiri's son, to commemorate his gruesome reaction to being presented with half-cooked food, the tribal rohe subsequently reinforced by the rāhui established by Paea's grandson, Tapunga o te Rangi. Judicious marriages were certainly arranged between these Tāmanuhiri descendants and their neighbours like Ngati Pakirehe, but the mana within the tribal rohe did not pass. Waaka discounted the claims of Tāmanuhiri descendants who had long since moved away from the tribal rohe. With respect to the various Tāmanuhiri hapū claiming within the uncontested Maraetaha 2 Block, he went on, 'this will simply be a matter of names.'

Ngai Tāmanuhiri's bid for an all-encompassing title, if that was what had been intended, was not successful. In addition to Maraetaha 2, separate provisional orders were made for the blocks of Tarewauru, Ranginui, Rangaiaohinehau, Tiraotane, and Te Puninga. On the other hand, Te Puru, shown on the 1881 sketch as a separate block, was now included within Maraetaha 2. Three partitions within

Maraetaha 2 – 2A, 2B and 2C – were ordered for those found to be entitled but who did not claim as Ngai Tāmanuhiri, reducing the Maraetaha 2 parent block from 22,110 acres to 16,670 acres.[375]

The Ngai Tāmanuhiri claimants were the ostensible winners from the title determination, the court upholding their claims in all blocks, bar the partitions of Maraetaha 2 awarded to others. Keita Kenana's party was similarly found to have an interest in all the blocks she had claimed, although her inclusion in Tarewauru was deemed to be on account of whakapapa to Kahutia and Tāmanuhiri, rather than the conquest of her Rongowhakaata tupuna.[376] Three weeks later, on 16 May 1882, court orders were issued based on the lists of owners handed into court.[377] Handwritten lists on file acknowledged hapū mana: Hemi Waaka's list of Maraetaha 2 grantees, for example, began with the hapū entitled to the block: 'Ko Paea ko Ngaai Tipu ko Ngaati Rangiiwaho Ngaai Tekoau Ngaati Whakahemo Ngaai Tumataura Ngaati Rahi, Ngaati Horowai Ngaai Teriri.'[378] For court purposes, however, the same individuals were simply divided into 'Hemi Waaka's list' and 'Keita Kenana's list', and once the case was over, even this classification became irrelevant: legally, Maraetaha 2 was now the property of 153 individuals.[379] In the court minutes, some of them were singled out as having part shares. By implication, for it was not stated in the minutes, everyone else held a single share each. On the title order itself, the relative shares were undefined.[380] Trustees for the minors among the owners were appointed at this time.[381] Also omitted from the minuted record were the restrictions placed on the resulting title: the provisional order stipulated that Maraetaha 2 was to be inalienable, except with the consent of the Governor, by sale or mortgage or by lease longer than 21 years.[382]

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[375] Maraetaha 2A, at Mangapoike, a vast block of 6,730 acres, was ordered in favour of Ngai Tahu and Ngati Ruapani, represented respectively by Raniera Turoa and Paora Pere. Maraetaha 2B, a smaller block at Whakaongaonga was ordered in favour of Petera Honotapu and Ropitini Te Rito, the latter of whom had represented Ngati Rangituanui's claim. Maraetaha 2C at Haerengarangi was ordered in favour of Wi Paetarewa and others of Ngati Hauraki. The smaller blocks included in the original sketch of Maraetaha 2 bordering the southern boundary of Te Puninga – Rahokapua, Okahu and Umuhaku – were not dealt with at all in the court order.

[376] 8 Gis 105-109, 24 April 1882.

[377] 8 Gis 173-184, 17 May 1882. The lists have not been analysed for this project.

[378] 'Maraetaha No 2' list of owners in Application file

[379] 'Maraetaha No. 2' list of owners, 8 Gis 175-177. An application by Hapi Kiniha and others for a rehearing of Maraetaha 2 seems to have been thwarted by the court demand that the appellants first deposit £300. 8 Gis 418, 27 August 1883.

[380] Order in Maraetaha No 2 Pre Consolidation Titles for No 2 Sections 3 and 6, Box 299, Tairawhiti Māori Land Court.

[381] 31 May 1881, 8 Gis 185-187.

[382] The restrictions on the provisional order are not minuted and nor have I been able to find the order on file. However, the restrictions are referred in separate correspondence 22 years apart, the first occasion the following year when Hami Te Hau applied to have the restrictions on Maraetaha 2 removed, Pickens, Wai 814 #A19, p. 119; the second in 1905, when the owners of Maraetaha 2 Section 5 similarly applied for the removal of restrictions, R22402223 MA 1 1907/690.

The multiple orders from the single title determination meant further survey work was required before the provisional orders could be finalised and title issued.[383] The subdivision of the land to reflect the court orders was again undertaken by Reardon in April 1886, resulting in a second survey bill in early 1888. Maraetaha 2's portion of the original 1881 survey was £448 6s 3d, and its share of the survey 'for Hemi Waaka & others' five years later, £68 15s 6d. The surveyor obtained separate charging orders for both amounts from the Native Land Court on 9 September 1888, the plan having been approved by Chief Judge Macdonald three months prior.[384] The six-year delay is significant. Ngai Tāmanuhiri later claimed that the definition of owners' interests from the title determination was unfinished business (detailed below in Back stories #4 and #5). Moreover, in the ten or so years spanning 1883 and 1894, more than 48 applications were made to partition Maraetaha 2.[385] None of them were actioned, possibly because the certificate of title for Maraetaha 2 had yet to issue.

[383] 8 Gis 109, 24 April 1882. See also Order in Maraetaha No 2 Pre Consolidation Titles for No 2 Sections 3 and 6, Box 299, 'their Title be issued in pursuance of the Act when a proper survey is sent in.'
[384] 12 Gis 85-87, 11 September 1888. The certified charges are in Application file Maraetaha 1883-1950 Boxes 120-121, Māori Land Court Tairāwhiti. Note Reweti Wirihana's objection to the charging orders on the grounds that 'all the money was paid by the Compy' was countered by solicitor De Lautour's argument that these charges 'were over and above the amount of survey charges paid by the company under order of the Supreme Court.' I have not discovered what he was referring to. MacDonald's signature is dated 21 June 1888 on ML287A.
[385] Tiemi Wirihana made four such applications, in September 1883, in March and again in July 1887, and in November 1894. Application file Maraetaha 1883-1950 Boxes 120-121, Māori Land Court Tairāwhiti

Back story #4: Crown purchase, from 1894

From 1891, one of the core policies of the newly elected Liberal Government was 'closer settlement': an ambitious State-sponsored small farm development program primarily directed at the 10 million acres within the North Island still in Māori hands.[386] As outlined in the overview, in this era, the State monopolised the market in Māori land, at the same time removing all existing restrictions on alienation.[387] From 1893 to 1897, the acreage of Māori land purchased by the Crown each year exceeded 300,000 acres, peaking in 1895-96 at around 600,000 acres. The aggressive purchase program ended the following year, coinciding with the petition of Wi Pere and others to Queen Victoria to halt the alienation.

Piecemeal payments for individual interests at prices dictated by the government were made to individuals without reference to other owners, the opportunism all the worse for the dire circumstances Māori were reduced to by this time. Government land purchase officers tailed the Native Land Court, exchanging cash or vouchers for the land interests of those attending the court. In Gisborne, the resident registrar of the Native Land Court *was* the government's local land purchase officer.[388] Once the pool of willing sellers in any block was exhausted, the Crown could then apply to the Native Land Court to have its interest partitioned.[389] Eastern Maori MHR James Carroll, who was part of the Liberal Government, in 1891 considered the individual purchasing of interests as the 'very worst form' of land

[386] In the rhetoric of the day, the task before government was how best 'to enable more rapid and satisfactory settlement of surplus lands now lying unproductive in possession of Natives.' John Ballance, Financial Statement, NZPD 1891, p. 65 cited in Loveridge, 'The Development of Crown Policy on the Purchase of Maori Lands, 1865-1910: a preliminary survey' (Crown Law Office, 2004) Wai 1200 #A77, p.163.

[387] Private dealing for lands declared to be under Crown negotiation were outlawed under Section 16 of the Native Land Purchases Act 1892. Section 117 of the Native Land Court Act 1894 restored the Crown's right of pre-emption, making it unlawful for anyone other than the Crown to acquire any land or interest in land held by Māori, except in the case of bona fide purchases yet to be completed. Section 14 of the Native Land Purchases Act 1892 provided that existing court-ordered restrictions on alienation might be wholly or partially removed or declared void by the Governor 'for the purposes of a sale to Her Majesty'. Provisions regulating the court's confirmation of alienations (set out in Section 53/1894 and including whether any alienation contravened restrictions on alienation or left the vendor without sufficient land for their support) did not apply to Crown purchasing. Under Section 76 of the Native Land Court Act 1894, the Crown exempted itself altogether from court-ordered alienation restrictions.

[388] Namely John Brooking. Brooking immigrated from Devon in 1857 and was engaged in the government military attack at Waerenga a Hika. Brooking began working as clerk and interpreter in the Native Land Court in Gisborne in 1875, moving to the Land Purchase Department in 1879. In 1886, Brooking was appointed Registrar of the Native Land Court in Gisborne. He was engaged as a Crown land purchase officer from September 1893 to January 1894, when his purchasing duties were taken over by Wheeler. *The Cyclopedia of New Zealand [Auckland Provincial District*, 1902, available online at nzetc.victoria.ac.nz

[389] Under Section 78 of the Native Land Court Act 1894, a Minister of the Crown could cause application to be made to the court to ascertain the interest acquired by the Crown in any land, and to order the partition of the defined interest, which at once vested in Her Majesty.

alienation, and it was as equally condemned by Apirana Ngata MHR a decade later.[390] Selling land was the only means available to hapū of raising capital, but both the piecemeal payment to individuals and the low price paid by the Crown denied them even this.

John Brooking began purchasing interests in Maraetaha 2 for the government in September 1894. The Crown's price of 3s 6d per acre for Maraetaha 2 interests was less than one-fifteenth the value the land obtained on the open market ten years later. Over the next six weeks, the Land Purchase Officer transacted with 11 owners, four of whom held part shares. The gross price of the 16,670-acre block at 3s 6d per acre was £2,917 5s, which, once the survey charges plus interest was deducted, gave a nett price of £2,244 19s 3d. Brooking divided the sum by the number of shares (108), resulting in a price per share of £20 15s 8d.[391]

The slow sales, together with Brooking's query to Head Office six weeks later, suggests the Crown purchase was not popular:

> On the original investigation of the title to this land under The Act of 1880 the Court fixed the shares as shown in the list, some of the owners who are opposed to the purchase, contend that the shares have never been determined as required by the Act of 1886 and threaten to apply to the Court for a further inquiry as to the shares.[392]

Ngai Tāmanuhiri's enduring grievance about the Crown purchase was that it occurred before the relative interests in Maraetaha 2 had been determined, and that the sellers among them held but little interest in the block. As forewarned, the following month Pene Mataora and another applied to court to determine the relative interests of Maraetaha 2 but, like the multiple applications for partition, this too seems to have gone nowhere – highlighting if nothing else the conflict of interests presented by the Native Land Court registrar also being land purchase officer.[393] Brooking was by no means confident that the relative interests had in fact been defined but he was instructed by Land Purchase Department

[390] 'Report of the Commission … [on] Native Land Laws', cited in Commissioners Stout and Ngata, 11 July 1907, 'General Report … Native Lands and Native Land Tenure', AJHR 1907, G-1c, p. 3. Stout and Ngata, too, called for the end of individual purchase in 1907 for the same reason that 'it practically renders impossible concerted action on the part of a tribe or hapu.'
[391] 'Maraetaha No 2', with NLP 94/265 in R23905920 MA-MLP1 1898/78. In land terms, each share amounted to 154 acres 1 rood 10 perches.
[392] Brooking to Sheridan, 11 October 1894, NLP 94/265 in R23905920 MA-MLP1 1898/78.
[393] Brooking's role as Land Purchase Officer was taken over by Wheeler around this time. At Wairoa, WA Thom, who, as Land Purchase Officer began purchasing Maraetaha 2 interests from resident owners there, was similarly clerk of the Native Land Court at Wairoa.

officials in Wellington to proceed with the purchase of Maraetaha 2 'on title as it now stands.'[394] A second deed was prepared for sellers at Wairoa.[395]

By 1896, the Crown's portion based on equal shares amounted to 4,760 acres, a calculation from which the Native Land Purchase Department refused to budge, and which was subsequently awarded by the Validation Court (Back story #5). Sixteen years later, when the relative interests were determined by the Native Land Court, the balance of Sections 3 and 6 was allocated in the first instance between hapū, and only then apportioned by the hapū themselves among the non-sellers from the original list of owners (see Back story #7). On this occasion, a lone protest that the shares should be equal was reportedly rejected by the court on the grounds that the shares were unequal according to native custom.[396]

[394] Sheridan to Brooking, telegram, 15 October 1894, in R23905920 MA-MLP1 1898/78
[395] Even so, the question of definition of relative interests continued to hang: Brooking's successor W J Wheeler seemed to think that interests in the Maraetaha titles were as yet undefined. In February 1895, for example, Wheeler wired Sheridan that the interests in Maraetaha 2A were undefined, to which Sheridan replied that 'the shares appear to have been as much defined as in No 2 purchase of which is now in progress.'
[396] Poverty Bay Herald, 2 July 1912.

Back story #5: Validation Court proceedings, 1895-1896

Crown purchasing within Te Tairāwhiti also upset local ambitions for the East Coast Trust Lands. Following a mortgagee sale in 1891, Members of Parliament James Carroll and Wi Pere had formed a trust to salvage the encumbered trust lands from being sold off altogether.[397] Under an agreement reached in February 1892, all remaining New Zealand Native Lands Settlement Company lands with complete title held by the mortgagee were transferred to Carroll and Pere as trustees, with provision to expand the trust estate to other lands once the company's title was perfected.[398] The Validation Court, established in 1894 to validate unlawful but otherwise 'bona fide' land transactions, provided the trustees the legal machinery to do so. Between 1894 and 1897, the Validation Court vested 180,388 acres of Māori freehold land, including 11,000 acres of Maraetaha 2 and 5,082 acres of Maraetaha 2A, in the Caroll-Pere Trust, appointing Native Land Court deputy registrar Henry Jackson as receiver.[399] Solicitor William Rees propelled the entire proceedings.

The justification behind the trustees' rash of title claims to the Validation Court – shared by the Bench – was that it was unfair that the burden of company debt should fall on the former owners of completed titles, when other blocks had contributed to the creation of the debt. In the case of Maraetaha 2, the liability attached to the block survey, a dubious claim to say the least given that the New Zealand Native Lands Settlement Company had patently *not* paid the cost of survey, the registered lien still unpaid and accruing interest. The truth of the matter was that it was in the interests of existing trust lands owners to bring in others to spread the load of debt. That said, the promise of the original trust – that of land retention and land utilisation by hapū themselves – was as pertinent as ever, for neither was possible under the status quo. Keita Kenana's Pākehā husband informally leased from some of the Maraetaha 2 owners by the early 1890s, but the rental income was sporadic and even that annoyed those owners who had not been party to it.[400] Rees was candid in correspondence with the Native Land Purchase

[397] In 1891, the Bank of New Zealand Estates Company (a receiving division of the bank which had taken over the New Zealand Native Land Settlement Company's mortgage) announced a mortgagee sale and auction of the lands. The Company debt to the bank was now £146,956; its mortgaged assets valued at £113,956. Rees had registered caveats on 11 blocks as part of an attempt to prevent the mortgagee sale. Some 36,300 acres of trust lands was sold before the auction was abandoned.
[398] Under the 1892 agreement, the land vested in the trust was just over 64,000 acres and the debt just over £58,000. Macky, Wai 814 #F11, p. 179.
[399] AJHR 1903 G-9, pp. 1-2, cited in Macky, Wai 814 #F11, p. 199. Henry Jackson was appointed trust receiver while he was still acting as deputy registrar of the Native Land Court, a position he had held in Gisborne since 1883. He was forced to resign from public service after his reappointment as trust receiver, in June 1895. Unlike Carroll and Pere, Jackson was on salary as receiver, the £500 per annum wage charged against the trust lands. Orr Nimmo, Wai 814 #A4, pp. 88-89; 94.
[400] Gannon's lease initially upset the Crown's purchasing plans, in 1893. In May 1894, Chief Land Purchase Officer Patrick Sheridan declined Gannon's offer to sell the Crown his leasehold interest for £250. Six months

Department about the trustees' plans to 'open' Maraetaha 2 for settlement.[401] Wi Pere was no less transparent with Māori landowners about the purpose of the trust: 'to cut up and deal with [trust lands] for purposes of settlement'. Crucially, however, Pere argued that under trust management the owners stood to benefit: 'If existing divisions could be dealt with and the land vested as a whole in the Trustees it would prevent any sales to the government and the Trustees could sell or lease with the consent of the owners and the approval of this Court.'[402]

The trustees' application to Maraetaha 2 in August 1895 brought government purchasing to an abrupt halt. Presuming to represent the owners, Rees at once suggested to Native Land Purchase Department Head Patrick Sheridan that they come to an arrangement with respect to the Crown's purchased portion before the case came on. Neither Rees nor the owners were aware of the extent of the Crown's interest at this time: that over the last twelve months the land purchase officers at Gisborne and Wairoa had transacted with a further 30 owners, the Crown's interest based on equal shares now calculated at 30.83 shares, or just over 4,759.5 acres.[403]

As Rees had anticipated, the Validation Court refused to proceed with the trustees' case until the Crown's interest had been defined. Sheridan sent the purchase file to the Validation Court; Rees was simply told that the Crown's portion was 4,760 acres, to be 'of fair average quality'. Still in the dark as to just who had sold, when the case reconvened on 16 September, Ngai Tāmanuhiri owners at Muriwai refused to entertain the Crown's claim based on equal shares. For their part, Trustees Carroll and Pere are said to have suggested having the Validation Court define the relative interests 'as the Government claim for equal shares seemed too large.'[404] According to Rees, at this juncture Judge Gudgeon 'desired us to arrange matters with the Government in Wellington otherwise he could not proceed with the application.' In the capital three days later, Chief Land Purchase Officer Patrick Sheridan invited Rees to 'examine the Certificate of Title and see for himself whether the shares were not all equal.' Sheridan declined Carroll's offer of £1,000 for the Crown's interest (for which £837 had been expended, less survey deductions). The following day he turned down a second proposal to limit the Crown's portion to

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later, Wairoa Land Purchase Officer William Thom reported that Maraetaha 2 owners there considered the lease void, both because not everyone had been party to it and because the rent was two years in arrears. R23905920 MA-MLP1 1898/78.

[401] 'We also propose to arrange with the Survey Department to cut up the whole Block for settlement, making the costs of such surveys a charge upon the land awarded to Messrs Carroll and Wi Pere less the proportionate amount of the acreage allotted to the Crown.' Rees to Chief Commissioner, NLPD (Sheridan), 7 August 1895, in R23905920 MA-MLP1 1898/78.

[402] 4 Val 158-9, 9 April 1896, cited in Macky, Wai 814 #F11, p. 200.

[403] Wheeler to Sheridan, 5 August 1895, R23905920 MA-MLP1 1898/78.

[404] This and the following details are all from the itemised Maraetaha 2 Bill of Costs, Validation Box, Maori Land Court Gisborne.

3,000 acres, then 3,500 acres, insisting on nothing less than the full 4,760 acres based on equal shares, and suggesting 'that the trustees should assist the Government in all its East Coast matters and make this the beginning[,] when it was finally concluded to agree to this but subject to the consent of the Natives.'

The trustees needed the Crown purchase sorted before their own plans for Maraetaha 2 could proceed. Rees was persuaded that the shares would be deemed by the Court to be equal and advised Carroll and Pere as much. The following day, 24 September 1895, the trustees formally agreed to the Crown allotment. Before leaving Wellington, Rees had another '[l]ong and important interview' with Sheridan, 'discussing position of the original block with him …'

Details of the Crown's sale and purchase were finally disclosed in January 1896, as Wi Pere was about to meet with the owners.[405] There is no record of the owners' consent to the Crown's share and nor were they privy to the location of the area selected by the district surveyor at this time.[406] At the end of February, the district surveyor's plan caused Rees and Jackson fresh consternation, and further 'long conference' over the course of a fortnight about the 'unfairness of the selection', without resolution.[407]

When the case came on in April, the owners objected to the allocation: 'it being the best portion of the block'.[408] The court adjourned to enable further negotiation between the trustees and the Ngai Tāmanuhiri owners, while Land Purchase Officer Richard Gill obtained permission from Wellington to alter the location.[409] Two days later, 'all parties being agreed', the Validation Court ordered Maraetaha 2 Section 1 of 4,760 acres to vest in the Crown. From this, 50 acres was to be awarded to 'the natives': an area at Waipupukia on the Te Arai River under cultivation, Rees explained, which Gill had agreed to have cut out of the Crown's area 'as a reserve.'[410] On 25 April 1896, the Crown was ordered to pay its share of the survey liens on Maraetaha 2 – all those deductions from the sellers' interests, amounting to £147 13s plus £44 6s interest – to the 'Receivers': the BNZ Estates Company.[411]

Judge Gudgeon later agreed with Ngai Tāmanuhiri petitioners about the inequity of the Crown's allocation based on equal shares, but he defended his order on the grounds that it reflected 'an

[405]Rees, extract of letter dated 7 January 1896, in R23905920 MA-MLP1 1898/78.
[406] Rees maintained in court that he and trust receiver Henry Jackson had been mandated by Ngai Tāmanuhiri to negotiate with the government over the Crown portion, but they did so in the dark: 'as we could not get list of shares sold to the Crown the natives could not be satisfied that the Govt was entitled to 4760 it claims.' 4 Val 56, 17 September 1895. The meeting was said to have taken place on 16 September 1896. Sheridan directed the District Surveyor to select the Crown portion late in December 1895, R23905920 MA-MLP1 1898/78.
[407] Maraetaha Bill of Costs, Validation Box, Māori Land Court Tairāwhiti.
[408] Gill to Sheridan, 20 April 1896, R23905920 MA-MLP1 1898/78.
[409] 5 Val 5, 20 April 1896.
[410] 5 Val 11, 22 April 1896.
[411] 5 Val 22, 25 April 1896.

arrangement made by them outside the Court and assented to in the Court at least four fifths of the owners being present.'[412] The pronouncement ignores the extent to which the partition was presented to the non-sellers as a fait accompli, the arbitrary terms dictated by an uncompromising government and mediated by parties with a vested interest in the outcome.

It was another month before Rees was back in court for title to the balance of Maraetaha 2. The trustees' title claim was based on an alleged contract between the registered owners and the New Zealand Native Land Settlement Company in May 1882 – at the point of title determination – transferring the block to the company in trust, the company to pay the survey costs.[413] In December 1895, four months after lodging the claim and shortly after Rees' 'long and important interview' with Sheridan in Wellington, the trustees succeeded in having the claim extended to other Ngai Tāmanuhiri lands: Maraetaha 2A, 2B, 2C and Te Puninga, 'as the survey lien upon which the claim is partly based is over the whole of these Blocks.'[414]

As the Waitangi Tribunal has pointed out, the timing of the alleged 1882 agreement – the day after the Court's provisional title order – was crucial because the Validation Court was statutorily barred from validating purchase contracts that predated Native Land Court title.[415] Nobody seems to have pointed out that the title was incomplete at this time and under restrictions from alienation. Nor did anyone recall that at the time of the title investigation, Ngai Tāmanuhiri were estranged from the company as a result of what had happened to their previously vested lands, and were therefore scarcely likely to have transferred further land.[416] The alleged contract between the Maraetaha 2 owners and the company was never presented in court nor subsequently filed – because it never existed. Indeed, during the contested Puninga case that followed, to counter legal argument that an agreement concerning Maraetaha 2 post-title could not apply to an entirely different block, Rees changed tack, producing an equally dubious document dated 24 February 1882 (pre-title) and signed by Hemi Waaka and 11 others. The exhibit was

[412] Judge Gudgeon to Under Secretary for Justice, 7 October 1896, R24568388.
[413] Gazette notice, 6 August 1895; Rees to Sheridan, 7 August 1895, NLP 95/334 in R23905920 MA-MLP1 1898/78. The notice read that the agreement was allegedly entered 'on or about 17 May 1882'.
[414] 4 Val 98, 21 December 1894. The ruling was made by Judge Gudgeon.
[415] Waitangi Tribunal, *Turanga Tangata*, vol. 2, p. 571.
[416] Hemi Waaka and Ngai Tāmanuhiri subsequently petitioned Parliament about the Company's dealings, telling the Native Affairs Committee in 1891: 'In the year 1882 a relative – Hamiora Mangakahia – came to Gisborne. He told us that disaster would result to us from these negotiations with Mr. Rees; that we would lose our land. He had seen articles in the newspapers which made him believe that would be the result. *It was about this time that our connection with the company ceased.*' (my emphasis). AJHR 1891, I-3a, p. 7.

not a conveyance, but an authorisation for the company to pay for the survey of Maraetaha 2 (at a time when it encompassed Te Puninga) and to have the survey lien registered in its name.[417]

Under pressure from government purchasing and having no means to pay the substantial survey lien attracting mounting interest, Ngai Tāmanuhiri hapū were now faced with the unfamiliar and expensive proceedings in the Validation Court, without the benefit of independent legal advice.[418] In the last five years, too, Resident Magistrate James Booth had repeatedly reported high casualty rates among Māori communities within Tūranganui from typhoid and influenza epidemics.[419] In these circumstances, just five years after publicly rueing involvement with the Rees-Pere Trust, Ngai Tāmanuhiri were persuaded to engage in the fiction of the company transfer, agreeing to the partition and vesting of the bulk of Maraetaha 2 once again in trustees, to be managed in tandem with committees of owners. The case came before court on 6 May 1896 after a meeting at Muriwai. The block was to be cut three ways. A 4,000-acre partition called Te Puru was to vest in Carroll and Pere and to bear the whole of the liability over Maraetaha 2, leaving the other two partitions unencumbered with Hemi Waaka appointed as third trustee. Three thousand acres was to be farmed by the owners themselves and a 4,000-acre partition to provide them a lease income.[420] Block Committees for all three partitions had already been arranged and were passed in court without objection. Rees made a point of stressing that the committee members be named in the resulting court decrees.[421] They were not. The following afternoon, the committee submitted an agreement setting out the duties and powers of the trustees and committees over the entrusted lands. When Wi Pere objected to the stipulation that the land return to the owners once the debt was redeemed, Judge Gudgeon sent everyone outside to 'better discuss those questions amongst themselves.'[422] The outcome was not recorded.

Still smarting from the Crown purchase which had cost them 28.5 per cent of the block, the non-sellers used the opportunity in 1896 to define their relative interests. Once again, the outcome of this exercise

[417] In addition to Hemi Waaka, Hirini Ratu, Rutene Kewa, Raihania Te Aopapa, Rihara Katikati, Nepia Te Paku, Hoera Ngaungau, Hori Pukapuka, Rihimona, Anaru Taipiha, Mita Puku and Matenga Reweti were signatories to the document. Exhibit 1 in R24568388 ACGS J1 1896/1364. Rees' subsequent bill of costs hedged both bets, the improbable page-long itemised account dated simply '1882', Validation Box, Maori Land Court Tairāwhiti.
[418] The negotiation with Ngai Tāmanuhiri owners at Muriwai was undertaken by Wi Pere and Henry Jackson. Solicitor Robert Noble Jones only arrived in court on 7 May 1896, the day the Maraetaha 2 partition was ordered. 4 Val 42-45, 6-7 May 1896; Jones to Native Minister, 24 June 1896, R24568388.
[419] Murton, Wai 814 #A35, pp. 262-3.
[420] Evidence of Hemi Waaka, 14 May 1896, cited in Macky, Wai 814 #F11, p. 206.
[421] The committee of twelve for each partition was the same, except that in the case of Section 4, Hemi Waaka stood in for Pera Waaka. The members were Pera Waaka, Rewiti Karamaene, Honiana Matuakore, Te Uri Maranga, Pita Te Hau, Himiona Riki, Hori Awarau, Renata Tupeka, Matene Kaipau, Teira Tapunga, Keepa Matanohi, and Pine Mataora. 4 Val 42, 6 May 1896.
[422] 4 Val 49, 7 May 1896.

was of little significance to the Validation Court: the 'list of names and shares of non-sellers' was 'handed in' on 6 May; the following day reference was made to four owners having five shares each; Judge Gudgeon himself related five months later that '[f]he share list of Maraetaha No 2 was before the Court for more than a week several times adjourned and finally settled on the 5th May 1896. Not one person objecting.'[423] No record of the arrangement, however, was ever transferred to the Native Land Court for posterity.

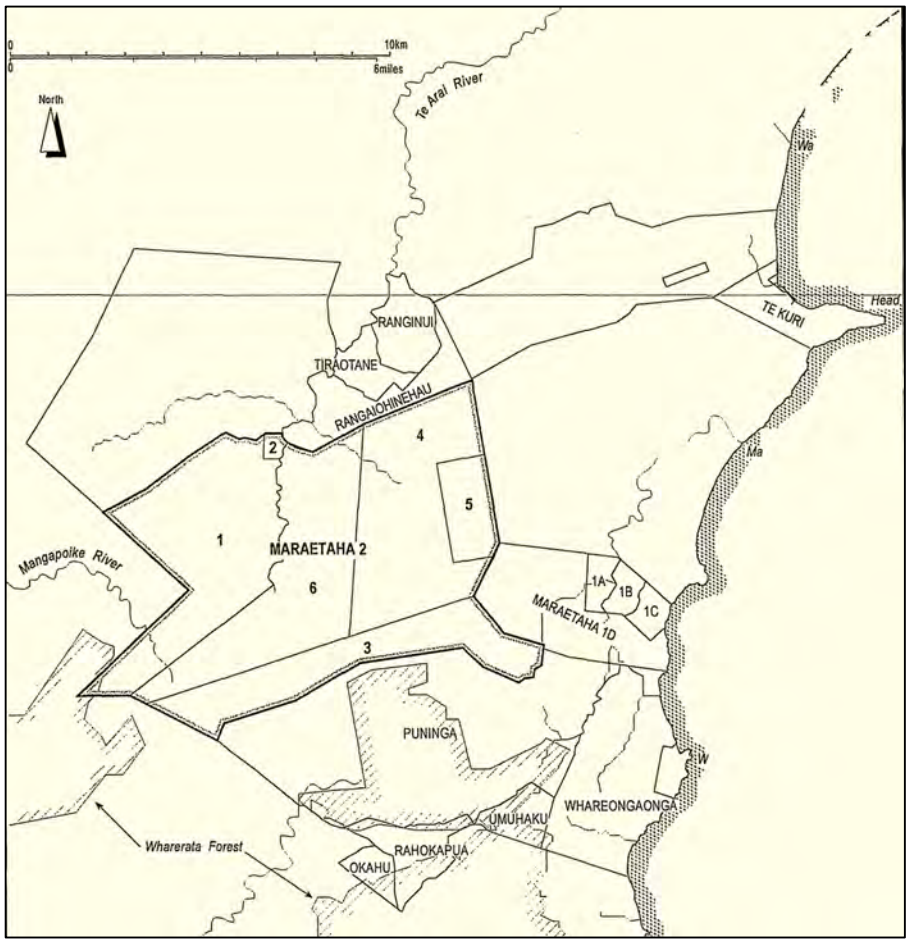

Figure 40: Validation Court partitions, 1896[424]

[423] 4 Val 44, 6 May 1896; Gudgeon to Under Secretary Justice Department, 7 October 1896, R24568388 ACGS J1 1896/1364.
[424] Pickens, Wai 814 #A19.

Two other partitions within Maraetaha 2 were ordered that day. Three weeks before, Tame Arapeta (aka Thomas Halbert) had asked the court to partition out his interests.[425] An 857.5-acre parcel was ordered in favour of Arapeta and 3 others, to be deducted from the Te Puru partition (Section 5). The 50-acre garden 'reserve' within the Crown block was ordered in favour of Rihara Pakuau (Section 2). Legal costs against the block for the period between 1882-1896 amounting to £569 1s 4d were reduced by the court to £322 18s.[426]

Table 4: 1896 Partitions

Parcel	Acreage	Vesting order
Section 1	4760	Crown
Section 2	50	Rihara Pakuau
Section 3	3,000	James Carroll, Wi Pere, Hemi Waaka
Section 4	3,142.5	James Carroll, Wi Pere
Section 5	857.5	Tame Arapeta (Thomas Halbert), Mere Hape, Mere Ann Nohotakere, Hirini Te Ratu
Section 6	4000	James Carroll, Wi Pere, Hemi Waaka

Gisborne solicitor Robert Noble Jones arrived in court the day the Maraetaha 2 orders were made.[427] He seems to have been engaged by some of the owners to extricate Te Puninga Block from the Validation Court proceedings.[428] Te Puninga had been partitioned in 1891, and an appeal of the partition had been

[425] 5 Val 5, 20 April 1896. Thomas Halbert was half-brother to Wi Pere and Keita Kenana, the progeny of Thomas Halbert's sixth marriage to Maora Pani. Elspeth M. Simpson and K. M. Simpson. 'Halbert, Thomas', *Dictionary of New Zealand Biography. Te Ara - the Encyclopedia of New Zealand,* https://teara.govt.nz/en/biographies/ (accessed 17 April 2024).
[426] Bill of Costs, Maraetaha Blocks, Validation Box, Māori Land Court Tairāwhiti.
[427] Jones came to New Zealand from Ireland as an infant and was Gisborne-educated. He practised there as a solicitor from 1890 and in 1899 was admitted to the Bar. He served on Gisborne Borough Council from 1900-1903. In 1903, Jones was appointed judge of the Native Land Court for the Tairāwhiti District, judge of the Validation Court and president of the Tairāwhiti District Maori Land Council. He presided over the determination of ownership and definition of interests in Maraetaha 2 in 1912. He was made chief judge of the Native Land Court in 1919 and in 1922 was appointed Under Secretary of the Native Department. In 1933, Jones worked briefly as East Coast Commissioner and Native Trustee until he was retired from both, in addition to his role as Under Secretary. He retained his role as chief judge until 1939. Bryan Gilling, 'Jones, Robert Noble', *Dictionary of New Zealand Biography. Te Ara – the Encyclopedia of New Zealand*, available online at https://teara.govt.nz (accessed 20 February 2024).
[428] The solicitor seems to have been unaware until later in June of the Crown's interest in Maraetaha 2. On 24 June 1896 Jones wrote to Native Minister Seddon, 'I got hold of minutes of whole case, and find Crown has greater interest in this matter than that of only assisting the Natives in getting justice done to them. The Government itself has apparently been a party to a portion of the proceedings and it is essential the Government should know the

heard just the previous year, in 1895. In another extraordinary show of judicial support for the trustees, Judge Gudgeon announced at the outset: 'I consider that the subdivisions are unnecessary & I would suggest that the share of the natives be rearranged as in relation to the whole block & that then the block be placed in the hands of the Trustees.'[429] When the case opened on 11 May, the owners of 9 of the 11 partitions objected, and the court adjourned.

On 13 May, exhibits were produced in chambers, without notifying Jones or any of the parties. One of them was a copy of the brief agreement discussed above, dated 24 February 1882 and signed by Hemi Waaka and 11 others, stating: 'We the applicants for the Maraetaha Number Two hereby request and authorise the New Zealand Native Land Settlement Company Limited to pay off the Surveyors of the said Block and to take the Survey lien in the name of the said Company.'[430]

Jones made his argument for the owners when the case reconvened on 16 May, unaware of the new exhibit. Minutes of the day's proceedings suggest that the trustees were now willing to accept a portion of Te Puninga for the survey lien, rather than pursue trusteeship over the whole.[431] Judge Gudgeon adjourned the case for another fortnight. In court on 27 May 1896, Rees restated the basis of Carroll and Pere's claim: 'The survey lien was over the whole of the original block of which Maraetaha No 2 & Puninga are two. 'If there is no claim on Puninga', he went on baldly:

> there is none on Maraetaha No 2 and the Governor was under a mistake in giving his consent, the Court was mistaken in awarding the land to the Trustees, & the parties were mistaken. The Puninga people contracted to bear a part of the Co[mpan]y's claim and they should not escape their fair share of liability.'[432]

Jones responded that the evidence put forward in Maraetaha 2 was not sufficient to prove any company claim. As yet unaware that the basis of claim had changed (the signed document dated 24 February 1882 produced in chambers a fortnight before), Jones argued that the contract of 17 May 1882 had not been produced, 'and in any case at the time it was made Puninga was a separate block under separate title and could not be covered by it.'[433] He refused to cross-examine Hemi Waaka and William Rees on the grounds that their evidence in chambers had not been minuted, nor himself or other parties notified. Judge Gudgeon deferred his decision.

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history of the case.' R24568388 ACGS J1 1896/1364 In addition to Jones, solicitor William Lysnar also appears to have been acting for some of the owners in Te Puninga.

[429] 7 May 1896, 4 Val 46.

[430] In addition to Hemi Waaka, Hirini Ratu, Rutene Kewa, Raihania Te Aopapa, Rihara Katikati, Nepia Te Paku, Hoera Ngaungau, Hori Pukapuka, Rihimona, Anaru Taipiha, Mita Puku and Matenga Reweti were also alleged to have signed. Exhibit 1 in R24568388 ACGS J1 1896/1364

[431] 16 May 1896, 4 Val 70.

[432] Ibid.

[433] Exhibit 2, Copy of Minutes, 27 May 1896, in R24568388 ACGS J1 1896/1364.

In June, the court ordered the owners of Te Puninga to pay survey charges of £227 and part of the cost of negotiations based on the alleged 1882 agreement. Jones appealed to Native Minister Seddon, pointing that his clients 'had against them two members of Parliament including a minister of the Crown.'[434] Judge Gudgeon had ruled that any appeal of the Te Puninga decision would require £200 as security of costs, which was, as Jones put it, 'a very large sum & totally beyond the power of the Natives.'[435] Three weeks later, having learned of the Crown's interest in the Maraetaha 2 proceedings, Jones tried again, setting out matters in more detail. "Unless the Government interferes in the matter and assists the natives, I contend a great wrong will be done & the Govt will (unwittingly perhaps) be parties to that wrong.'[436] He was advised by telegram that the Native Minister could not intervene, and that his clients might instead petition Parliament.

Ngai Tāmanuhiri owners did petition Parliament in September, but their grievances related to the Validation Court decisions regarding Maraetaha 2. The first, dated 9 September 1896, from Tiemi Wirihana and 22 others of Ngai Tāmanuhiri, sought to release the 7,000 acres of Maraetaha 2 from trustee control: 'kia unuhia mai ki waho i te kai tiaki.'[437] The second, from Hirini Nui and 11 others, dated 25 September 1896, objected to the partition of Maraetaha 2, arguing that the Crown's purchase should not have been calculated on the basis of equal shares, and that objections about the shares arrangement made by the 'Committee' for the balance of the block had not been considered by the Validation Court.[438] Hirini Nui had guided Reardon's 1886 survey.[439] The petitioners sought to have the Native Land Court empowered to rehear the partition.

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[434] Jones to Native Minister, 5 June 1896, 96/701 in R24568388 ACGS J1 1896/1364. Cited in Pickens, Wai 814 #A19, p. 145. Under Secretary Waldegrave advised against intervening, but no response was sent to Jones.
[435] RW Jones to Native Minister (Seddon), 8 July 1896, 1896/701 in R24568388 ACGS J1 1896/1364. Jones included a newspaper clipping about Gudgeon's recent decision requiring unsuccessful Whangarā appellants to pay the defendant's costs with respect to their failed petitions to Parliament. 'It is well that the Maoris should learn that litigious opposition is expensive.' As Jones pointed out, 'notwithstanding it is supposed to be the right & privilege of every subject to have full & free access to Parliament for all classes of grievance, yet a person can be punished by the Validation Court for approaching Parliament - for that is what it amounts to. To me such a principle seems untenable and entirely subversive of the liberties of the Subject.'
[436] RW Jones to Native Minister (Seddon), 24 June 1896, in R24568388 ACGS J1 1896/1364
[437] Petition of Tiemi Wirihana and 22 others, 9 September 1896, in R24568388 ACGS J1 1896/1364. The other signatories were Karaitiana Pahaumurua, Reweti Whakaware, Hamiora Reweti, Tuakana ma Te Reweti, Raiha Piri, Pirihira Kotuku, Nepia Te Paka, Merenia Ngarangiore, [?] Pohatu, Raihania Nga, Himiona Riki, Raharuwhi Te Hau, Paora Riki, Peti toka, Matenga Reweti, Rihara Pakana, [?] Hipiri, Keri Waipara, Irimana Waipara, Renata Tupeka, Paea Parengaio, Te Keepa Matamohi.
[438] 'If the Native Land Court had dealt with the matter we might have heard of it, and might have attended the Court.' Petition of H Nui & others (English only on file), in R24568388 ACGS J1 1896/1364.
[439] ML 287A.

Neither of these petitions were successful. That of Hirini Nui and others, presented by Wi Pere MHR, received a favourable recommendation from the Native Affairs Committee.[440] Asked to respond, Judge Gudgeon agreed that the grievance about the scale of the Crown's portion was justified, but he argued that 'it was an arrangement made by them [owners] outside the Court and assented to in the Court at least four fifths of the owners being present.' He defended the subsequent partition of the balance on the same grounds. Gudgeon held a dim view of both the Māori landowners and their 'Committees', but the nub of his response was that 'there can be no doubt that nearly all of the petitioners agreed to the arrangements which they now condemn.'[441] The petition was simply filed.

The Validation Court decrees had profound implications, as Ngai Tāmanuhiri soon felt. The most obvious was the vesting of the sections in just two men with full powers of alienation, all previous restrictions against alienation dropped. The appointment of Hemi Waaka as the third trustee on Sections 3 and 6 to safeguard these tribal lands from alienation was overridden by the parliamentary intervention in 1902 (see Back story #6 below). The arrangement of block committees in 1896 seems to have been little more than a ruse to get the owners onside. Like the arrangements over relative interests, the block committees, too, seem to have been forsaken by officialdom the minute the decrees were made.

[440] '… the petitioners have just cause for complaint and it is recommended that the Government should take steps to have the matter inquired into and readjusted.' Native Affairs Committee Report, no. 327-1896, in R24568388 ACGS J1 1896/1364.
[441] Gudgeon opened his response: '… I may perhaps be allowed to point out that a Committee seldom hears more than one side of the case brought before it those who might oppose seldom appear and the plaintiffs when of the native race are as a rule such measureless and artistic liars as to render it almost impossible to discover the particular well in which the truth is to be found.' Gudgeon to Under Secretary for Justice, 7 October 1896, in R24568388 ACGS J1 1896/1364.

Back story #6: State intervention: the East Coast Trust Lands Board / Commissioner, 1902 – 1953

The addition of the Maraetaha 2 partitions and other Māori land blocks to the trust lands portfolio via the Validation Court in the mid-1890s did little to arrest the financial free-fall of the trust.[442] In 1901, the Bank of New Zealand set a mortgagee sale for January 1902, which was then deferred to August. At the last minute, Parliament intervened. The East Coast Native Trust Lands Act 1902 established a three-member Board, in which all Caroll-Pere trust lands were vested. In effect, in exchange for a two-year reprieve from further mortgagee sales, the East Coast Native Trust Lands Board took over from Carroll, Pere and Jackson as receiver, tasked to redeem the BNZ mortgage by 'realising' trust lands – through lease or sale. The Act differentiated between 'principal security blocks' (those vested in the Carroll-Pere Trust under the 1892 agreement) and 'specific security blocks' (vested by decree of the Validation Court, and liable for only specific amounts decreed by the court), but it was silent on the status of unencumbered trust land. In six years, the liability attached to Maraetaha 2 Section 4 as a 'Specific Security' mortgaged to the BNZ under trustee management had grown to a staggering £11,433.[443]

Section 9 of the 1902 Act reads as if only lands subject to mortgage were able to be sold or leased. Under the Act, Maraetaha 2 Section 4 was listed as a 'Specific Security Area' and Maraetaha 2 Sections 3 and 6, together with a 5,082-acre balance of Maraetaha 2A, listed as not subject to mortgage.[444] The sole protection for owners in the 1902 Act lay in Section 12, which provided that the terms and conditions of the Board's powers of management over any trust land – to sell, to lease, to improve, or to subdivide – was in each case to be agreed upon by deed between the board and the trustees, and sanctioned by the Chief Judge. Maraetaha 2 Section 4 – Te Puru – was one of the first transactions executed by the Board, in January 1904, at market value of £15,967. Notwithstanding that this sum more than met the inflated liability charged against Maraetaha 2 and that the debt to the BNZ was repaid by June 1905, two months later the Board sold a further 2,299 acres of Maraetaha 2 – parts of the unencumbered Sections 3 and 6 – to the Gisborne Borough Council for waterworks.

In Committee, BNZ lawyer Francis Bell had agreed it would be 'nothing short of a scandal' if specific securities were sold to pay off debt beyond what they owed to the Bank, which is precisely what occurred with Maraetaha 2 Section 4.[445] The sale of part Sections 3 and 6 was more reprehensible still. In effect, the 1902 legislation enabled the Board to override the out of court settlement reached with

[442] In the decade from 1892, the total debt rose from £58,331 to £156,383. Macky, Wai 814 #F11, p. 224.
[443] Orr Nimmo, Wai 814 #A4, pp. 155-6. Macky, p. 268
[444] Macky, p. 255-256
[445] Testimony, 26 August 1902, cited in Macky, Wai 814 #F11, p. 246.

Rees and Pere in 1896, whereby Sections 3 and 6 were to be entrusted unencumbered for the tribe's use and occupation. Trustee Hemi Waaka, appointed as a third trustee in 1896 to give effect to this agreement, did not sign the deed conferring management powers on the Board over Maraetaha Section 3.[446] His consent was no longer required: at the Board's recommendation, amending legislation in 1903 had changed Section 12/1902 so that now the agreement of a *majority* of trustees was required in any deed.[447]

In 1906, the debt to the Bank of New Zealand having been repaid, Parliament again intervened, replacing the three-member Board with a single East Coast Commissioner.[448] In the same enactment, the Validation Court was empowered to determine the proportion of the BNZ debt and expenses which 'ought properly to have been borne by each block'. In effect, the trust was run as a corporate of 'debtor' or 'creditor' blocks, each with its own account, and all contributing to the overall trust (the net proceeds from the sale of Maraetaha 2 Section 4, for example, applied to the liability of Mangatū blocks). New external debt incurred for land development from 1906 was managed in the same way: the mortgage funding not necessarily expended on the individual blocks on which it was secured. The 'principal security debt' accrued from developing the trust lands into farms (the ostensible reason for commissioner control) was paid back by 1939 but, once again, resolving the internal debt as between the separate block accounts worked against the return of these farms to the owners.[449]

Former Board secretary Thomas Coleman, an accountant in Gisborne, acted as East Coast Commissioner until his death in 1920. From 1921 to 1934 the role was filled by high-level Native Department administrators based in Wellington, the day-to-day administration delegated to Gisborne Registrar of the Native Land Court, John Harvey.[450] From 1934, Wairoa farmer and company director James Jessep was appointed East Coast Commissioner, holding the position until his death in November 1951. Native Land Court Judge Harold Carr acted as Deputy Commissioner throughout this era. Long-standing employee FH Bull took over the administration in its final years.

By the 1950s, the bulk of the 121,788 acres in Te Tairāwhiti administered by the East Coast Commissioner was farmed. Those operating on Ngai Tāmanuhiri lands were Patemaru and Kopua

[446] Macky, Wai 814 #F11, p. 257.
[447] Section 33, Maori Land Laws Amendment Act 1903. Hemi Waaka died in November 1904.
[448] Section 22, The Maori Land Claims Adjustment and Laws Amendment Act 1906. Thomas Coleman, a Gisborne accountant who had been secretary of the Board was appointed East Coast Commissioner. The 'scheme of adjustment' provided in the same 1906 Act was his initiative, see East Coast Commissioner to ???, 5 November 1909, in R22402667MA1 1909/740 .
[449] Murton, Wai 814 #A35, pp. 60-62.
[450] Between 1921 and 1933, Native Land Court Judge and Native Trustee WE Rawson acted as East Coast Commissioner, followed briefly by Chief Judge and Under Secretary for Native Affairs, RN Jones. Wai 814 #A4, p. 10.

Stations, and Pakowhai farm. One of the closing acts of the East Coast Commissioner in 1953 was to purchase Gibson's freehold Puninga titles so that Pamoa Station, too, could be returned as a viable economic unit (see Figure 41).[451]

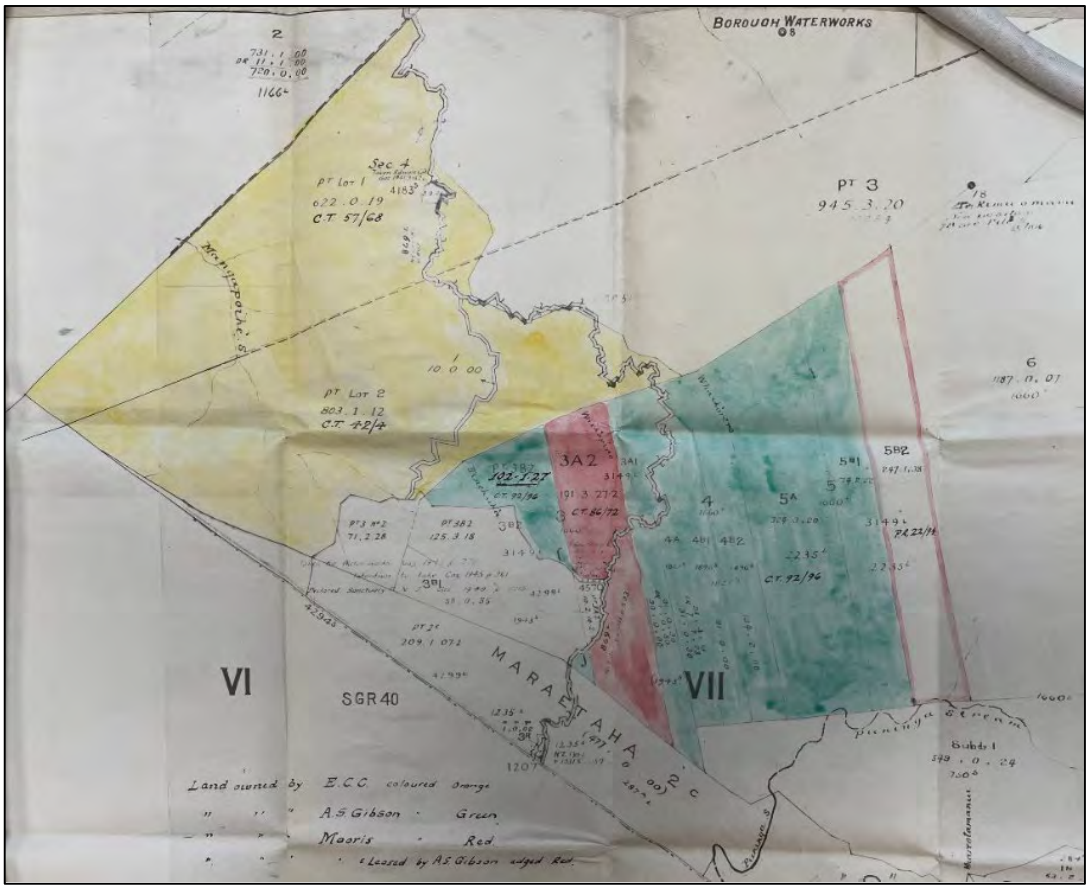

Figure 41: Land purchase for Pamoa Station, 1953[452]

In 1953, the owners of the various trust estates were incorporated and the following year the trust lands were returned, and control of farming operations taken over by committees of management. As part of

[451] The East Coast Commissioner had first to overcome the Acting Minister of Maori Affairs' presumption that public money was at stake: 'There is no question of the Crown's purchasing European land for Maori farmers. In effect, the transaction is a private one between Mr Gibson and the owners of the Maraetaha Blocks, who have the money required, but while the legal title remains in the East Coast Commissioner the consent of the Minister of Maori Affairs is required', Under Secretary Maori Affairs to Acting Minister of Maori Affairs, 17 July 1953, R19527803.

[452] With Deputy EEC Bull to Undersecretary Maori Affairs, 25 May 1953, R19527803.

the dissolution of the trust, it was agreed that the balance proceeds owing from all blocks sold since 1892 should be paid to the owners, any such 'compensation' first adjusted to take into account expenses paid out on behalf of each block. Doing so required the owners to engage in yet another court inquiry into beneficial ownership. By 1951, the proceeds from the sale of Maraetaha 2 Section 4 half a century ago had a book value of £9,603 5s 7d (being the sale price of £15,967, less the liability by 1906 of £11,846 5s, plus interest since). The claim was reduced by the Māori Land Court to £5,347 16s 1d for reasons which are not clear.[453] The distribution to owners began in 1959. In 1967, against the wishes of the East Coast Maori Trust Council to have unclaimed monies paid to the Muriwai Māori Committee for the benefit of the marae, the Minister of Māori Affairs insisted the sum of £1,109 4s 3 be paid into the Māori Education Fund instead.[454]

Towards its close in 1951, the East Coast Lands Trust was publicly lauded as illustrating 'visibly the guardianship principle written into the Treaty of Waitangi.'[455] The Commission established from 1902 could be construed as well-intentioned paternalism: most of the trust estate was preserved and developed under the 50-year plus reign of state control. More accurately, however, the state intervention prioritised the productive utilisation of tribal homelands for its own ends, subordinating the property rights of the tribal landowners who were thoroughly marginalised throughout the entire period.

The petitioners' complaint in 1909 which opens Part One about the East Coast Commissioner's lack of sympathy and their own disempowerment was a source of ongoing pain and frustration. It was not until the Native Purposes Act 1935, in response to another petition about the lack of transparency in the commissioner's management, that provision was made to establish block committees for the trust lands.[456] The East Coast Maori Trust Council, an overarching consultative body, was established only at the close of the Trust regime, in 1949.[457]

As Mafeking Pere pointed out to a Committee of Inquiry in Gisborne in 1941, and as the East Coast Commissioner himself admitted, liquidating the trust lands' indebtedness cost Ngai Tāmanuhiri more than any other people, two thirds of their lands in the hands of the Board having been sold to salvage the lands of others.[458] Maraetaha 2 owners received negligible direct economic benefit from the half

[453] Murton, Wai 814 #A35, p. 55.
[454] Orr Nimmo, Wai 814 #A4, pp. 313, 334; see also 7.4.
[455] *Gisborne Herald*, 8 December 1951, cited in Murton, Wai 814 #A35, p. 80.
[456] Murton, Wai 814 #A35, p. 81; 89. The petition was that of Turi Carroll and 102 others and included complaints that owners were not employed on the farms, and that beneficiaries be given more information about accounts.
[457] Section 28, Maori Purposes Act 1949, discussed in Murton, Wai 814 #A35, p. 81.
[458] Murton, Wai 814 #A35, p. 82. 'They have been', Pere told the committee, 'a sort of Salvation Army to the general trust ...', 'Report of Proceedings of Committee Appointed by the Honourable Native Minister to Inquire Into

century of East Coast Commissioner administration: no dividends were paid from farm profits until after 1940. Annual dividends between 1940 and 1950 averaged 10 shillings per share: two-thirds of the beneficial owners in Maraetaha 2 Sections 3 and 6 received less than £5 once a year.[459] The sole instance of assistance afforded by the East Commissioner occurred after a typhoid epidemic in 1913, when six cottages were built on higher ground at Muriwai to replace condemned housing at the original settlement closer to the Waiwherowhero lagoon.[460]

Living conditions for the impoverished community at Muriwai throughout the first half of the century were deplorable. A 1937 housing survey found that most of the 31 dwellings there required extensive repairs: many homes were overcrowded, with earth floors, unlined walls, leaky roofs, and poor cooking facilities. Ironically, the community's water supply was first identified as an issue during the typhoid epidemics of the early twentieth century and remained one into the 1950s. None of the dwellings in the 1937 housing survey had baths or sanitary facilities.[461]

Certain Matters and Questions Affecting the East Coast Trust Lands', 1941. MA 1 13/33a, cited in Murton, p. 83.
[459] Murton, Wai 814 #A35, p. 108.
[460] Murton, Wai 814 #A35, p. 134.
[461] Murton, Wai 814 #A35, p. 231.

Back story #7 Definition of relative interests, 1912-1913

Maraetaha 2 owners did not receive the proceeds from the sale of the Waingake catchment to the Gisborne Borough Council in 1905 because, notwithstanding the 1882 title determination and the 1896 Validation Court arrangements, East Coast Commissioner Coleman maintained they had never been ascertained. The commissioner applied for the determination of ownership of Maraetaha 2 Sections 3, 4 and 6 in March 1909, four years after the sale and purchase. The application was heard by Judge Jones in June 1912, following an inquiry held by a committee of owners themselves earlier that year. Jones had acted for owners of Te Puninga Block in the Validation Court proceedings of 1896, and therefore, one assumes, possessed some understanding of the issues and parties involved. The minutes of the court case, however, are largely illegible and what follows is based on Jones' detailed account of the proceedings to justify dismissing the appeal of the decision the following year.[462] Significantly, the inquiry into relative interests in 1912 provides an insight into Ngai Tāmanuhiri's long-held grievance about the shares being treated as equal for the purpose of Crown purchasing. The owners turned up in numbers for the hearing, the relative interests case argued in terms of hapū, rather than individuals.

The prior owners' committee had held that entitlement to the trust lands properly belonged to those who had not sold their interests to the Crown by 1896, that is, that 'only the non-sellers are now in the Title.' But they also held that as the interests were sold by individuals rather than hapū, it would be inequitable to have those same sales by individuals affect the share of their respective hapū. In court in 1912, after more than a week of out of court negotiation, agreement was reached in the first instance to apportioning the balance of the tribal lands between hapū.[463] The combined residual area of Sections 3 and 6 was 4,698 acres, treated for the purposes of relative interests as acre-shares. This was split between six hapū in the following way:

[462] 'Maraetaha Nos 2 Sections 3, 4 and 6 Decision', Application Block file Maraetaha Box 119, Maori Land Court Tairāwhiti.
[463] The *Poverty Bay Herald* reported that the out of court arrangement had not been easy: 'The subject aroused considerable difference amongst the various hapus and there has been a great amount of heartburning amongst the opposing factions. Eventually, however, a compromise was effected, and agreed to by all parties. The allocation of the allotments amongst the various families will also be keenly contested, and is expected to take some time, but it is only a matter of interfamily quarrels; and cannot affect the settlement arrived at.' 22 June 1912 p. 4. Ngati Rangiwaho engaged a solicitor from Auckland, a Mr Earl, to represent their interests and Matenga Waaka and others were represented by Mr HJ Finn.

Table 5: Maraetaha 2 Sections 3 & 6 relative interests, per hapū, 1912

Hapū	Shares
Ngati Kahutia	1875
Ngati Rangitauwhiwhia	1635
Ngati Tawehi	390
Ikaiteati	266
Ngati Tuteuruao	84
Ngati Rangiwaho	448
Total	**4,698**

Once agreement had been reached on the hapū share, each hapū then compiled its own list of individual owners and their relative shares. Judge Jones' account alludes to some of the individual shares being associated with the payment of court costs. 'The whole proceedings', he later reported, 'show that there was considerable discussion and ample opportunity to bring before the Court any matter in doubt or dispute. Each hapū list was finally settled by allotment to the individual member and the Court made its order accordingly.'[464]

Many of beneficial owners emerged from the definition of relative interests with one or two shares. Some individuals received close to 100 or more. Shortly after the hearing, Wi Pere objected to East Coast Commissioner Coleman that eight people who had been included had no 'actual' rights in the land, but had been admitted 'out of aroha'. Their inclusion in the recent award, he maintained, was on the distinct understanding that it was only in relation to the unsold land, not a share in the sales proceeds.'[465] An appeal on these grounds was subsequently lodged by Paora Kohu. It was dismissed as 'inexplicable' by Judge Jones the following year.

The net proceeds from the sale of Maraetaha 2 part Sections 3 and 6 were finally distributed to the individual beneficial owners over 1913-1914 once the appeal of the case had been dismissed and after further petition.[466]

[464] Application Block file Maraetaha Box 119, Maori Land Court Tairāwhiti
[465] Coleman to Judge Jones, 19 July 1912, in ibid. Of the eight, Hamiora Mangakahia had 90 shares and Wiremu Paekohe 104.
[466] Murton, Wai 814 #A35, pp. 56-57.

Back story #8 Mangapoike catchment afforestation, 1976-1985

Borough Council Engineer GF Clapcott had envisaged that the Mangapoike catchment obtained for water storage in 1947 would be left to regenerate in bush. A 1950 report on the catchment confirms that the ecological principles at stake were not unknown at this time:

> If Gisborne Borough Council is solely concerned with water supply, then plant no trees at all. Provided area is fenced against stock, and fire is kept out, the ground will soon be completely colonised by manuka. This in turn will be replaced by indigenous shrub vegetation which will spread out from the gullies and from nearby indigenous forest. Ultimately, in say 150 to 200 years time, an indigenous high forest will redevelop. Lock the area up, fence it against stock and protect it from fire.[467]

From the outset, however, there existed a competing tension to wrest a revenue from the council land through afforestation. The same 1950 report acknowledging Clapcott's preference above ended with the borough council's consideration of 'return' also: to plant a 'dual-purpose forestry' and thereby 'kill two birds with one stone'.

The No. 1 catchment was, in fact, declared a sanctuary in 1949 and left to regenerate in dense manuka. The balance of the council's Mangapoike catchment holdings, acquired decades before their intended use as reservoirs, were grazed by adjoining farmers. As set out in Part Two, Coop's right to continue to occupy the part of his farm taken in 1947 for waterworks (what in the 1970s became the No.2 Williams dam) was part of the memorandum of agreement reached at the time. In 1960, the Gisborne City Council sued his estate for overdue rental, which was finally settled in 1963 and which required his successors to vacate at once.[468] For the next 14 years, Hineroa Station occupied the No. 2 catchment for an annual grazing rental of $100.[469] The casual grazing within the watershed conflicted with waterworks management but for the most part it was allowed to continue. The boundary fence between Pamoa Station and the No. 2 Williams catchment was only completed in 1975.[470] By 1983, two-thirds of the No. 2 catchment had reverted to natural scrub (see Figure 42). Within the Mangapoike 1A

[467] Report on Mangapoike Catchment Area, 9 March 1950, D/24/4C 54/01 Water Supply 1953-1959.
[468] Deed of Compromise, 1963, in R26 Waterworks Reserve, 22-218-47.
[469] City Engineer HC Williams to Town Clerk, 30 May 1979, D/15/1B W5/3/01 Mangapoike Land Lease to NZFS 1978-1986.
[470] City Engineer HC Williams to Town Clerk, 15 May 1975, D/24/4A 54/03 Water Supply, 1965-1975.

catchment, taken from Pamoa Station much more recently, the portion of regenerating scrub was more like one-third.[471]

Figure 42: No.2 Williams Dam, September 1982[472]

As set out in Part Two, afforestation of the lakes catchment was signalled in Gisborne City's 1971 water supply report, but only as a corollary to the Puninga project. One of the selling points of developing the Puninga catchment was the proposed recreational use of the reservoir, which would alleviate the pressure on council to open the Mangapoike waters to the public. However, the aim that the Mangapoike lakes be 'perpetually retained as wild life sanctuaries with public access denied' did not necessarily rule out exotic forestry. On the contrary, in his closing sentence on Puninga afforestation,

[471] City Engineer HC Williams to Commissioner of Works & Development, 19 October 1983, D/24/6B 55/02 Water Supply 1980-1983.
[472] N.106 – 155138 in D/24/6B 55/02.

City Engineer Harold Williams suggested that the joint venture with NZFS might also incorporate the 1,000-acre catchment, on the grounds that the risks of both fire and water quality would be 'well spread and thereby lessened.'[473]

Part Two has set out the circumstances behind the Puninga project from 1971, which lead to the addition of the Puninga catchment to the Wharerata State Forest and mounting pressure on Maraetaha Incorporated to sell or at the very least afforest Pamoa Station for the proposed dam. In the same era, Gisborne City Council acquired a further 105 acres from Pamoa Station for the Mangapoike 1A dam, which was completed in 1972. Williams No. 2 Dam was built by 1974. Interest in the 'multiple use' of the lakes catchment, ostensibly as a potential employment scheme, began in early 1976, once the reservoirs were in place. In addition to afforestation, Williams was directed to explore the potential of the lakes for trout fishing and other recreational use.[474] The city engineer visited the catchment with NZFS District Forest Ranger E R Kearns in March that year. He also sought advice from the Hawkes Bay Regional Water Board and from a number of local bodies throughout New Zealand having water supply catchment areas in forestry.

It took the forest ranger 22 months to report back to the council on the proposal, a reflection perhaps, of the low priority he accorded the enterprise. The lakes catchment made for a relatively small forest proposition, particularly once 'buffer zones' left in natural regeneration around the lakes' edges were deducted (see Figure 43). The catchment was also separated from the Wharerata State Forest, Kearns pointed out, by Pamoa Station.[475]

Kearns nonetheless considered that afforestation, if well managed, was not incompatible with the water and soil conservation required for its primary purpose as a water supply. If anything, he argued, the removal of animals and the filtration effected by forest cover would improve water quality. Fire risk, too, would be diminished: highly flammable scrub and fern replaced by a tended forest, and roads developed to previously inaccesible areas. The Forestry Service would be interested in purchasing or leasing the land for afforestation, he advised, but the small scale precluded any joint venture.[476] Williams received contrary advice from the Hawkes Bay Catchment Board, which preferred that the catchment be left in manuka and regenerating forest as the best watershed protection, in terms of water quality and yield. From Nelson came the caution: 'we would never replace regenerating native bush

[473] Gisborne City Water Supply Report 1971', p. 67.
[474] City Engineer HC Williams to Town Clerk, 3 March 1978, D/15/1B W5/3/01.
[475] District Forest Ranger Kearns to Town Clerk, 1 March 1978, D/15/1B W5/3/01.
[476] Ibid.

with exotic plantations in our waterworks reserves because of reduction of the water yield during droughts, and discolouration of the supply during wet weather milling operations.'[477]

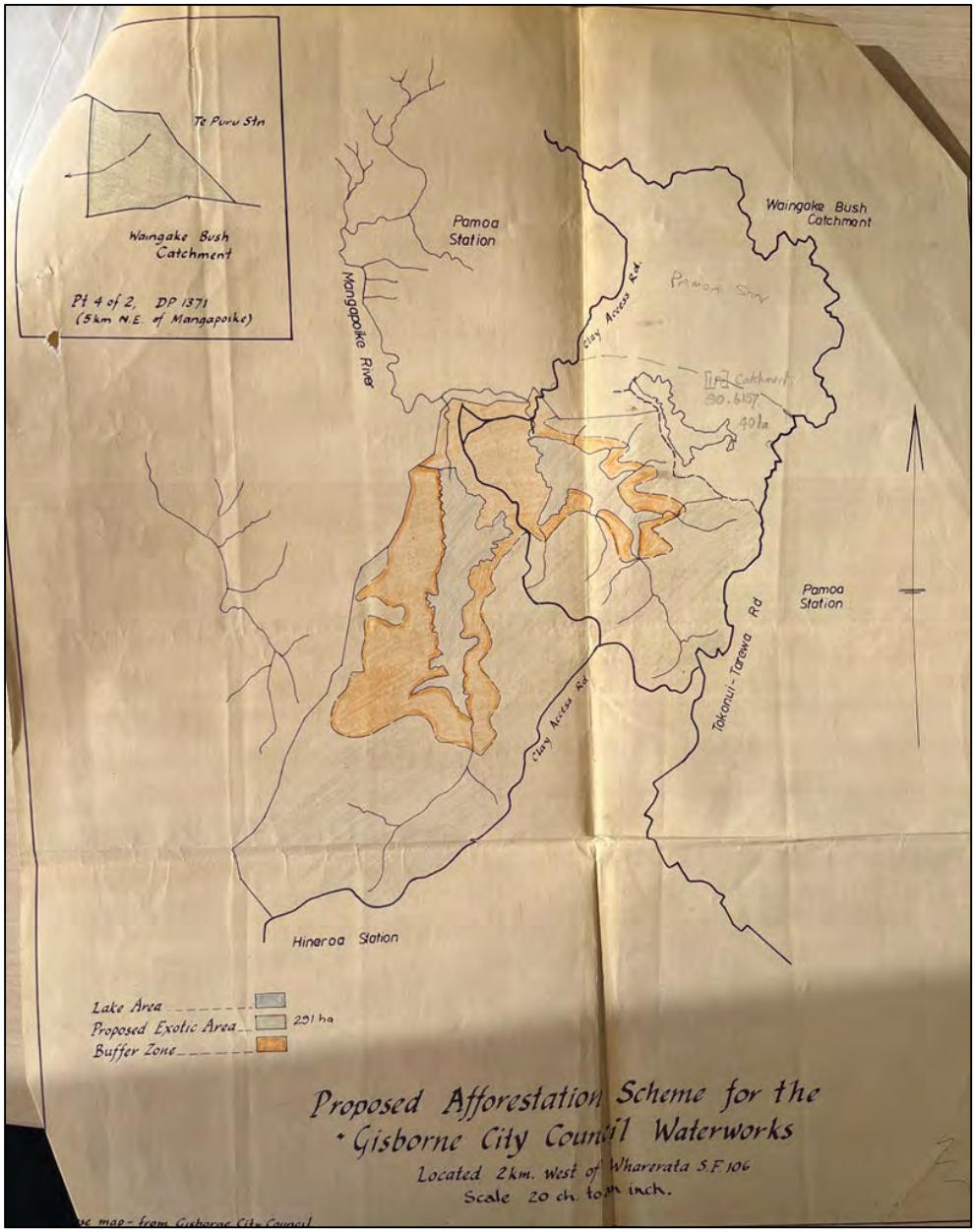

Figure 43: Proposed afforestation of Mangapoike Dams Catchment, 1978[478]

[477] GA Toynbee, City Engineer Nelson to City Engineer Gisborne, 26 May 1978, D/15/1B W5/3/01.

The city engineer reported to council in March 1978. Williams was averse to stocking the lakes with fish but considered the District Forest Ranger's lease proposal based on the afforestation of 291 hectares (719 acres) worth pursuing. Curiously, the proposal in 1978 seems to have contemplated the inclusion of 24 hectares of the Waingake Bush Catchment purchased in 1966 from Te Puru Station, but not the 42.5 hectares of Mangaipoike 1A catchment the council had acquired from Maraetaha Incorporated more recently (see Figure 43 above). In an update to the town clerk in May 1978, Williams again recommended further investigation of a forestry lease. But his ambivalence about afforestation arising from the potential impact on the integrity of the water supply remained: 'The only alternative which I consider should be entertained is that of doing nothing at all and continuing with the original Clapcott proposition that the land be allowed to revert into Manuka and ultimately into native tree cover.'[479] The following week council informed the Forestry Service of its decision in favour of a forestry lease.[480] In August 1978, a blank draft lease supplied by the Forest Service was forwarded by Williams to the city council's solicitors.

Nothing came of the NZFS lease, the proposal beset by a mix of ecological, economic and legal constraints. Williams tried to reactivate matters in January 1981, and it was at this point that he discovered the city council's purchase of the 1A catchment had never been registered.[481]

Two years on, in April 1983, the Forest Service sought clarification from council about the area to be planted, wanting the 'buffer zones' clearly demarcated on the ground. Williams arranged for aerial photos. In August that year, another site visit took place with Kearns' successor, Harry Saunders, to discuss the project. Williams' concerns about the impact of forestry on water quality were allayed, but he continued to worry about control of the catchment under lease to NZFS.[482]

By May 1984, the area to be planted had been mapped and a draft lease prepared. For the District Forest Ranger, the afforestation of the Mangapoike catchment was now a matter of 'considerable urgency', the marginal economic returns expected from the venture (attributed to the cost of access for such a small

[478] 'Proposed Afforestation Scheme for the Gisborne City Council Waterworks', with District Forest Ranger to Town Clerk, 1 March 1978, D/15/1B W5/3/01.
[479] City Engineer HC Williams to Town Clerk, 26 May 1978, D/15/1B W5/3/01.
[480] Town Clerk BF Miles to District Forest Ranger, 1 June 1978, D/15/1B W5/3/01.
[481] City Engineer HC Williams to Town Clerk, 7 January 1981, D/15/1B W5/3/01.
[482] Williams' experience with respect to the forestry venture at Puninga, in which he felt the council had lost control of the land management, continued to irk. His lengthy and somewhat obscure letter to the District Forest Ranger was met by the response that the Forestry Service would not proceed without a lease agreement, which they had yet to see. District Forest Ranger to Town Clerk, GCC, 29 August 1983, D/15/1B W5/3/01.

area) offset by the need to keep forest workers in work.[483] In June, permission was sought to upgrade the track on the southern boundary of the waterworks bush catchment to access and plant the newly acquired Waituna Station, and to scrub-cut the Mangapoike catchment in preparation for planting.[484]

At this point, however, the city council changed tack, questioning the lease option for a joint venture model instead. A sub-committee was appointed to consider afforestation options and independent advice obtained from forestry consultants PF Olsen & Co. In October 1984, the District Forest Ranger was told of the subcommittee's resolution against leasing on an annual rental basis. MW Hockey for the Forest Service came back with a stumpage-sharing proposal of 14 per cent one week later, concerned that further delay would mean laying off permanent employees.[485] He had previously pointed out that the measures to protect the integrity of the water supply compromised the economic return from the venture.[486]

By March 1985, the District Forest Ranger had yet to receive a response. Having called in person and phoned several times, an exasperated Hockey informed council of worker lay-offs at Wharerata, but that the Forest Service would still appreciate a decision on the lease 'one way or the other.'[487] At the end of April, Hockey informed council that the Forest Service mandate for employment creation had been withdrawn and that, as a result, the Mangapoike afforestation project could no longer be economically justified. The lease negotiations were effectively ended, he wrote, and the Forest Service now sought a formal easement for the access on council land to the Waituna Block.[488] This request, too, remained unanswered, prompting another letter from the Forest Ranger in September 1985. Temporary permission was granted to use the road in December 1985, on the written undertaking that the Forest Service maintain and repair any damage. A formal easement would be considered, the acting town clerk advised, if the Forest Service prepared the necessary legal paperwork.[489]

The New Zealand Forest Service was abolished in 1987. Its environmental and conservation functions were taken over by the newly established Department of Convervation and logging operations and associated land passed to the Forestry Corporation of New Zealand. The proposal to convert the Mangapoike Dams Catchment to commercial forestry resurfaced seven years later in the context of the

[483] District Forest Ranger to Town Clerk, 13 January 1984; Hockey to Town Clerk, 11 May 1984, D/15/1B W5/3/01.
[484] District Forest Ranger to Town Clerk, 19 June 1984, D/15/1B W5/3/01.
[485] Hockey for District Forest Ranger to Town Clerk, GCC, 2 November 1984, D/15/1B W5/3/01.
[486] Hockey for District Forest Ranger to Town Clerk, GCC, 1 August 1984, D/15/1B W5/3/01.
[487] Hockey for District Forest Ranger to Town Clerk, GCC, 7 March 1985, D/15/1B W5/3/01.
[488] Hockey for District Forest Ranger to Town Clerk, GCC, 30 April 1985, D/15/1B W5/3/01.
[489] Acting Town Clerk JA Geard to District Forest Ranger, 6 December 1985, D/15/1B W5/3/01.

council's Pamoa Forest joint venture with Juken Nissho and the battle to save an ecological corridor between the Waingake Waterworks Bush and the Mangapoike lakes, set out in Back story #10.

Back story #9: 'the understanding of neighbours …'

The initial waterworks acquisitions in 1905 resulted at least in part from the cosy relationship between the Trust Lands Board and local government: all three board members had a local government background and one of them was a Gisborne Borough Councillor at the time. The Bush-line easement in perpetuity conveyed by the board to the borough council for 10 shillings the following year is another striking example of local body fraternity.

Even without such overt favour, however, East Coast Commissioner control facilitated council operations with respect to the water supply. One of the primary goals of the statutory intervention in 1902 had been to 'open up' Māori freehold land for settlement, by effectively removing the vested lands from the differential legal restrictions attached to Māori land. Dealing with a single commissioner was much more straightforward and familiar for local government than dealing with multiple and largely unknown Māori land owners. The two subsequent land transactions between the borough council and the East Coast Commissioner for waterworks (in 1947 and 1951) appear to have been the result of direct negotiations.

As set out in Part Two, much of the water supply infrastructure relied on the good will of neighbouring property owners. The construction of the Dam-line through private property without a legal easement is a case in point. In the case of the Bush-line, the pipeline replacement and access road through Patemaru Station in the 1960s fell outside the surveyed easement. In both cases, in addition to accommodating the physical structure through their properties, the 'indulgence' of these private property owners was required for ongoing repair and maintenance of the pipeline. Over his 30-year career, council engineer HC Williams preferred operating under 'the common understanding, unrecorded, of all parties', to such arrangements. As the correspondence over the Dam-line Boost demonstrates, cost-cutting was a major factor behind the 'history of arrangements.' But there was more to it than this. Williams' behaviour throughout displays an unquestioning presumption that the requirements of Gisborne's water supply trumped any private property rights. Fundamentally, it was this presumption that in his view deemed any formal, legal easement unnecessary. In February 1975, Williams seemed bemused by the city solicitor's concern over recent judicial questioning of the council's authority for the Bush-line through Patemaru Station, given that the pipeline now lay outside the existing easement. Williams could not find correspondence to suggest Maraetaha Incorporated had been advised about the council's 1962 pipeline upgrade. 'Whatever the legal position', the city engineer continued, 'it must be recalled that the owners at the time were very pleased with what took place, a large sum of public money being spent to provide a metal road, concrete fords, cattle stops and other things through the properties traversed by the City

pipe line, works which were of considerable value to the property and its farming operations.'[490] Five months later, wanting to install a water turbidity monitor at the Bush-line intake, the city engineer asked New Zealand Post Office for a quote to run cable, either overhead or underground, the six kilometres between the intake and the headworks at Waingake. Once again, there is no evidence that the Maraetaha Incorporated land owners were consulted. As Williams expressed matters to the Post Office district engineer, 'There is an all weather private road running alongside from the said Treatment House to the bush intake. The road itself crosses the Te Arai Stream in several places by means of concrete fords. The private access road, the City water pipe line and the proposed telephone line or cable route are situated on Pate-Moru [sic] Station an easement arrangement enjoyed by both parties.'[491]

Right up until his retirement it seems, Williams not only considered that the quid pro quo of council expenditure compensated for the council's presumption, but that the landowners shared this view of matters. In the case of the 1980s Dam-line Boost, the 'privileges' on offer to Fairview Station included a complementary water and electrical connection, in addition to 'road maintenance and such things.' The city engineer, moreover, seems to have regarded himself personally responsible for the relationships which made such informal arrangements possible.

Evidence of council concessions to the property owners affected by the waterworks infrastructure is meagre. In November 1953, to accommodate a married shepherd's cottage on Patemaru Station, Deputy East Coast Commissioner Bull obtained council's agreement to a boundary adjustment on a 'give and take' basis. Keen to avoid survey costs and the legal expense of a registerable transfer, the commissioner sought a 10 metre x 30 metre triangle of borough land for the cottage yard, for which an area 'slightly larger' was offered in exchange.[492] He also obtained council's agreement to fence the boundary between the recent Mangapoike catchment acquisition and Pamoa Station, which Bull had recently purchased from Gibson. The following summer, the Deputy Commissioner sought council agreement to pump water from the settling tank at Waingake for domestic and station use at Patemaru. The matter was urgent, he wrote, the Station's spring supplies having given out. Once again, Council agreed – for a price – the water charged at 3 shillings per 1,000 gallons.[493]

In October 1962, Pamoa Station Manager Alexander Niven asked permission to demolish the council's Mangapoike No.1 Dam construction huts. Niven was wanting to recover building materials from the derelict buildings and offered to clean up the site. Williams passed on the request to the town clerk, with

[490] City Engineer HC Williams to Town Clerk, 11 February 1975, D/24/4D 54/03 Water Supply 1965-1975.
[491] City Engineer HC Williams to District Engineer NZPO, 25 June 1975, D/24/4D 54/03.
[492] Deputy East Coast Commissioner FH Bull to Town Clerk, 5 November 1953, C/06/6B Waterworks 1942-1952.
[493] Deputy East Coast Commissioner to Town Clerk, 14 January 1954, C/06/6B.

the pointed elucidation that Pamoa Station bounded the catchment 'across which a mile of the pipe line traverses.' Williams' support was conditional on the best hut there being left and repaired and he recommended council agree to the request 'in recognition of the co-operative relations that have existed between Pamoa and the Gisborne City Council in the past.'[494]

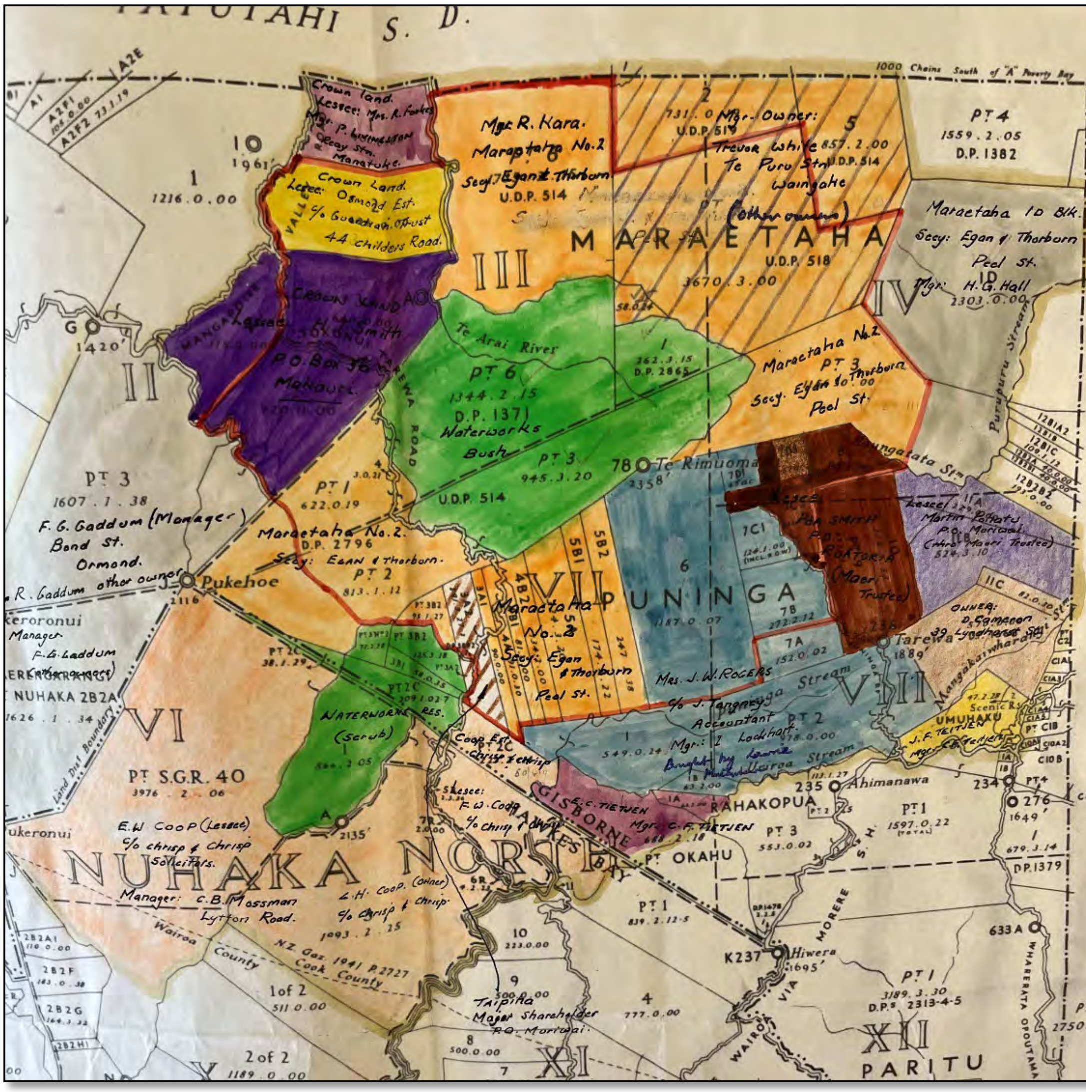

Figure 44: Gisborne Borough Council's waterworks neighbours, 1965[495]

[494] City Engineer HC Williams to Town Clerk, 29 October 1962, D/24/3D 53/01 Water Supply 1956-1975.
[495] Ibid. The plan was based on WW131 Adjoining owners to Waterworks Reserves, GDC.

On the whole, most aspects of water supply management hinged on 'co-operative relations' which demanded the one-way forebearance of the neighbouring land owners. The council's goat eradication program from 1965, for example, extended well beyond the bush catchment at Waingake. Annual culling was proposed over the surrounding farmlands within a one-mile radius (involving three to four men camping in the area until the work was completed – the red line encirclement shown in Figure 44 above), and periodic culling (every four years) within a two-mile radius (the balance of coloured cadastral). The affected neighbours from whom cooperation was requested included the Maraetaha Incorporated's Pamoa, Patemaru and Kopua Stations.[496]

By the 1980s, goat control in the council's waterworks properties was undertaken by the New Zealand Forest Service, rather than council staff.

Making the Waingake Waterworks Bush stock-proof was also prioritised by council at this time: either repairing or replacing the existing boundary fences, or, in the case of Smith's Creek, starting from scratch. Maraetaha Incorporated and other affected neighbours were appraised of council's plans in November 1965. In addition to bearing half the cost, Maraetaha Incorporated was also asked to supply the fencers with meat and bread, to be deducted from the bill.[497] Six months on, Williams recommended that the sundry amount charged to Pamoa Station to date for 'patching' the existing fence be waived in light of the recent repair work undertaken by the station on its own initiative.[498]

Noxious weeds control also required liaison, the city council undertaking weed control along Tarewa Road in January 1968 on a 'cost-sharing basis' with Pamoa Station. This occasion, however, prompted Williams to complain to Cook County Council about its failure to control the ragwort 'infestation' on Patemaru Station which, he maintained in his characteristically circuitous way, threatened to undo the council's efforts to control blackberry within the Mangapoike Dams Catchment:

> My Council has spent some thousands of dollars in blackberry control measures at its Mangapoike reserve to the south of the Waingake bush with some, but not complete success. However its task is particularly onerous in that waterworks reserves are not intentionally stocked and are being deliberately allowed to revert to scrub and other natural cover. It has no real motive, other than to confirm with County noxious weed ordinances, to take an interest in noxious weed eradication at all, and I would therefore appreciate from you some assurance that its work is purposeful and likely to be substantiated by complementary measures on the neighbouring properties. It does appear to my observation

[496] City Engineer HC Williams to District Forest Ranger, 23 February 1965; 'Circular Letter to Farmers of Adjacent Land', 9 March 1965, D/24/4D 54/02 Water Supply, 1960-1968.
[497] Town Clerk to Secretary, Maraetaha Incorporated, 10 November 1965, D/24/4D 54/02.
[498] City Engineer HC Williams to Town Clerk, 15 March 1966, D/24/4D 54/02.

> that contiguous properties are doing nothing about black berry control at all and next to nothing with respect to ragwort.[499]

In response, the county council informed Williams that the noxious weeds inspector had matters in hand, and that ragwort posed no threat to the catchment reserve because it could not grow under canopy. Two summers later, Williams enlisted the help of Gisborne's Canoe and Tramping Club members over two days to pull out the worst of the weed within the bush catchment which had not been sprayed. The city engineer was still annoyed by the presence of ragwort on the adjoining property, telling the town clerk that Patemaru Station was 'remiss in carrying out its obligations.'[500]

In November that year, fire broke out in the Waingake Waterworks Bush. It was put out by the surrounding neighbours, 'who to a man answered the call at considerable inconvenience and disruption to their own affairs...'[501] A relieved Williams made a point of singling out those involved and tabling the list of volunteers before Council, telling the town clerk: 'I believe the incident has shown that … Council has a sympathetic and understanding array of neighbour farmers to whom it has good cause to be very grateful.'[502]

By way of future fire precaution, a 'fire access track' was cut from Tarewa Road through Pamoa Station and along the upper boundary of the bush catchment. Once again, obtaining the land owners' permission fell short of any formal easement. The key to the padlocked Tarewa Road gate was kept at the Pamoa Station homestead. In 1972, Williams also engineered a fencing realignment along the new access, following discussions between the Pamoa Station manager and the Resident Headworks Foreman (see Figure 45 below). The realignment created the illusion that new access lay within the council's property, when in fact it ran through Pamoa Station. As Williams explained the proposition:

> That is an alignment about five chains inside Pamoa property, thereby creating a small Pamoa holding paddock of about five acres. The proposition is that the new fence continues to be recognised as the boundary fence in terms of the Fencing Act and its mutual obligations but Pamoa continues to enjoy the use of its own five acres for as long as Pamoa alone continues to maintain the abandoned section of the G.C.C/Pamoa old boundary fence.[503]

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[499] City Engineer HC Williams to Cook County Clerk, 31 January 1968, D/24/4D 54/02.
[500] City Engineer HC Williams to Town Clerk, 23 February 1970, D/24/4D 54/03 Water Supply 1965-1975. Williams recommended payment of $200 to the club, deducting 3 'manhours' from his tally on account of female labour.
[501] City Engineer HC Williams to Town Clerk, 9 December 1968, D/24/4D 54/02.
[502] Ibid.
[503] 'Pamoa Stn: Te Arai Bush Boundary Fence', with City Engineer HC Williams to HG Hall, 26 September 1972, D/24/4D 54/03.

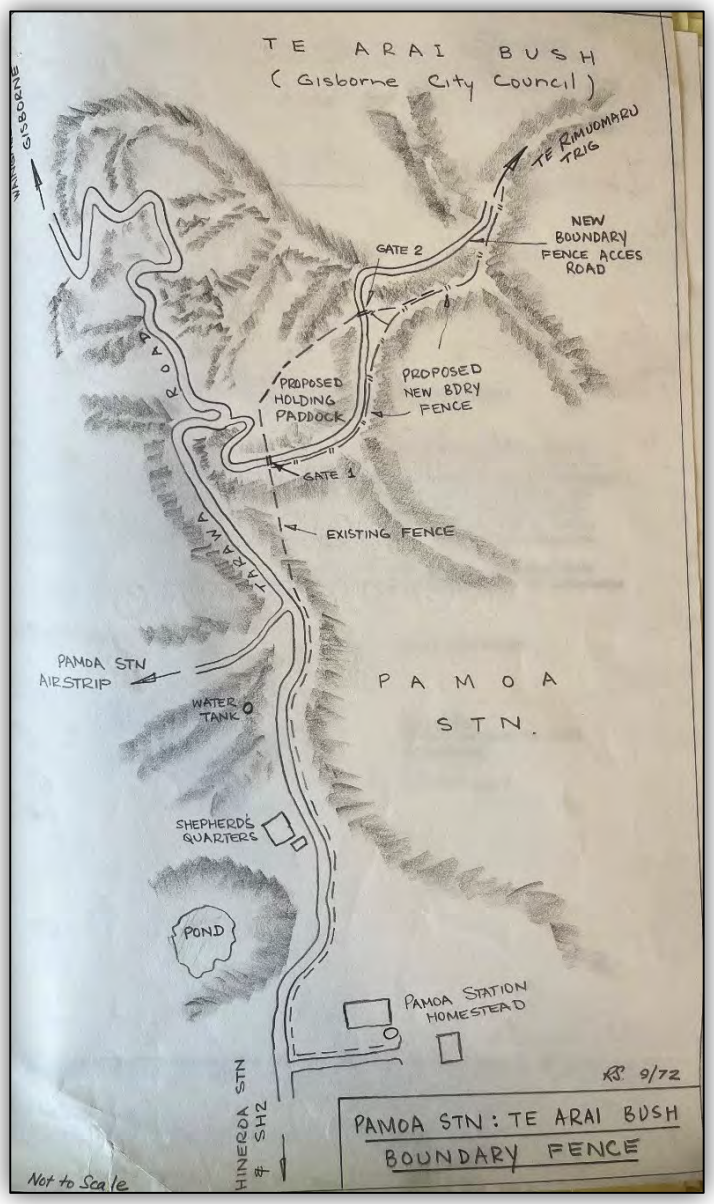

Figure 45: Fencing re-alignment through Pamoa Station, 1972 [504]

Gisborne City Council's appropriation of another 100-acre bite of Pamoa Station in 1971 for the Mangapoike 1A Catchment was announced to Maraetaha Incorporation as a matter or urgency (although it took a further 10 years for the council to complete the formalities of the taking). The negotiations for

[504] 'Pamoa Stn: Te Arai Bush Boundary Fence', with City Engineer HC Williams to HG Hall, 26 September 1972, D/24/4D 54/03 Water Supply 1965-1975.

the catchment coincided with another request by council to its catchment neighbours for permission to remove river boulders for the construction of the No.2 Williams Dam.[505] Local government plans for the Puninga dam development scheme, published in the same 1971 document, threatened the viability of Pamoa Station altogether. As set out in Part Two, for the next decade, the spectre of compulsory acquisition or afforestation was ever-present, although not, ultimately, enforced. Williams later identified 'land ownership issues' as one of the factors working against the Puninga scheme. Relationships between Maraetaha Incorporated and Gisborne City Council seem to have become strained as a result.

A sign of the deteriorating relationship is evident in the city engineer's letter to the chair of Maraetaha Incorporated in March 1981 about scrubcutting within the Mangapoike catchment: 'on an area of land one time part of and still grazed by Pamoa', that is, the 1A catchment. 'I have to advise that scrubcutting thereabouts is disallowed on Council's property', Williams admonished. On the one hand Williams argued that the catchment was deliberately being left to regenerate naturally. 'In fact', he went on, 'a service organisation had a few years back planted quite a number of young native trees…' In the next sentence, Williams told of the city council's imminent exotic afforestation arrangement with NZFS. The upshot was clear: no further cutting must take place, and what had been felled should not be burned. Williams concluded:

> The Gisborne City Council has been fortunate over the years in having the understanding of neighbours with common boundaries with its water supply headworks, a history which it is most appreciative of. I trust your incorporation will feel sympathetic to the situation which now manifests itself, by arranging for compliance with the above wishes.[506]

The city engineer's chagrin at subsequently discovering the council's title to the 1A catchment had never been completed can only be imagined. It possibly explains his outburst to the town clerk 18 months later about the confused status of ownership, set out in Part Two.

In 1984, tension between the council and its waterworks neighbours came to a head over the issue of public access to the bush catchment through the incorporation's property. Public access to the council's waterworks properties had been strictly monitored. Replacement notices prepared in 1974, for example, strictly forbad entrance to both the Waingake Waterworks Bush and Mangapoike Dam Catchments, including for hunting or trapping, without written authority from the city council or water supply manager. At the entrance to the Clapcott Dam access road and the fire access track, the notice advised

[505] City Engineer HC Williams to Patemaru et al, 10 September 1971, D/24/3D 53/01 Water Supply 1956-1975.
[506] City Engineer HC Williams to Chairman, Maraetaha Blocks No.2 Secs 3,6 Inc, 27 March 1981, D/24/4A 53/03.

that permision was also required from the manager of Pamoa Station. Notice 10, located at the Waingake headworks, advised that permission was also required from the manager of Patemaru Station 'if continuing towards the Waingake Bush Intake.'[507] A decade on, however, council's practice had grown lax, public access now requiring only the verbal permission of Headworks management. By this time, to keep possum numbers in check within the catchments, 'one or two persons' wishing to trap during the winter months were permitted to do so, with the stricture that poisons could not be laid.[508] In the autumn of 1984, Geoff Drummond obtained verbal permission to trap along the access road around the upper boundary of Waingake Waterworks Bush – the 'fire access track' that began through Pamoa Station made at the behest of council in 1972.

In May 1984, Station Manager John Hawkins challenged council's right to grant access to the reserve through Pamoa Station to anyone else other than council staff or councillors on waterworks business. Hawkins had encountered Drummond accessing the bush catchment through Pamoa and felt aggrieved the trapper was there with council permission.[509] Williams conceded the point that recreational hunters, even those approved by council, clearly had no authority to use the city council's easement on Patemaru Station, and even less authority, 'if that be possible', to use the fire access track 'which Pamoa has allowed to be constructed on that property by agreement without any formal easement.' Clearly, Williams repeated to the resident waterworks manager, Gisborne City Council was not in a position 'otherwise than to cooperate with Mr Hawkins and his management committee in whatever they require …' Headworks staff were asked to show 'every possible courtesy to Mr Hawkins and his staff in matters to do with farm property outside Gisborne City Council ownership…' [510]

In his response, Waterworks Engineer PH Pole acknowledged that the relationship between farm management and the council's waterworks staff had deteriorated over the issue of recreational hunting access, but he denied that council staff were to blame. Hawkins and his family, he alleged, hunted throughout both the Waingake and Mangapoike catchments without council authority. 'It would seem that the Hawkins family wish to reserve the use of Council's properties to themselves as a private hunting preserve.' Pole considered Hawkins was being unreasonable: 'I am of the opinion that the efforts of Mr McCaffery and Mr Walker to avoid giving offence and to maintain some sort of working

[507] 'Notices for Waterworks Property', 12 June 1974, D/24/4A 54/03. There is evidence of earlier written authority for possum trapping on file, see for example, City Engineer HC Williams to DR Rothschild, 3 March 1971.
[508] Waterworks Engineer PH Pole to City Engineer HC Williams, 4 April 1986, D/24/5C 54/08 Water Supply 1985 & 1986.
[509] In subsequent correspondence, Pole disclosed that Drummond was thought to 'camp in a whare on Pamoa Station.' Waterworks Engineer PH Pole to Resident Officer, Department of Agricuture and Fisheries, 10 September 1984, D/24/5B 54/07 Water Supply 1984 & 1985.
[510] City Engineer HC Williams to McCaffery Waterworks Manager, 30 May 1984, D/24/5B 54/07.

relationship with Mr Hawkins have only resulted in his adopting an even more high handed attitude.'[511] The waterworks engineer had been advising recreational hunters to enter the upper catchment 'following the remains of the old fence up the watershed ridge from Tarewa Road.' He suggested it was time a fulltime ranger was appointed to look after the catchment properties: to manage public access for recreation, to police the use of poisons, to prevent cannabis growing, to construct tracks for rapid fire access, and to control noxious weeds and pests.

Bella Hawkins relates that her father and others from Muriwai whānau had a pig hunting club of their own, which hunted at Waingake. As it happens, Maraetaha Incorporated's management committee had invited Waterworks Manager McCaffery to meet with them to resolve matters before Hawkins lodged his complaint, but Williams had vetoed the idea.[512] In an extraordinary letter to Maraetaha Incorporated a week after speaking with Hawkins, Williams referred to the 'good working relationships and harmonious co-operation between all parties' that had existed since the borough council began drawing water from Waingake, before listing 11 issues or 'festering doubts which could lead to supposed grievances'. The city engineer began with the immediate issue of access over the incorporation's property both for council staff on legitimate waterworks business and 'for others' engaged in recreational hunting. The balance of his proposed 'topics' for discussion reads as a loaded, albeit obscure, censure of farm management – with regard to fencing and noxious weeds, for example – but also more generally. Topic No. 7 was: 'The degree to which farming activities should bring about works which impinge upon City Council waterworks land without prior acceptance of that by the City Council or its authorised officers.' The Muriwai whānau hunting did not go unremarked. Topic 9 read: 'The general use of bush and other catchment areas for hunting and other purposes by the neigbour private land-owners or their friends or work people.' Topic 6 suggested that the farms had tapped into the water supply: 'The supply of piped water from any part of the Gisborne's City Council's system, the degree to which the City Council's piped water system may be interfered with by unauthorised acts and the question of the payment for water to recompense the City Council for any costs.' Topic 11 was: 'Any question of matters which flow from locked gates, gates left open, worried stock, damage to farm property, assumed authority to permit access over the opposite party's land for whatever purpose.' All of these matters, Williams closed, could be settled by council officers 'without recourse to involving any committee of the City Council …' The management committee did not respond to the tirade.

[511] Waterworks Engineer PH Pole to City Engineer, 31 May 1984, D/24/5B 54/07.
[512] City Engineer HC Williams to Secretary, Maraetaha Blocks, 6 June 1984, D/24/5B 54/07. Williams wrote: '... I regret that it was not considered advisable to permit him to take up that request in the light of my own uncertainty about minor problems which seem to have surfaced with the City Engineer being a little unsure about whether the City Council itself had of late been remiss in taking proper care for the respect it would wish for from its neighbours.'(!)

By August, Pole reported that the situation was 'quite out of control'. Council vehicles, the waterworks engineer related, now carried bolt cutters to 'go about their lawful business'. Drummond had allegedly fitted his own padlock on the farm gate at Tarewa Road, and a padlock placed by the waterworks manager at the catchment boundary had been allegedly cut off by Hawkins. Pole recommended meeting with the management committee soon, 'hopefully before matters at Waingake lead to physical violence.'[513]

The same week, cyanide was found on a possum line in the bush catchment. The culprit was the council-sanctioned trapper, Drummond. No action was taken against him for the offence. Headworks staff turned a similar blind-eye to his spray-painting of trees to mark tracks throughout the catchment reserve and his belligerence towards other hunters he encountered there. Two years later, Drummond's growing proprietorial behaviour about the reserve, which extended to disputing management decisions that interfered with his livelihood, finally prompted the Waterworks management to revoke their permission, in April 1986.[514] The invitation to tender for a six-month trapping permit over both the Waingake and Mangapoike catchments in May attracted eight applicants. The attached conditions specified that poisons, cutting or painting trees, and lighting fires were all forbidden. In addition, access to the council properties was to be via routes prescribed by council officers: 'The grant of a permit does not confer any right of way over any other property.'[515] In August 1986 the permit was again granted to Geoff Drummond and his associates.

As noted in Part Two, the issue of public access was part of the agreement reached between GDC and Maraetaha Incorporated in April 1988, with respect to the Bush-line access road through Patemaru Station. Under the agreement, council undertook to 'prepare and install signage warning public that the road was a private one, with access only by permission only from the manager of Patemaru Station.' To a degree, the formal agreement itself in the wake of Cyclone Bola marked a departure from the era of Williams' informal 'understandings'. The agreement stipulated that the access road would only be used by council for pipeline maintenance and the headworks, and further provided that the access road and pipeline would be surveyed for the purpose of obtaining a formal easement.

Public hunting in the Waingake Waterworks Bush was suspended altogether by council in 1989 during its 'sensitive' negotiations for the sale and purchase of Pamoa Station. In September that year, Water Supply Engineer Dave Kelly was prepared to grant the Poverty Bay East Coast Pig Hunters Club

[513] Waterworks Engineer PH Pole to City Engineer HC Williams, 20 August 1984, D/24/5B 54/07.
[514] Waterworks Engineer PH Pole to City Engineer HC Williams, 4 April 1986, D/24/5C 54/08 Water Supply 1985 & 1986.
[515] 'Conditions of Issue of Permits to enter Water Supply Catchment Areas for the purpose of Hunting or Trapping or Shooting', D/24/5C 54/08.

limited access to the bush catchment with a list of conditions 'in the interests of maintaining good relationships with neighbouring land owners' but another clash between the hunters and Hawkins stopped the letter from being sent.[516] PF Olsen & Co were instead engaged to undertake pest control. In its initial assessment, Olsen & Co credited Hawkins for the low pig numbers in the catchment, reporting that the farm manager had been 'most cooperative' in allowing access through the farms. Hawkins had also given permission to the contractors to shoot unmarked goats on both properties and to upgrade the access tracks for their use.[517] The company's report the following year was in the same vein. Later that month, an internal query about the use of contractors for pest control in the catchment was met by the rejoinder that the annual expenditure of $5,000 was 'minor compared with John Hawkins becoming non-cooperative.'[518]

The contract with PF Olsen & Co seems to have been ended with the sale and purchase of Pamoa Station. In response to a further inquiry in April 1992 from the Pig Hunters Club as to why the catchment was still closed to hunting, Engineering & Works Manager Bill Turner explained that 'the lease to John Hawkins was to expire in July, at which point the council would decide what to do with the land and consider, too, what was to be done about pest control. Even at this early stage, the closure of the homesteads at both Hineroa and Pamoa Stations was linked by District Urban Engineer Neville West to an upsurge in pest numbers, poaching and marijuana planting. In November 1992, West aired his concerns about the impact of the Forestry Rights Agreement between GDC and JNL on pest control, pointing out that the council's requirements for the water catchment did not necessarily align with those of the forestry company.[519]

[516] Water Supply Engineer D Kelly to Secretary Pig Hunters Club, 27 September 1989, 01-290-32 Water Supply, GDC. The conditions required hunters to apply in writing, with vehicle details. No more than three hunters were to operate at any one time, for one-month periods only. Hunters were to phone ahead and access the bush from the county road, not from Pamoa or Patemaru Stations.
[517] Olsen & Co to Kelly, 9 November 1989, E/14/5A 01-290-02 Water Supply – Te Arai 1989.
[518] Urban Services Engineer NE West to Acting Manager Engineering & Works, 29 August 1990, E/14/5A 01-290-02.
[519] N West, 25 November 1992, E/14/5A 01-290-02.

Back story #10: Pamoa Forest: the ecological corridor and Mangapoike afforestation proposal, 1990s

In the interests of soil and water protection, the Pamoa Forestry Rights Agreement and Management Plan hammered out between Juken Nissho Ltd and Gisborne District Council towards the end of 1992 provided for 'riparian strips' at least 10 metres wide to be left unplanted on each bank along identified waterways. Additional areas of existing regeneration, containing 'significant numbers of regenerating indigenous forest … [with] such species as beech, rimu, tawa, tanekaha, and totara' were also identified, to be left in their present state as 'reserves'.[520] Of the total 1,607.4 hectares of Pamoa Forest, the bush and riparian reserves amounted to 188.2 hectares, around 11.7 per cent (marked green and pink in Figure 46).

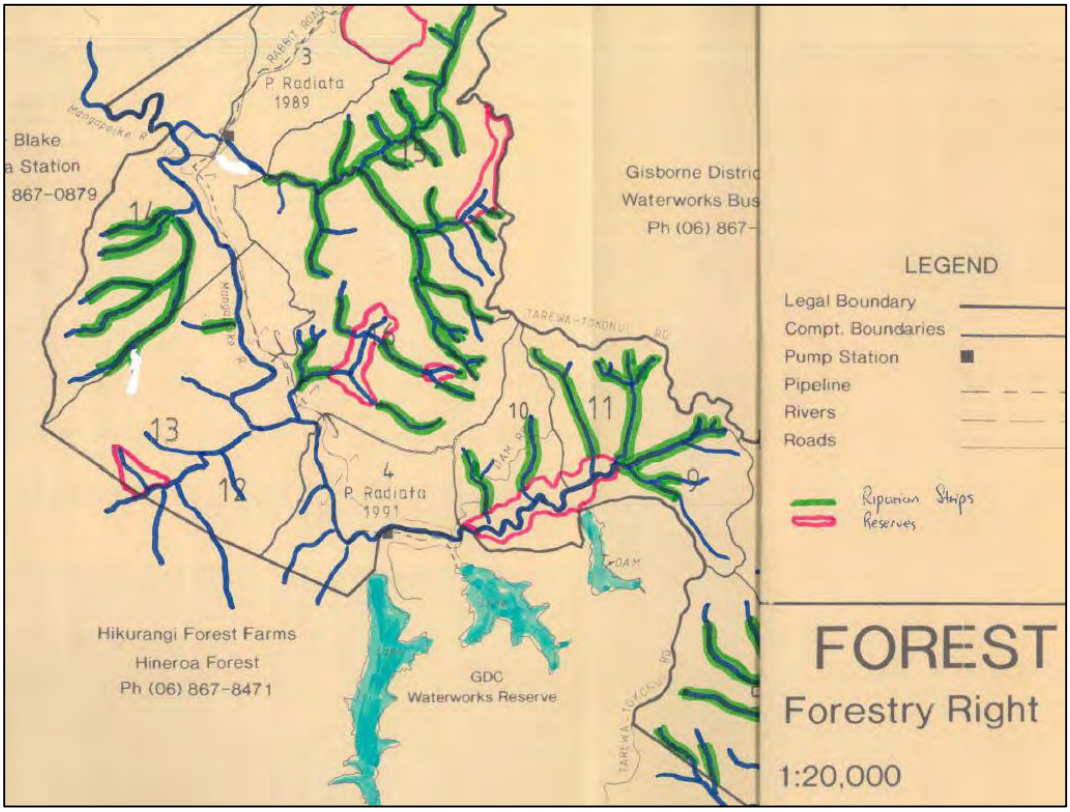

Figure 46: Pamoa Forest riparian and bush reserves, 1992-93[521]

[520] 'Pamoa Forestry Management Plan - Forestry Right', 1992-1993, B/18/6C.
[521] Ibid, appendix IV.

The Forestry Rights Agreement was still to be signed when the first concerns about the environmental impact of the joint venture were raised by the Tairāwhiti branch of the Maruia Society. Chair John Kape pointed out that the rare virgin native bush within the Waingake Waterworks Bush and the regenerating forest cover within the Mangapoike Dams Catchment were linked by a corridor of diverse native vegetation and secondary forest, now under threat from the proposed Pamoa afforestation.[522]

The society's proposal that the broad corridor between the two catchments be left to regenerate was endorsed, in late January 1993, by Paddy Gordon, Regional Conservator of the Department of Conservation, who offered to appraise the proposal. By this time, however, GDC Chief Executive Bob Elliot had pre-empted opposition by identifying a corridor to be left unplanted (see Figure 47). He also arranged a site visit with John Kape and JNL manager Sheldon Drummond which, he told the Regional Conservator, had assuaged Kape's concerns:

> Maruia – certainly Mr Kape – did not appreciate the extent and areas of lands at Pamoa and Fairview that our parties were in fact leaving as reserve or riparians. Both Juken Nissho Ltd and Council recognise the need to ensure that lands as appropriate are retained in their natural regenerating state and a linkage-corridor which we consider appropriate is to be secured.[523]

The Department of Conservation was welcome to assess the linkage corridor proposal in more depth, Elliot continued, 'but I nonetheless do not see this as really necessary.'

[522] Maruia Society Chair J Kape to Chief Executive, 22 December 1992, B/18/6C vol. 2.
[523] Chief Executive RDR Elliot to Regional Conservator Dept of Conservation, 19 February 1993, B/18/6C vol. 2.

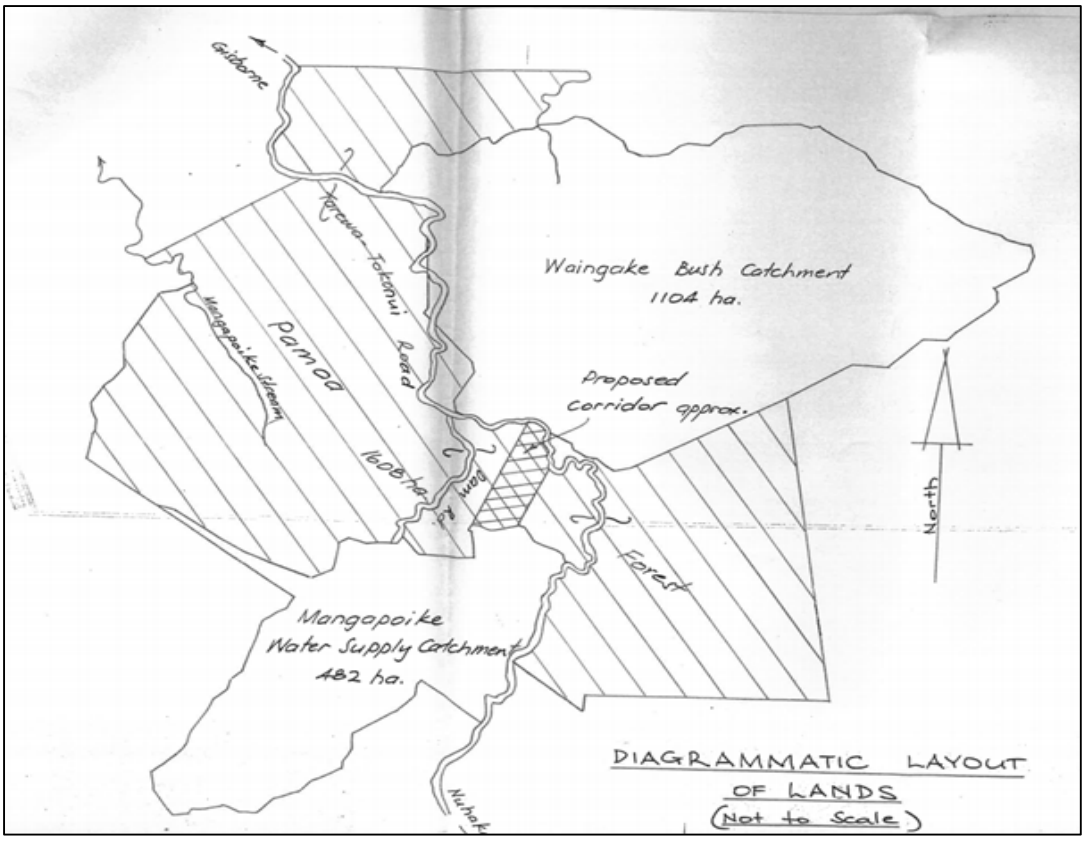

Figure 47: GDC's proposed corridor, January 1993[524]

DOC's assessment was completed by the end of April 1993. The Mangapoike catchment, it reported, was well on the way to becoming a diverse mature native forest, describing the Waingake Waterworks Bush as a stunning piece of virgin native forest, unique in the region. It concluded that the proposed crushing, burning and planting regime between the two catchments would destroy an important habitat, and that the loss of the corridor would in turn impact on the waterworks catchments. Not planting, it pressed, would be a wonderful opportunity for GDC to take a conservation lead, either by choosing restoration through natural regeneration or by tailoring the production forestry to achieve both conservation and an economic return for the community.

The corridor area identified by DOC was not significantly larger than the council's proposal[525], but report author Napier Conservancy Advisory Scientist Geoff Walls also recommended the corridor be

[524] In B/18/6C vol. 2.
[525] The difference was later estimated by DOC to amount to 49 hectares, or 3 per cent of the area to be planted, Regional Conservator Williamson,to GDC Councillors, 23 May 1994, B/18/6C vol. 3.

extended to take in the adjoining area 'A' – the western half of the former Pamoa Station – to create an unbroken forested catchment of some 2,000 hectares (see Figure 48).[526]

Figure 48: DOC's proposed corridor, April 1993

Neither Drummond nor Elliot were impressed and at the end of May, the chief executive relayed the councillors' decision that sufficient provision had already been made in the way of riparian and forest area to meet the Regional Conservator's ecological concerns.[527] A second entreaty from John Kape to

[526] Report enclosed with Regional Conservator Gordon to Chief Executive GDC, 21 May 1993, B/18/6C vol. 2.
[527] Chief Executive RDR Elliot to Regional Conservator, 31 May 1993, B/18/6C vol. 2.

reconsider the environmental impact of Pamoa afforestation met the same response.[528] Kape's specific concerns at this point suggest that clearance had already begun.

A second environmental impacts report prepared by Senior Conservation Officer Chris Ward at this time focussed on a proposed 110-hectare ecological corridor between the catchments (Area 'B' in the Figure 49 above). The photograph he took of the 'Pamoa Corridor' opens Part Two of this report. Ward's support for the preservation of a corridor drew attention to the New Zealand Forest Accord between forestry associations and environmental groups, which stipulated that new plantation forests exclude from clearance and disturbance any areas of naturally occurring indigenous vegetation. Ward considered that the Pamoa corridor would qualify as a Recommended Area for Protection under the Accord. Leaving it undisturbed, he countered, would only amount to a 6 per cent reduction in the proposed forestry project.[529] The proposal provoked a terse response from Elliot: the issue and its options were at an end, the Chief Executive informed the Regional Conservator. Should DOC and JNL wish to continue the debate that was their prerogative, but Gisborne District Council's debate was over.'[530]

Juken Nissho Ltd signed the New Zealand Forest Accord later that year.[531] The development prompted Chief Executive Elliot to quickly disclaim any onus on GDC to absorb the negative financial repercussions of curtailing the joint venture as a result. Elliot told JNL District Manager:

> You will only be too aware of the problems that both our parties had initially with the development of our agreement and the pressure that was applied by Department of Conservation and Maruia Society in respect to the protection of relatively large areas of our lands from forestry development. Council recognised that some areas of its Pamoa lands which were supporting regenerating native species were being targeted by the conservationists for retention so that in essence a corridor of natives would link the existing bush catchment with the water supply reservoir lakes.
>
> Council in conjunction with JNL agreed that only minimal areas of natives and others such as riparians would be retained in their natural state and the net land area to be afforested was then determined and formed the basis of our JNL/GDC Forestry Rights Agreement.
>
> We are now concerned to have the original agreed total production area apparently being reduced contrary to our Agreement. You will be well aware that Council's Agreement to the right with JNL was based on its returns from the original land area involved. Obviously if

[528] Maruia Society Chair J Kape,to Chief Executive Elliot, 10 June 1993; Elliot to Kape, 11 June 1993, B/18/6C vol. 2.
[529] Ward report, June 1983, with Regional Conservator Gordon to District Manager JNL Drummond, 18 June 1993, B/18/6C vol. 3.
[530] Chief Executive RDR Elliot to Regional Conservator, 30 June 1993, B/18/6C vol. 3.
[531] Elliot was wont to point out that it did so after the Forest Rights Agreement with Council, see for example, GDC 94/370, 29 June 1994, B/18/6C vol. 3.

> the land area available for planting is reduced due to decisions by JNL then that must have no impact on Council's original projected returns in value.[532]

In response, Drummond pointed out that JNL and GDC were in a partnership, and that any decision with respect to the DOC/Maruia reserve proposal must be a joint one. He suggested a meeting, telling Elliot he had an 'acceptable solution' which would enhance the public perception of the venture 'with little or no financial comprise.'[533]

There is no explicit record on file of Drummond's solution, but it is clear from what transpired that the 'trade-off' for the ecological corridor proposed by DOC was to be the extension of the afforestation project to the Mangapoike Dams Catchment. JNL/GDC now proposed to plant over 60 percent of the catchment in Douglas Fir, with potential development for recreational use of the lakes including stocking them with exotic fish species. DOC representatives learned of the proposal at a meeting with Chief Executive Elliot and Councillor Geoff Musgrave on 15 March 1994. Regional Conservator Peter Williamson was dismayed:

> Our understanding was that the Council had purchased Pamoa and Fairview Stations with a view primarily to protect the waterworks pipeline, and that commercial forestry was then formally chosen as the preferred land use. We are aware that the Council had contracted Juken Nissho to deal with the forestry components of the proposition. Our purpose was to seek your concurrence to leave in a corridor between the waterworks bush and the catchment of the three lakes.
>
> We were not aware that Council had formally planned to afforest the lakes catchments. At a previous meeting, the Mayor had indicated these catchments were to be left in their indigenous state. …
>
> In our view, the most effective means of providing water for the future demands of Gisborne city would be achieved by leaving the lakes catchment with its existing indigenous cover. We would suggest that the biodiversity contained within natural indigenous cover is far more secure long term for a civic water supply and that indigenous vegetation cover produces a greater water yield than an exotic forest. We were surprised indeed at your proposition that a 'park' would be created for public use. To our understanding there are few substantial public water supply catchments to which the public would have such freedom of access and use.[534]

The Waingake Waterworks Bush, the conservator continued, was unique and outstanding on the whole east coast of the North Island and the protection of the biodiversity provided from its role as a water

[532] Chief Executive RDR Elliot to District Manager JNL, 10 February 1994, B/18/6C vol. 3.
[533] District Manager Drummond to Chief Executive, 17 February 1994, , B/18/6C vol. 3.
[534] Regional Conservator P Williamson to Chief Executive Elliot and Councillor Musgrave, 22 March 1994, B/18/6C vol. 3.

supply catchment something future generations would thank council for. He pointed to the diverse forest beginning to emerge through the manuka/kanuka layer within the lakes catchments after 35 years of regeneration. The catchments, he argued, could not continue to provide good quality water without proper management.

Williamson recommended that Elliot reconsider his views on the New Zealand Forest Accord, suggesting that Gisborne District Council was out of step with other forest owners, and he appealed that due value be accorded to the pristine water supply, which could not be equated to a one-off return from a forestry investment:

> The Gisborne district does not have a great representation of indigenous vegetation. Pockets of indigenous vegetation that have survived earlier clearing are now rare and precious treasures that this generation must protect for future generations. Our salvation could well lie in us protecting a rich biological diversity and the Council is indeed fortunate to be the guardians of such existing and potential diversity in all of its bush catchment and the catchment around the three waterworks lakes. The proposed corridor will greatly enhance their future value. While Council would need to forgo three percent of its current forestry proposal, it will without doubt receive full recognition for its far sighted approach to the protection of valuable indigenous forest and the species within them.[535]

Chris Ward subsequently visited the Mangapoike Dams Catchments to assess the ecological value. He found the three catchments 'surprisingly variable and diverse' and all three 'clearly' qualified for Recommended Area for Protection status.[536] The assessment prompted a second letter from Williamson, addressed directly to councillors this time, in which the Regional Conservator reiterated his strong opposition to the project, once again pointing out:

- The high ecological value of the area: that the 418-hectare area of predominantly manuka cover contained a great biological diversity including varied scrub, secondary and primary forest, wetlands, and notable bird species giving the area high significance.
- The incompatibility of exotic forestry development with the natural values: that while line-cutting and planting would reduce the impact of erosion, little of indigenous value would survive or arise through the period of forest rotation.
- Recreational interest in a Douglas fir forest conflicted with water catchment purposes and raised public health and safety issues.
- Large-scale forestry development was already in train, increasing the importance of indigenous fragments.
- The catchment yield would be of higher quality and reliability left in indigenous cover than converted to exotic forestry.

[535].Ibid.
[536] 'The total is also greater than the sum of the parts', Ward concluded, 'the area's value is much enhanced by the overall catchment integrity.'Chris Ward, File note, 15 April 1994, B/18/6C vol. 3.

- Long rotation, high-value species such as Douglas fir were poor investments with a comparatively low rate of return.

Most significantly, as it turned out, Williamson pointed out that the natural values of the Mangapoike Dam Catchment precluded the area from being cleared under the New Zealand Forest Accord, so that no member of the Forest Owners' Association would be interested in a joint venture with council. Juken Nissho Ltd, he claimed, had already confirmed it did not wish to be involved.

Williamson had earlier offered DOC's help with pest control and he now suggested that a partnership with DOC to conserve the natural values and water supply would be in the better interests of the Gisborne District. He urged that Council should either drop the development or seek thorough advice.

> Future generations of ratepayers are more likely to be impressed by Council's foresight in protecting and enhancing the dam catchments as a small island of indigenous character in a sea of exotic conifers and pasture, than as a small poorly performing addition to its substantial forestry portfolio. [537]

The Regional Conservator was to speak to his concerns at the next council meeting but, a week before, the item was removed from the agenda. He was unable to attend the meeting on 29 June, when the matter was considered by the Policy and Resources Committee.[538] His letter to council was appended to Elliot's report on the 'Pamoa and Mangapoike Water Supply Catchment Development Proposals' presented that day, but it was not fully represented in the body of the report. Since beginning negotiations with JNL on forestry rights, Elliot wrote, council had been considering developing the Mangapoike catchment – for Fish and Game, for recreation, and for afforestation 'so as to not only enhance the indigenous species but also introduce exotics for commercial return.' Council had already made its position on the corridor clear, he continued, 'and there is no reason to change it, which leads us to the development of the Mangapoike catchment…' Elliot then listed the development 'options'. The integrity of the Mangapoike catchment as a public water supply, he concluded, would not be compromised by any controlled use and development. He recommended that council proceed with planting Pamoa Forest and reserve the right to develop Mangapoike, consulting with the public as to its potential use.[539]

A week after the council meeting, District Conservator RC Miller responded to further questions from Elliot about the proposal, namely that:

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[537] Regional Conservator P Williamson to GDC Councillors, 23 May 1994, B/18/6C vol. 3.
[538] Corporate Secretary to Regional Conservator, 2 June 1994, B/18/6C vol. 3.
[539] GDC 94/370, 29 June 1994.

- Line cutting would initially remove 40 per cent of the present canopy, and that release spraying would prevent regeneration.
- The stocking rate as proposed would create an entirely Douglas fir forest.
- A Douglas fir forest canopy would preclude virtually any understorey or groundcover.
- 'Selective' logging at age 50-55 years would effectively be clear-felling, with heavy sediment yields. Helicopter logging would likely be uneconomic.
- Bare ground would be subject to sheet wash and rill erosion with sediment carried downstream (experienced in Bola). Thick ground cover and understorey, the most effective barrier to such overland flow, would be removed by the proposal.
- Water yields would decrease from conversion of scrub to forest, and the reduction would be proportionally greater during dry periods, when water demand was greatest.
- Consent for line-cutting would be required under the Proposed Regional Plan, with regard had to downstream effects.
- Douglas fir was not regarded as a speciality timber.

In summary, Miller echoed Williamson's position that conversion of more than 70 per cent of the dams catchment to exotic production forest was likely to jeopardise the water quality and water yield, whereas the existing vegetation was evolving into a very high value cover. He ended by repeating the recommendation that the existing indigenous cover be left to develop and that the dams not be stocked, nor public access encouraged.[540]

Juken Nissho Ltd's waning interest in the controversial project may have factored more than any environmental concern about the afforestation project harboured by Gisborne District Council. While the Mangapoike Dams Catchments were left to regenerate, the council does not appear to have taken up DOC's offer of partnership to protect the conservation values of the area. A 2006 report commissioned by DOC on the Waingake Waterworks Bush relates that the last pest control operations for goats and possums occurred in 1994; the only current pest control that by recreational hunters, generally for pigs.[541] It can be assumed that the Mangapoike Dams Catchment attracted even less attention.

[540] District Conservator RC Miller to Chief Executive, 6 July 1994, B/18/6C vol. 3
[541] Wildland Consultants, 'Waingake Waterworks Bush: an outstanding opportunity for ecological restoration', (DOC, 2006), p. 6. E/08/2A No. 1402.

Conclusion

The Waitangi Tribunal considers that compulsory acquisition of Māori land for public works can be justified in Treaty terms only in exceptional circumstances, where the national interest is at stake and there is no other option. In all other cases, taking land for public works where either consent or compensation is absent is deemed to breach the guarantee of undisturbed possession contained in Article 2 of the Treaty of Waitangi.[542] In setting out the circumstances surrounding the history of acquisition, this report has not considered the underlying issue of public interest: whether supplying the residents of Gisborne with water warranted acquiring 3,215 hectares of hill country. What has been considered is the mode of appropriation, primarily in terms of consent and compensation. Ngai Tāmanuhiri beneficial owners were not party to the initial transaction for the Waingake Bush Catchment and nor did they receive the proceeds of the sales for another decade. Since regaining control over their trust lands from the East Coast Commissioner in the 1950s, Maraetaha Incorporated can be seen to have consented to and been compensated for subsequent waterworks acquisitions: they have had little choice to do otherwise.

To stop here, however, would be to miss the larger truth of what these local body acquisitions represent. Gisborne's waterworks are part of the pattern of one-way transfer of land and resources out of tribal ownership. The initial transactions for Ngai Tāmanuhiri land between the Gisborne Borough Council and the East Coast Trust Lands Board was but the first large bite. Ongoing attrition to accommodate waterworks development has seen unrelenting pressure on remaining holdings, culminating in the 1991 sale and purchase of Pamoa Station in circumstances that left a bitter aftertaste.

But the issue goes deeper. It is telling that in the 2006 Report on the Waingake Waterworks Bush commissioned by the Department of Conservation, the tribal stakeholders are identified as generic 'tangata whenua'. Stop ten people on the streets of Gisborne today: how many of them could name these same tribal stakeholders? The pattern in which these waterworks acquisitions belong has its genesis in nineteenth-century colonialism which rendered tribally held land worthless and tribal landowners powerless. It is a contrived and imposed system which failed, and fails still, to acknowledge the mana of hapū. Mana is more than an individual property right. Had local government been

[542] Waitangi Tribunal, *Wairarapa ki Tararua*, 2010, Wai 863 vol. 2, p. 743.

scrupulously even-handed and fair with respect to negotiating for its waterworks program, the failure to recognise and uphold tribal mana in transacting for these remnants would have still constituted harm.

The Waingake-Pamoa Joint Steering Group is a harbinger of positive change. For more than a century, Gisborne has been drawing its life-giving waters from the rohe of Ngai Tāmanuhiri. Thanks to a century of local government planning and engineering achievements, we have a bountiful supply of good water on tap. It is one of history's ironies that the tribal catchment Gisborne Borough acquired for waterworks purposes almost 120 years ago is the only remnant of coastal lowland forest of any size left intact on the entire East Coast. The Waingake transformation programme has the potential to be a good story, not just for the environment but as a pathway forward through the legacy of colonisation. Gisborne District Council and Maraetaha Incorporated have an opportunity to showcase what meaningful partnership could be between local authority and tribal mana. In this good story, local government would know its history of appropriation and acknowledge the harm this has caused. It would accord value to what was taken, as well as what has been achieved. It would recognise and acknowledge the contribution Ngai Tāmanuhiri have made – and make still – in the public interest of Gisborne's water, express gratitude for it, and reciprocate in kind.

Appendix

Summary of GDC Waingake Waterworks Titles (listed chronologically)[543]

The Table below includes all titles held by the Gisborne District Council for waterworks considered in this report. The in-house reference numbers for the GDC's 13 'Current Titles' previously identified are shown in brackets after the title number. Titles which have not previously been so identified are shaded.

Parcel	Date	Area	Transfer
GS3B/805 (9) Part Section 6 Maraetaha 2 Block	17 Aug 1905	545.92ha (@1345 acres)	Purchased from the East Coast Native Trust Lands Board by Gisborne Borough Council. (Waingake Bush Catchment)
GS3B/642 (12) Part Section 3 Maraetaha 2 Block	17 Aug 1905	382.7820ha (@950 acres)	Purchased from the East Coast Native Trust Lands Board by Gisborne Borough Council. (Waingake Bush Catchment)
GS3A/1045 Part Rangaiohinehau 4B1	1913	5.7414ha (@14 acres)	Taken under Public Works Act 1908 and vested in Gisborne Borough Council for waterworks, *NZ Gazette* 1913, p. 2164. (Waingake Headworks)
GS2D/102 (11) Lot 1 DP 2865 Formerly Part Section 4 Maraetaha 2 Block	12 Jan 1925	106.3716ha (@263 acres)	Purchased from Henry White by Gisborne Borough Council for water works purposes (transfer ref 25738) (Waingake Bush Catchment)
GS97/32 (8) Puninga 3B1 Block, Section 3R Block VII Nuhaka North Survey District, Part Puninga 3A2 Block, Part Puninga 3B2 Block, Part Maraetaha 2C Block and Part Maraetaha 2 Sec 3 Block	1947	208.4822ha (@515 acres)	Taken under Public Works Act 1928 and vested in Gisborne Borough Council for Waterworks Purposes, *NZ Gazette* 1947, p. 778 (Mangapoike Dams Catchment)
HB119/109 (7) Section 1 Block VI Nuhaka North Survey District	1947	229.2671	Taken under Public Works Act 1928 and vested in Gisborne Borough Council for Waterworks Purposes, *NZ Gazette* 1947, p.778. (Mangapoike Dams Catchment)
Part Puninga 3A2	1949	@1 acre	Taken under Public Works Act 1928 and vested in Gisborne Borough Council, *NZ Gazette* 1950, p. 6. (Access, now part of GS4D/170 below)
GS108/60 (4)	27 May 1951	4.0469 ha (@10 acres)	Purchased from the East Coast Commissioner by Gisborne Borough Council for water works, (transfer

[543] A589651 Research Waingake Catchment

Parcel	Date	Area	Transfer
Lot 1 DP 4075 (being Part Section 3 Maraetaha 2 Block			44894) (Access)
GS1C/942 (10) Lot 1 DP 5237 Section 4R Block XV Patutahi, Section 6 of Maraetaha No 2 Block & Part Rangaiohinehau Blocks and part Lot 2 DP 1419	11 Nov 1966	24.6858ha (@61 acres)	Purchased from Stanley White, Trevor White, Richard Gambrill & John Bain by Gisborne City Council for waterworks purposes (transfer ref 83845) (Waingake Bush Catchment)
GS1D/1499 (13) – Part Section 3 Block III Nuhaka North Survey District	23 Aug 1967	45.8054ha (@113 acres)	Set apart under Section 32 Public Works Act 1928 for waterworks purposes, *NZ Gazette* 1967, p.1662 Taken under Section 25 Public Works Act 1928 for waterworks purposes, *NZ Gazette* 1967, p.1665 (Waingake Bush Catchment) .
GS2B/472 Section 1 SO 8617 and Part Lot 1 DP 5328	11 Nov 1967	2.7822ha (@7 acres)	Purchased from Maraetaha Incorporated by the Gisborne City Council (Upper settling tank/Water treatment plant)
GS5A/317 Lot 1 DP 5806	1971	6.44ha (@16 acres)	Purchased from S Lawry by Gisborne City Council (Dam site in Puninga Catchment)
GS4D/170 (5) Lot 1 DP 3892 and Part Maraetaha 2 Sec 8	1983	17.8099 ha (@44 acres)	Taken under Section 20 Public Works Act 1981 for Waterworks Purposes, *NZ Gazette* 1983, p. 1382 - Transfer 186495.1 (Mangapoike 1A Catchment)
GS4D/171 (6) Part Maraetaha 2 Sec 8	5 May 1983	22.2678 ha / @55 acres	Taken under Section 20 Public Works Act 1981 and vested in Gisborne City Council for Waterworks Purposes, *NZ Gazette* 1983, p. 1382 - Transfer 186495.1 (Mangapoike 1A Catchment)
GS6A/589 (3) Lot 2 DP 8791 & Lot 3 & 4 DP 8913 Lot 2 DP 7691 situated in Block II Nuhaka North SD Part Section 2 Block II Nuhaka North Survey District Section 2 Block II Nuhaka North Survey District	26 Jan 1989	271.3459 ha (@670 acres)	Part purchased from Edward Ellmers by Gisborne District Council for waterworks purposes. Transfer 173307.6 (Upper Fairview Station)
GS6C/1054 (1) Lot 2, Lot 4 & Lot 6 DP 9528 & Lot 1 DP 9647 Part Section 5 Block	1989 1999	222.0629 ha (@549 acres)	Part of Purchase from Edward Ellmers by Gisborne District Council for waterworks purposes - Transfer 173307.6 Lots 2, 4 & 6 DP 9528 – Purchased from The Trustees Executors and Agency Company of NZ Limited for

Parcel	Date	Area	Transfer
III Nuhaka North SD Section 5 Block III Nuhaka North Survey District Section 2 Block III Nuhaka North Survey District			waterworks purposes - Transfer 227464.3 dated 19 October 1999 (Lower Fairview Station)
GS5C/710 (2) Part Maraetaha 2 Sec 8	4 Dec 1991	1119.7627 ha (@2,767 acres)	Purchased from Maraetaha Incorporated by Gisborne District Council. (Pamoa Station)

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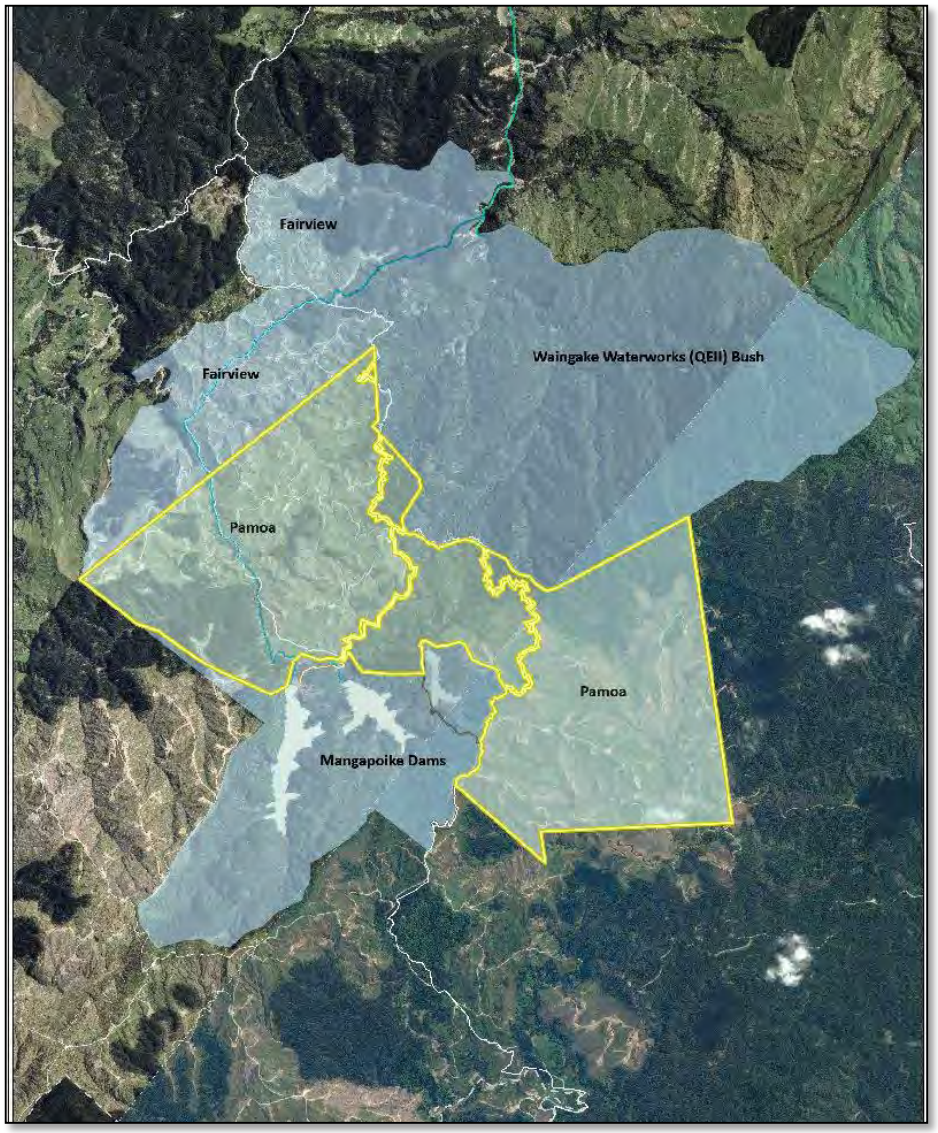
Executive Summary

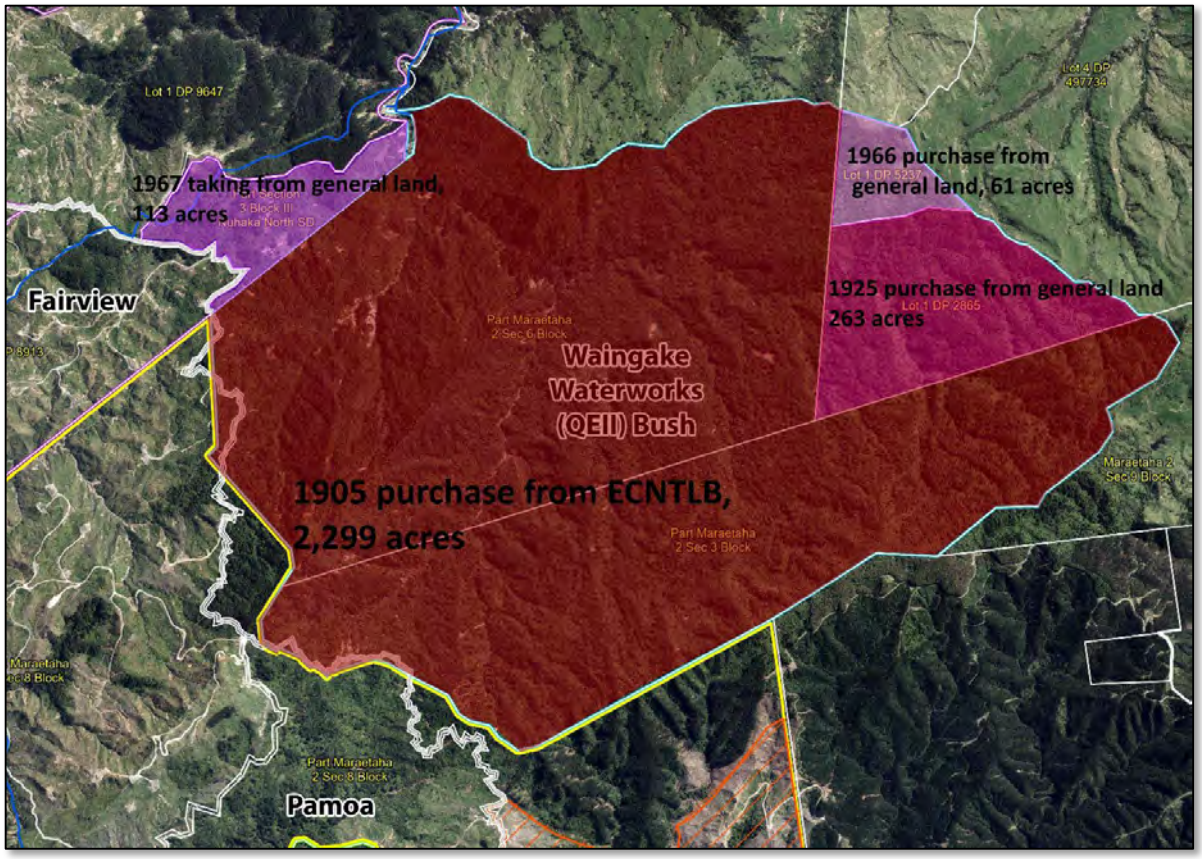
Gisborne District Council's water works holdings within the rohe of Ngai Tāmanuhiri comprise the catchment of the forested headwaters of the Te Arai River (the Waingake Waterworks Bush); the impounded headwaters of the Mangapoike River (the Mangapoike Dams Catchment); the land laying between these two catchments through which the reservoir water main – the 'Dam-line' – runs (what used to be Fairview and Pamoa Stations); and the sites of the water supply headworks at Waingake. In all, the waterworks landholdings amount to 3,215 hectares, held today in 17 titles.



This report sets out the circumstances surrounding the acquisition of these local government waterworks holdings. It was commissioned by the Waingake-Pamoa Joint Steering Group to inform the partnership between Gisborne District Council and Maraetaha Incorporated to manage future development of the waterworks land.

Waingake Waterworks Bush, from 1905

The city's water works scheme began in the early twentieth century, when the Gisborne Borough Council purchased 2,295 acres of pristine forested catchment at Waingake from the East Coast Native Trust Lands Board, in 1905. The purchase comprised parts of Maraetaha 2 Sections 3 & 6, Ngai Tāmanuhiri land which had been vested in the board in trust. The transaction proceeded without reference to the beneficial owners. The following year, the Trust Lands Board also conveyed to the borough council, for 10 shillings, an easement for the pipeline carrying the water supply through Section 6 from the intake at the bottom of the catchment along the Te Arai River (the 'Bush-line'). In 1913, 14 acres of Māori land was taken at Waingake for the water supply headworks (a settling tank and treatment plant). Since then, the remaining areas of the Te Arai catchment have been purchased and another treatment plant site acquired near the original headworks. The combined titles in the Waingake Waterworks Bush were placed under a Queen Elizabeth II National Trust Open Space Covenant (QEII Trust) in 1987.



Waingake Waterworks Bush

The initial 1905 transaction for the Te Arai catchment occurred in an era where the transfer of tribal lands into Pākehā hands was deemed to be in the 'public interest'. In the space of a decade, Ngai Tāmanuhiri's title to Maraetaha 2 had been nullified by a series of events which began with Crown purchase and resulted in the partition and inclusion of the block in the troubled East Coast Native Lands Trust, which was then taken over by a statutory board for the purpose of repaying debt. These events are traversed in the report. The upshot was fortuitous for the parties involved: Gisborne had been struggling to find a plentiful source of water; the Trust Lands Board – comprising three men with local government backgrounds – tasked to 'realise' Māori trust lands. The absence of any debt on Maraetaha 2 Sections 3 & 6 did not prevent the alienation of the tribal land.

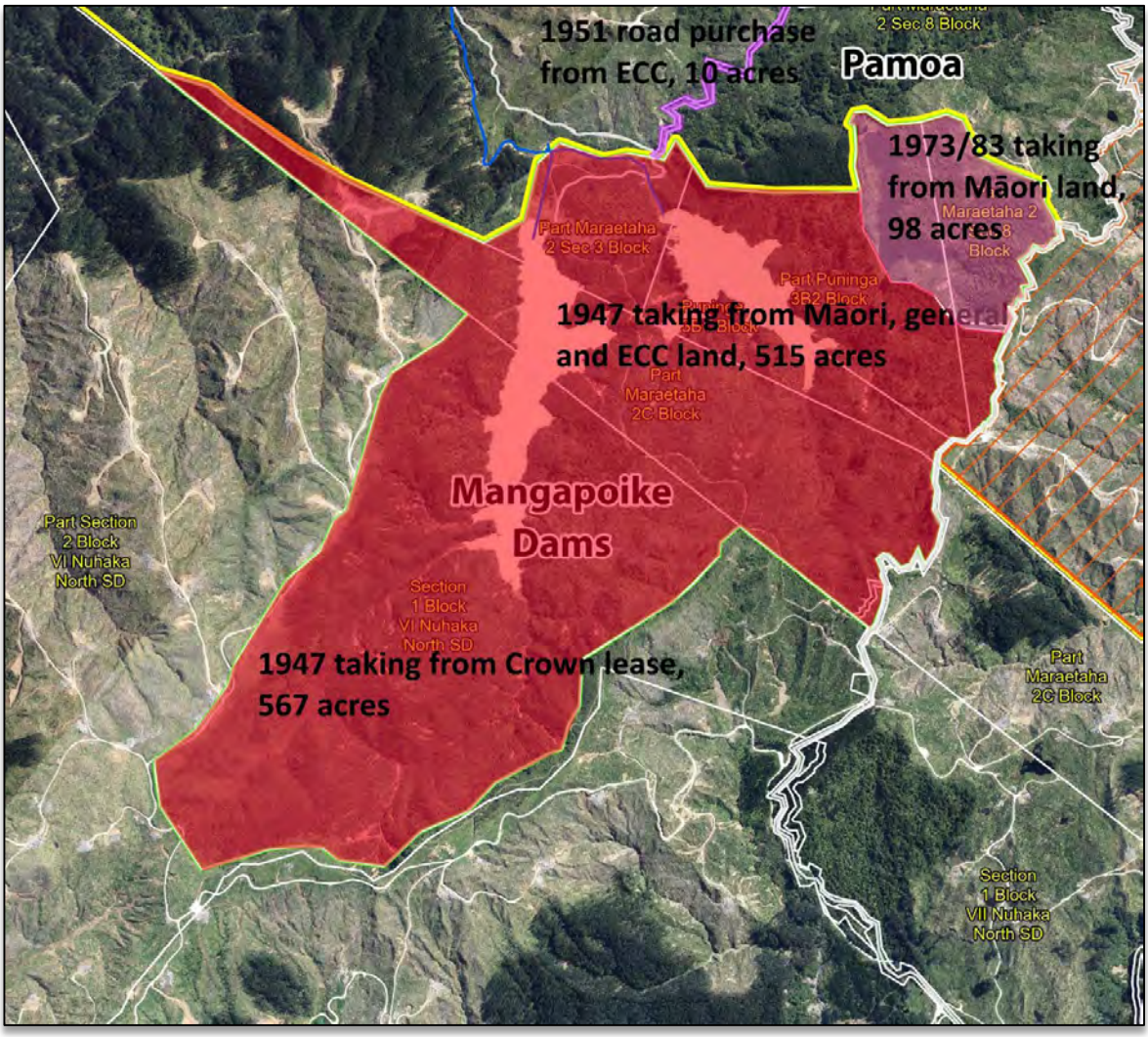
Quite apart from the loss of land Ngai Tāmanuhiri had taken pains to protect in 1896, the 1905 sale and purchases for the water supply paved the way for further attrition of the tribal estate as further land was required for water supply over time.

The 1925 and 1966 purchases from the neighbouring Te Puru Station were transacted without recourse to public works legislation. The 1967 taking of Smith's Creek involved a public works settlement with the long-standing Crown lessee, Selwyn Smith. Gisborne Borough Council had been discharging water into the private property since at least 1927 and continued to rely on the natural watercourse to discharge from the Dam-line once the Clapcott Dam was built in 1942 (discussed below). The settlement with Smith took 13 years to achieve and he sold Fairview Station before the taking was completed.

Mangapoike Dams Catchment, from 1942

The piped water from Waingake Waterworks Bush proved insufficient for year-round supply. In 1941, Gisborne Borough Council turned to impounding the 'ponds' of the Mangapoike headwaters close by, the stored water to be gravitationally piped whenever required into the bush catchment at Waingake. Multiple reservoirs were planned within the 1,082-acre catchment taken for the purpose, although not all at once. The first of these, the No. 1 or Clapcott Dam, was built in 1942, five years before the land was formally taken. The water from the dam was piped 4.5 kilometres through private property towards the Waingake bush catchment (the 'Dam-line'), discharging into Smiths Creek. No legal easement was obtained for the Dam-line. In addition to the dams catchment, two other small acquisitions were made for access at this time.

The other two reservoirs within the Mangapoike Dams Catchment today went ahead in the 1970s. The first of these, the Mangapoike 1A or Sang Dam in 1972, required taking more land from neighbouring Pamoa Station. The second, No. 2 or Williams Dam in 1974, was constructed within the Gisborne City Council's existing 1947 holdings.



Mangapoike Dams Catchment

The Mangapoike Dams Scheme ate further into remaining Ngai Tāmanuhiri lands which, at the time of the 1947 taking, were still vested in and controlled by the East Coast Commissioner. The commissioner did not object to the taking for the dam project. His sale to the council of a further 10 acres for the Dam access road occurred outside public works legislation. Once again, both alienations proceeded without reference to the beneficial owners.

Crown lessee, Edward Coop's objections that the 1947 takings far exceeded the borough's needs was countered by Mayor Bull's statement that the land was to 'only be formally taken', and that Coop could

'probably' continue to use the land for another 20 years, when the second proposed dam was built. The objections from two Māori landowners were not formally heard.

Compensation for the land varied. The Coops came to a settlement with the council, which included provision for continued occupation of the land, by lease. Compensation for the Māori land was referred to the Māori Land Court and assessed at government value. This amounted to less than half the per-acre rate paid to the Coops.

In response to another water crisis in the early 1970s which prompted a review of water supply options, Gisborne City Council resolved to continue with the Mangapoike Dams Scheme. In addition to developing another reservoir within the council's existing holdings (the No. 2 or Williams Dam), neighbouring land was taken in the first instance from Pamoa Station for the construction of the Mangapoike 1A Dam (Sang) Dam. After more than 50 years of Commissioner administration, by this time Pamoa Station had been returned to the incorporated proprietors of Maraetaha 2 Section 3 & 6 (Maraetaha Incorporated). The No 1A dam project was presented to the committee of management as both urgent and critical. Few details about the resulting settlement have been found. For all the urgency, the legalities of the taking were neglected by the city council for ten years.

Puninga dam project, from 1971

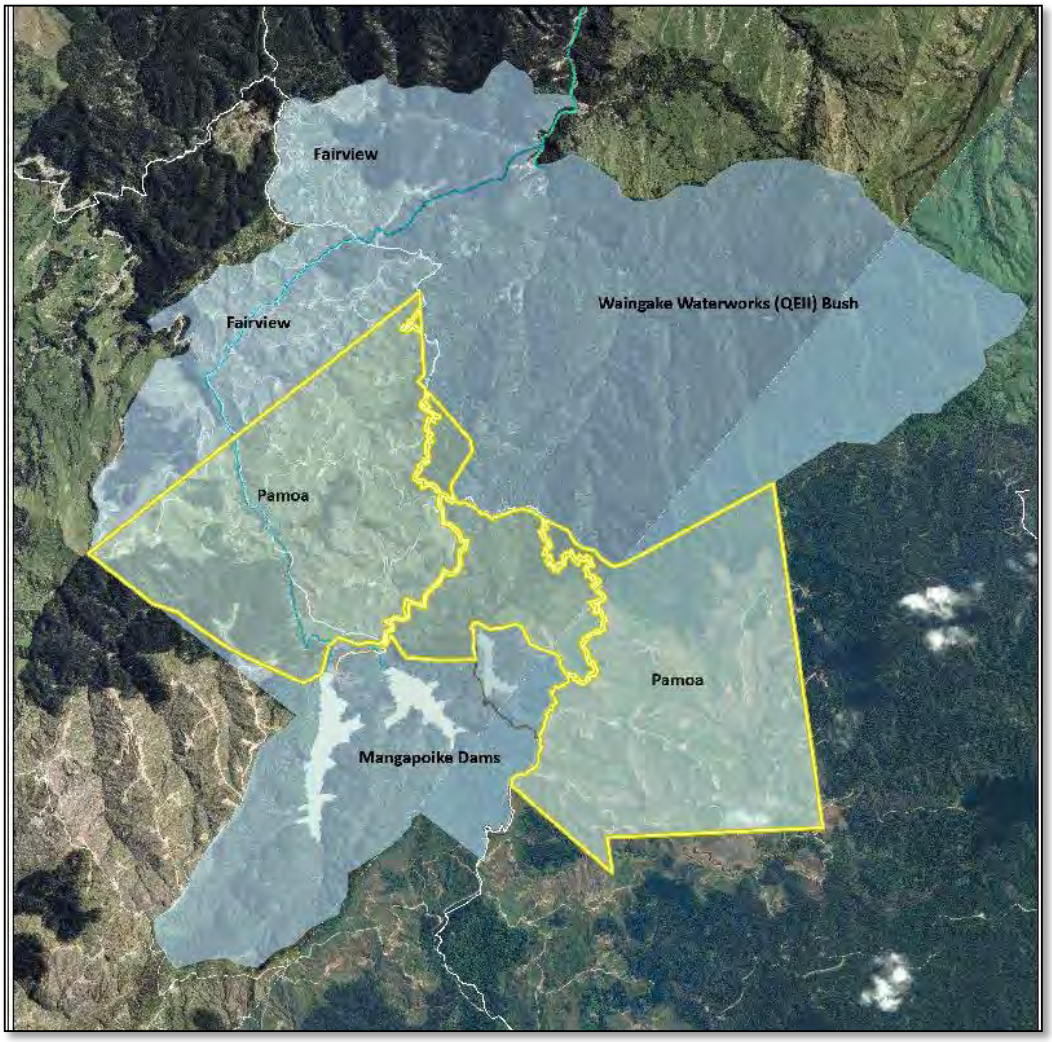
The 1971 water supply review that prompted the Mangapoike Dams Scheme above also contained ambitious plans to impound the Puninga catchment nearby, the source of the Nuhaka River. To this end, Gisborne City Council purchased Puninga Station in 1971 and on-sold it to the Crown for forestry, the council retaining water rights for future dam development and a 16-acre dam-site. In addition to the purchased land, half of Pamoa Station was affected by the proposal. Although the project did not eventuate, for more than a decade Maraetaha Incorporated were under pressure to either sell or afforest the farm for the future dam.

Fairview and Pamoa Station purchases, 1989-1992

The remaining waterworks holdings – Fairview and Pamoa Stations – were purchased in the wake of Cyclone Bola, ostensibly with the protection of the Dam-line in mind. The cyclone in March 1988 caused severe erosion, the damage to the pipeline taking three months to repair at a cost of over $3.5 million, funded by central government. The 'Dam-line Forestry Project' was conceived in the aftermath

of Bola to mitigate future landsliding from such weather events, the afforestation, too, to be wholly government funded. Even prior to the cyclone, Gisborne City Council had been increasingly concerned about the lack of any legal authority for its pipeline infrastructure on the private property. Post-cyclone, securing a $340,000 grant for Dam-line afforestation gave further impetus to council plans to acquire the land corridor. When Fairview Station owner Ted Ellmers refused to contemplate a partial sale, Gisborne City Council purchased the entire property, in January 1989. Not only could the government afforestation funding be applied to a much larger area – promising a financial return to council – but parts of Fairview Station could now be offered to Maraetaha Incorporated in exchange for the Dam-line corridor within Pamoa Station. Afforestation of the bulk of Fairview Station went ahead in the winter of 1989.

The Dam-line corridor presented to Maraetaha Incorporated in November 1988 severed Pamoa Station in two. The difficulties this posed to farming operations for the already marginal farming unit were not offset by the proposed exchange of Fairview lands. Maraetaha Incorporation's subsequent offer in May 1989 to sell Pamoa Station to the Gisborne District Council was a reluctant one, couched in the context of previous land attrition for Gisborne's waterworks and the impact of the latest proposal. Disagreement over the purchase price delayed the transaction for ten months, agreement finally reached in March 1991. To meet the afforestation funding deadline, Gisborne District Council began planting operations (including access works and fencing) for the Dam-line corridor within Pamoa Station in May 1991, before the sale and contract had been signed. In the rush, several issues angered Maraetaha Incorporated sufficiently that they declined to complete the transaction. GDC Chief Executive Bob Elliot responded by threatening to take the land and sue the incorporation for breach of contract. The sale and purchase went ahead in January 1992.



Pamoa and Fairview Stations

The sale and purchase of Pamoa Station has been a source of enduring grievance to Maraetaha Incorporated. During the negotiations, Gisborne District Council was unsympathetic to the owners' position that the sale had been forced upon them by the history of waterworks acquisitions, the latest demand rendering the farm uneconomic. Nor did the council's intransigence over terms assist the owners in finding an alternative property, a pre-condition of shareholders' consent to the sale. On the contrary, the delayed settlement, the rushed corridor planting with attendant fencing issues for stock and access, and the council's unwillingness to provide alternative grazing caused a great deal of stress. The incorporation expected to lease back the area not required for Dam-line protection. In June 1991, GDC and Maraetaha Incorporated signed a deed of agreement, granting the incorporation the right of first

refusal on all future lease or sales of Pamoa Station, to endure for 999 years. All the while, however, GDC had been entertaining partial sales to third parties. In the result, even as the sale and purchase was completed, GDC entered into negotiations for a joint forestry venture with Juken Nissho Ltd (JNL).

Aspects of the Gisborne District Council's behaviour during the transaction for Pamoa Station fall short of good faith. The unwillingness to acknowledge the impact of past waterworks takings on Ngai Tāmanuhiri land and to factor this into any consideration as to terms, harks back to the colonial underpinnings of Pākehā settlement. As disturbing is the apparent subordination of public interest to that of financial return, the parameters of the Dam-line forestry project (and requisite land corridor) determined by forestry consultants and government funding rather than the ostensible goal of water security. A less profit-driven approach may have recognised the protection already afforded the Dam-line by the existing regeneration on Pamoa Station. As it happens, on the pretext of public interest, without which the property would still be in incorporation hands, the council benefitted from a lucrative joint venture on one of the last vestiges of tribal land.

The history of waterworks acquisitions demonstrates the power local government wields with respect to local public works. Once in train, private property owners are powerless to stay such works. The evidence suggests a local body preference for negotiation over compulsory taking, a courtesy which was extended to Māori landowners after the last access taking in 1949. Ultimately, however, the mode of acquisition does not alter the compulsory aspect of the waterworks. In several instances, negotiated settlements resulted in a slight reduction of the area to be taken and provision for continued occupation and future access, but not the expropriation itself.

Two-thirds of the land acquired for Gisborne's water supply was Māori land. Of this, some 45 percent was acquired when Ngai Tāmanuhiri's land was vested in the East Coast Commissioner in trust, meaning that the beneficial owners were entirely removed from the process. For structural reasons to do with colonial titles in multiple ownership, property owners of Māori land have not enjoyed the same protection in terms of notice, objections and compensation as those of general land. This research bears out that while local government seems to have followed the letter of the law with respect to the Māori land titles acquired for waterworks purposes, compensation for those titles has generally been less than that for general land.

The prerogative local government enjoyed with respect to the waterworks extended to other aspects of the takings, and to ongoing relations with respect to the waterworks neighbours. Many of takings followed the works, rather than preceding them. The Clapcott Dam has already been alluded to above. An easement for the Dam-line was never obtained, nor the access road that served it. Similarly, the

pipeline replacement and access improvements of the 1960s outgrew the Bush-line easement through Patemaru Station. Taking the Mangapoike 1A catchment was overlooked for a decade. These shortcuts can be only partly attributed to local body parsimony. Much of the waterworks infrastructure, in fact, relied on as council staff put it, 'the common understanding, unrecorded, of all parties.' The quid pro quo for local government's assumed prerogative over the private property was deemed to be council expenditure on the private access roads that served the works. Council's relationship with the East Coast Commissioner seems to have been more comfortable than that with the incorporated proprietors who succeeded him. For Maraetaha Incorporated in particular, council plans with respect to waterworks affecting Patemaru and Pamoa Stations tended to be communicated ad hoc to the station manager rather than formally to the management committee. Hunting in the waterworks catchments, which has a pest control aspect and requires access over private property, has been a bone of contention for Maraetaha Incorporated since at least the 1980s.

The Back stories of Part Three canvas the colonial context of Ngai Tāmanuhiri's dispossession and disempowerment with respect to their Maraetaha 2 lands. Under colonial law, hapū were compelled to obtain Crown title to their customary lands in large, surveyed blocks, the title to the tribal land issued to individuals. Maraetaha 2 emerged from Native Land Court title determination in 1882 with a reduced area and encumbered by survey debt. From 1894, the government began purchasing individual interests in the 16,670-acre block over the protests of the Muriwai community. In 1896, James Carroll and Wi Pere, both Members of Parliament, successfully applied to the Validation Court for title on the grounds that the owners had transferred the block to the New Zealand Native Land Settlement Company at the time of title determination more than a decade before. As a result of the Validation Court proceedings, the block was partitioned. In addition to the Crown's portion (Section 1), three large parcels – Section 3, 4 and 6 – were vested in Carroll and Pere. When their Lands Trust failed, the government intervened to stop further mortgagee sales and ensure the Bank of New Zealand debt was paid. The East Coast Native Trust Lands Act 1902 established a board to manage the trust lands, of which the Maraetaha 2 sections were part. Maraetaha 2 Section 4 was one of the first blocks the board sold. The sale of parts Sections 3 & 6 to the Gisborne Borough Council for waterworks took place the following year.

The Back stories also explore local government's experimentation with afforestation of the Mangapoike Dams Catchment. The first began in the mid-1970s and seems to have been explored with water quality and recreational use in mind, rather than forestry return. The second afforestation proposal grew out of public opposition on environmental grounds to the council's joint venture of Pamoa Forest. By February 1994, as a trade-off for leaving an ecological corridor linking the two water catchments intact, GDC and JNL proposed extending Pamoa Forest to the lakes catchment instead. The proposal did not eventuate,

primarily, it seems, because JNL became a signatory to the Forest Accord, which precluded the clearance and disturbance of any areas of naturally occurring indigenous vegetation. By the 1990s, the regeneration within the Mangapoike Dams Catchment was 30 years old.

Readers are referred to the closing reflections on local government's waterworks at the end of Part Two and the report conclusion.

STRATEGIC DIRECTION

Maraetaha Incorporated and the Gisborne District Council

VISION

Toitu te Whenua, Hei Oranga mō te Tāngata

Together, we honour our heritage, empower our people, and sustainably develop our land and water for future generations.

MISSION

We, Maraetaha Incorporated and the Gisborne District Council, commit to fostering collaboration, innovation, and responsible stewardship to maximise the social, cultural, environmental, and economic benefits of our land and water.

PRINCIPLES

The following are a set of principles that both Maraetaha Inc and the Gisborne District Council adhere to and are crucial for fostering a strong collaborative relationship and ensuring alignment in decision-making processes.

- **Kotahitanga - Partnership and collaboration:** Embrace a partnership approach based on mutual respect, trust, and shared decision-making, recognising that collaboration between Maraetaha Inc and the Gisborne District Council is essential for achieving common goals.

- **Kaitiekitanga - Sustainability and Environmental Stewardship**: Prioritise sustainability and environmental stewardship in all land and water use development activities, acknowledging the interconnectedness of the land, water, and ecosystems with Māori cultural values and practices.

- **Mana Motuhake - Empowerment and Self-Determination**: Support the empowerment and self-determination of the Maraetaha Inc by providing opportunities for meaningful participation, leadership development, and decision-making authority over matters affecting their land and wellbeing.

- **Mana Orite - Equity and Social Justice:** Promote equity and social justice by addressing historical injustices, inequities, and disparities, and striving to create a more inclusive and equitable society.

- **Ohanga - Economic Development and Prosperity**: Pursue economic development initiatives that are socially and environmentally responsible, aiming to create

sustainable livelihoods, generate prosperity, and enhance the economic wellbeing of Maraetaha Inc and its descendants, and the broader community.

- **Tau te Rangimarie - Resolution of Disputes:** Commit to resolving conflicts and disputes through dialogue, negotiation, and consensus-building processes guided by tikanga, with a shared goal of fostering harmony and unity within the community.

By adhering to these principles Maraetaha Inc and the Gisborne District Council can build a strong foundation for collaboration, respect, and shared prosperity, ensuring their partnership contributes positively to the wellbeing and sustainability of the community.

GOALS AND OBJECTIVES

1. Kotahitanga - Partnership and Collaboration

- Foster a culture of trust, respect, and open communication between the Maraetaha Inc and the Gisborne District Council, based on mutual understanding and shared goals
- Establish formal mechanisms for regular engagement, consultation, and collaboration, including joint planning sessions and working groups.
- Develop a shared governance framework that recognises and respects the authority and decision-making processes of both parties, ensuring equitable participation and representation.

2. Kaitiekitanga - Sustainability and Environmental Stewardship

- Implement sustainable land and water management practices that prioritise ecological integrity, biodiversity, and climate resilience.
- Conduct regular environmental assessments and monitoring to track changes in ecosystem health, identify threats, and inform adaptive management strategies.
- Promote Mātauranga Māori (traditional ecological knowledge) and kaitiekitanga practices that enhance the resilience and sustainability of the land and water resources.

3. Mana Motuhake - Empowerment and Self Determination

- Support capacity-building initiatives that empower Maraetaha Inc to actively participate in the governance, management, and decision-making processes related to their ancestral lands.
- Provide access to education, training, and resources that enable the descendants of Maraetaha Inc to develop leadership skills and technical expertise.
- Recognise and uphold the rights of Maraetaha Inc to self-determination.

4. Mana Orite – Equity and Social Justice

- Address historical injustices and inequities through initiatives that promote reconciliation, restitution, and healing between Maraetaha Incorporated and the Gisborne District Council.

5. Economic Development and Prosperity of the Land and Water

- Identify opportunities for sustainable economic development that leverage the natural and cultural assets of the land and water, while respecting the rights and values of Maraetaha.
- Support entrepreneurship, job creation, and income generating activities that benefit the local Māori community and contribute to the broader economy.

Te Kaunihera o Te Tairāwhiti
GISBORNE
DISTRICT COUNCIL

24-348

Title:	24-348 Local Water Done Well - Delivery Options Business Case
Section:	Chief Executive's Office
Prepared by:	Jade Lister-Baty - Principal Advisor to Chief Executive
Meeting Date:	Thursday 12 December 2024

Legal: Yes	Financial: Yes	Significance: High

Report to COUNCIL/TE KAUNIHERA for decision

PURPOSE - TE TAKE

The purpose of this report is to provide a strategic case for adopting a change in approach to water services delivery and recommend for approval a short-list of two options for public consultation in the first quarter of 2025.

SUMMARY - HE **WHAKARĀPOPOTOTANGA**

This report seeks to:

- Provide an overview of the statutory requirements of Local Water Done Well (LWDW),
- Summarise the requirements for Water Services Delivery Plans (WSDP) that have been set by the Government,
- Establish a strategic case for adopting a change in approach to water services delivery,
- Identify the longlist of water service delivery model options that the Council could consider adopting,
- Analyse these options and recommend a short-list of two options for public consultation in the first quarter of 2025 and identify a preferred approach for approval in principle by Elected Members.

The attached Business Case analyses the various water service delivery options available to Council and recommends two options for public consultation in the first quarter of 2025 and recommends a preferred approach.

A decision to progress consultation is required by December 2024 so that there is sufficient time for the development of the Water Services Delivery Plan and an accompanying Implementation Plan which is required to be submitted to the Minister of Local Government by 3 September 2025.

The decisions or matters in this report are considered to be of High significance in accordance with the Council's Significance and Engagement Policy.

RECOMMENDATIONS - **NGĀ TŪTOHUNGA**

That the Council/Te Kaunihera:

1. Agrees that Council consult on two options, being:
    a. the status quo of in-house delivery of water services, with changes to meet new legislative requirements; or
    b. a new single-council Water Services Council Controlled Organisation.
2. Adopts, in principle, as its preferred option for consultation, the modified status quo of in-house delivery via a stand-alone business unit.

Authorised by:

Nedine Thatcher Swann - Chief Executive

Keywords: water services delivery, water services, council controlled organisation, local water done well

BACKGROUND - HE **WHAKAMĀRAMA**

1. The LWDW initiative is the government's strategic response to New Zealand's enduring water infrastructure challenges. It emphasizes the importance of local decision-making and provides flexibility for communities and councils to determine the future delivery of their water services. The initiative ensures a strong focus on meeting economic, environmental, and water quality regulatory requirements.
2. Legislative changes enacted through the Local Government (Water Services Preliminary Arrangements) Act 2024, seeks to address long standing water infrastructure challenges.
3. The Government intends to introduce further water services legislation in December 2024, to be enacted in mid-2025, that will establish the enduring settings for the new water services system.
4. Key components of LWDW include the development of fit-for-purpose service delivery models and financing tools, ensuring the financial sustainability of water services, and introducing greater central government oversight and regulation.
5. The development of WSDPs, either individually or jointly with other councils, is mandated and Council is required to submit a Water Services Delivery Plan to the Secretary for Local Government by 3 September 2025. This plan will be binding.
6. On 5 November 2024 Council considered the long list of water services delivery option in a multi-criteria analysis decision conference and agreed that a shortlist of options comprising the modified status quo of in-house delivery and single-council Water Services Council Controlled Organisation be assessed further via a Single Stage Business Case, and that the business case be brought to Council for consideration.
7. The business case dated 25 November 2024 - Single Stage Business Case: Local Water Done Well - (Attachment 1) is the result of the work so far on determining the model to be adopted for the delivery of water services.

DISCUSSION and OPTIONS - WHAKAWHITINGA **KŌRERO** me **ngā KŌWHIRINGA**

8. The Local Government (Water Services Preliminary Arrangements) Act 2024 provides alternative decision making and consultation arrangements that councils must use when considering the future water services delivery model.
9. Under these arrangements Council must consider and consult on the (enhanced) status quo and one other model and may consider and consult on additional options if it chooses to.
10. The option to establish a water services Council Controlled Organisation would involve transferring the ownership of water assets to an independent water entity.
11. The consultation on the options to establish a new water services entity, will take place in early 2025.
12. Attachment 1 - Single Stage Business Case: Local Water Done Well, 25 November 2024 analyses the various water service delivery options available to Council and recommends two options for public consultation in the first quarter of 2025 and recommends a preferred approach.

13. The business case identified that the preferred option for water services delivery is the modified status quo of in-house delivery via a stand-alone business unit.

14. The business case recommends that Council consult on both the status quo of in-house delivery of water services and the establishment of a new single-council Water Services Council Controlled Organisation.

ASSESSMENT of SIGNIFICANCE - AROTAKENGA o **NGĀ** HIRANGA

15. This report is part of a process to arrive at a decision that will/may be of High level in accordance with the Council's Significance and Engagement Policy

TREATY COMPASS ANALYSIS

16. A Treaty Compass analysis has been included in the attached business case.

17. Implications and outcomes for Māori have been identified in the Strategic Case and each of the long-list of options has been assessed in terms of its repose to Kāwanatanga, Rangatiratanga, Oritetanga, Whakapono.

TANGATA **WHENUA/MĀORI** ENGAGEMENT - **TŪTAKITANGA** TANGATA WHENUA

18. Iwi governance considered the long-list of options for Council decision in December. There was agreement that the preferred options be consulted on, and iwi would seek to engage further in that process to outline their definitive position.

COMMUNITY ENGAGEMENT - **TŪTAKITANGA** HAPORI

19. The decision report seeks endorsement of options for public consultation in 2025.

CLIMATE CHANGE – Impacts / Implications - **NGĀ REREKĒTANGA ĀHUARANGI** – **ngā** whakaaweawe / **ngā** ritenga

20. Preferred options would continue to be aligned with Council goals and strategies including the development of climate changes policy.

CONSIDERATIONS - HEI WHAKAARO

Financial/Budget

21. The attached business case outlines the financial impacts of each option.

Legal

22. The development of Council's preferred approach needs to be aligned to timeframes and new legislative requirements including the Local Government (Water Services Preliminary Arrangements) Act 2024 and a new Bill to be introduced in December 2024, which will establish the enduring settings for the new water services system.

POLICY and PLANNING IMPLICATIONS - KAUPAPA HERE me **ngā** RITENGA WHAKAMAHERE

23. The outcome following consultation for the options will inform the direction of future asset management planning for the Council.

RISKS - **NGĀ TŪRARU**

24. A decision to progress consultation is required by December 2024 so that there is sufficient time for the development of the Water Services Delivery Plan and an accompanying implementation plan which is required to be submitted to the Minister of Local Government by 3 September 2025.

NEXT STEPS - **NGĀ** MAHI E WHAI AKE

Date	Action/Milestone	Comments
March / April 2025	Community consultation	
26 June 2025	Decision report to Council	
3 September 2025	Submit water service delivery plan to the Minister	

ATTACHMENTS - **NGĀ TĀPIRITANGA**

1. Attachment 1 - LWDW Indicative Business Case v1 1 [24-348.1 - 79 pages]

GISBORNE DISTRICT COUNCIL

Indicative Business Case: Local Water Done Well

25 November 2024

Prepared by: Scott Consulting and Morrison Low

GISBORNE DISTRICT COUNCIL

Contents

Distribution List

Organisation	Position	Name/s
GDC	Elected Members	All
GDC	Te Ranga Whakahau	All
GDC	Project Sponsor	Nedine Thatcher Swann
GDC	Business Owner	Tim Barry

Approval

Name	Role	Signature
Tim Barry	Business Owner	
Nedine Thatcher Swann	Project Sponsor	

Revision History

Date	Version	Modified By	Changes Made, Review History
30 Oct 24	0.1	Kevan Scott	Initial Draft
12 Nov 24	0.2	Kevan Scott	Strategic, commercial and management cases
21 Nov 24	1.0	Kevan Scott	Near Final Draft
25 Nov 24	1.1	Kevan Scott	Final

Executive Summary

This business case seeks Council's approval in principle of a shortlist of water services delivery options and the preferred approach to be consulted with the public and Treaty partners in the first quarter of 2025.

The business case follows the Better Business Case process and is organised around the five-case model to systematically ascertain that the proposal:

- is supported by a robust case for change - the 'strategic case',
- optimises value for money - the 'economic case',
- is commercially viable - the 'commercial case',
- is financially affordable - the 'financial case', and
- is achievable - the 'management case'.

An Indicative Business Case is normally followed by a Detailed Business Case seeking Council's approval to commit to the selected course of action. In this instance the Water Services Delivery Plan will take the place of the Detailed Business Case.

Strategic Case – Making the Case for Change

Strategic Context

Councils across New Zealand are grappling with significant challenges in funding and delivering essential water services, including drinking water, wastewater and stormwater infrastructure. Major reviews, such as the Havelock North Drinking Water Inquiry (2016-17) and the Three Waters Review (2017-19), have highlighted the difficulties councils face in maintaining and renewing ageing infrastructure. The Government's *Local Water Done Well* (LWDW) policy aims to address these challenges by emphasizing local decision making, financial sustainability and regulatory compliance.

Gisborne District Council's water services are managed by the Water Team within the Community Lifelines Hub. The team operates a hybrid model with Council staff managing treatment plants and contractors handling network works. The Council plans significant investments in water infrastructure, funded primarily by targeted rates on service users.

The strategic challenges and considerations facing the Council include:

- Asset condition: Water infrastructure is ageing, with many assets past their peak performance. Materials like asbestos cement and earthenware pipes are prone to failure and infiltration.
- Network performance: Ageing assets lead to increased maintenance costs and reduced performance. Issues like tuberculation in cast iron pipes and stormwater infiltration into wastewater systems are significant concerns.
- Environmental and public health impacts: Excessive rainfall can overwhelm wastewater systems, leading to untreated discharges into rivers, posing public health risks and environmental damage.
- Community expectations: There is a growing demand for better environmental protection, affordable rates and greater community involvement in decision making.

- Regulatory environment: New standards for water quality, wastewater, and stormwater are being introduced, requiring additional investment to comply.
- Population growth and housing: The region's population is expected to grow, increasing the demand for water services and necessitating infrastructure upgrades.
- Climate change: Climate change poses risks to water availability and infrastructure resilience, with increased droughts, flooding and rising temperatures.
- Treaty commitments: Ensuring compliance with Treaty obligations to tangata whenua.
- Financial constraints: Balancing investment needs with ratepayer affordability and debt limits.

The Council has proactively implemented several initiatives to tackle these challenges. One significant effort is the DrainWise Programme, which focuses on reducing inflow and infiltration in the wastewater network. This initiative has already made substantial progress in enhancing the system's efficiency.

In addition, the Council has made asset management improvements by enhancing condition assessments and adopting risk-based planning. These measures ensure that the infrastructure is maintained effectively, and potential issues are identified and addressed promptly.

Recognising the importance of maintaining the water network, the Council has also increased the budget for renewals. By allocating more funds for pipe renewals, they aim to improve the overall performance and reliability of the network.

To ensure a resilient water supply, the Council is building redundancy into the water supply system. This includes managing the surrounding land to prevent erosion and subsidence, which could otherwise compromise the water infrastructure.

Lastly, the Council has launched public education campaigns to promote water conservation and proper wastewater management. These campaigns aim to raise awareness and encourage the community to adopt practices that support the sustainability of water resources.

Despite these efforts, the Council faces ongoing challenges due to external factors like climate change and economic pressures. A change in approach is necessary to ensure sustainable water service delivery.

Economic Case – Exploring the Preferred Way Forward

Longlist Options

The Government has provided guidance on the water service delivery models available to councils. These include:

1. Internal business unit or division: Continuation of the existing in-house service delivery model with new ring fencing and financial sustainability requirements.

2. Single council-owned water organisation: Establishing a new company, 100% owned by the council, with strengthened governance and management.
3. Multi-council-owned water organisation: A jointly owned company by multiple councils, offering potential economies of scale.
4. Mixed council/consumer trust-owned: A water organisation part-owned by councils and a consumer trust, enabling financial independence while retaining some council ownership.
5. Consumer trust-owned: A wholly consumer trust-owned water organisation, independent of council control.

The options were assessed against a set of objectives and critical success factors using a Multi-Criteria Analysis (MCA). This methodology evaluates the effectiveness of different options in achieving stated objectives against multiple criteria, both quantitative and qualitative.

The investment objectives developed for the future water services delivery model are:

- Financial sustainability: Ensuring sufficient revenue and investment to meet regulatory standards by 2028.
- Compliant water services: Meeting water quality, economic, and environmental regulations.
- Improved service delivery: Achieving economies of scale, efficiency savings, and supporting strategic goals.
- Meeting partner and community expectations: Ensuring meaningful mana whenua and tangata whenua involvement and community accountability.

The critical success factors for evaluating the deliverability of the options include:

- Independence: Ensuring independent governance and decision making on a water services strategy, investment, financing, revenue, service delivery and operations.
- Affordability: Assessing whether the establishment and implementation costs are affordable.
- Complexity: Evaluating the complexity, difficulty and time required for establishment, including staff and asset transfers.
- Timeliness: Determining if the option can be implemented in a timely manner to meet statutory deadlines for financial sustainability.
- Flexibility: Ensuring the option can evolve to meet changing circumstances over time and support future transitions into alternate delivery models.

Assessment of the Longlist

Option 1: Internal business unit or division

This option is the simplest to implement and incurs the lowest costs. It allows for direct council control, ensuring alignment with council goals and maintaining relationships with mana whenua and tangata whenua. However, it has limited access to additional debt headroom, which could lead to a potential credit rating downgrade. There is also upward pressure on rates and fewer opportunities for economies of scale.

Option 2: Single council-owned water organisation

This option provides access to additional debt headroom and features strengthened governance, which can lead to potential efficiency savings. It also maintains council influence over water services. On the downside, it involves higher initial costs and could impact the Council's credit rating. The pool of skilled directors available for appointment is limited, and the price path is less affordable in the short to medium term.

Option 3: Multi-council-owned water organisation

This option offers economies of scale, improved financial metric, and the potential for significant efficiency savings. However, it is complex and expensive to implement. Individual councils would have limited influence, and relationships with mana whenua could be diluted.

Option 4: Mixed council/consumer trust-owned

This option ensures total balance sheet separation from the Council, community ownership and strengthened governance. Nevertheless, it lacks access to Local Government Funding Agency (LGFA) debt funding, leading to high debt servicing costs and limited economies of scale.

Option 5: Consumer trust-owned

This option provides total independence from the Council, community ownership, and strengthened governance. However, similar to Option 4, it lacks access to LGFA debt funding, resulting in high debt servicing costs and limited economies of scale.

Shortlist Options

Based on this analysis, the recommended shortlist for further assessment is:

- Option 1: Internal business unit or division (modified status quo).
- Option 2: Single council-owned water organisation.

Economic Assessment of Shortlist

The economic assessment involves detailed financial modelling of the two shortlisted options, focusing on several key factors. These include the transitional costs associated with establishing a single council-owned water organisation, the financial capacity to deliver planned capital works programmes, potential delivery efficiencies and the costs to water consumers in Gisborne.

Monetary benefits are anticipated from operating and capital expenditure efficiencies. Operating expenditure efficiencies are projected at 0.13% of total capital expenditure per year, reaching a cumulative maximum of 1.28% after 10 years. Similarly, capital expenditure efficiencies are estimated at 0.13% of total operating expenditure per year, reaching a cumulative maximum of 1.35% after 10 years.

In addition to monetary benefits, several non-monetary benefits are expected. The removal of three waters debt from the Council's balance sheet will create additional borrowing capacity for other community outcomes. A dedicated water entity will have the autonomy to set charges necessary to meet capital works and service expectations. The establishment of a dedicated Board of Directors will ensure a focused and efficient delivery of water services. Furthermore, the new entity will face fewer barriers to future aggregation compared to an in-house business unit.

The risk assessment identifies several key risks, including potential disruption to staff during implementation, inadequacy of arrangements described in the Water Services Delivery Plan (WSDP), legislative changes that could undermine the feasibility of the preferred option, lack of financial independence, loss of staff or expertise, impact on other council activities, and potential conflicts between regulatory priorities and elected members' priorities. These risks will need to be carefully managed to ensure the successful implementation of the chosen option.

Identifying the Preferred Option

The choice between the modified status quo and a single-council council-controlled organisation (CCO) is driven by the economic and financial analysis. The modified status quo (Option 1) is the preferred option, due to its affordability, ability to meet financial sustainability and regulatory compliance standards and lower household charges in the short to medium term.

Commercial Case – Preparing for the Potential Deal

The commercial case outlines the proposed deal for the preferred option, which is continued in-house delivery of water services. Given this preference, no significant procurement is required, and thus, a detailed commercial case is not necessary. However, if the Council ultimately decides to establish a single-council CCO (Option 2), a comprehensive commercial case or procurement plan will be developed in the next phase of the LWDW project.

Financial Case – Affordability and Funding Requirements

The financial case aims to determine the funding requirements of the preferred option and demonstrate that the recommended deal is affordable. The analysis is based on financial modelling of the two shortlisted options.

The financial analysis uses a cost-based model to ensure the financial sustainability of three waters services. Key assumptions include:

- All operating costs, including depreciation and interest, are fully funded through operating revenue.
- Capital works are funded from debt or surplus cashflows from operations.
- Borrowing limits are monitored, with additional revenue generated as needed to stay within limits imposed by LGFA.

Key Findings

- Revenue requirements: Option 1 (in-house) has lower revenue requirements compared to Option 2 (single-council CCO).
- Household charges: Option 1 results in lower household charges in the short to medium term. Option 2 may result in lower charges over the long term (20+ years).
- Debt levels: Option 1 reaches $321 million in three waters debt by 2034, supported by $46 million of annual operating revenue. Option 2 requires higher initial charges to maintain financial ratios, impacting affordability in the short term.
- Affordability: Option 1 is more affordable over the next 10-20 years, with lower expected household charges and revenue requirements. Option 2 may offer lower borrowing requirements and household charges in the long term.

The financial analysis indicates that the modified in-house model (Option 1) is more affordable in the short to medium term, while the single-council CCO (Option 2) may offer benefits in the long term. The choice between the two options depends on balancing immediate affordability with potential long-term savings.

Management Case – Planning for Successful Delivery

The management case confirms the feasibility of the proposal and outlines the necessary arrangements to ensure successful delivery and manage project risks. It focuses on the implementation plan for the in-house delivery model, which is relatively straightforward and requires limited changes.

Project management arrangements will be established by forming a project team responsible for planning and executing the required changes.

Governance arrangements will be provided through standard oversight and reporting to the Infrastructure Operations Committee. Consideration could be given to forming a specific water services committee of the Council to oversee delivery under the LWDW legislative framework.

Roles and Responsibilities

- Project Manager: Leads the project, responsible for delivery, risk management, communications and stakeholder engagement.
- Financial Lead: Manages planning and implementation of ring fencing water services revenue and expenditure.
- Change Lead: Oversees the organisational change required to establish water services delivery as a separate business unit.

Schedule and Milestones

The project will be conducted in three phases over six months:

1. Preparation & Planning Phase: Organisational design and change management planning and overall project planning, including benefits management, risk management and post-investment review planning.
2. Establishment Phase: Executing the transition to the in-house model, ensuring all processes and systems are in place.
3. Steady State Phase: Finalising the establishment of the in-house model, developing the Water Services Strategy and Annual Report and delivery water services as business as usual.

A comprehensive risk management strategy will be developed, including a risk register to identify, analyse and evaluate risks.

Strategic Case – Making the Case for Change

This part of the business case confirms the strategic context for the investment proposal and makes a compelling case for change.

Strategic Context

Councils around New Zealand are facing significant challenges to meet the investment needed for drinking water, wastewater and stormwater infrastructure.

The need for change to how water services are funded and delivered has been the subject of several major reviews, policy processes and legislative reform since at least 2016. Successive major reviews (the Havelock North Drinking Water Inquiry 2016- 2017 and the Three Waters Review - 2017-2019) have concluded that councils were struggling to maintain and renew their ageing water infrastructure.

Treaty Commitment

When considering options for the region, Council was cognisant of its strategic and legislative Treaty commitments to Māori landowners, whānau, hapū and iwi. Regardless of the future water service delivery arrangements, existing responsibilities, commitments and obligations between tangata whenua and the Crown will continue to apply.

Local Water Done Well

Local Water Done Well (LWDW) is the Government's plan to address New Zealand's long-standing water infrastructure challenges.

It recognises the importance of local decision making and flexibility for communities and councils to determine how their water services will be delivered in the future. It will do this while ensuring a strong emphasis on meeting economic, environmental and water quality regulatory requirements.

Key components of LWDW include:

- Fit-for-purpose service delivery models and financing tools,
- Ensuring water services are financially sustainable,
- Introducing greater central government oversight, economic and quality regulation, and
- The development of Water Services Delivery Plans (WSDP), either individually or jointly with other councils by 3 September 2025.

Legislative Change

In February 2024 the Government introduced and passed legislation to repeal all legislation relating to the last Government's Affordable Water[1] reforms. The Water Services Acts Repeal Act repealed the Water Services Entities Act 2022, Water Services

[1] Previously called Three Waters Reform

Legislation Act 2023 and the Water Services Economic Efficiency and Consumer Protection Act 2023. This Act reinstated previous legislation related to the provision of water services (including local government legislation). This restored continued council ownership and control of water services and responsibility for service delivery.

The Local Government (Water Services Preliminary Arrangements) Act 2024 establishes the LWDW framework and the preliminary arrangements for the new water services system. The legislation was enacted on 2 September 2024. This Act lays the foundation for a new approach to water services management and financially sustainable delivery models that meet regulatory standards.

The Government will introduce a third LWDW Bill in December 2024 that will establish the enduring settings for the new water services system. The Local Government Water Services Bill will set out a range of changes to the water services delivery system and to the water services regulatory system. These include:

- New water services delivery models for councils to choose from, including new water organisations that can be owned by councils and/or consumer trusts.
- Minimum requirements for local government water services providers.
- A new economic regulation regime for local government water services providers, to be implemented by the Commerce Commission.
- Changes to improve the efficiency and effectiveness of the drinking water regulatory regime, and the approach Taumata Arowai takes to regulating the regime.
- Changes in the approach to applying Te Mana o te Wai, affecting drinking water suppliers as well as wastewater and stormwater networks.
- A new approach to managing urban stormwater, including changes to improve the management of overland flow paths and watercourses in urban areas.
- Changes relating to wastewater environmental performance standards and national engineering design standards.

Government announcements in August 2024 included confirmation of financial arrangements that the LGFA will provide financing to support water council-controlled organisations (CCOs). LGFA will extend its existing lending to new water organisations that are CCOs and are financially supported by their parent council or councils. It is important to note that financially supported means either a guarantee or uncalled capital will be required from councils to match the liabilities of the water CCO.

LGFA will support leverage for water CCOs based on an assessment of operating revenues, subject to water CCOs meeting prudent credit criteria. LGFA will treat borrowing by water CCOs as separate from borrowing by their supporting parent council or councils. These same lending arrangements would not apply to in-house delivery models.

All legislation to support the implementation of LWDW is expected to be passed by mid-2025, ahead of the local government elections in October 2025.

Water Services Delivery Plans

As part of this package of reform, all councils are required to submit WSDPs to the Government by 3 September 2025.

The WSDP and future models and options to be considered will need to respond to agreed objectives and consider future approaches that are workable, affordable, sustainable and meet the needs of communities, mana whenua and the environment. The WSDP must include:

- A description of the current state of the water services network and services provided.
- Details of the capital and operational expenditure required to deliver the water services and to ensure that water services comply with regulatory requirements.
- Financial projections for delivering water services over the period covered by the plan, including the operating costs and revenue required to deliver water services and projected capital expenditure on water infrastructure, and projected borrowing to deliver water services.
- The anticipated or proposed model or arrangements for delivering water services (including whether the territorial authority is likely to enter a joint arrangement or will continue to deliver water services in its district alone).
- An implementation plan.
- Adoption by resolution and submission to the Secretary of Internal Affairs no later than 3 September 2025.

If a council fails to submit a WSDP by the statutory deadline, the Minister of Local Government may appoint someone to prepare a WSDP on that council's behalf, and (if necessary) to direct the council to adopt and submit this WSDP (a 'regulatory backstop' power). Any expenses associated with this appointee and the preparation of the WSDP would be covered by the council.

Organisational Overview

The following two sections of this business case (organisational overview and strategic considerations) draw significantly from analysis done for the Council in mid-2024 by Logicus NZ Ltd.[2]

Gisborne District Council's water services functions are provided by the Water Team of the Community Lifelines Hub, led by the Director Community Lifelines.

The Water Team is led by a manager who reports to the Director Community Lifelines and has around 30 staff organised into five teams:

- Stormwater / Wastewater / DrainWise
- Wastewater Treatment
- Drinking Water

[2] Logicus NZ, The Challenges of Water Services Delivery in Tairāwhiti. Report for the Gisborne District Council, 6 June 2024

- Asset Management
- Infrastructure

Water services are delivered via a hybrid operating model with the drinking water and wastewater plants operated by council staff and the delivery of works on the water, wastewater and stormwater networks contracted out.

In the first year of the 2024-2027 Three-year Plan (3YP), water services operating expenses (covering the costs of operating the network, repairs and maintenance, compliance, support services, and staff costs) are forecast to be:

- Urban stormwater $4.588 million
- Wastewater $12.967 million
- Water supply $9.473 million
- Total: $27.028 million

This represents 15% of planned council expenses of $178.919 million in 2024/25.

Over the course of the 2024-2027 3YP, the Council is planning to invest $45.841 million in waters infrastructure, which represents 10.5% of the capital investment planned over the period.

Table 1: 2024-2027 3YP water infrastructure investment

Description	Total Cost $000s	Total 2025 $000s	Total 2026 $000s	Total 2027 $000s
Stormwater				
Integrated catchment plan	194	82	112	-
Stormwater renewals & upgrades	6,791	3,376	2,261	1,154
Stormwater resilience	2,050	300	750	1,000
Total	9,035	3,758	3,123	2,154
Wastewater				
Kaiti area pumpstation & rising main	100	-	-	100
Te Karaka wastewater land disposal	900	280	620	-
Wastewater renewals and urban upgrades	16,483	4,280	5,842	6,361
Wastewater sensor network	300	150	150	-
Wastewater treatment plant further treatment	500	500	-	-

Description	Total Cost $000s	Total 2025 $000s	Total 2026 $000s	Total 2027 $000s
Mortuary waste field	150	150	-	-
Total	18,433	5,360	6,612	6,461
Water Supply				
Dams resilience	1,300	500	800	-
Rural reticulation renewal	793	782	11	-
Sang dam slump remedial works	310	218	92	-
Taruheru block water extension	1,729	650	707	372
Waingake T/Plant UV installations	24	24	-	-
Waipaoa Treatment Plant infiltration gallery	1,250	1,250	-	-
Water supply renewals and upgrades	8,467	2,798	2,583	3,086
Water supply resilience	4,500	1,300	1,500	1,700
Total	18,373	7,523	5,692	5,158
Grand Total	45,841	16,641	15,427	13,773

All water services are wholly funded by ratepayers and users. The majority of funding (80-100%) comes from a targeted rate on service users. A small amount of funding comes from a general rate as the wider community derives a benefit from the effective delivery of water services. Some fees and charges are levied for specific users where this is practicable. Growth components of infrastructure projects are part-funded through development contributions.

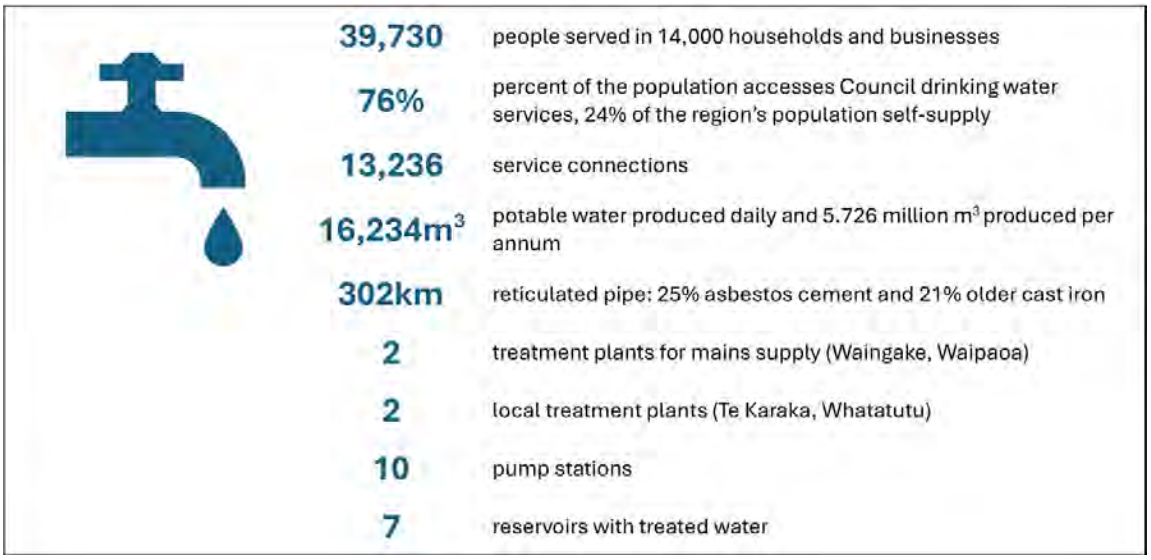
Debt for water services infrastructure was sitting at $48.91 million in the 2022/23 financial year.

Water Supply

Service provision

The Council provides reticulated supply of potable water to residents and businesses within the Gisborne urban boundary. In addition, the Council provides smaller scale supplementary water supply to Te Karaka and Whatatutu townships to 'top up' other household sources such as rainwater tanks and small-bore supplies. The Council also provides community drinking water stations for self-service in Muriwai and Patutahi.

Figure 1: Key information about drinking water services



Raw water for the main Gisborne city supply comes from surface water bodies to the west of the city, with 70% coming from the three Mangapoike dams and the remaining 30% coming from Te Arai Bush Catchment. The water is gravity-fed and pumped 40km through a pipeline, that meanders through the catchment crossing Te Arai River at several points, through the Waingake treatment plant (where it is treated), before topping up reservoirs and being distributed through water mains and service lines to property boundaries.

Lamella filters being installed at Waingake Water Treatment Plant

HC Williams Dam, one of the three Mangapoike dams

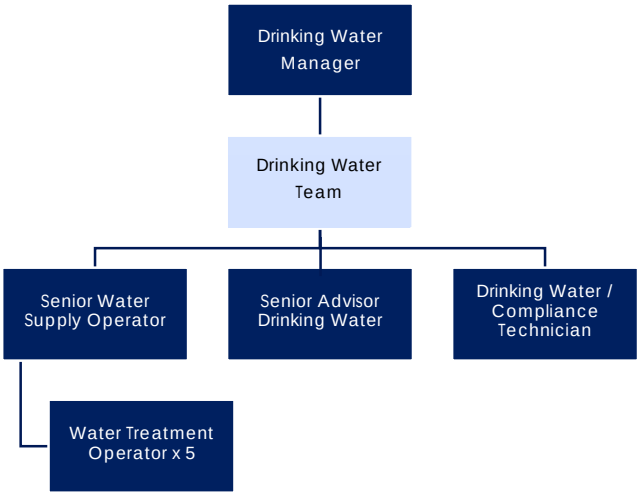
This main supply is augmented by raw water from the Waipaoa River that is treated at the Waipaoa treatment plant. This secondary supply provides additional capacity when supply from the main sources is reduced due to weather, high consumer demand or technical issues with treatment systems. Additional capacity is available from a series of reservoirs located around the city that are kept filled as part of the public reticulation network.

Water for Te Karaka is drawn from bores close to the Waiapaoa River and Whatatutu water is sourced from the Mangatu River. Raw water is treated before being distributed to tanks at households in the township area.

For households without full reticulated supply, townships, marae, and rural properties have private water supply systems, where water is sourced from roof catchments, ground water bores/springs or surface water. Private systems are neither council owned nor administered. It is estimated that there are around 12,000 people (about 23% of the population) without access to council reticulated supply. This includes nearly 70 marae.

The drinking water activities are overseen by a Drinking Water Manager (supported by two technical staff) whose role it is to direct operations of the drinking water network and ensure compliance with relevant legislation and standards. A team of six is responsible for daily operation of the water treatment plants. There are 9.0 FTE in total. Maintenance of water networks is contracted externally through a seven-year maintenance contract.

Figure 2: Structure of drinking water team



Financials

The drinking water network assets have a replacement value of $296.9 million (2024).

Table 2: Replacement value of drinking water network assets 2024

	Gisborne	Manutuke	Muriwai	Te Karaka	Whatatutu	Total
Replacement Value ($,000)	293,699	52	1,051	1,077	986	296,866
Depreciated Replacement Value ($,000)	151,555	37	1,038	755	670	154,054
Ratio DRV/RV*	0.52	0.70	0.99	0.70	0.68	0.52
* Note: The ratio of DRV/RV gives a financial indication of the remaining life of the network. Newly installed assets have a ratio of 1 (depreciation hasn't started), whereas assets at the end of their life have a ratio approaching 0.						

Rates for drinking water services are charged based on the principle that those who benefit, either directly or indirectly, should pay. For some water users, charging based on actual quantities is practical due to the location, size or use of the property. Their share of costs is recovered by way of targeted water meter rates. For the remaining properties accessing drinking water (largely urban residential), the cost of the activity is equalised across all non-metered connections within the region.

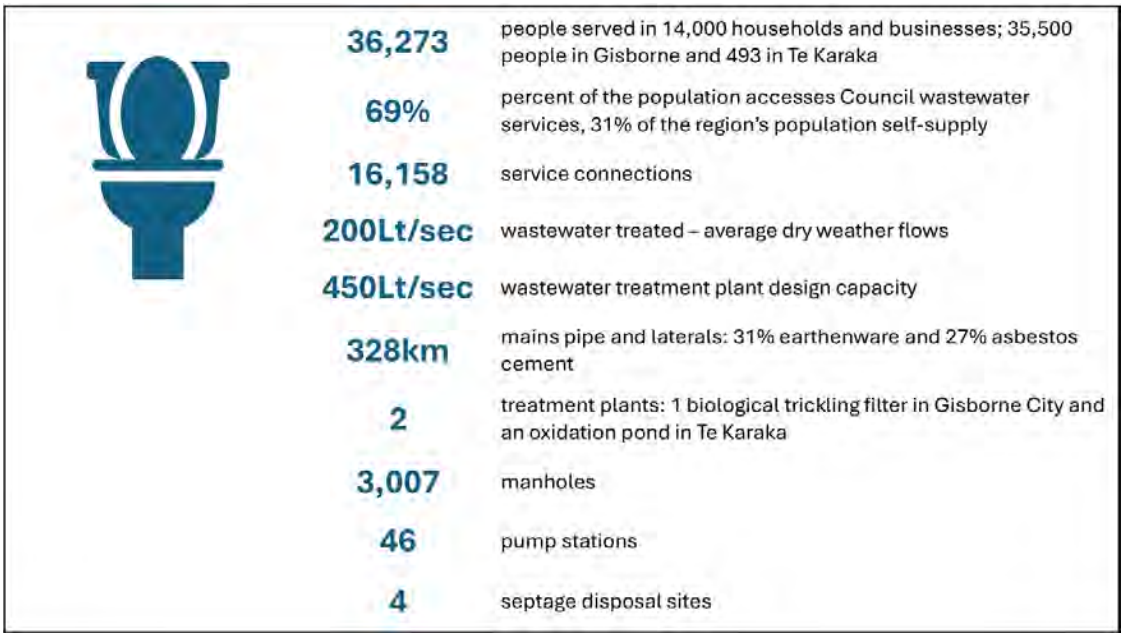
Wastewater

Service provision

Wastewater systems collect, treat and dispose of human and industrial waste to protect public health and the natural environment.

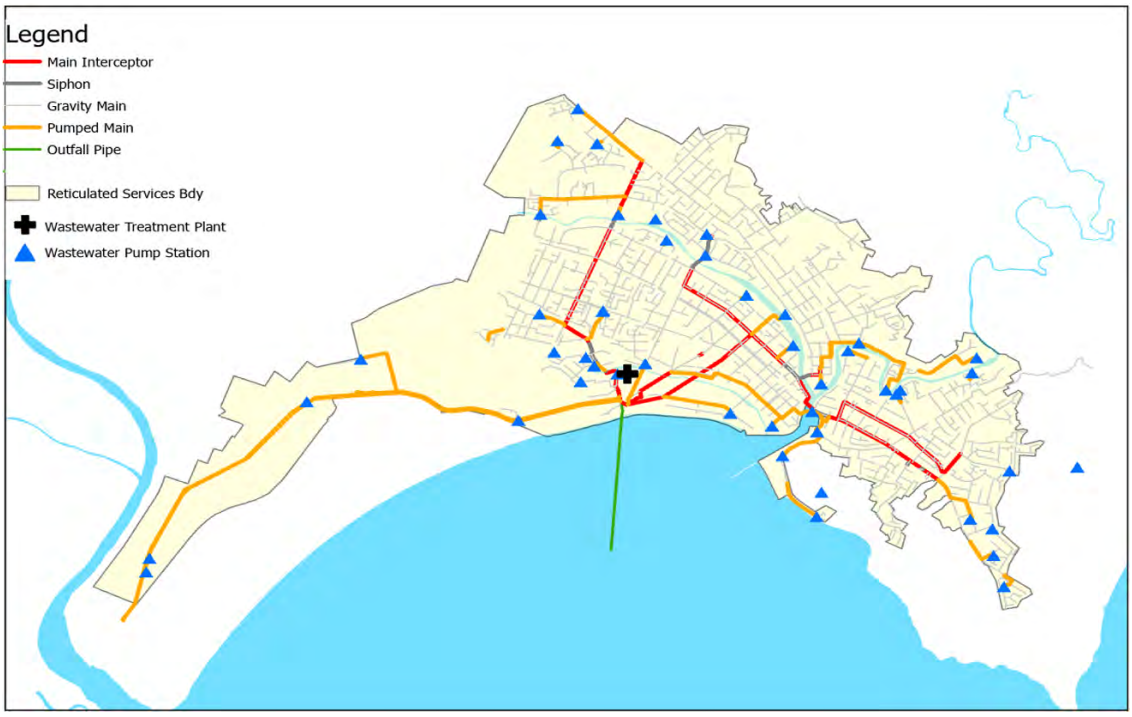
The Council provides reticulated wastewater services to residents and businesses within the Gisborne urban boundary and a smaller wastewater service to Te Karaka. The Council also owns and administers three septage disposal sites at Te Araroa, Ruatoria and Te Puia Springs.

Figure 3: Key information about wastewater services



All sewage entering the Gisborne public wastewater network is piped to a wastewater treatment plant on Banks Street for treatment. Domestic wastewater is processed through a biological trickling filter, clarified, solids removed, and then put through a UV treating system before being discharged through a 1.8km outfall to the sea off Midway Beach.

Figure 4: Gisborne city wastewater network



Within Gisborne city, specific industries are served by a separate industrial wastewater network requiring a trade waste permit to discharge. This network discharges to the wastewater treatment plant for treatment, then the marine outfall – it does not go through the biological trickling filter.

Banks St Wastewater Treatment Plant, Stage 2

Te Karaka township has a simple wastewater system, where sewage is pumped from households to an oxidation pond for treatment before being discharged into the Waipāoa River.

Properties without public wastewater services are required to have private on-site wastewater systems, such as septic tanks. These private systems are not owned or administered by the Council. However, the Council provides four septage sites around the region for the disposal of sewage from the maintenance of on-site wastewater systems. It is estimated that around 16,000 people, or about 31% of the population, do

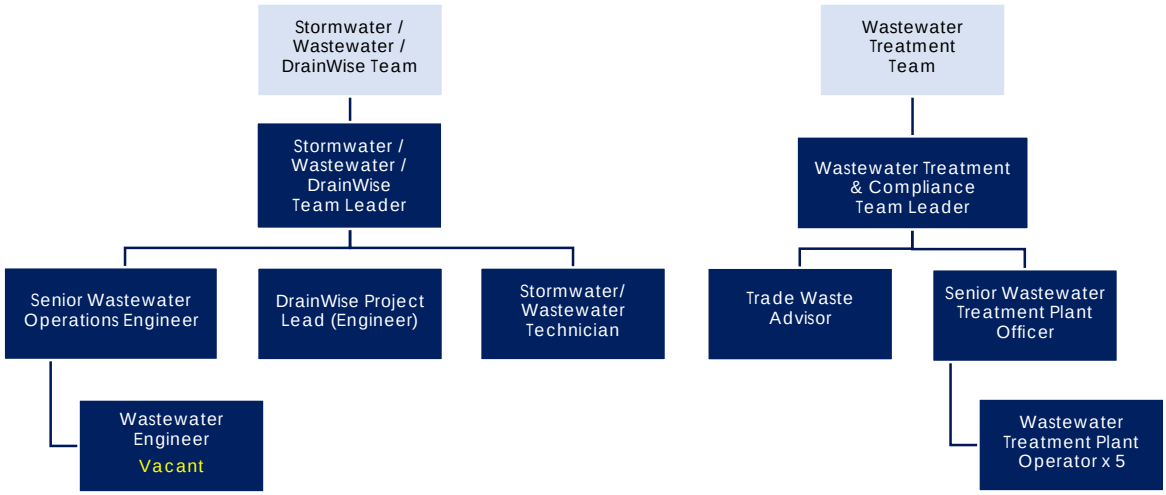
not have access to the public wastewater network. This includes nearly 70 marae and dozens of rural schools and businesses.

The wastewater activities are delivered by two teams:

- Wastewater treatment – managing the treatment of wastewater
- Wastewater reticulation – managing the reticulation of wastewater (this function is combined with stormwater management).

There are 8.0 FTE in the wastewater treatment team, and 4.0 FTE in the reticulation team servicing both wastewater and stormwater.

Figure 5: Structure of wastewater teams



Financials

The wastewater network has a replacement cost of $264.7 million (2024).

Table 3: Replacement value of wastewater network assets 2024

	Gisborne	Te Karaka	Total
Replacement Cost ($million)	260.9	3.8	264.7
Mains	114.7	2.3	116.9
Laterals	28.4	0.2	28.7
Treatment Plants	83.2	0.6	83.8
Pump Stations	16.2	0.3	16.5
Manholes	18.4	0.4	18.8
Depreciated Replacement Cost ($,000)	157.6	1.6	159.2

Rates for wastewater services are charged based on the principle that those who benefit, either directly or indirectly, should pay. In most cases, it is not practical to measure the quantity of each individual property's contribution to the wastewater

system. Those who connect to the reticulated wastewater network are charged a targeted rate per pan that approximates their use of the services. For heavy commercial users of the wastewater network, it is practical to measure the volume and quality of wastewater, and charges are applied accordingly.

Urban Stormwater

Service provision

Stormwater systems carry surface water overflow from heavy rains away, protecting properties from flooding and protecting the environment and public health by reducing pollutant discharge into natural waterways.

Stormwater service provision is complex. There are multiple parties with complementary (and potentially overlapping) jurisdictions:

- Waka Kotahi manages and funds stormwater from the state highway network in urban and rural areas.
- Council land transport team manages and funds stormwater from the local road network.
- Council stormwater team manages, and funds urban stormwater not associated with roads in urban areas.

Figure 6: Sponge Bay stormwater showing jurisdictions

The stormwater systems also connect with council and private drainage schemes in rural areas. Parts of the urban parks and reserves network also support stormwater management.

The Council owns and operates a public stormwater system for Gisborne city, including Makaraka and Wainui/Okitu, and urban areas in 12 rural communities from Wharekahika to Matawai.

The Council stormwater system includes:

- a primary stormwater system comprising piped reticulation, open drains, swale drains, sumps and channels,
- a secondary stormwater system, which kicks in during significant heavy rain, comprising stormwater flow paths through reserves, private properties and along road corridors, and
- a range of measures that reduce the level of pollutants discharged into natural waterways, including swale drains, green infrastructure, sumps with sediment traps and gross pollutant traps.

Table 4: Replacement value of stormwater pipe network assets 2024

	Replacement Value ($million)	Depreciated Replacement Value ($million)
Pipe Network		
Reinforced concrete	126.57	69.41
PVC	8.63	6.78
Polyethylene	4.18	3.59
Earthenware	2.37	0.54
Steel	1.13	0.41
Asbestos Cement	1.09	0.56
Polypropylene	0.77	0.71
Brick	0.10	0.04
Cast iron	0.07	0.01
Aluminium	0.02	0.01
Total	144.9	82.1

There is no practical way to charge individuals or groups for the direct benefits of urban stormwater services. This activity is funded through a mix of general and targeted rates, reflecting the benefits to property owners in urban areas as well as the broader community benefits of managing stormwater.

Strategic Considerations

Analysis of the current and likely future operating environments has identified the following key considerations for the provision of waters services:

- Like all territorial authorities, the Council's water infrastructure network is ageing and requires frequent repairs and maintenance.
- The contribution of tangata whenua to council decision-making processes in particular where legal or settlement-based provisions are enacted.
- The community has ever-increasing expectations for water service delivery, seeking a network that serves more people equitably and better protects the environment.
- There are increasing regulatory requirements and compliance costs that are expected to continue.
- Ongoing operational and capital cost increases, largely due to inflation and interest spikes, make it difficult to maintain the existing water networks. There is a backlog of renewals.
- Any increase in costs is passed on to ratepayers in a community where many households are already struggling financially. Significant rate increases or spikes are unlikely to be palatable to the community.
- However, debt-funding infrastructure comes at a cost to future generations, and there is a finite amount the Council can borrow (the debt ceiling) to expand and renew the water network.
- The region's population is growing, with a housing shortage of around 400 homes, currently forecast to rise to 5,000 by 2050.
- Climate change will impact water service delivery and infrastructure resilience.
- In the long term, technology offers opportunities to rethink water service delivery: automation of systems and use of artificial intelligence, use of wastewater by-products for energy generation, and stormwater /wastewater reuse. Exploring these requires investment and collaboration with others.

Asset Condition

The factors that most commonly impact on asset condition are:

- age of the asset,
- choice of asset material and its appropriateness for intended use,
- operating environment, including preventative maintenance, and its impacts on assets, and
- loading: the amount of work the asset needs to do and the pressure on the asset.

The Council's water infrastructure is ageing. On average, it is about halfway through its lifespan and therefore at least half of assets are past peak performance. As a result,

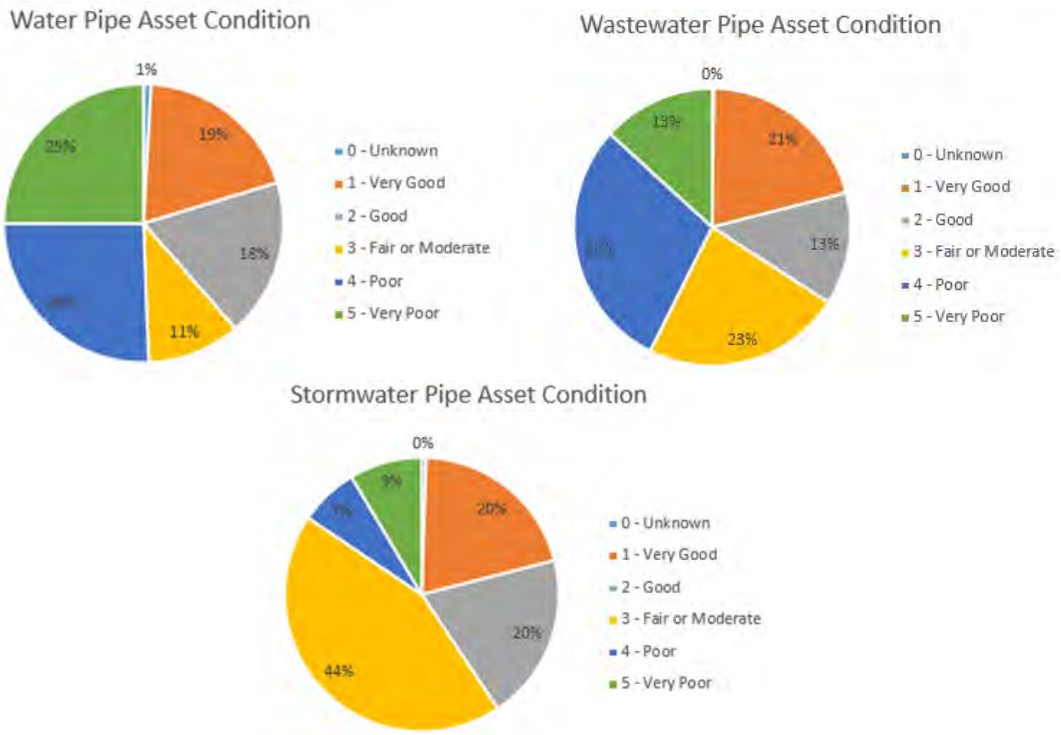
there is a developing backlog of pipes that are close to or past the end of their useful lives.

Some of the pipe assets are made from material that has not aged well and is no longer fit-for purpose, for instance:

- asbestos cement pipes comprising 25% of the drinking water pipe network and making up most of the pipe failures, and
- earthenware (clay) pipes comprise 31% of the wastewater pipe network that are brittle and more prone to groundwater infiltration.

The graphs below show an overview of the asset conditions for each of the water services rating assets from 'very good' to 'very poor'.

Figure 7: Water services asset condition ratings



Network Performance

As assets age, their performance reduces, and maintenance and operating costs increase. For example, cast iron pipes (some dating back to 1909) make up 21% of the drinking water pipe network and, over time, tuberculation (an accumulation of rust-like deposits) can occur. This reduces the internal diameter of the pipe and its performance. Tuberculation can also create issues with colouration of drinking water.

The most pressing network performance issue is the inflow and infiltration of stormwater into the wastewater pipe network. Rainfall and resultant stormwater can get into the wastewater system through:

- Direct inflow through gully traps and downpipes, largely on private property.

- Flooding on private property over-topping gully traps.
- Water infiltration into broken or thin pipes underground.

This can flood the wastewater system, significantly reducing its performance.

Treaty Commitment Landscape

The Council's responsibilities as a Treaty partner are guided by clear strategic and legislative direction. The Te Tiriti Compass guides the Council's internal readiness and consideration of partnership responsibilities against the provisions within Treaty articles. Treaty settlements and other statute with Treaty-specific provisions, such as the Resource Management Act 1991 and Local Government Act 2002 provide the legislative requirement that must be followed.

Treaty-based relationships are diverse. They include whānau and Māori landowners through to marae, trusts, hapū and iwi entities. Council must consider the breadth of these relationships and ensure it facilitates opportunities where the views and contributions of tangata whenua are sought to inform the appropriate pathway.

The current Council formally committed to the retention of Te Mana o te Wai in support of iwi partner priorities earlier this year. Water in all forms is a taonga and critical to the identity, health and well-being of tangata whenua. To ensure a new water services entity that delivers for the 56% Māori population in Te Tairāwhiti a partnership-based approach is integral to a result that has most benefit to the region.

A high-level Te Tiriti compass analysis is provided below to set the tone and expectation for the way in which the Council's partnership responsibilities are considered. A compass analysis will also be completed for each option in the options assessment section of the Economic Case.

- **Kāwanatanga**: Strengthening co-governance arrangements to enable genuine decision-making partnerships with tangata whenua in water infrastructure.
- Tino Rangatiratanga: Supporting initiatives that align with tangata whenua priorities.
- **Ōritetanga**: Ensuring reforms prioritize the equitable distribution of water resources and address the historical inequities faced by tangata whenua.
- Whakapono: Embedding mātauranga Māori and tikanga in all aspects of water management to reflect the values and aspirations of tangata whenua.

Environmental and Public Health Impacts

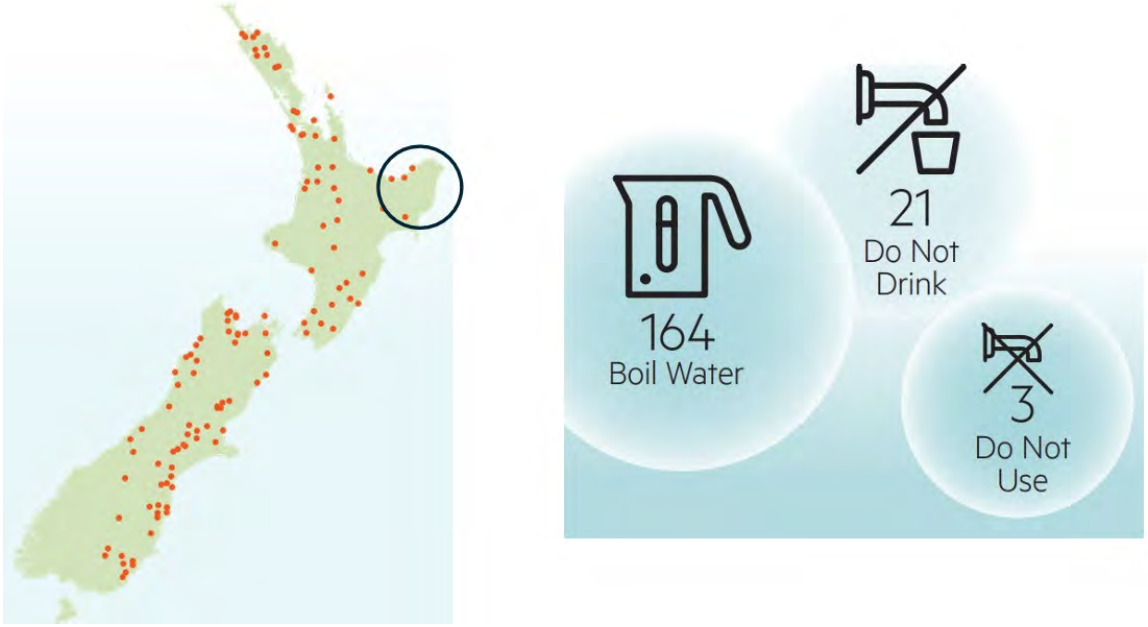
When excessive rainfall infiltrates the wastewater network, the pipes become overwhelmed and are unable to efficiently transport water to the wastewater treatment plant. When the wastewater network's capacity is reached, the Council is forced to open scour valves, resulting in the discharge of untreated wastewater into the rivers within Gisborne city. This measure is taken to prevent overflows on private properties and from wastewater access chambers. These discharges adversely affect

Te Mana o te Wai and mahinga kai, rendering the rivers and coastal environment around Gisborne city temporarily unsafe for use. Consequently, they pose a significant public health risk. There is mounting pressure from the community to cease this practice.

The ongoing discharge of treated wastewater through the marine outfall remains a significant issue. The current resource consent for the wastewater outfall was vigorously contested by iwi and includes conditions that require progress towards alternative land-based disposal methods.

There are numerous examples from across Aotearoa/New Zealand where drinking water services are failing communities. Data from Taumata Arowai indicates that 22% of the population is served by drinking water that does not meet quality standards. In 2022, 36 councils (50.7% of territorial authorities) issued consumer advisories for 87 water supplies throughout Aotearoa. Recent research suggests that nitrate contamination may potentially cause 100 cases of bowel cancer and 41 deaths annually.

Figure 8: Taumata Arowai consumer advisories 2022



Drinking water supply systems are vulnerable to contamination in numerous ways, and a single vulnerability has the potential to cause widespread illness, injury or death. Evidence from Taumata Arowai indicates that smaller water supply systems are statistically more at risk of contamination. The Council's drinking water systems comply with drinking water standards and regulations, but some smaller registered community supplies in the region have occasionally experienced intermittent difficulties in meeting safe drinking water standards.

Even larger drinking water supply systems are vulnerable during extreme events, such as Cyclone Gabrielle, which underscores the need for continued planning and investment in water infrastructure to build resilience.

There is strong anecdotal evidence from the Medical Officer of Health that ongoing issues exist with the quality of water from properties in rural areas and townships with self-supply systems. Occasional outbreaks of diarrhoea and vomiting are observed, but notifications typically occur only when people are hospitalised. The incidence of these issues is likely much higher than reported.

The Council's stormwater system focuses on quickly removing water from properties and roads. However, stormwater is contaminated with rubbish, oil, sediment, animal droppings, chemicals, plant nutrients and other pollutants. The current stormwater system offers limited designed treatment of water.

Community Expectations

Community expectations are rising for:

- better protection of the natural environment,
- rates affordability, and
- a greater say in decisions that impact on them.

Additionally, there is ongoing pressure to provide public drinking water and wastewater services to communities that are currently not serviced. These account for 23% and 31% of the population, respectively. These communities are in townships and rural areas spread across the region.

Environmental Regulation

The raised community expectations are also leading to new regulatory requirements. Taumata Arowai has already established a new regime for regulating drinking water supplies, which includes a range of drinking water standards and rules. A monitoring and reporting framework for wastewater and stormwater has been set up, and further environmental and supply standards are likely to be introduced in the near future.

The new regime proposed under LWDW will introduce a range of new standards for consumer water quality and infrastructure investment. Additionally, the Council's Tairāwhiti Resource Management Plan will implement new rules for stormwater systems and their discharge to natural environments in 2025. These increased standards will likely necessitate additional investment in stormwater treatment systems over time.

Population Growth and Housing

The region's population continues to grow, with a housing shortage of up to 400 homes reported in 2022. Based on medium-high population projections, the population is expected to increase by 8,760 people, reaching 59,460 by 2050. This growth suggests a need for an additional 1,280 dwellings in the short term, 2,570 dwellings in the medium term, and 5,360 dwellings in the long term within Gisborne urban areas.

As the population grows, more people will seek to connect to water services. The last estimate of spare drinking water capacity was 3,000m³ per day at peak demand, sufficient to supply an additional 9,000 people or 2,850 households, contingent on the availability of source water for production.

Capacity modelling indicates that most areas within the wastewater reticulated network have sufficient capacity to meet demand in the short to medium term. However, some wastewater catchments lack spare capacity, which will constrain growth in these areas unless wastewater infrastructure is upgraded. The wastewater treatment plant has unused capacity for the short to medium term but will limit growth in the long term.

Housing infill will place additional pressure on existing stormwater networks. Therefore, the Council's water infrastructure must increase in capacity to meet future needs and support long-term development without constraints.

Climate Change and Natural Hazards

In the background of all these issues is the looming challenge of climate change, which will significantly impact water service delivery and infrastructure resilience. Key concerns include:

- Declining raw water availability from dams, rivers and groundwater, with increasing periods of drought.
- Increased frequency and intensity of rainfall and flooding, leading to a higher risk of source water contamination and inflow and infiltration of the wastewater network.
- Rising temperatures, which will increase the demand for water supply for both domestic and industrial purposes.

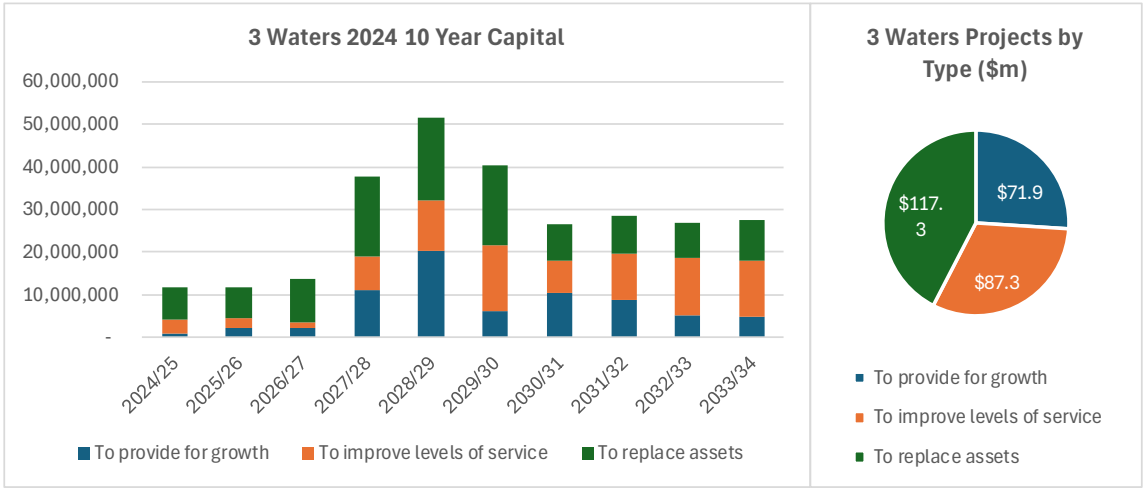
The Trust Tairāwhiti Wellbeing Survey 2023 found that 84% of respondents were concerned about the impacts of climate change, an increase from 81% in 2022.

Capital Investment

Addressing the issues outlined above will require substantial capital investment, which will also lead to increased operating costs.

The graphs below illustrate the projected capital requirements for each water service activity to meet the growing demand. The total investment needed is estimated to be $277 million over ten years.

Figure 9: Water services capital investment needs 2024 - 2034

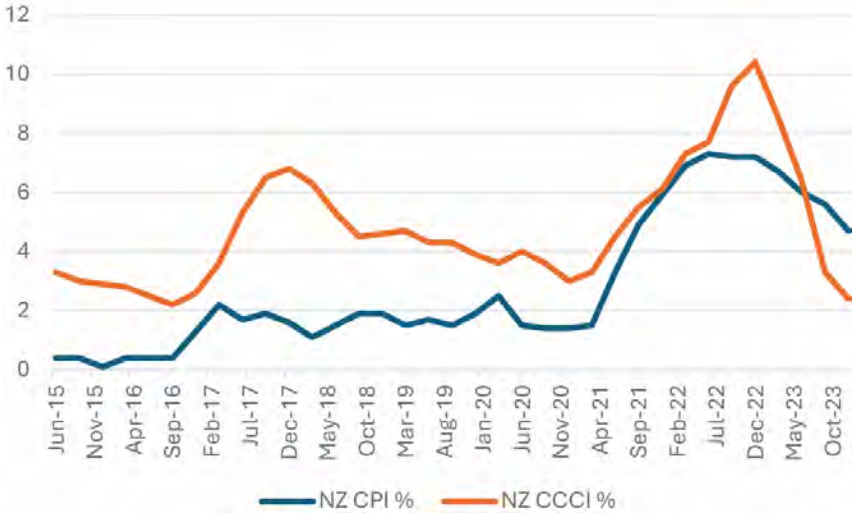


Financial Costs

All the previously outlined issues exert pressure on the Council to enhance water service delivery, necessitating additional investment, particularly in infrastructure. However, the Council's capacity to address these needs is severely constrained by financial costs.

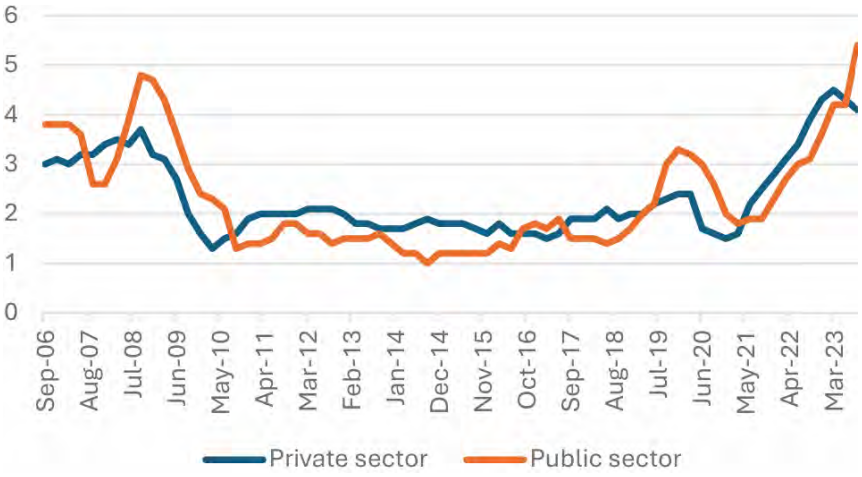
Inflation has steadily risen in Aotearoa/New Zealand since the early 1900s. Following the onset of the COVID-19 pandemic, inflation increased by 23% more than projected, and the cost of construction saw a significant spike between 2021 and 2022.

Figure 10: Cordell Construction Index and CPI changes 2015 – 2023 (%)



Wage inflation continued to rise, particularly in the public sector, well into 2023. The current spike is comparable to that experienced during the Global Financial Crisis of 2007–2008.

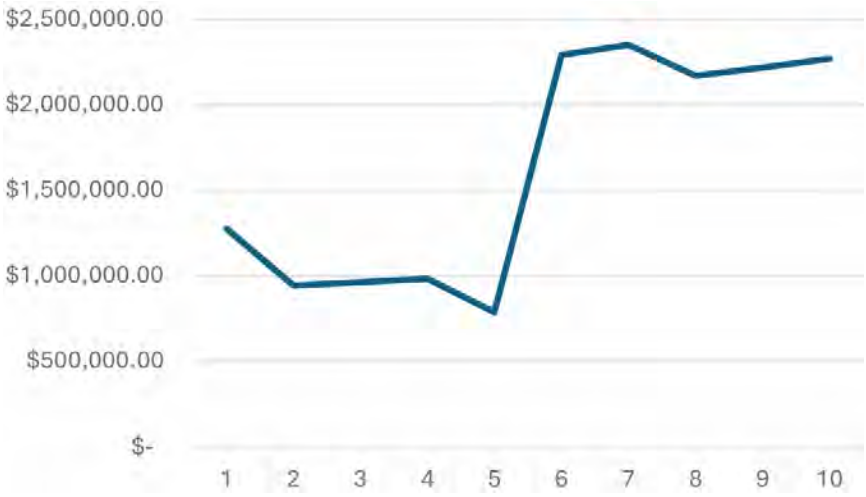
Figure 11: Wage inflation in Aotearoa / New Zealand 2006 – 2023



The Official Cash Rate (OCR) set by the Reserve Bank has been restrictive for some time, but it has recently dropped to 4.75%[3] and is projected to drop to just above 3% by 2026. However, historical trends for the OCR indicate it is prone to fluctuation, which has significant implications for the cost of debt. There is no guarantee that future spikes will not occur.

This inflationary pressure is clearly reflected in the rising costs of water service delivery.

Figure 12: Water services operating costs 2014 – 2027



In essence, the cost of maintaining business as usual is rising across the board.

Cost increases are in part a result of meeting compliance and consent conditions, for wastewater treatment and the additional treatment of water supply required to meet regulated standards. These challenges are compounded by the nature of the district's service networks, which are more dispersed, leading to higher per unit delivery costs compared to more densely populated urban areas.

Affordability

As of January 2022, the Gisborne District ranked 60th out of 67 territorial authorities on the NZ Deprivation Index, making it the region with the highest level of deprivation in New Zealand. Two-thirds of the population (65%) live in deciles 8-10, with deprivation being more pronounced among Māori, 77% of whom in Te Tairāwhiti live within these deciles. This high level of regional deprivation poses significant challenges for service providers in balancing the need for services with their affordability.

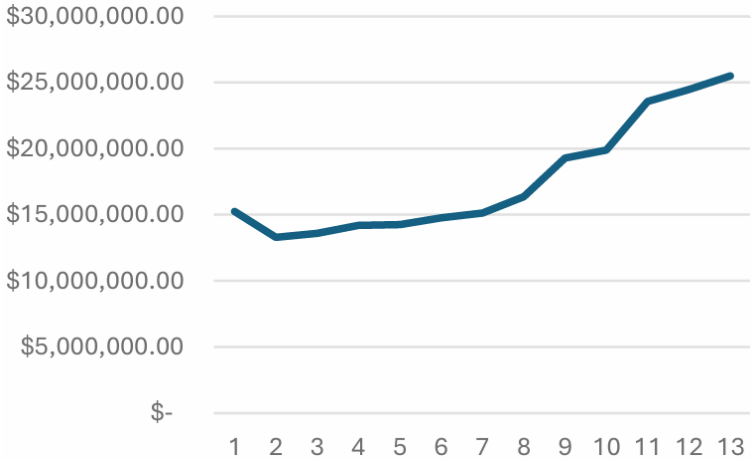
The median household income in the region is relatively low at $66,000 per annum, compared to the national median of $80,055. There is considerable variability in median income within the region, with Māori living on the East Cape having a median income of $49,196. Notably, 26% of Tairāwhiti households have an income of less than $30,000 per annum, and another 19% have an income between $30,000 and $50,000. This makes the affordability of service provision a continuing challenge in Te Tairāwhiti.

[3] As at 9 October 2024

Many of the lowest-income households do not currently have access to all council water services, putting them at risk of poorer health outcomes. These households are more likely to rely on unregulated self-supply of drinking water and on-site septic systems, which are costly to maintain.

Any increase in costs is passed on to ratepayers in a community where many households are already struggling financially. Significant rate increases or spikes are likely to be unpalatable to the community. The cost of water services to ratepayers has gradually risen since 2015.

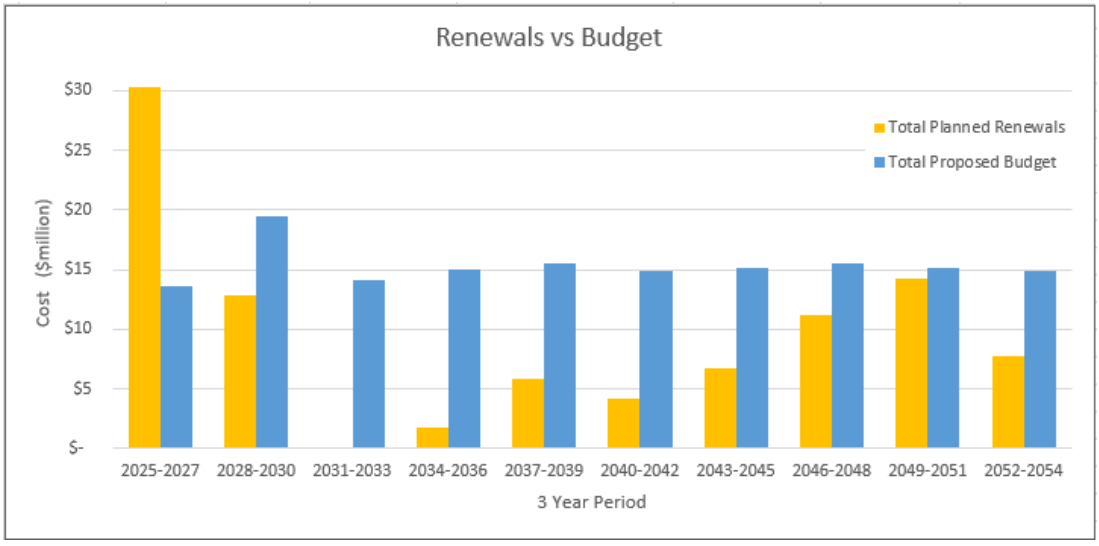
Figure 13: Cost of water services to ratepayers 2014 - 2027



Renewal Deferrals

Over time, the Council has deferred renewals on some of its pipe networks due to funding constraints. These deferrals have the potential to increase the vulnerability of the network to reduced performance and potential failure. The graph below shows the renewals backlog. The yellow bars show the renewals that are needed but not yet completed. The blue bars show the renewal budgets that will address the deficit over time.

Figure 14: Pipe network renewal needs and budgets 2025 – 2054



Renewals are mostly funded from depreciation reserves, with any funding required beyond the accumulated depreciation reserves debt funded.

Council Mitigation

These challenges are not occurring in isolation. The Council has been taking purposeful and innovative action to address them. Several initiatives are helping to mitigate these challenges, including:

- Implementing the DrainWise programme, which is about 40% complete. This programme aims to reduce inflow and infiltration in the wastewater network and has already significantly increased the rainfall threshold at which untreated wastewater needs to be discharged into rivers.
- Vastly improving asset management maturity, including better condition assessments and risk-based asset planning, which enable more effective renewals programming and reduce the likelihood of asset failures.
- Ensuring critical assets continue to be renewed, prioritised by age, risk, and performance, despite cost constraints.
- Increasing the budget for pipe renewals in the 2024–2027 Three-year Plan, bolstering network performance and reducing the risk of pipe failure.
- Improving the resilience of the water supply by building in redundancy, such as establishing a second direct connection of raw water from the Sang dam to the Waingake treatment plant.
- Carefully managing the land surrounding the water supply mains to reduce the likelihood and potential severity of erosion and subsidence.
- Establishing a woody debris removal programme in the Waingake catchment to proactively limit the potential for future pipeline breaks.
- Continuing to work towards land-based disposal options for treated wastewater as an alternative to marine discharge.
- Restructuring staff to better respond to challenges, including dedicating staff to manage drinking water compliance.
- Conducting extensive public education campaigns about reducing water use, minimizing inappropriate household discharges to the wastewater network, and reducing stormwater inflow from private properties into the wastewater network.

However, many of these challenges, such as climate change and global economic factors, are beyond the Council's control and will continue to grow. In essence, the Council is being asked (and in some cases required) to do more, but it lacks the financial resources to do so. A change in approach is required.

Investment Objectives, Existing Arrangements and Business Needs

A robust and compelling case for change requires a thorough understanding of what the organisation is seeking to achieve (described by the investment objectives) and what is currently happening (existing arrangements). Any difference between the two represents the business gap (or business needs) that this investment proposal is intended to address. This gap analysis assists in providing a compelling case for change.

Investment Objectives

The following investment objectives have been identified:

- Investment objective one: Financial sustainability
    - Does the option lead to a WSDP that is financially sustainable[4] by 30 June 2028?
    - Revenue sufficiency – is there sufficient revenue to cover the costs (including servicing debt) of water services delivery?
    - Investment sufficiency – is the projected level of investment sufficient to meet regulatory requirements and provide for growth?
    - Financing sufficiency – are funding and finance arrangements sufficient to meet investment requirements?
    - Is the resulting price path affordable for consumers over both the short and long-term?
    - Are proposed efficiency savings realistic?
- Investment objective two: Compliant water services
    - Does the option support meeting regulated water quality standards?
    - Does the option support meeting economic regulation requirements?
    - Does the option support meeting environmental consent compliance requirements?
- Investment objective three: Improved service delivery
    - Does the option support the maintenance of good practice in water services planning and levels of service?
    - Does the option provide economies of scale and generate efficiency savings?
    - Does the option support the achievement of the district's strategic goals and growth including He Huarahi Whai Oranga, the Tairāwhiti Economic Plan?
- Investment objective four: Meet partner and community expectations
    - Do mana whenua and tangata whenua have a meaningful role and influence through governance and operations?
    - Are Te Tiriti o Waitangi obligations met?

[4] Defined as: is the revenue applied to the council's delivery of water services sufficient to ensure the council's long-term investment in delivering water services; and is the council financially able to meet all regulatory standards and requirements for the council's delivery of water services?

- Does the option support wider community and stakeholder expectations and aspirations?
- How accountable to the local community is the option?

Existing Arrangements and Business Needs

Table 5 below provides a snapshot of the current arrangements for each objective and identifies the business gap between these and the desired future state.

Table 5: Summary of the existing arrangements and business needs

Investment Objective One	Financial sustainability
Existing Arrangements	The financing of water services is currently integrated into the broader council financial planning, management and reporting system. Most of the funding (80-100%) comes from a targeted rate on service users, with a small portion from a general rate. Specific fees and charges are applied where practicable. Growth components of infrastructure projects are partially funded through development contributions. Over the next 5 years approximately $20 million will need to be invested to clear a growing backlog of infrastructure renewals. Current planning will see this backlog cleared over a 10-year period.
Business Needs	Water services are to be financially sustainable by 30 June 2028 and are to meet statutory requirements for investment, financing and revenue sufficiency. Revenue from water services is to be ring fenced and only applied to water activities. Further, if water services continue to be delivered by an in-house business unit, financial performance of waters services is to be reported separately (in an Annual Report) from the remainder of council activities.
Investment Objective Two	Compliant water services
Existing Arrangements	Water services are currently meeting regulated compliance standards, resource consent requirements, and other performance measures and targets for water safety, wastewater discharges and overflows, and storm water management.
Business Needs	Water services will be required to meet changed standards for water quality, wastewater and stormwater, and economic regulation will be progressively implemented over the next few years. Economic regulation will include information disclosure requirements, revenue thresholds, financial ring fence, quality standards and performance requirements, and potentially price-quality regulation.

Investment Objective Three	Improved service delivery
Existing Arrangements	Water services are overseen and governed by the full Council and its Operations Infrastructure Committee. Water services are managed by the Director Community Lifelines as part of a portfolio that includes roading infrastructure and operations, water services, flood protection and recovery activities. There is a focus on improving service delivery, resilience and renewal, and achieving value for money for consumers.
Business Needs	The management and governance of water services should be focused on improving service delivery, realising economies of scale (where these are available) and achieving efficiency savings wherever possible. Water services should support the achievement of the district's strategic goals and growth plans including He Huarahi Whai Oranga, the Tairāwhiti Economic Plan.
Investment Objective Four	Meet partner and community expectations
Existing Arrangements	The Council is accountable to the community for the delivery of the water services through annual reporting and the electoral process and takes account of community expectations and aspirations through standard consultation and engagement processes. The Council's Tairāwhiti Piritahi Policy is its current framework for promoting and facilitating Māori participation in council decision-making processes. Tairāwhiti Piritahi affirms the Council's commitment to its role as a Treaty partner and inclusion of whānau, hapū and iwi in council decision-making processes.
Business Needs	Water services delivery should be accountable to the communities it serves and meet their aspirations and expectations. The Council's Te Tiriti o Waitangi obligations are to be met and mana whenua should have a meaningful role and influence in the governance and operation of water services.

Economic Case – Exploring the Preferred Way Forward

The purpose of this part of the economic case is to assess the full range of options, identify the preferred approach that will deliver the required outcomes and quantify the likely costs and benefits of the proposed investment. Having determined the strategic context for the investment proposal and established a robust case for change, this part of the economic case:

- identifies critical success factors,
- generates a list of options,
- undertakes an assessment of those options, and
- identifies a preferred way forward based on the options.

Critical Success Factors

The following are the critical success factors for the successful implementation of the future delivery model:

Table 6: Critical Success Factors

Critical Success Factors	Considerations
Independence	• Does the option provide for independent governance and decision making on a water services strategy, investment, financing, revenue, service delivery and operations?
Affordability	• Are the establishment and implementation costs of the option affordable?
Complexity	• How complex is the option? • How difficult and time consuming would establishment be? • Do staff and assets need to be transferred to a new organisation? • Are new properties and facilities required?
Timeliness	• Can the option be implemented in a timely way that meets statutory deadlines for financial sustainability?
Flexibility	• Is the option flexible enough to evolve to meet changing circumstances over time? • Does the option support possible future transition into an alternate delivery model such as a multi-council WSO?

Longlist Options and Initial Options Assessment

Options Identification

The Government has provided guidance on the range of water service delivery models that are available to councils. The choices include:

- whether to deliver water services in-house or establish a water organisation,
- whether to deliver services on a stand-alone basis or establish a joint arrangement with other councils,
- how to structure ownership and governance arrangements for any water organisation, and
- how to set up water organisations to facilitate access to long-term borrowing for water infrastructure.

Water organisations are the separate organisations that councils may establish to provide water services - this does not include councils. Water organisations must be companies, their boards must be independent and professional, the activities of water organisations will be limited to water services and directly related activities. There will be various types of water organisations under LWDW and LGFA will only be lending to water organisations that meet the qualifying criteria for LGFA membership as a CCO. In particular, financially independent water organisations will not meet the qualifying criteria.

Councils that already deliver water services via a CCO or council-controlled trading organisation (CCTO) will be able to continue to use these arrangements. However, the CCO or CCTO would be subject to all of the new statutory requirements that will apply to water organisations and changes are likely to be required to meet these requirements. Councils will be able to design their own alternative delivery arrangements, as long as these arrangements meet the requirements for water service providers.

The Government has identified five water service delivery models that are available to councils and that meet the requirements of a water organisation. These have been adopted as the longlist of options for this business case:

Table 7: Longlist options

Option	Description
1. Internal business unit or division	• Status quo for many councils • Minimum requirements for water service providers will apply • New financial sustainability, ring fencing rules, and economic regulation will apply
2. Single council-owned water organisation	• New company established, 100% owned by the Council • Financial sustainability rules will apply, but retains a financial link to the Council • Councils with existing water council-controlled organisations will be required to meet minimum requirements

Option	Description
3. Multi-council-owned water organisation	• New company established with multi-council ownership • Appointment of a Board through shareholder council (or similar body) is advisable but not a statutory requirement • Option to access Local Government Funding Agency finance with the provision of parent support or to create a more financially independent organisation
4. Mixed council/ consumer trust-owned	• Consumer trust established to part-own a water organisation • One or more councils own the remainder of the shares • Structure enables financially independent organisation to be established while retaining some council ownership
5. Consumer trust-owned	• Council transfers assets to consumer trust-owned organisation • Consumers elect trustees to represent their interests in the organisation • Most financially independent of the available models

Longlist Options Assessment

The potential longlist options were assessed against the identified investment objectives and critical success factors by Te Ranga Whakahau in a Multi-Criteria Analysis (MCA) decision conference conducted on 15 October 2024.

MCA is a decision support methodology commonly used to evaluate alternatives and options to assist in decision making on the course of action to be adopted. MCA evaluates the effectiveness of different options in achieving stated objectives against multiple criteria, both quantitative and qualitative.

Applying MCA involves identifying the underlying objectives identified in the Strategic Case and then determining the factors (the criteria) that would indicate achievement of the objectives. The criteria are ranked (or weighted) in terms of their relevant importance. Options are then scored against both the individual objective criteria and the critical success factors outlined in Table 1 above.

Implications and Opportunities for Tangata Whenua

The implications and outcomes for tangata whenua in water services reform would need to be identified by tangata whenua. Council can however use its Te Triti Compass framework to consider each option against how it provides for Treaty partnership. Partnership discussions, co-governance and management arrangements, relationship agreements and engagement with whānau, marae and hapū also contribute to the knowledge which Council may form baseline positions on.

The summary assessment of the longlist options is included below.

Longlist Option 1 - Internal business unit or division (modified status quo)

Description

Under this option, water services would be delivered directly by the Council 'in-house' through an internal business unit or division, with planning and budgeting integrated into council planning and budgeting processes. This option will be subject to new ring fencing and financial sustainability requirements, and economic regulation.

This option represents a continuation of the existing in-house service delivery model used by the Council.

Revenue continues to be generated through a combination of general and targeted rates and financial/development contributions. Water service delivery is fully integrated into council strategy, planning, and service delivery.

Ownership

- 100% council owned as a business unit or division within the organisation.
- No new organisation is established.

Governance

- Internal business unit or division responsible to the elected council members, with other usual council governance oversight.

Strategy

- Councils will need to prepare a Water Services Strategy.

Accountability

- Water division reports to Council per established internal processes.
- Water service delivery will be accountable to the public through usual local democracy practices.
- Water-focused Annual Report and stand-alone financial statements on water will be completed to enhance current requirements.

Borrowing

- Borrowing undertaken by Council with water activity groups meeting their share of financing costs (on internal and any external borrowing).

Advantages

The main advantages are:

- Simplest and easiest option to implement with the least disruption to council assets, facilities, activities, systems and processes, and staff.
- This option would have the lowest implementation costs and would be easily implemented within statutory timelines.
- Council would continue to have direct control of water services operations, price setting, investment decisions and priorities, enabling decision making

to be more easily aligned with wider council priorities and community expectations.

- There would be no disruption to current service delivery and operations, and a lower risk of degraded levels of customer experience during the implementation period.
- Water services would continue to be aligned with council goals and strategies including He Huarahi Whai Oranga, the Tairāwhiti Economic Plan.
- Current mana whenua and tangata whenua relationships and opportunities to engage in the decision-making process would be maintained.
- Any community expectations around continued council ownership and control of waters services would be met.
- Flexibility to join any future regional or other joint delivery model is maintained.

Disadvantages

The main disadvantages are:

- Council would be required to meet the new requirements for financial sustainability and economic regulation using current financing arrangements. LGFA lending to be capped at 280%, meaning more investment needs to be funded from current rates.
- An S&P Global (S&P) credit rating downgrade is likely if the Council is operating near its LGFA limit.
- Ring fencing and financial sustainability requirements will drive upward pressure on rates as infrastructure investment increases, relative to alternative models.
- An internal business unit may have more difficulty than a water services-specific entity in meeting regulated quality and economic standards and as a result the trade-offs required to meet non-water related priorities across the Council.
- Similarly, with governance and management focus diluted through other wider priorities and imperatives, there may be less priority given to improving water services planning, processes, practices and levels of services than in a water services-specific entity.
- Fewer opportunities are provided to achieve economies of scale and generate efficiency savings.
- It may be more difficult to meet community expectations for increased investment in water infrastructure, and improved resilience and levels of service.
- This option does not support independent governance and decision making on a water services strategy, investment, financing, revenue, service delivery and operations.

Te Tiriti Compass Analysis

Kāwanatanga

Council is already displaying commitment to co-governance and management approaches with tangata whenua. Legislation currently secures this commitment which would continue under Option 1. This ensures the ongoing ability of tangata whenua to contribute to decision making at all levels. Capacity of tangata whenua across business with Council remains a challenge. A review of appropriate decision making for a stand-alone business unit may be required.

Tino Rangatiratanga

Under the current constitution the expression of tino rangatiratanga is restricted as common law and legislation provide the framework in which the treaty relationship is considered. This does not prevent Council from seeking to understand what self-determination looks like within the parameters given. Iwi leaders' priorities relating to water storage, supply, and water quality are areas where Council can look for opportunities to devolve or partner. Option 1 provides for this to occur.

Ōritetanga

Option 1 provides for the ongoing commitment by Council to partnering for shared outcomes. Equity of information, capacity, capability and resourcing are an ongoing challenge for the ability to partner well. Finding an approach that suits the diversity of Treaty rights and interests will be crucial and partner involvement at the earliest opportunity ensures awareness and best alignment.

Whakapono

In line with earlier discussion, from a Māori worldview water is a taonga as opposed to a resource. The tikanga and kawa that surround interaction and use of water will vary between marae, hapū and iwi groupings. It is important that the opportunity for Māori worldview and belief systems is provided for. Option 1 caters to the provision of this article.

Conclusion

This option is not able to access the additional LGFA debt headroom provided by other options but has a more affordable price path over the short to medium term. It lacks independence of decision making and governance. However, it is the simplest, cheapest and least disruptive option to implement.

From a Treaty partnership perspective, this option retains current arrangements that provide for Treaty-based relationships and outcomes. It will require consistency in partnership to achieve but tangata whenua would have security in a position at the table with the strategic and legislative levers that Council must follow in delivering on this work.

Longlist Option 2 - Single council-owned water organisation

Description

This option would see a new company established to deliver water services, with ownership by a single council. Council can transfer or retain ownership of assets, subject to transfer of asset use rights.

The Council has flexibility to design governance and appointment arrangements, including to consider whether and how they involve mana whenua, consumers or community representatives (for example via an appointments and accountability body). The Council can also choose to appoint board members directly without roles for other groups.

Ownership

- Limited liability company, 100% owned by the Council.
- Ownership rights spelled out in a constitution, subject to compliance with legislation.

Governance

- Appointments made directly or via an Appointments and Accountability Committee (or similar body).
- Board comprised of independent and professional directors.

Strategy

- Shareholding council issues Statement of Expectations.
- Water organisation prepares a Water Services Strategy and consults the Council.

Accountability

- Water organisation reports regularly to shareholding council on performance (for example quarterly).
- Water organisation prepares Annual Report containing audited financial statements, including reporting on actual performance, and other matters outlined in the water services strategy.
- Water organisation required to act consistently with statutory objectives.

Borrowing

- Borrowing via the Council or from LGFA directly supported by council guarantee or uncalled capital.

Advantages

The main advantages are:

- The LGFA council lending cap of 280% would apply to non-water debt/revenue only. LGFA lending to water organisations is capped at 500% of water revenue (subject to council guarantee) and does not count towards the council LGFA limit.

- Enables reductions in water and non-water rates through more efficient gearing of the water organisation. Higher rates of investment will drive improved network performance, with public health and environmental benefits.
- An asset-owning water organisation better supports alignment between investment requirements and funding decisions.
- A dedicated water services CCO would be expected to have strengthened governance and management, subject to economic regulation, focussed solely on the provision of water services.
- Mana whenua and tangata whenua relationships and opportunities to engage in the decision-making process would be maintained through opportunities to be involved in the board appointments process and through board membership. New relationships would need to be formed at the operational level with the CCO.
- Council would continue to have significant influence over water services operations, price setting, investment decisions and priorities through its annual Statement of Expectations which will drive the CCO's Water Services Strategy, and through regular reporting from the CCO to the Council. The Statement of Expectations would also ensure that water services continue to be aligned with council goals and strategies including He Huarahi Whai Oranga, the Tairāwhiti Economic Plan.
- Any community expectations around continued council ownership of water services would be met.
- This is the simplest of the non-in-house options to implement and would have lower implementation costs than other options and can be implemented within statutory timelines.
- Flexibility to join any future regional or other joint delivery model is maintained.

Disadvantages

The main disadvantages are:

- The requirement to maintain an operating cashflow to debt ratio of above 10% means that additional water charges need to be applied from the inception of the CCO. This leads to a price path that is less affordable than the in-house model until around 2050.
- S&P will consolidate water CCO debt and revenue for rating purposes. There is likely to be a credit rating impact (~1-2 notch downgrade) if the CCO lifts borrowing to the maximum allowed under LGFA covenants.
- There is a relatively limited pool of experienced and skilled directors available in the region to be appointed to a competency-based board.
- A relatively small single-council CCO lacks the scale required to generate sufficient economies of scale to deliver significant efficiency savings and may struggle to meet regulated quality and economic standards.

- Establishment costs are relatively high given the need to recruit staff and establish facilities, systems and processes for a relatively small organisation. Though this could be mitigated to an extent through sharing services and overhead costs or contracting for them on an agency basis from the Council.

Te Tiriti Compass Analysis

Kāwanatanga

With the level of influence that Council has over this option the analysis is exactly same as Option 1. Council is already displaying commitment to co-governance and management approaches with tangata whenua. Legislation currently secures this commitment which would continue under Option 2. This ensures the ongoing ability of tangata whenua to contribute to decision making at all levels. Capacity of tangata whenua across business with Council remains a challenge. A review of appropriate decision making for a water services CCO may be required.

Tino Rangatiratanga

Under the current constitution the expression of tino rangatiratanga is restricted as common law and legislation provide the framework in which the treaty relationship is considered. This does not prevent Council from seeking to understand what self-determination looks like within the parameters we are given. Iwi leaders' priorities relating to water storage, supply, and water quality are areas where Council can look for opportunities to devolve or partner. Option 2 provides for this to occur.

Ōritetanga

Option 2 provides for the ongoing commitment by Council to partnering for shared outcomes. Equity of information, capacity, capability and resourcing are an ongoing challenge for the ability to partner well. Finding an approach that suits the diversity of Treaty rights and interests will be crucial and partner involvement at the soonest ensures awareness and best alignment.

Whakapono

In line with earlier discussion, from a Māori worldview water is a taonga as opposed to a resource. The tikanga and kawa that surround interaction and use of water will vary between marae, hapū and iwi groupings. It is important that the opportunity for Māori worldview and belief systems is provided for. Option 2 caters to the provision of this article.

Conclusion

This option can access the additional debt headroom and is likely to be more affordable over the very long term. However, it is less affordable over the short to medium term and lacks the scale required to generate efficiency savings and produce significant service improvements. Of the change options it is the simplest and cheapest to implement and maintains long-term flexibility.

From a Treaty partnership perspective, this option retains current arrangements that provide for Treaty-based relationships and outcomes. It will require consistency in partnership to achieve but tangata whenua would have security in a position at the

table with the strategic and legislative levers that Council must follow in delivering on this work.

Longlist option 3 – Multi-council-owned water organisation

Description

Under this option, two or more councils would establish a jointly owned water organisation. Councils will have flexibility to establish shareholder rights and interests through a company constitution and/or shareholder agreement, subject to compliance with the legislation. Financing options and credit rating impacts will be dependent on whether shareholding councils choose to provide financial support or not.

Ownership

- Limited liability company owned by three or more councils.
- Ownership arrangements and rights set out in a constitution and/or shareholder agreement, subject to compliance with the legislation.

Governance

- Councils agree how to appoint and remove directors, for example through a shareholder council or similar.
- Board comprised of independent and professional directors.

Strategy

- Shareholding councils agree the process for issuing a combined Statement of Expectations.
- Water organisation prepares a Water Services Strategy and consults shareholding councils.

Accountability

- Water organisation reports regularly to shareholding councils on performance (for example quarterly).
- Water organisation prepares Annual Report containing audited financial statements, including reporting on actual performance and other matters outlined in the Water Services Strategy.
- Water organisation required to act consistently with statutory objectives.

Borrowing

- Borrowing arrangements and credit rating implications dependent on whether shareholding councils provide financial support.

Advantages

The main advantages are:

- The LGFA council lending cap of 280% would apply to non-water debt/revenue only. LGFA lending to water organisations is capped at 500%

of water revenue (subject to council guarantee) and does not count towards the council LGFA limit.

- If the Council guarantees water-related debt, it is treated as a contingent liability (not consolidated into council debt burden assessment) with improved credit rating outcomes.
- The entity can also be totally off balance sheet if not borrowing from LGFA. Some larger multi-council CCOs may seek to transition to fully non-LGFA funded debt over time. In which case there would be no credit rating impact for shareholding councils.
- Relieves rates burden from needing to inefficiently fund infrastructure investment with current revenues, pushing the focus of investment funding more onto long-term debt. This should lead to a more affordable price path for consumers.
- Enables reductions in water and non-water rates through more efficient gearing of the water organisation. Higher rates of investment will drive improved network performance, with public health and environmental benefits.
- Transfer of water debt and revenues will improve council financial metrics – debt/revenue, balance after capital account.
- A relatively large multi-council water CCO is more likely to have the scale required to generate economies of scale sufficient to deliver significant efficiency savings and develop depth in workforce expertise and improved systems, processes and procedures.
- Asset-owning water organisation would support better alignment between investment requirements and funding decisions.
- A multi-council CCO can retain locality-based pricing and transition over time to harmonised pricing subject to investment and service level equalisation.
- Councils appoints a competency-based board to the CCO through a shareholder council (or similar body). A multi-council water services CCO would be expected to have strengthened governance and management, subject to economic regulation, focussed solely on the provision of water services.
- Shareholding councils would influence water services operations, price setting, investment decisions and priorities through a joint annual Statement of Expectations which will drive the CCO's Water Services Strategy, and through regular reporting from the CCO to councils.

Disadvantages

The main disadvantages are:

- This is a complex option to implement. It would have higher implementation costs than other options and would be challenging to establish within statutory timelines. At the present time it appears unlikely that a regional multi-council CCO will be established in the immediate future.

- Mana whenua and tangata whenua relationships and opportunities to engage in the decision-making process would be more limited with fewer opportunities for tangata whenua to be involved in the board appointments process and to be members of the board. New relationships would need to be formed at the operational level with the CCO.
- Any community expectations around continued council ownership of water services would be more difficult to satisfy with diluted multi-council ownership of the CCO.
- It would also be more difficult to ensure that water services continue to be aligned with specific council goals and strategies including He Huarahi Whai Oranga, the Tairāwhiti Economic Plan through a joint Statement of Expectations.

Te Tiriti Compass Analysis

Kāwanatanga

This option dilutes the ability of tangata whenua in Te Tairāwhiti to influence a process and contribute/make decisions on what is best for them. Given that three or more councils are required for this option you would also assume that the seats available on this entity would not provide for the depth of Treaty relationship you would expect to see when three councils combine their efforts. It would also require a CCO leadership that is in step with the Council's Treaty commitments.

Tino Rangatiratanga

The already diluted ability for tangata whenua to express tino rangatiratanga would be further compromised by this multi-council option. Having another two regions' tangata whenua relationships to consider would provide challenges given rangatiratanga looks different for different groupings. Without a binding commitment to work with the preference and priority of our own region's tangata whenua, this option limits the ability to provide for this at the fullest extent we could.

Ōritetanga

With this option the pool of resource to work with would increase, but so would the workload required to bring together the diverse views of tangata whenua across three regions. It would be more challenging also to ensure an equitable approach to design and delivery in general. Equitable approaches across three councils may also look different. It would also require compromise on all fronts which may be challenging given our regional context.

Whakapono

Increasing the amount of tangata whenua that should be contributing to discussion also increases the amount of trade off and compromise. This would occur for councils also. The ability to facilitate an approach that caters to the diversity of worldview, belief systems and kawa/tikanga would require very careful navigation.

Conclusion

This option has significant benefits. If a regional CCO is eventually established, Gisborne District Council should look to join it. In the short term however, it would be complex and expensive and is highly unlikely to be implemented in the time available.

This option suggests that it would dilute the voice of tangata whenua in Te Tairāwhiti and also reduce the representation opportunities with perhaps one seat from each council becoming a representative voice for tangata whenua in their regions.

Longlist option 4 - Mixed council/consumer trust-owned water organisation

Description

Under this option, one or more councils would establish a jointly owned water organisation with a consumer trust holding a majority stake.

Councils will have flexibility to establish shareholder rights and interests through a company constitution and/or shareholder agreement upon establishment, subject to compliance with the legislation.

Water consumers elect trustees to the consumer trust. That consumer trust is then represented on the shareholder council (along with council representatives) and/or appoints board members directly. Certain restrictions apply to the consumer trust to protect against privatisation.

Ownership

- Limited liability company owned by one or more councils with consumer trust majority ownership.
- Ownership arrangements and rights set out in constitution and/or shareholder agreement, subject to compliance with legislation.

Governance

- Councils and consumer trust appoint a shareholder council to appoint directors.
- Water organisation governed by independent, professional Board of Directors.

Strategy

- Shareholders agree the process for issuing a combined Statement of Expectations.
- Water organisation prepares a Water Services Strategy and consults shareholders.

Accountability

- Water organisation reports regularly to shareholders on performance (for example quarterly).
- Water organisation prepares Annual Report containing audited financial statements, including reporting on actual performance and other matters outlined in the water services strategy.
- Water organisation required to act consistently with statutory objectives.

Borrowing

- Borrowing would be independent of local authorities (for example banks) and subject to water organisation achieving sufficient credit quality and track record.

Advantages

The main advantages are:

- This option provides total balance sheet separation from the Council. All borrowing is totally independent of Council and would not be reflected on the council balance sheet or contingent liabilities. There would be no impact on the Council's credit rating.
- Councils establish shareholder rights and interests through a company constitution and/or shareholder agreement upon establishment, subject to compliance with the legislation. Water consumers exercise ownership rights by electing trustees to the consumer trust. Community ownership of water assets is clearly maintained.
- A dedicated water services trust would be expected to have strengthened governance and management, subject to economic regulation, focussed solely on the provision of water services.
- Mana whenua and tangata whenua relationships and opportunities to engage in the decision-making process would be maintained through opportunities to be involved in the board appointments process and through board membership.
- Council would continue to have significant influence over water services operations, price setting, investment decisions and priorities through the combined Statement of Expectations which will drive the trust's Water Services Strategy, and through regular reporting from the trust to shareholders. The Statement of Expectations would also ensure that water services continue to be aligned with council goals and strategies including He Huarahi Whai Oranga, the Tairāwhiti Economic Plan.

Disadvantages

The main disadvantages are:

- The trust would not have access to debt funding from LGFA. Borrowing would be independent of local authorities (for example banks) and subject to the water organisation achieving sufficient credit quality and track record. It is not likely that a small regional water trust will be able to raise capital at competitive rates.
- It is very likely that the price path required to service this debt will not be affordable for consumers.
- There is a relatively limited pool of experienced and skilled directors available in the region to be appointed to a competency-based board.

- A relatively small water services consumer trust lacks the scale required to generate sufficient economies of scale to deliver significant efficiency savings and may struggle to meet regulated quality and economic standards.
- Establishment costs are relatively high given the need to recruit staff and establish facilities, systems and processes for a relatively small organisation. Though this could be mitigated to an extent through sharing services and overhead costs or contracting for them on an agency basis from the Council.

Te Tiriti Compass Analysis

Kāwanatanga

This option potentially opens up another avenue where tangata whenua may choose to position themselves as shareholders to a water services venture. The existing Treaty relationship provisions would secure at least a minimum requirement of Council to work in a manner consistent with Treaty commitments. Conversely if tangata whenua do not pursue a shareholder pathway it could mean that the ability to influence in a jointly owned water organisation they are not shareholders of will most likely limit the amount of influence on decisions.

Tino Rangatiratanga

Under this option the ability to self-determine would be informed by the position that tangata whenua may choose to take if this option is explored. If tangata whenua were a shareholder that would be guaranteed. If they were an external party to a jointly owned entity, it would be much harder to guarantee the ability to express rangatiratanga. This potentially compromises Council, as while a major shareholder in this option it would still require balance alongside other shareholders to ensure the approach to Treaty commitments is maintained.

Ōritetanga

Again, dependent on which avenue tangata whenua may choose to explore, there could be two sides to this option. As a shareholder, the level of influence would be much higher than if an external party to a jointly owned venture. The latter means that it is likely equitable approaches and outcomes for tangata whenua would not be catered for.

Whakapono

Māori worldview and approaches led by kawa/tikanga under this option may be provided for if tangata whenua are in a shareholding capacity. If not, it is highly likely that the financial and process investment objectives become the basis for the design thinking and approach to this work.

Conclusion

This option has significant weaknesses. The trust would be required to obtain finance from capital markets. It is likely that this would lead to debt servicing costs that are unaffordable for consumers. Council would have little influence over these options and once water assets are vested in a consumer trust there is little flexibility to later change the service delivery model.

This option does provide an opportunity for tangata whenua to look at the role of business partner inside the existing Treaty commitments that Council applies to the relationship. However, time is a barrier for councils and tangata whenua alike to seriously consider this option.

Longlist option 5 - Consumer trust-owned water organisation

Description

Under this option, one or more councils would establish a wholly consumer trust-owned water organisation, and transfer water assets and responsibility for water services delivery to it.

The Council would have no ongoing involvement, as the company board is wholly appointed through the consumer trust. Water consumers elect trustees to the consumer trust, similar to local body elections.

Ownership

- Limited liability company solely owned by a newly established consumer trust.
- Trust deed is subject to certain minimum requirements to protect against privatisation.

Governance

- Trustees appoints company directors.
- Water organisation governed by independent, professional Board of Directors.

Strategy

- Trustees issue Statement of Expectations.
- Water organisation prepares a Water Services Strategy.

Accountability

- Water organisation reports regularly to trustees and consumers on performance (for example quarterly).
- Water organisation prepares Annual Report containing audited financial statements.
- Water organisation required to act consistently with statutory objectives.

Borrowing

- Borrowing would be independent of local authorities (for example from banks) and subject to water organisation achieving sufficient credit quality and track record.

Advantages

The main advantages are:

- This option provides total balance sheet separation from Council. All borrowing is totally independent of Council and would not be reflected on

the Council balance sheet or contingent liabilities. There would be no impact on the Council's credit rating.
- Community ownership of water assets is clearly maintained.
- A dedicated water services trust would be expected to have strengthened governance and management, subject to economic regulation, focussed solely on the provision of water services.
- Mana whenua and tangata whenua relationships and opportunities to engage in the decision-making process would be maintained through opportunities to be involved in the board appointments process and through board membership.

Disadvantages

The main disadvantages are:

- The trust would not have access to debt funding from LGFA. Borrowing would be independent of local authorities (for example from banks) and subject to water organisation achieving sufficient credit quality and track record. It is not likely that a small regional water trust will be able to raise capital at competitive rates.
- It is very likely that the price path required to service this debt will not be affordable for consumers.
- There is a relatively limited pool of experienced and skilled directors available in the region to be appointed to a competency-based board.
- Council would have no influence over water services operations, price setting, investment decisions and priorities and there would be no opportunity to align these with council goals and strategies.
- A relatively small water services consumer trust lacks the scale required to generate sufficient economies of scale to deliver significant efficiency savings and may struggle to meet regulated quality and economic standards.
- Establishment costs are relatively high given the need to recruit staff and establish facilities, systems and processes for a relatively small organisation.

Te Tiriti Compass Analysis

Kāwanatanga

While this option suggests there is space for tangata whenua in board appointments and membership, this will be influenced by the make-up of shareholders in an entity of this type. It is challenging to forecast a compass analysis with the number of unknown variables. If contribution to decision making is the baseline for best practice, then it would require at the very least a process that partners with tangata whenua from its inception. Being completely removed from council control means the majority of Treaty based legislative requirement will not transfer to an entity of this type.

Tino Rangatiratanga

How tangata whenua would be able to self-determine within this option is unknown unless this option was to be further explored. Considering the kāwanatanga summary above it would be reliant on some of the potential variables as to the degree in which this option secures ability for tangata whenua to self-determine.

Ōritetanga

Under this option there may not be the level of service and commitment to tangata whenua relationships that is currently experienced when working with Council. How this option impacts on the ability of tangata whenua to contribute as an equitable partner is not known unless it is shortlisted and explored.

Whakapono

Again, with the number of variables to consider you can assume under this model that the ability for tangata whenua worldview, belief systems and tikanga/kawa to influence the approach to this work would be drastically reduced. If tangata whenua wanted to explore the shareholder option, it could mean the complete opposite.

Conclusion

This option has significant weaknesses. The trust would be required to obtain finance from capital markets. It is likely that this would lead to debt servicing costs that are unaffordable for consumers. The Council would have no influence over these options and once water assets are vested in a consumer trust there is little flexibility to later change the service delivery model.

This option does remove the partnership opportunity to directly influence process and outcome. An independent body would not have the same Treaty partner requirements placed on them that the Council has.

GISBORNE DISTRICT COUNCIL

Table 8: Longlist Options Assessment

	Option 1: Internal business unit (modified status quo)	Option 2: Single council-owned water organisation	Option 3: Multi-council-owned water organisation	Option 4: Mixed council/ consumer trust owned water organisation	Option 5: Consumer trust owned water organisation
	Water services delivered directly by the council 'inhouse' through an internal business unit or division.	New company established to deliver water services, with ownership by a single council.	Three or more councils would establish a jointly-owned water organisation.	One or more councils establish a jointly-owned water organisation with a consumer trust holding a majority stake.	One or more councils establish a wholly consumer trust-owned water organisation.
Objectives					
1: Financial sustainability (double weighted)					
2: Compliant water services (double weighted)					
3: Improved service delivery					
4: Meet partner and community expectations					
Critical Success Factors					
Independence					
Affordability					
Complexity					
Timeliness					
Flexibility					
Total Score (weighted)	13	6	6	-7	-8
Comments/notes from discussion	This option is not able to access the additional LGFA debt headroom provided by other but has a more affordable price path over the short to medium term. It lacks independence of decision making and governance. However, it is the simplest, cheapest and least disruptive option to implement.	This option can access the additional debt headroom and is likely to be more affordable over the very long term. However, it is less affordable over the short to medium term and lacks the scale required to generate efficiency savings and produce significant service improvements. Of the change options it is the simplest and cheapest to implement and maintains long-term flexibility.	This option has significant benefits and if a regional CCO is eventually established GDC should look to join it. In the short term however, it would be complex and expensive and is highly unlikely to be implemented in the time available.	This option would be required to obtain finance from capital markets. It is likely that this will lead to debt servicing costs that are unaffordable for consumers. Council has limited influence over this option and once water assets are vested in a consumer trust there is little flexibility to change the service delivery model at a later date.	This option would be required to obtain finance from capital markets. It is likely that this will lead to debt servicing costs that are unaffordable for consumers. Council has no influence over this option and once water assets are vested in a consumer trust there is little flexibility to change the service delivery model at a later date.
Decision					

The Shortlist Options

On the basis of this analysis, the recommended shortlist for further assessment is:

- Option 1: Internal business unit or division (modified status quo).
- Option 2: Single council-owned water organisation.

In the long term, maintaining the flexibility to join a regional CCO (should one be established) remains a strong option. However, at this time it is very unlikely that this will occur within the next couple of years, and it may be sensible to wait and see how the reforms settle down over time rather than rushing to establish a joint entity now.

Economic Assessment of the Shortlist Options

Economic assessment of the shortlisted options has been undertaken based on financial modelling of both options. The financial modelling includes:

- An assessment of the potential transitional costs for establishing a single council-owned water organisation per Option 2,
- The financial capacity of the shortlisted options to deliver planned capital works programmes,
- The potential for a single council-owned water organisation of delivery efficiencies, and
- The potential costs to water consumers in Gisborne of each of the shortlisted options.

An assessment of the net present value (NPV) has been determined based on the annualised revenue requirements for each of the two shortlisted option. A net present value calculation has been based on revenue rather than capital cashflows to better reflect the impact to water consumers. In this case a lower NPV is preferred.

Assumptions

Detailed assumptions underlying the financial modelling are outlined in Appendix 1.

Assessment Period

The start date for valuation purposes is assumed to be 1 July 2024. The presumed establishment date for Option 2 is 1 July 2027.

Economic and financial modelling has been completed for a 30-year period. Results are presented as:

- Average household charges are expressed as the annual charge for the financial year indicated in reporting. Amounts are expressed in nominal terms and include GST.
- Debt is expressed as a year-end closing balance and is determined based on nominal cashflows.
- Revenue is expressed as an annual value, in nominal terms. Net present value is expressed as the net present value of revenue over the 30-year modelling period.

Discount and Inflation Assumptions

The Public Sector Discount Rate specified by the Treasury for projects of this type is 2% per year. This discount rate applies to real (uninflated) costs and has been adjusted to a nominal rate for the purposes of determining a net present value.

Estimated Costs

Assumptions underpinning the calculation of costs are outlined in Appendix 1.

Establishment costs for a single council-owned water organisation have been estimated to be in the order of $8.5 million. There may be opportunities to reduce these costs following further detailed investigation if this option is to be pursued.

Taxation

Both the Council and the water organisation are assumed to be exempt from income tax. GST is included in expressions of household charges only. All other figures exclude GST.

Estimating Monetary Benefits

Monetary benefits have been determined for Option 2 based on anticipated efficiencies that may be achieved through the establishment of a water organisation that has a sole and dedicated focus on the delivery of efficient three waters services. No efficiencies or benefits resulting from increased economic regulation have been accounted for.

Potential efficiencies have been estimated based on:

- Comparison to observed and measured efficiencies disclosed by the Water Industry Commission of Scotland, with a reduction in scale to reflect the reduced scale, isolation, and similarity to Option 1.
- Work undertaken by Morrison Low through their extensive water reform, asset management, and procurement experience.

Efficiencies have been estimated at:

- Operating expenditure efficiencies 0.13% of total capital expenditure per year, commencing in year two of the CCO establishment date and reaching a cumulative maximum of 1.28% after 10 years.
- Capital expenditure efficiencies 0.13% of total operating expenditure per year, commencing in year two of the CCO establishment date and reaching a cumulative maximum of 1.35% after 10 years.

Non-monetary Benefits and Costs

Some benefits could not be reliably quantified in monetary terms and are described below.

Table 9: Non-monetary benefits (and costs, if any) from the investment proposal

Non-monetary Benefits	Description
Impact on Council's balance sheet	Removal of three waters debt from the Council's balance sheet will create additional borrowing capacity for Council to invest in the achievement of community outcomes. Three waters currently rely on leveraging Council's total borrowing capacity to meet investment needs, which are typically not discretionary.
Approach to funding and financing	Option 2 needs to generate additional revenue over and above the full funding of operating expenditure in order to access the borrowing that it needs to fund its full capital works programme. The consequence of this is that over time, Option 2 results in lower total three waters borrowing than Option 1, improving outcomes for future generations.
Funding autonomy	Delivery of three waters services has been, and will continue to be, a significant driver of cost and rates increases for the Council. Transfer to a wholly owned water organisation will allow the Council to focus its efforts on other activities. A water entity will equally have the autonomy (with controls and oversight from the Commerce Commission) to set charges at the amount needed to deliver necessary capital works and meet level of service expectations.
Dedicated focus	A wholly owned water organisation will have a dedicated Board of Directors with the skills required to deliver effective and efficient three waters services for the water consumers of Gisborne. This will enable the organisation to make decisions it may not otherwise be able to make through the existing service delivery model.
Ability to scale	It is expected that a wholly owned water organisation would have fewer barriers to future aggregation than an in-house business unit. If a regional option becomes more realistic in the future, Option 2 is likely to make participation in that option easier.

Risk Assessment

The key risks that might create, enhance, prevent, degrade, accelerate or delay the achievement of the investment objectives have been identified and evaluated. The results of this assessment are detailed below.

Table 10: Risk assessment and risk management strategies

Risk	Category	Consequence (H/M/L)	Likelihood (H/M/L)	Comments and Risk Management Strategies
Disruption to staff during implementation	Implementation	Moderate	Low	Changes to the management or operational structure and ongoing uncertainty of roles may

Risk	Category	Consequence (H/M/L)	Likelihood (H/M/L)	Comments and Risk Management Strategies
				result in staff dissatisfaction, or distraction from business-as-usual activities. Given Option 1 has the lowest amount of change, this risk is considered to be low.
Inadequacy of arrangements described in the Water Services Delivery Plan	Implementation	High	Low	DIA's assessment of the Council's Water Services Delivery Plan may identify that the proposed arrangement does not meet their expectations. In such event the Council may be directed to work with neighbouring councils. An in-house business unit is presented as a potential delivery model in DIA guidance, so there should be no inherent issues with the proposed model.
Legislative provisions in Bill 3 may undermine the feasibility of the preferred option	Implementation	High	Low	DIA has released information packs about the expected content of Bill 3. The preferred option is aligned to these models, and significant departure from the published DIA guidance is not anticipated.
Lack of financial independence	Ongoing	Moderate	Moderate	Ring fencing provisions required by law will create some financial independence. However, the responsibility for setting rates and approving budgets will still ultimately rest with

Risk	Category	Consequence (H/M/L)	Likelihood (H/M/L)	Comments and Risk Management Strategies
				Council (with some requirements from an economic regulator).
Loss of staff or expertise	Ongoing	Moderate	High	The establishment of more regional or sub-regional water entities of scale will provide better career pathways and opportunities for staff. It is likely that recruitment and retention of staff will be increasingly challenging. This risk is not mitigated by Option 2.
Impact on other council activities	Ongoing	Moderate	High	The ongoing provision of three waters services will continue to require access to a significant amount of council debt and will continue to be a key driver of rates rises in the future. These financial pressures may impact Council's ability to invest in other activities in the future. Note that Option 2 mitigates some of the risks associated with borrowing requirements, but that total cost of service (i.e. water charges and council rates) will still be under pressure.
Potential for conflict between priorities of economic, environmental and quality regulators and elected	Ongoing	Moderate	Moderate	Economic, quality and environmental regulators may drive a requirement for investment beyond that which the community or elected members can afford or desire. There may be limited opportunity for elected

Risk	Category	Consequence (H/M/L)	Likelihood (H/M/L)	Comments and Risk Management Strategies
members' priorities				members to make decisions that are not aligned to the priorities of the regulator.

This risk analysis will be also used to inform the development of the risk register, referred to in the management case.

Testing the Robustness of the Options Analysis

The financial modelling is highly dependent on the potential value of the forward capital works programme. Financial modelling, particularly of the water organisation model, assumes that the capital works programme must be delivered to meet the requirements of the economic and environmental regulators.

Funding this programme of capital works and servicing the associated debt, is the single largest cost influencer in the financial modelling.

Sensitivity testing has been completed based on an uplift of the capital works programme of 33% for upgrades and renewals. This reflects a moderate level of uncertainty regarding the forward capital works programme.

Analysis of failures in the water network has identified that the Council's current approach to renewals is well aligned to existing network failures. Additionally, comparison of the existing renewals programme against expected useful lives of assets has also indicated that the renewals programme is likely to be adequate. There may be scope for increased pace of renewals, however the total programme value is likely fair.

The modelled uplift in capital works for drinking water services alone equates to an uplift of over $150 million over the modelling period. This is broadly aligned with the estimated value of drinking water resilience work that may be required.

No low investment scenario has been modelled as it is considered unlikely that a water organisation or in-house business unit would reduce its capital programme materially.

Identifying the Preferred Option

Household Charges

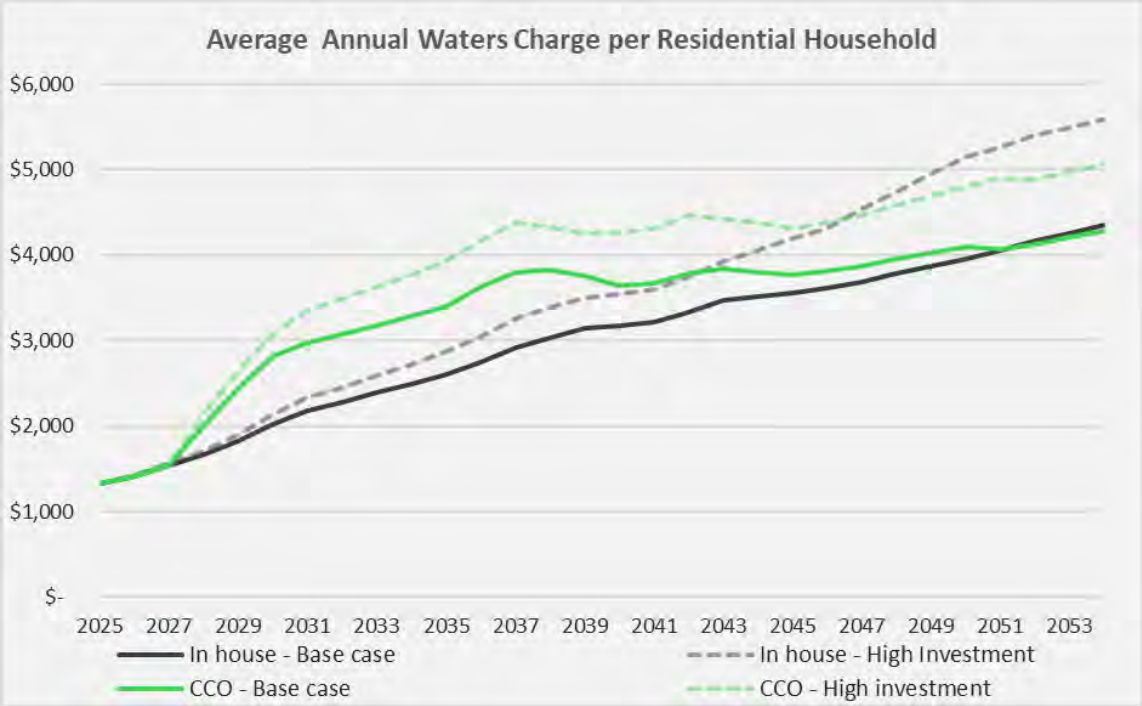
The chart below presents average residential household waters charges for the three service delivery models using both the base case and high investment capital investment programme.

Due to the water organisation's requirement to maintain a Funds from Operations (FFO) to debt ratio of above 10%, additional charges need to be applied from inception, resulting in an immediate increase in charges when compared to the in-house model. Additionally, the water organisation incurs setup costs and ongoing operating and governance costs.

The anticipated efficiencies of the water organisation model are not noticeably realised for more than the first ten years of their existence, and it is not until 2051 that the water organisation and in-house models reach parity under the base capital programme (2046 under the high investment programme).

Notably, even under a high investment scenario, a water organisation is unlikely to result in lower household charges for 15 – 20 years.

Figure 15: Average annual water charges 2025 – 2054



Capital investment and Asset Sustainability

In both the base case and the high investment scenario, both delivery models have been assumed to deliver the same programme of capital works. Over time, as the water organisation has been modelled to achieve some modest efficiencies in the delivery of its capital works programme, the total cost of delivering that programme is reduced.

WSDPs require disclosure of projected investment against a range of asset investment benchmarks, including:

- The asset sustainability ratio, which compares capital expenditure on renewals to depreciation. This should ideally be above 0%.
- The asset investment ratio, which compares total capital expenditure to renewals. This should ideally be above 0%.
- The asset consumption ratio, which compares the book value of assets to their replacement value. This ratio should ideally trend upwards.

Performance against these ratios is highlighted in the charts below. As the water organisation and the in-house business unit models include the same investment

programmes, results are shown for the "high" and "base case" scenarios. The results generally show asset investment meeting all benchmarks (noting that the asset sustainability ratio underperforms in some years but exceeds the benchmark on average across the 30 years).

Figure 16: Average sustainability ratio performance 2025 – 2054

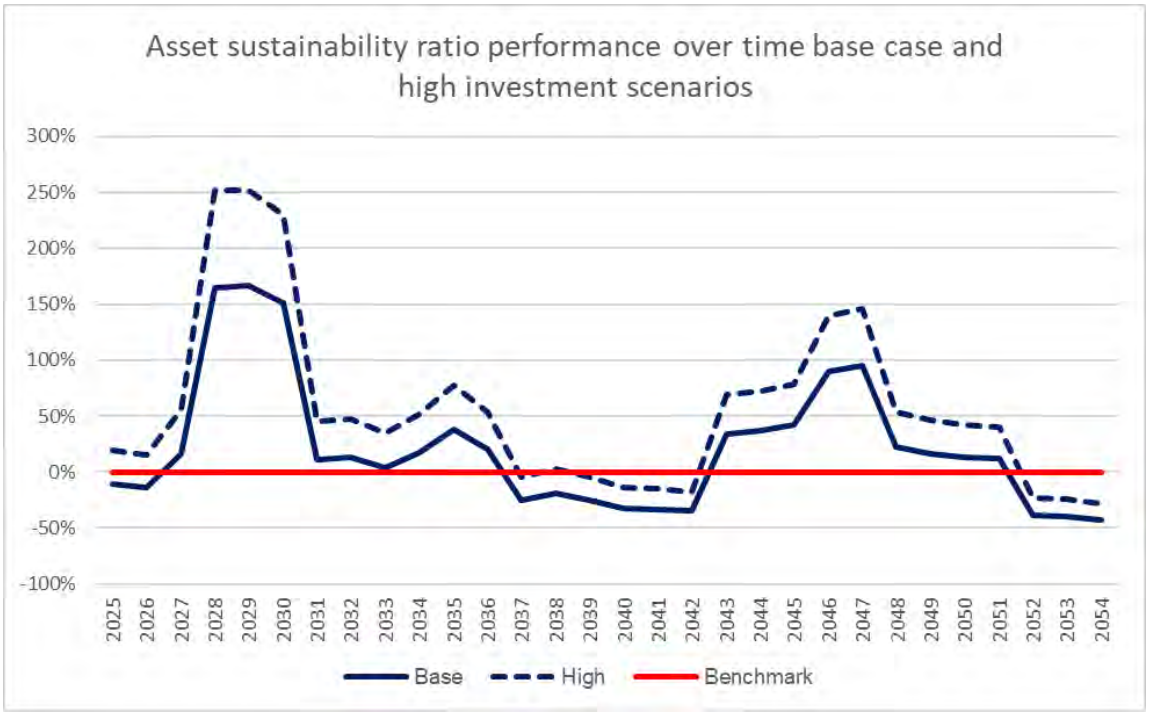


Figure 17: Asset investment ratio performance 2025 – 2054

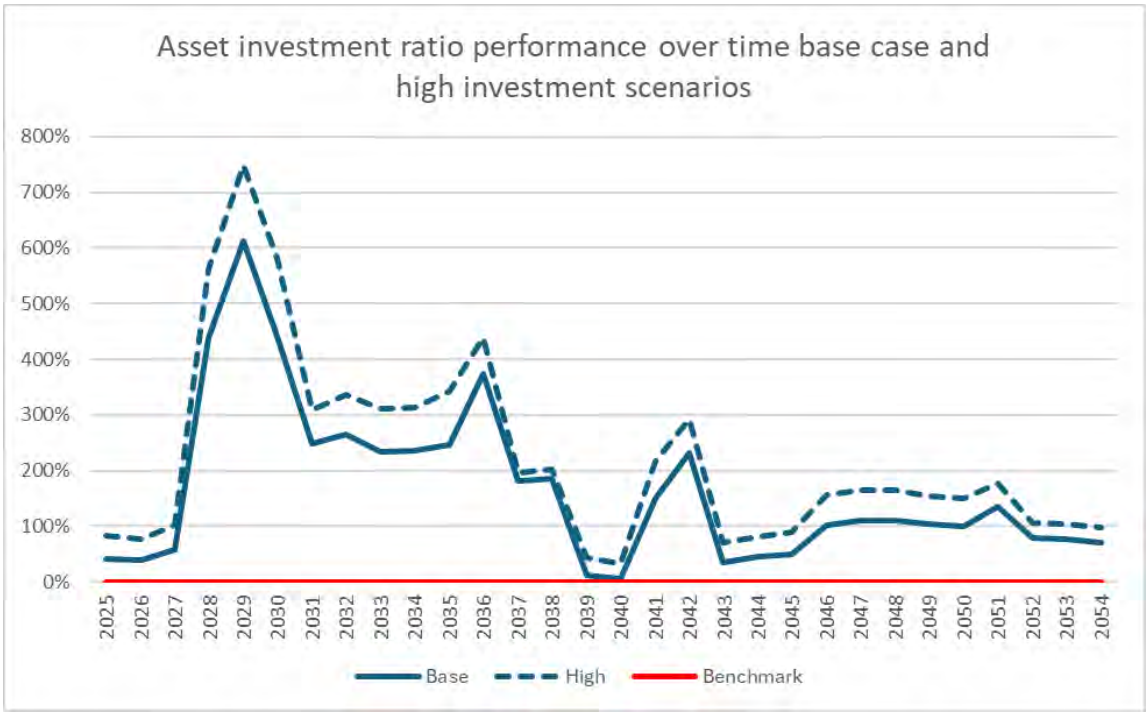
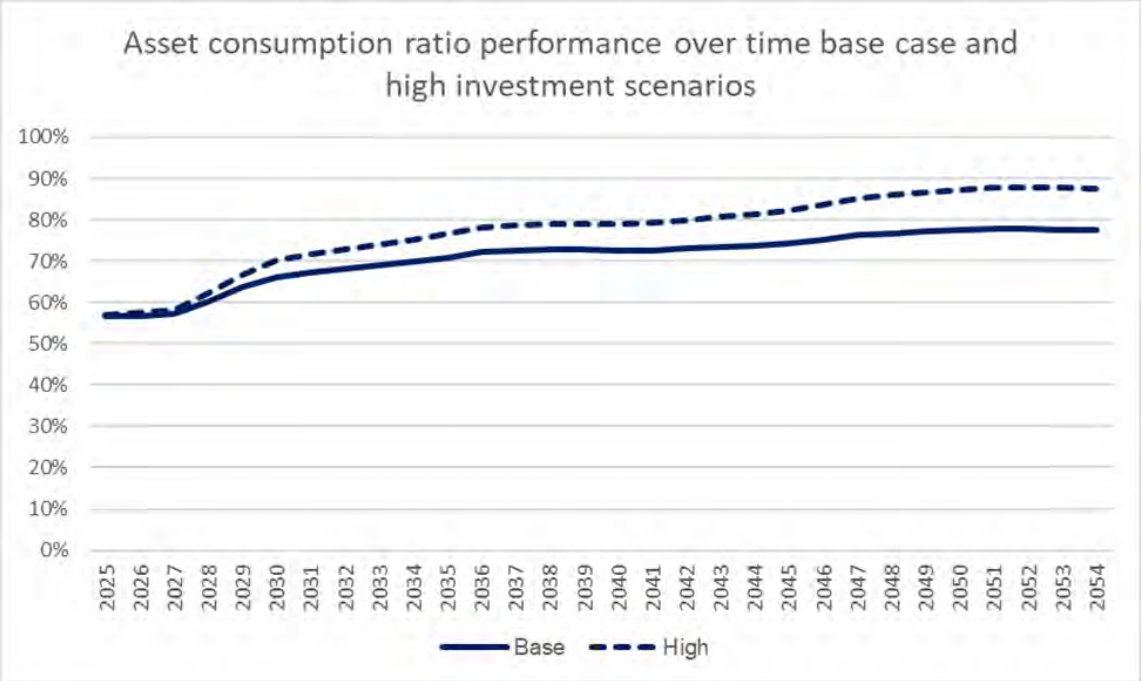


Figure 18: Asset consumption ratio performance 2025 – 2054



Options Analysis

Table 11: Options analysis

	Base case		High investment scenario	
	Option 1 In-house business unit	Option 2 Single council-owned water organisation	Option 1 In-house business unit	Option 2 Single council-owned water organisation
Appraisal Period (years)	30	30	30	30
Cost-benefit analysis of monetary costs and benefits:				
Net present value of revenue requirements[5]	$847 million	$981 million	$968 million	$1,116 million
Average household charge 2034	$2,491	$3,284	$2,724	$3,774

[5] A lower NPV is preferred

	Base case		High investment scenario	
	Option 1 In-house business unit	Option 2 Single council-owned water organisation	Option 1 In-house business unit	Option 2 Single council-owned water organisation
Average household charge 2054	$4,345	$4,281	$5,586	$5,062
Three waters debt 2034	$322 million	$253 million	$410 million	$313 million
Three waters debt 2054	$723 million	$348 million	$892 million	$446 million

The Preferred Option

Both the modified in-house (Option 1) and single-council CCO (Option 2) options are sound options for the delivery of water services in the Gisborne District. The choice between them is therefore substantially driven by the results of the economic and financial analysis of the options. This clearly shows that under the modified status quo, it is possible to deliver a more affordable price path for consumers whilst simultaneously meeting financial sustainability and regulatory compliance standards. The modified status quo is therefore the preferred option.

Commercial Case – Preparing for the Potential Deal

The commercial case normally considers:

- the procurement strategy and any legislative requirements,
- procurement plan and timetables,
- service requirements,
- risk sharing arrangements,
- payment mechanisms, and
- any other contractual or accounting issues.

This section outlines the proposed deal in relation to the preferred option outlined in the economic case. A commercial case is not needed if there is no significant procurement, for example if services are provided in-house.

Given that in this case the preferred option is continued in-house delivery, no commercial case has been prepared.

However, should Council ultimately decide to adopt Option 2, the establishment of a single-council CCO, the equivalent of a commercial case/procurement plan would be prepared in the next phase of the LWDW project as part of the implementation plan for the WSDP. This would include matters such as funding arrangements and cost of capital, debt settlement, transition processes, commercial and contracting arrangements including novation, and establishment costs for the new CCO.

Financial Case – Affordability and Funding Requirements

The purpose of the financial case is to determine the funding requirements of the preferred option and to demonstrate that the recommended deal is affordable.

The Financial Costing Model

Financial Costing Approach

Financial analysis presented in the financial case is based on the financial modelling of an in-house business unit and a single council-owned water organisation completed by Morrison Low.

The modelling is a cost-based model that has been modelled to ensure financial sustainability of three waters services. This means that in both options:

- All operating costs including depreciation and interest are fully funded through operating revenue.
- Capital works are funded from debt or surplus cashflows from operations.
- Borrowing limits are monitored and additional revenue is generated, where required, to ensure borrowing remains within limits imposed by the Local Government Funding Agency (a limit of 280% of total council operating revenue has been assumed, with modelling confined to remaining below 250%).

The modelling assumes inflation at the BERL LGCI rates for the first 10 years and 2% per annum thereafter.

Borrowing costs are assumed to be 5% per annum based on the previous years' closing debt balance.

All establishment costs for the Option 2 are assumed to be capitalised and funded through additional borrowing. All three waters related debt is assumed to transfer to the water organisation in Option 2 on establishment date.

An establishment date of 1 July 2027 has been assumed.

Impacts on the Financial Statements

A statement of comprehensive revenue and expenditure and a statement of financial position are presented in the tables below for each of the shortlisted options over the 10-year period from 2024/25 – 2033/34.

Financial statements are presented for the base case scenario only.

Table 12: Option 1 Statement of Comprehensive Revenue and Expenditure

Statement of comprehensive revenue and expense (000s)	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33	2033/34
Operating revenue	$22,636	$24,281	$26,719	$29,218	$32,126	$36,009	$39,098	$41,281	$43,647	$45,916
Other revenue	-	-	-	-	-	-	-	-	-	-
Total revenue	**$22,636**	**$24,281**	**$26,719**	**$29,218**	**$32,126**	**$36,009**	**$39,098**	**$41,281**	**$43,647**	**$45,916**
Operating expenses	$12,800	$12,815	$13,482	$14,259	$14,587	$14,908	$15,221	$15,540	$15,867	$16,200
Finance costs	$2,481	$2,796	$3,064	$3,368	$5,352	$8,285	$10,517	$11,834	$13,302	$14,662
Overheads and support costs	$2,016	$2,186	$2,495	$2,555	$2,614	$2,671	$2,727	$2,784	$2,843	$2,903
Depreciation & amortisation	$8,288	$8,499	$8,711	$9,036	$9,574	$10,145	$10,633	$11,123	$11,635	$12,152
Total expenses	**$25,585**	**$26,296**	**$27,752**	**$29,218**	**$32,126**	**$36,009**	**$39,098**	**$41,281**	**$43,647**	**$45,916**
Net surplus / (deficit)	**-$2,949**	**-$2,016**	**-$1,033**	**-**	**-**	**-**	**-**	**-**	**-**	**-**
Revaluation of infrastructure assets	$8,783	$9,026	$9,273	$9,559	$10,544	$11,928	$13,060	$13,847	$14,712	$15,550
Vested assets revenue	-	-	-	-	-	-	-	-	-	-
Total comprehensive income	**$5,834**	**$7,010**	**$8,240**	**$9,559**	**$10,544**	**$11,928**	**$13,060**	**$13,847**	**$14,712**	**$15,550**

Cash surplus / (deficit) from operations (excl depreciation)	**$5,338**	**$6,483**	**$7,679**	**$9,036**	**$9,574**	**$10,145**	**$10,633**	**$11,123**	**$11,635**	**$12,152**

Table 13: Option 1 Statement of Financial Position

Statement of financial position (000s)	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33	2033/34
Assets										
Cash and cash equivalents	-	-	-	-	-	-	-	-	-	-
Other current assets	$178,034	$178,034	$178,034	$178,034	$178,034	$178,034	$178,034	$178,034	$178,034	$178,034
Infrastructure assets	$451,283	$463,638	$477,974	$527,204	$596,410	$652,989	$692,374	$735,588	$777,502	$821,592
Other non-current assets	-	-	-	-	-	-	-	-	-	-
Total assets	**$629,317**	**$641,672**	**$656,009**	**$705,238**	**$774,444**	**$831,023**	**$870,408**	**$913,622**	**$955,536**	**$999,626**
Liabilities										
Borrowings - current portion	$55,925	$61,270	$67,367	$107,037	$165,698	$210,350	$236,675	$266,041	$293,244	$321,784
Other current liabilities	-	-	-	-	-	-	-	-	-	-
Borrowings - non-current portion	-	-	-	-	-	-	-	-	-	-
Other non-current liabilities	-	-	-	-	-	-	-	-	-	-

Total liabilities	**$55,925**	**$61,270**	**$67,367**	**$107,037**	**$165,698**	**$210,350**	**$236,675**	**$266,041**	**$293,244**	**$321,784**

Net assets	**$573,392**	**$580,402**	**$588,642**	**$598,201**	**$608,745**	**$620,673**	**$633,733**	**$647,581**	**$662,292**	**$677,843**

Equity										
Revaluation reserve	$40,510	$49,536	$58,808	$68,368	$78,912	$90,840	$103,900	$117,747	$132,459	$148,009
Other reserves	$532,882	$530,866	$529,833	$529,833	$529,833	$529,833	$529,833	$529,833	$529,833	$529,833
Total equity	**$573,392**	**$580,402**	**$588,642**	**$598,201**	**$608,745**	**$620,673**	**$633,733**	**$647,581**	**$662,292**	**$677,843**

Table 14: Option 2 Statement of Comprehensive Revenue and Expenditure

Statement of comprehensive revenue and expense (000s)	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33	2033/34
Operating revenue	$22,636	$24,281	$26,719	$34,956	$42,881	$50,108	$53,327	$55,670	$58,129	$60,491
Other revenue	-	-	-	-	-	-	-	-	-	-
Total revenue	**$22,636**	**$24,281**	**$26,719**	**$34,956**	**$42,881**	**$50,108**	**$53,327**	**$55,670**	**$58,129**	**$60,491**

Operating expenses	$12,800	$12,815	$13,482	$19,293	$19,737	$20,144	$20,539	$20,942	$21,353	$21,772
Finance costs	$2,481	$2,796	$3,064	$3,368	$5,614	$8,150	$9,795	$10,489	$11,294	$11,951

Overheads and support costs	$2,016	$2,186	$2,495	-	-	-	-	-	-	-
Depreciation & amortisation	$8,288	$8,499	$8,711	$9,081	$9,665	$10,238	$10,727	$11,218	$11,731	$12,248
Total expenses	**$25,585**	**$26,296**	**$27,752**	**$31,742**	**$35,016**	**$38,531**	**$41,061**	**$42,649**	**$44,377**	**$45,971**
Net surplus / (deficit)	**-$2,949**	**-$2,016**	**-$1,033**	**$3,214**	**$7,864**	**$11,577**	**$12,266**	**$13,021**	**$13,752**	**$14,520**
Revaluation of infrastructure assets	$8,783	$9,026	$9,273	$9,559	$10,713	$12,099	$13,231	$14,018	$14,881	$15,717
Vested assets revenue	-	-	-	-	-	-	-	-	-	-
Total comprehensive income	**$5,834**	**$7,010**	**$8,240**	**$12,773**	**$18,578**	**$23,676**	**$25,497**	**$27,039**	**$28,633**	**$30,237**
Cash surplus / (deficit) from operations (excl depreciation)	**$5,338**	**$6,483**	**$7,679**	**$12,295**	**$17,529**	**$21,815**	**$22,993**	**$24,239**	**$25,483**	**$26,768**

Table 15: Option 2 Statement of Financial Position

Statement of financial position (000s)	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	2030/31	2031/32	2032/33	2033/34
Assets										
Cash and cash equivalents	-	-	-	-	-	-	-	-	-	-
Other current assets	$178,034	$178,034	$178,034	$178,034	$178,034	$178,034	$178,034	$178,034	$178,034	$178,034

Infrastructure assets	$451,283	$463,638	$477,974	$535,666	$604,950	$661,538	$700,905	$744,040	$785,830	$829,731
Other non-current assets	-	-	-	-	-	-	-	-	-	-
Total assets	**$629,317**	**$641,672**	**$656,009**	**$713,700**	**$782,984**	**$839,572**	**$878,939**	**$922,074**	**$963,864**	**$1,007,765**

Liabilities										
Borrowings - current portion	$55,925	$61,270	$67,367	$112,285	$162,991	$195,903	$209,774	$225,870	$239,027	$252,692
Other current liabilities	-	-	-	-	-	-	-	-	-	-
Borrowings - non-current portion	-	-	-	-	-	-	-	-	-	-
Other non-current liabilities	-	-	-	-	-	-	-	-	-	-
Total liabilities	**$55,925**	**$61,270**	**$67,367**	**$112,285**	**$162,991**	**$195,903**	**$209,774**	**$225,870**	**$239,027**	**$252,692**

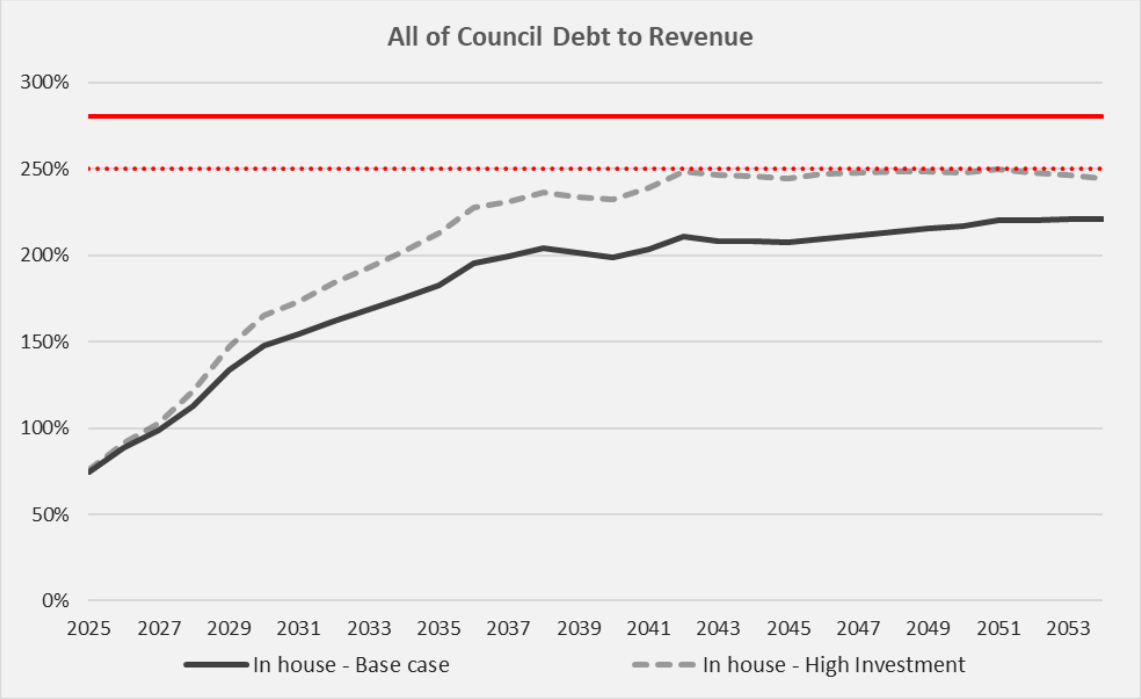
Net assets	**$573,392**	**$580,402**	**$588,642**	**$601,415**	**$619,993**	**$643,669**	**$669,165**	**$696,204**	**$724,837**	**$755,074**

Equity										
Revaluation reserve	$8,783	$17,809	$27,081	$36,641	$47,354	$59,453	$72,684	$86,702	$101,583	$117,299
Other reserves	-	-	-	-	-	-	-	-	-	-
Total equity	**$564,609**	**$562,593**	**$561,560**	**$564,774**	**$572,639**	**$584,216**	**$596,481**	**$609,502**	**$623,254**	**$637,774**

Critical differences between the two shortlisted options relate to the overall revenue requirements and total three waters borrowings.

Total three waters debt in Option 1 reaches $321 million by 2034 and is supported by $46 million of annual operating revenue. This represents a three waters debt to revenue ratio of approximately 600%. Additional three waters borrowing under Option 1 is therefore supported by revenue from other council activities. Total council projected debt to revenue is presented in the chart below and remains under 250% for the 30-year modelling period.

Figure 19: All of Council debt to revenue 2025 – 2054



Option 2 is not able to leverage debt against other revenue generated by the Council. As a consequence, the water organisation needs to increase revenue in order to stay within lending limits. This impacts household water charges and is the main contributor to price differences outlined in the Economic Case.

The two charts below show how the impact of financing constraints impact Option 2. The first chart highlights performance of Option 2 against lending covenants without the additional charges, and the second chart highlights how this translates to average household charges.

Figure 20: CCO FFO to Debt 2028 – 2054

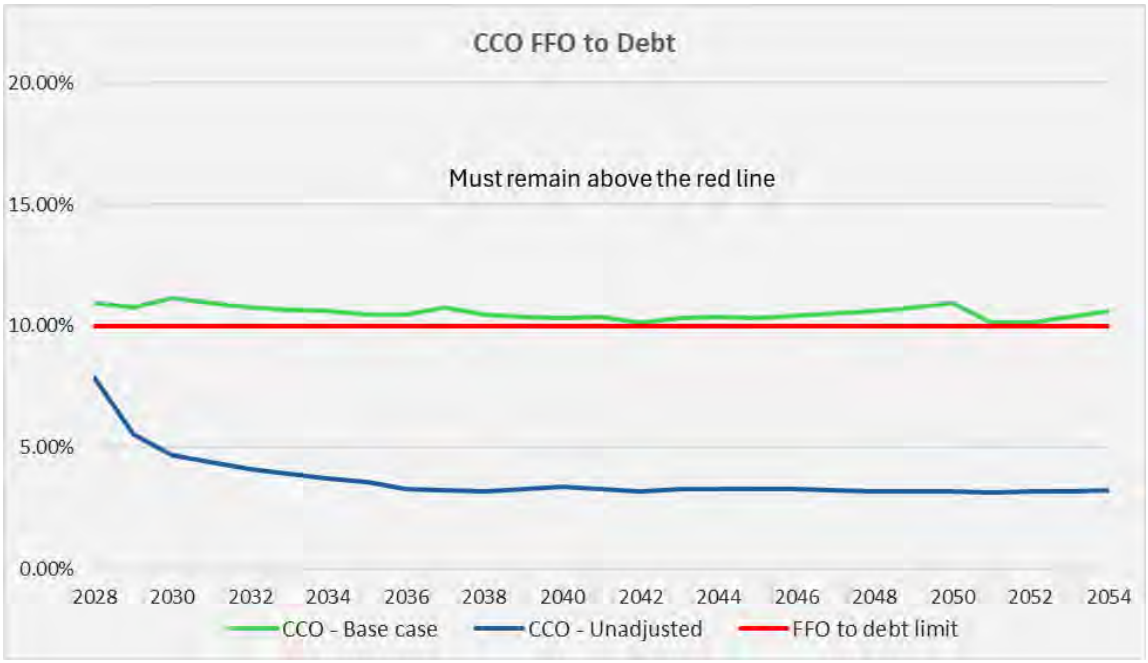
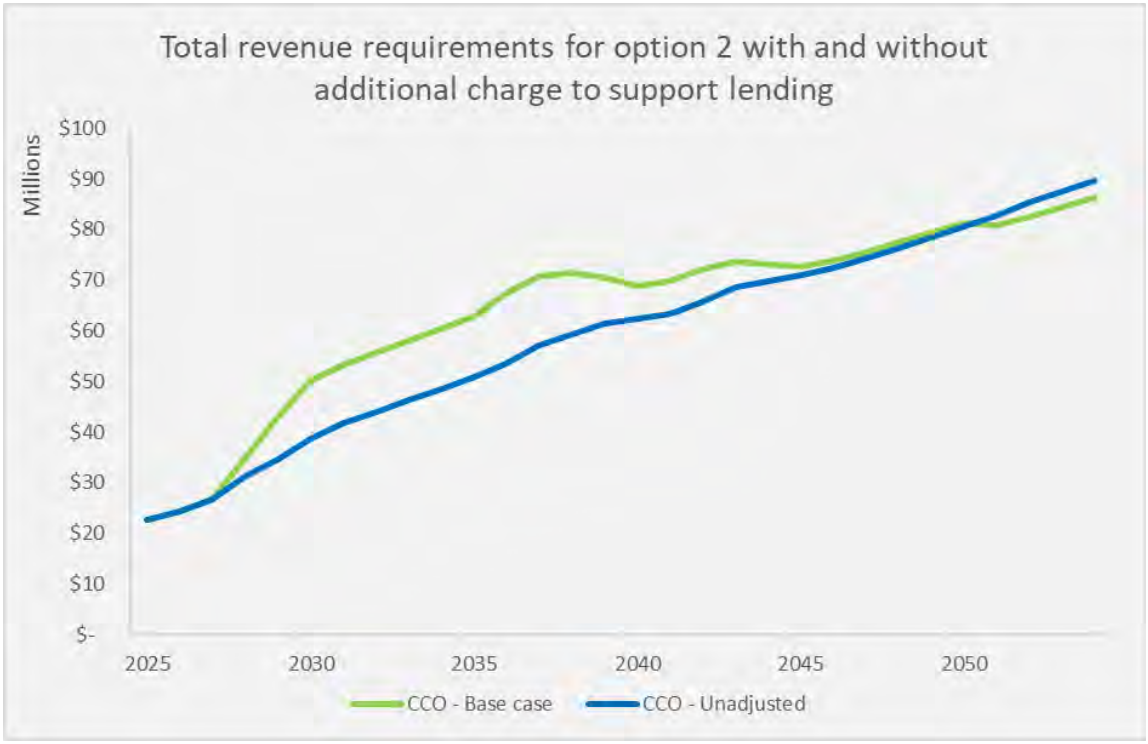


Figure 21: Total revenue requirements for Option 2



Overall Affordability

Financial modelling indicates that Option 1 is more affordable over the next 10 – 20-year period, as evidenced by:

- Lower expected household charges during that period.

- Lower revenue requirements over the period.
- Easier access to debt over that period. Noting however that three waters borrowing at current and projected rates of leverage will impact access the Council's ability to access debt for other activities.

Over the long term (20 or more years) it is expected that Option 2 will result in lower total borrowing requirements that may translate into lower household charges.

Management Case – Planning for Successful Delivery

The management case confirms that the proposal is achievable and details the arrangements needed to both ensure successful delivery and to manage project risks.

The Council's WSDP is required to include an implementation plan for the adopted water services delivery model. This implementation plan will cover much of the detail behind the outline included in this management case and will need to demonstrate how the Council will achieve financial sustainability of waters services delivery by 30 June 2028.

The plan outlined below is for an in-house delivery model and is therefore relatively simple as there would be limited change required to implement an in-house model.

Should the Council decide to instead establish a water services CCO, a more comprehensive implementation plan will need to be developed in parallel to the development of the WSDP.

This plan would need to cover matters such as:

- Implementation approach
  - Strategy for implementation
  - Goals and objectives
  - Success criteria
  - Deliverables
  - Scope statement
  - Resource plan
  - Procurement strategy and processes
  - Stranded costs strategy
- Governance
  - Statutory framework
  - Governance arrangements
  - Appointments panel
  - Role of Iwi / Māori
  - Board constitution
  - Shareholder agreements
  - Transfer of decision-making rights
- Roles and responsibilities
  - Project Team

- Handover points and processes

- Workstreams
  - General programme
  - Finance and commercial
  - Efficiency gains and strategy
  - Transfer arrangements
  - Service delivery
  - Operations
  - Enablers
- Schedule and milestones
  - Milestones and decision points
  - Critical path and Gantt Chart
- Change management approach
  - The case for change
  - Stakeholder management and engagement
  - Change leadership
  - Communications
  - Change readiness
  - Organisational design and workforce transition
- Risk management
  - Risk management approach
  - Risk management framework
- Budget, cost and funding
  - Cost estimation for implementation
  - Budget and funding model

Project Management Planning

Project Management Arrangements

We recommended that the Council establishes a project team to plan and execute the changes required to give effect to an in-house water services delivery model from adoption of the WSDP in mid-2025.

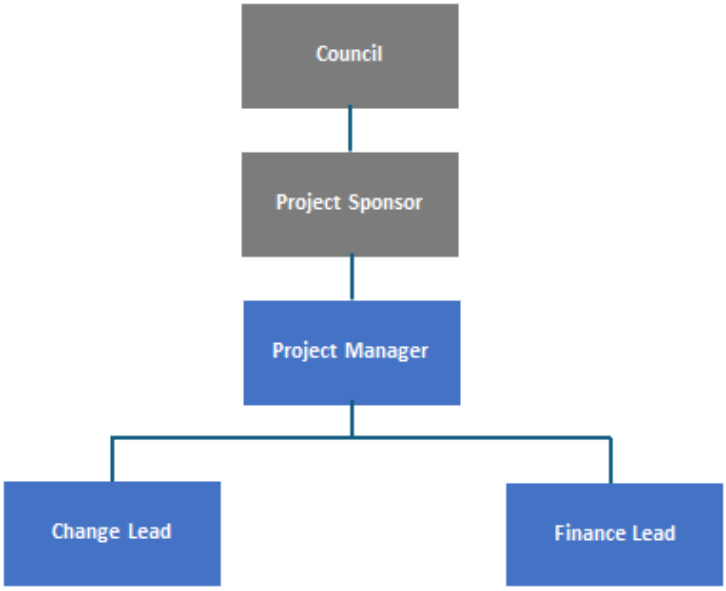
Proposed Governance Arrangements

Governance oversight of the project should be provided through standard reporting to the Infrastructure Operations Committee. Noting that the Council could consider establishing a specific Water Services Committee to oversee water services delivery under the LWDW legislative framework, and that this could be established from adoption of the WSDP to oversee the implementation of the WSDP and the resultant organisational change.

Either the Chief Executive or Director Community Lifelenes should fill the role of Project Sponsor, and the Project Manager could be either the Director Community Lifelines, the Manager of the Water Team, or an external contractor.

An outline project structure is included below.

Figure 22: LWDW Implementation Organisation Chart



Project Roles and Responsibilities

These are as follows:

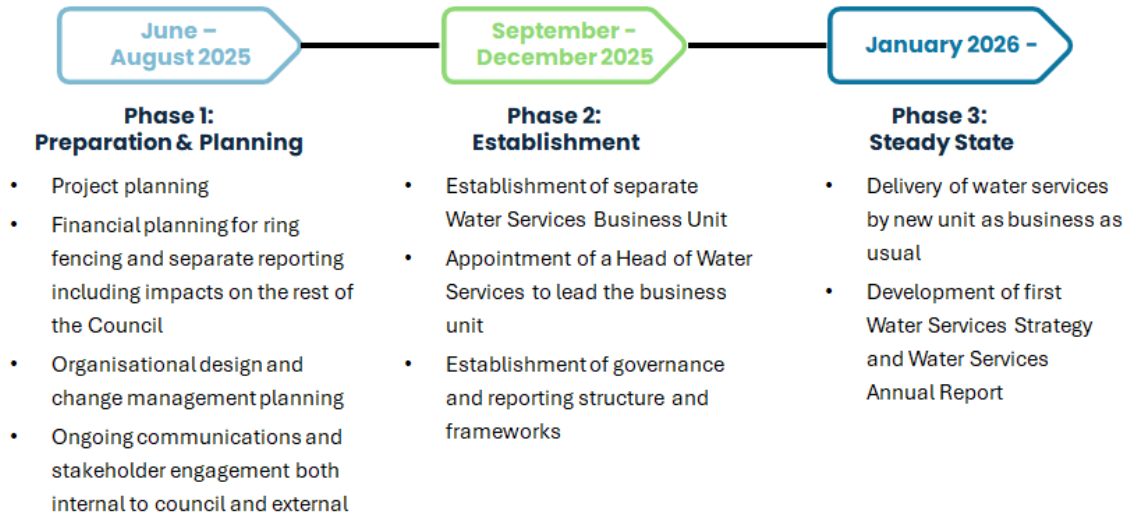
- Project Manager
  - Leads the project and is responsible for the delivery of project outputs and deliverables, project design, risk management, communications and stakeholder engagement, and reporting to the Project Sponsor and Council.
  - Day to day decisions within agreed scope and budget.
- Financial Lead
  - Leads all elements of the planning and implementation of the ring fencing of water services revenue, expenditure and reporting.
- Change Lead
  - Leads all elements of the planning and conduct of the organisational change required to fully establish water services delivery as separate business unit inside the Council.

The Project Manager and Leads would be supported by a range of subject matter experts from within the Council (e.g. communications staff) and external contracted specialist expertise where/if required.

Project Schedule and Milestones

The Project Manager will be responsible for developing a detailed project plan for the project. However, it is anticipated that the project will be conducted in three phases over a six-month period:

Figure 23: LWDW Implementation Project Phases



We expect that the Project Manager would hand over to a Head of Water Services once appointed in Phase 2. The Head of Water Services may wish to leave the project team in place throughout the establishment phase. Consideration could be given to the early appointment of a Head of Water Services and using the person appointed as the Project Manager for the establishment phase.

During Phase 1 the Project Manager would be responsible for ensuring that the following planning is conducted:

- Benefits Management Planning - the strategy, framework and plan for dealing with the management and delivery of benefits.
- Risk Management Planning - the strategy, framework and plan for dealing with the management of risk, including the development of a risk register that lists all the identified risks and the results of their analysis and evaluation.
- Post Investment Review Planning - a post investment review evaluating whether the benefits are being realised and the products are delivering the services proposed in the business case.

GISBORNE DISTRICT COUNCIL

Appendix 1: Financial Modelling Assumptions

The delivery models and modelling assumptions applied to each are summarised in the table below:

Service delivery	Description	Modelling assumptions
In-house	The existing service delivery model, encompassing the current structure of three waters teams within GDC's wider infrastructure group.	Source data provided by the Council forms the foundation of the modelled outcomes, with specific adjustments applied for the following: • Progressive depreciation funding to 100% fully funded by FY2028. Adjustments are applied to targeted rates. • Debt movements and financing costs aligned to targeted rates movements. • Depreciation calculated based on global rates and alternate capital investment profiles. • Where required, increase revenue to maintain total council debt-to-revenue below 250%.
Council-controlled organisation (CCO)	Establishment of a newly formed CCO to deliver water services from 1 July 2027.	Modelling inputs are aligned to the in-house model above, with separate adjustments to allow for: • Establishment costs and ongoing additional overheads. • Efficiencies as a result of the service delivery model. • Where required, increase revenue to maintain a funds from operations (FFO) to debt ratio above 10%.
Consumer trust-owned water services entity	Establishment of a newly formed water services entity owned by a consumer trust.	Modelling assumptions align with the CCO model above, except for a higher interest rate due to the inaccessible LGFA lending. Additional costs associated with the governance and ownership structure of a consumer trust are unlikely to be highly material to the decision at this time and would be refined if this option was considered suitable.

Capital Investment

Capital investment and the funding and financing of that investment are material components of the financial modelling, and two scenarios have been included within the projections.

- Base case: Capital investment programmes as per the three-year LTP 2024-2027, combined with the capital programme provided to the NTU in 2022 (CPI adjusted).
- High investment: The base case plus 33% additional spend on capital renewals and upgrades.

Data Sources

The foundation of the financial modelling is the information provided by the Council in response to a request for information. Due to the Council's decision to opt for a shortened LTP to FY2027, reliable data for most financial line items was only available to this date. To account for this, the modelling assumes a general continuation of prior trends with a corresponding increase to align with inflation.

Due to the capital investment programme's significance in the modelling, the Council has provided information for the projected periods, combining LTP data to FY2027 and data supplied to the NTU in 2022. Additional details for the longer-term outlook from FY2034-FY2054 have been obtained from the capital programme provided within the Council's response to the request for information document.

Data Limitations

The information provided to this point is sufficient to provide indicative results, limitations within the data exist in the following areas:

- As noted above, specific revenue and expense lines after FY2027 have been estimated at a high level. This may overlook any potential known material adjustments.
- Where the modelling relies on the rest of council operating results, the debt profile for non-three waters activities beyond FY2027 could not be precisely defined, requiring an assumption-driven estimate of this figure for years after this date.
- No development contributions were included within the data provided by the Council, potentially worsening the results across all scenarios if these are expected to be material line items.

Te Kaunihera o Te Tairāwhiti
GISBORNE
DISTRICT COUNCIL

24-324

Title:	24-324 Policy Framework for Decisions on Storm-Affected Land Acquired by Council
Section:	Strategic Planning
Prepared by:	Tessa Buchanan - Principal Advisor Integrated Strategy
Meeting Date:	Thursday 12 December 2024

Legal: No	Financial: No	Significance: Medium

Report to COUNCIL/TE KAUNIHERA for decision

PURPOSE - TE TAKE

The purpose of this report is to seek Council approval for the proposed Policy Framework for Decisions on Storm-Affected Land.

SUMMARY - HE **WHAKARĀPOPOTOTANGA**

The proposed policy framework sets out how decisions will be made on the use of Category 3 and other storm-affected land acquired by Council. The framework aims to balance safety, community interests, partnership with Mana Whenua, and cost-effectiveness.

A flexible, site-specific approach is recommended due to the varying risks and potential uses of the sites. Key elements include an objective to manage this land responsibly, efficiently, and effectively, with guiding principles focused on risk management, prudent financial use, and inclusion of Mana Whenua and community interests. The framework also includes a hierarchy for evaluating potential land uses. Potential uses could range from native revegetation and hazard management to parks or other community uses, to sale or other transfer out of Council ownership.

Implementation will involve engagement with Mana Whenua and community stakeholders, starting with site assessments and progressing to detailed use proposals. The policy framework includes timelines for specific milestones, with an initial review planned by December 2026 to ensure its continued relevance and effectiveness.

The decisions or matters in this report are considered to be of Medium significance in accordance with the Council's Significance and Engagement Policy.

RECOMMENDATIONS - **NGĀ TŪTOHUNGA**

That the Council/Te Kaunihera:

1. Approves the proposed Policy Framework for Decisions on Storm-Affected Land.

Authorised by:

Joanna Noble - Director Sustainable Futures

Keywords: Category 3, FOSAL, storm-affected land

BACKGROUND - HE **WHAKAMĀRAMA**

The voluntary buyout process is well advanced

1. Council is now more than three quarters through acquiring 39 "full buy back" properties as part of the Future of Severely Affected Land (FOSAL) Category 3 voluntary buyout process. An update on this process was provided to Council on 17 October (Report 24-251). As of 19 November 2024, demolition was complete on one of these 39 sites and underway on two sites, and demolition or relocation contracts had been awarded for another six sites.
2. Council will need to make decisions on how to use this land on a consistent basis, with consideration of issues important to Council and Te Tairāwhiti communities.

The land being acquired has a range of ongoing risk levels and possible uses

3. The Category 3 sites being purchased are a mix of land instability and flood hazard land. While some sites in Gisborne city and Makorori are adjacent to each other, most of the sites are spread out across various locations. The wide variety of properties with different locations and levels of hazard risk, and therefore different potential uses, means a 'one-size fits all' solution will not be possible.
4. The risks and land use potential of each parcel of land will need to be assessed. The risk profile will be different depending on the kinds of activities being considered. For example, a higher level of risk may be tolerated for non-residential activities than for residential. Some may have potential amenity and recreational use benefits or redevelopment opportunities where risks can be adequately and affordably managed.
5. A portion of the Category 3 properties have been identified as having potential to offer good environmental and recreational benefits if it is determined that they are best used as parks. There are also sites where significant value could be gained by entering discussions with adjacent landowners around boundary adjustments and land exchanges to create more continuous public access and ecological corridors.
6. It is likely that some sites will have little safe use beyond planting and land instability management. However, this would still have potential co-benefits for environmental wellbeing and contribute towards meeting Council obligations and community aspirations to increase indigenous biodiversity.

Other councils are also acquiring and deciding what to do with Category 3 land

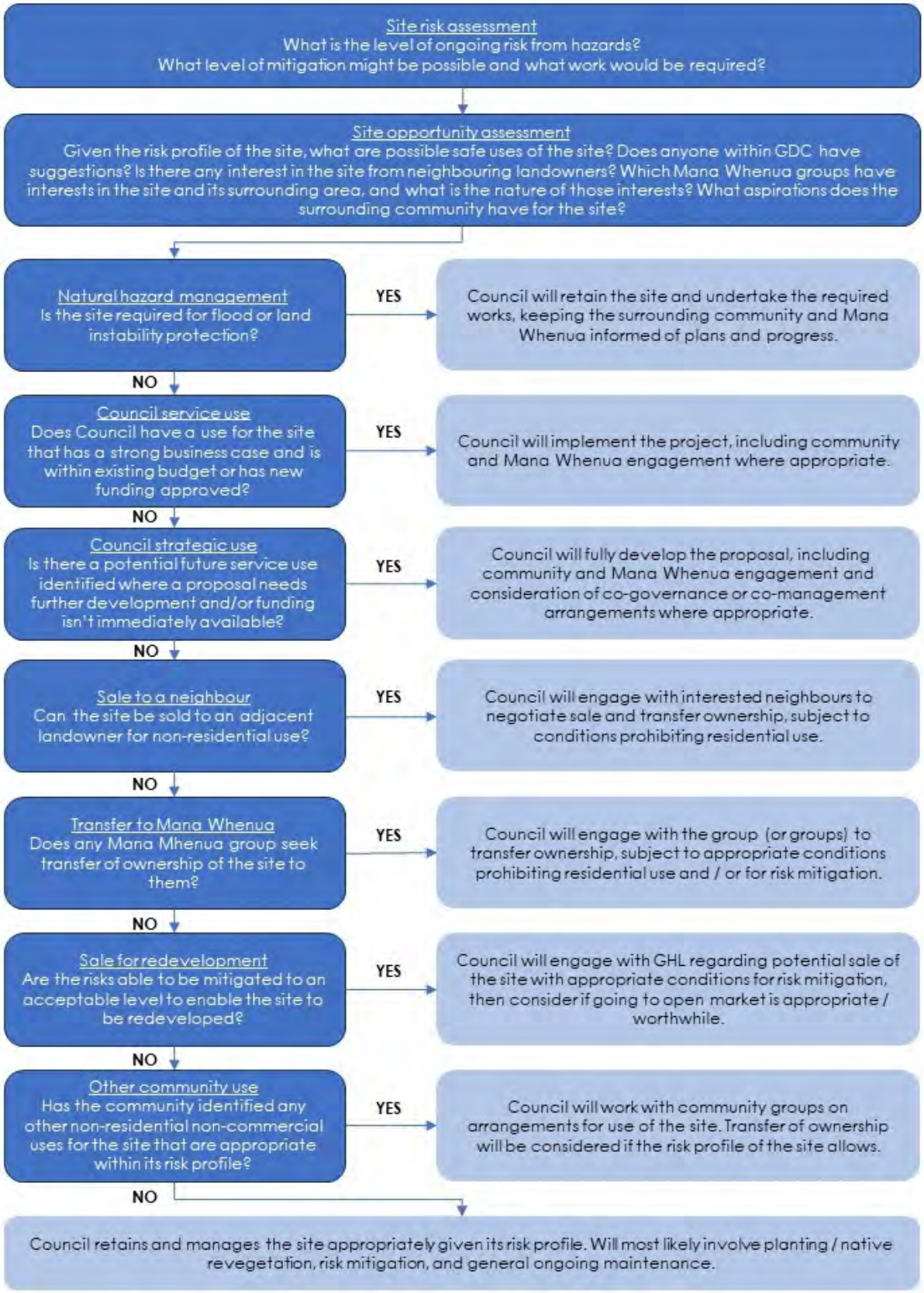
7. Auckland Council is in the process of acquiring several hundred storm-affected properties – also a mix of land instability and flood hazard land in a variety of locations. The Auckland Council governing body adopted interim guidance for decisions on this land in May 2024. The interim guidance sets out the objectives and principles for decision-making (see Item 11).
8. Hastings District Council (HDC) is implementing the Category 3 voluntary buyout programme in Hawke's Bay. All the Category 3 land being acquired by HDC is in rural areas and subject to flooding hazard. HDC adopted an acquisition, demolition, and disposal policy for Category 3 land in December 2023 (public excluded).

DISCUSSION and OPTIONS - WHAKAWHITINGA **KŌRERO** me **ngā KŌWHIRINGA**

A balanced, flexible approach is proposed

9. Given the diverse nature of the sites, a proposed overarching policy framework has been developed to guide decisions on their future use (Attachment 1). The proposed framework balances the risks inherent in these sites, opportunities to create public assets, opportunities for partnership with Mana Whenua, and cost recovery / reduction of ongoing costs to Council. It is also flexible enough to allow diverse solutions to be found for the diverse sites involved.
10. The policy framework is proposed to apply to "storm-affected land" rather than only Category 3 land. This wider application is proposed to avoid the need to develop another policy if other properties are acquired as part of the current recovery process or following future severe weather events.
11. The proposed policy framework sets out:
    a. an overarching objective and principles to guide decision-making; and
    b. a process for decision-making, including a decision-making hierarchy for potential uses.
12. The proposed objective and principles are based on the approach taken by Auckland Council in their interim guidance, with some tailoring to our Te Tairāwhiti context.
13. The objective of the policy framework is proposed to be that storm-affected land is managed:
    a. Responsibly (in accordance with any legal obligations in relation to the land and the community, and acting with good judgment);
    b. Efficiently (considering the costs and benefits of decisions and achieving value for money); and
    c. Effectively (in a way that appropriately manages risk and, where possible, produces positive social, economic, environmental, and cultural results for Council and the people of Te Tairāwhiti).
14. The principles to guide decision-making are proposed to be to:
    a. Manage risk associated with the land.
    b. Make suitable use of the land, within the appropriate level of risk.
    c. Be prudent with ratepayers' money.
    d. Include opportunities for partnership with Mana Whenua.
    e. Include former owners, Mana Whenua and local communities in the process where appropriate.
    f. Ensure decisions are transparent and fair.
    g. Make use of existing policies and processes where available and relevant.
15. The proposed decision-making process is summarised in Figure 1 below.
16. A lead hub will be identified to implement the policy framework for Category 3 sites, with input and support from other hubs as required including on the legal and financial implications of any proposals developed. A cross-Council working group may be convened for this purpose. Decisions will be made according to existing delegations – depending on the proposed use for a site this may include seeking Council decisions. Council will receive regular updates on progress through the Chief Executive report.

Figure 1: Summary of proposed decision-making process for storm-affected land



Cost recovery and reduction are relevant, but are not proposed to be the primary focus

17. Taking an approach focusing primarily on recovery of purchase costs and minimisation of holding costs was considered but is not recommended. Under such an approach, the process could involve first seeking to sell as many properties as possible to third parties, before seeking proposals for service or other uses for any unsold land. However, such an approach would be likely to increase the reputation risk / relating to previous owners (see Risks section below). It could also mean that genuine opportunities to turn some sites into valuable public assets and build partnerships with Mana Whenua might be lost if they were sold before those opportunities were even investigated.

18. Focusing primarily on cost recovery through sale of the land would also be unlikely to produce a radically different result than the proposed approach. Council would likely still end up retaining a significant amount of the storm-affected land (and will need to decide what to do with it) because many of the sites are likely to be unattractive to potential purchasers.

19. As noted above, being prudent with ratepayers' money is a guiding principle of the framework, so ongoing costs and value for money will be factored in as options are developed for each site. Sale of land to neighbours, the most likely interested buyers, will still be prioritised. Any transfer of ownership will be likely to reduce ongoing costs to Council.

ASSESSMENT of SIGNIFICANCE - AROTAKENGA o **NGĀ** HIRANGA

Consideration of consistency with and impact on the Regional Land Transport Plan and its implementation
Overall Process: Low Significance
This Report: Low Significance

Impacts on Council's delivery of its Financial Strategy and Long Term Plan
Overall Process: Medium Significance
This Report: Low Significance

Inconsistency with Council's current strategy and policy
Overall Process: Low Significance
This Report: Low Significance

The effects on all or a large part of the Gisborne district
Overall Process: Medium Significance
This Report: Low Significance

The effects on individuals or specific communities
Overall Process: High Significance
This Report: Low Significance

The level or history of public interest in the matter or issue
Overall Process: Medium Significance
This Report: Medium Significance

20. This report is part of a process to arrive at a decision that may be of Medium level in accordance with the Council's Significance and Engagement Policy.

21. Although no decisions at a site level are currently sought through this report, there is likely to be some interest in the content of this report as there is for FOSAL and recovery work in general. There have been inquiries received from neighbouring landowners about some Category 3 sites and some of the former owners still feel strong connections to their previous homes. However, most interest is likely to arise during the decision-making process under the framework as proposals for uses are developed and decisions are made.

TREATY COMPASS ANALYSIS

K**āwanatanga**

22. The proposed framework requires engagement with Mana Whenua from an early stage in the decision-making process, including in identification of opportunities for use of the land and developing detailed proposals.

23. Council has agreed with Te Aitanga a Māhaki that decisions on the future use of any of the land that is within the Te Aitanga Māhaki area will be jointly determined by Council and Te Aitanga a Māhaki. For land in areas of overlap with other iwi or hapū, those groups will also be involved in future use determinations.

Rangatiratanga

24. The proposed framework includes a principle requiring opportunities for partnership with Mana Whenua to be considered as part of the decision-making process. This may include co-governance or co-management of reserves or practical participation in implementing uses as appropriate, depending on the nature of the site and the proposed use.

Oritetanga

25. Various Mana Whenua groups are likely to be affected differently by implementation the framework. Some groups have no Category 3 sites located within their rohe while others have several, and as noted, the sites themselves are diverse in terms of risks and opportunities. Treatment of Māori historically in relation to use of Council land, and the alienation of land from Māori ownership more generally, has been considered in developing the proposed framework. This is reflected in the proposed requirement for Mana Whenua interests and aspirations to be identified early in the decision-making process, and for any land with no Council use or able to be sold to neighbouring landowners to be considered for transfer to Mana Whenua groups (hapū / iwi / land trusts / other).

Whakapono

26. The proposed framework requires of cultural significance to be identified as an early step in the decision-making process, and for staff implementing the framework to ensure they are aware of Mana Whenua interests in the sites and the surrounding areas.

TANGATA **WHENUA/MĀORI** ENGAGEMENT - **TŪTAKITANGA** TANGATA WHENUA

27. Hapū and iwi were informed of the proposed policy framework, but engagement was not undertaken in development of the framework. However, the framework requires appropriate engagement to be undertaken in the process of deciding how sites will be used.

COMMUNITY ENGAGEMENT - **TŪTAKITANGA** HAPORI

28. Engagement has not been undertaken in development of the policy framework. However, the framework requires appropriate engagement to be undertaken in the process of deciding how sites will be used. The former and current owners of Category 3 full buy back properties have been informed of the proposed framework.

CLIMATE CHANGE – Impacts / Implications - **NGĀ REREKĒTANGA ĀHUARANGI** – **ngā** whakaaweawe / **ngā** ritenga

29. The proposed policy framework has no direct climate change implications. Any climate change implications relevant for proposed uses of sites will be considered during the decision-making process.

CONSIDERATIONS - HEI WHAKAARO

Financial/Budget

30. The proposed policy framework has no direct financial implications. Any financial implications of proposals for use of sites will be considered during the decision-making process. A limited amount of funding may remain available for remediation from the $3.9 million allocated in the 3YP for demolition and making sites safe after all demolitions are complete. Staff costs for implementation of the policy framework have not been specifically budgeted for, so it will need to be accommodated within business as usual or budget reallocated.

Legal

31. The proposed policy framework has no direct legal implications. Any legal implications of proposals for use of sites will be considered during the decision-making process.

32. The 3YP includes provisions for the potential sale of Category 3 property. Any sales of Category 3 land would therefore be in accordance with the Long Term Plan (LTP) in terms of clause 32 Schedule 7 of the Local Government Act 2002 and would fall within the Chief Executive's existing delegation. Any other storm-affected site would need to be included in a future LTP for the Chief Executive to have delegated authority, otherwise a Council decision would be required to acquire or sell it.

33. For legal conditions of sale or transfer, Council could look to impose an encumbrance on the land (e.g. a covenant in gross in favour of Council) that would restrict residential activity in the same way as has been done for "residential relocation" properties in the Category 3 voluntary buyout process.

POLICY and PLANNING IMPLICATIONS - KAUPAPA HERE me **ngā** RITENGA WHAKAMAHERE

34. The proposed policy framework is consistent with Council's policies and plans. Zoning and hazard overlay changes are being worked on in the current review of TRMP district plan provisions. These overlays will be relevant for proposals on use of the land and considered in the decision-making process.

RISKS - **NGĀ TŪRARU**

35. The table below sets out the risks relating to storm-affected land and the proposed policy framework.

Risks	Description	Proposed mitigation
Costs and responsibilities of ownership	Council is left maintaining high-risk land that offers little public benefit, with potential for illegal dumping, weeds, and pests.	The policy framework will provide that Council will identify land that can be sold or transferred, within acceptable risk thresholds. Cost-effective ways to maintain land that must be retained will be sought.
Future severe weather events	Land could pose further risks to communities while it is in Council ownership.	Removal of dwellings and management of cleared sites (e.g. with planting and grassing) currently underway will reduce the level of vulnerability and exposure. Other operational work (e.g. retaining walls, drainage) may further reduce risks for some sites.
Reputational risk of selling or otherwise transferring Category 3 land	The public, especially previous property owners, may disagree with Category 3 land being used for other purposes, even if remaining hazard risks are able to be remediated to an acceptable level for the proposed use.	The draft principles establish that risk management is the first priority. Land will only be repurposed where it can be done so in a way that accounts for risks. The decision-making process will be transparent and well-communicated.
Conditions of sale / transfer may be able to be circumvented	For example, the Government's proposed new 'granny flats' provisions may make it challenging to enforce conditions of sale against residential use for transfers out of GDC ownership, particularly to neighbours. Small dwellings may be able to be built without consent or notification.	The final granny flats provisions are still to be confirmed. Any interaction they or other statutory or regulatory changes have with conditions on sale / transfer to restrict use of sites will need to be considered and addressed at the time any proposal to transfer is being developed.
Community demands for active land uses	There may be strong community expectations that land will be made available for community facilities and activities when it may not be safe to do so.	Risk assessment will provide an evidence-based foundation for communities to consider what might be possible in their area.

Risks	Description	Proposed mitigation
Delays in deciding the future use of the land	The community may become dissatisfied with the future of land remaining unresolved for too long. At the same time, the community may also be dissatisfied if decisions are perceived as rushed. Interest in potential purchase or land swaps has already been indicated for at least two of the Category 3 properties from neighbouring landowners. Currently decisions on those are being deferred until a policy framework is in place.	Decisions about the future of land will be made as soon as possible and the framework has timeframes built in for some decisions to be made. Engagement with local communities will help to communicate progress. The existing delegation of Category 3 sale decisions to the Chief Executive may help speed up the process, but some other proposals may require governance-level decisions.
Lack of engagement on the policy framework	Mana Whenua and community engagement has not, as yet, been undertaken on the policy framework.	Property-level decisions are where there is most likely to be interest in from Mana Whenua and the community. No decisions on uses for any property are being sought at this time and the framework has engagement built into those decision-making processes. The framework being in place will mean engagement at a property level is able to begin sooner than if time was taken to engage on a draft framework. Mana Whenua and previous owners have been provided the proposed framework and been advised it will be considered by Council.

NEXT STEPS - **NGĀ** MAHI E WHAI AKE

Date	Action/Milestone	Comments
January 2025	Implementation of policy framework will begin.	Implementation will be on a site-by-site basis and may not begin for all sites at once. Uses for some sites may be determined relatively quickly, while others may take one or more years to complete.
December 2025	Deadline for some decisions to be made.	Full proposals for strategic uses, sales to neighbours or others, agreements in principle with Mana Whenua groups.
December 2026	Review of policy framework.	To include whether it is still required.

ATTACHMENTS - **NGĀ TĀPIRITANGA**

1. Attachment 1 - Proposed Policy Framework for Decisions on Storm- Affected Land [24-324.1 - 10 pages]

Te Kaunihera o Te Tairāwhiti
GISBORNE
DISTRICT COUNCIL

Te Anga Kaupapa mo ngā whakatau whenua kari-āwhā

Policy Framework for Decisions on Storm-Affected Land

DATED: 12/12/2024

Policy Framework for Decisions on Storm-Affected Land

INTRODUCTION

1. Under the Gisborne District Council ('Council') Category 3 Voluntary Buyout Policy ('the buyout policy') Council is assisting people living in properties identified as Category 3 under the Future of Severely Affected Land (FOSAL) framework to relocate from those high-risk properties. 37 sites of land in Gisborne city and around Te Tairāwhiti will be acquired by Council through this process.

2. Category 3 properties were identified as high risk due to an intolerable risk to life where it is not possible to reduce the risk. Once residential improvements are removed from the properties, Council needs to decide how the sites will be used given their ongoing risks from flooding or land instability. The sites are diverse in location, risks, and physical features so a one size fits all approach is not appropriate.

3. Other storm-affected land may also be acquired by Council as recovery work progresses or after future weather events. Decisions will also be required regarding the use of such land once it is acquired.

SCOPE

4. This policy framework will guide decision-making on the use of storm-affected land acquired by Council ('storm-affected land'). This includes Category 3 land purchased under the buyout policy and any other storm-affected land acquired by Council. Council may, from time to time, also apply the guidance to other storm-affected land in its property portfolio, at its discretion.

OBJECTIVE

5. The objective of this policy framework is that storm-affected land is managed:

    a. Responsibly (in accordance with any legal obligations in relation to the land and the community, and acting with good judgment);

    b. Efficiently (considering the costs and benefits of decisions and achieving value for money); and

    c. Effectively (in a way that appropriately manages risk and, where possible, produces positive social, economic, environmental, and cultural results for Council and the people of Te Tairāwhiti).

PRINCIPLES

6. All processes to determine the future use of storm-affected land will be guided by the following principles:

    a. Manage risk associated with the land.

    b. Make suitable use of the land, within the appropriate level of risk.

    c. Be prudent with ratepayers' money.

    d. Include opportunities for partnership with Mana Whenua.

e. Include former owners, Mana Whenua and local communities in the process where appropriate.

f. Ensure decisions are transparent and fair.

g. Make use of existing policies and processes where available and relevant.

2. Further detail on each of these principles is provided below.

Manage risk associated with the land

3. The process for deciding uses of council-acquired storm-affected land must continue to uphold the objective of the Category 3 voluntary buyout policy to support people to voluntarily relocate from residential housing situations on properties that pose an intolerable risk to their lives from flooding or land instability.

4. All decisions on the use of this land should take a precautionary approach. Risk assessments will be carried out to determine the level of risk across each site. Potential land uses will be determined based on the ability to manage risks from flooding and landslide, and Council's tolerance to the residual risk to the public. In the case of sale to third parties, risks will be communicated to buyers. Additional conditions of sale will ensure risks continue to be managed appropriately.

5. Decisions on the use of the land will take into account the latest risk assessment information available, including the natural hazards plan changes currently being developed and updates to flood and land instability mapping. If zoning changes are needed for specific sites these will be managed through regular plan change processes.

Make suitable use of the land, within the appropriate level of risk

6. Each acquired property or group of properties will be reviewed with a view to optimising land use. This means prioritising use of the land in the public interest and making use of the land in ways that best meet Council's roles and responsibilities. Hazard management is a community benefit that can be delivered through direct council ownership or through meeting appropriate conditions for transfer, and sale of land to third parties can be in the public interest as part of optimising Council's asset holdings.

7. Given the hazards associated with the land, it is likely that decisions will need to be made on a case-by-case basis, considering risk management, financial implications, and potential benefits to communities.

Be prudent with ratepayers' money

8. The LGA sets out that a council must act prudently and in a manner that promotes the current and future interests of the community. Being prudent with ratepayers' money in this context includes making the best use of assets, minimising consequential costs and risks to Council, managing operating expenditure (e.g. maintenance), and reducing the asset base, where possible, where it is not needed for service uses.

Include opportunities for partnership with Mana Whenua

9. Sites of cultural significance will be identified as an early step in the decision-making process. New opportunities for partnership will be investigated, such as co-management or co-governance of reserves or participation in implementing project/s on the land.

Include former owners, local communities and Mana Whenua in the process to determine future land uses where appropriate

10. Council has established policies and processes for community participation and engagement with Mana Whenua (Significance and Engagement Policy, Tairāwhiti Piritahi). These will be applied as appropriate, noting that the risk profiles of some sites may limit engagement to information / transparency, as there may be limited scope for choice in the use of those sites due to the risks that are present.

11. The future use of any sites within the Te Aitanga a Māhaki area will be jointly determined by Council and Te Aitanga a Māhaki. For sites in an area of overlap between Te Aitanga a Māhaki and other iwi or hapū, the other group or groups will also be part of the joint determination in relation to those sites.

Ensure decisions are transparent and fair

12. Decisions about the use of this land will be made fairly and transparently, in a documented, consistent, and defensible manner. Due consideration will be given to available options and will be based on supporting evidence.

Make use of existing policies and processes where available and relevant

13. Decisions about this land will be managed, as far as possible, using existing processes, including maintenance of acquired land, Mana Whenua partnerships, community engagement processes, property optimisation and land transfer processes, and meeting the relevant planning and consenting requirements for any potential development or other use of land. Where there are not relevant existing processes, or the existing processes are inadequate, new processes will be developed.

14. Council is committed to giving effect to Te Tiriti o Waitangi. Te Tiriti Compass will inform decisions made under this framework.

15. Any planting on sites retained in Council ownership will prioritise native revegetation, in line with Council's obligations under the National Policy Statement for Indigenous Biodiversity (NPS-IB) and Council's Urban Biodiversity Action Plan.

DECISION-MAKING PROCESS

16. This section sets out the steps for decisions to be reached on the future use of storm-affected land. Sites may be progressed individually or grouped together, depending on their location and characteristics.

Step 1: Site risk assessment

17. Sites will be assessed to determine the level of ongoing risk from flooding, land instability or other hazards. Initial investigation will also be undertaken of whether and how those risks may be mitigated, such as drainage / retaining walls / planting. This information will be compiled into a document for each site (a 'risk profile').

18. Existing information held by Council, for example from previous site assessments, hazard mapping and other sources will be considered. Further site inspections and technical investigation will be undertaken when required.

Step 2: Site opportunity assessment

19. Options for potential uses will be identified, informed by the risk profile. This may include discussion within Council and / or seeking ideas from local communities, Mana Whenua, the previous landowner, or neighbouring landowners.

20. Engagement with Mana Whenua for the location of the site or sites under consideration will be undertaken to ensure Council understands the significance of the site and the surrounding area to them, any aspirations they have for the site, and any overlap of interests.

21. Potential uses will be identified and developed by Council, internally and through engagement with local communities, previous and neighbouring landowners, Mana Whenua, and community interest groups. Opportunities for reconfiguration of sites, for example through land swaps with neighbours, that enhance or enable specific uses may be identified.

22. As well as the risk profile, there may also be other characteristics of a site that could impact potential use options, for example lack of legal access. Any such issues will also be identified at this stage.

Step 3: Assessment against decision-making hierarchy

23. Once options for potential uses have been identified, potential uses will be considered as follows:

    a. Natural hazard management

    b. Council service use

    c. Council strategic use

    d. Sale to a neighbour

    e. Transfer to Mana Whenua

    f. Sale for redevelopment

    g. Other community use

24. Sites will first be considered for their potential to contribute to management of risks from natural hazards to the surrounding community. If they are not suitable for this purpose, service uses by Council immediately in the future will be considered, and so on. Further information on this decision-making hierarchy is set out below.

Natural hazard management

25. Site risk profiles will identify land instability, flooding, or other hazards that are present. These may present an unacceptable level of ongoing risk to people using the property and may also represent risks to surrounding properties.

26. If a site is required for management of natural hazards, Council will retain the land and undertake the required physical work and ongoing management of the land. Mana Whenua and the local community will be kept informed of plans and progress with the work.

27. If the site is not required for management of natural hazards, Council service uses will be considered.

Council service use

28. Council may have identified a service use for a site such as open space / reserve or siting of resources or infrastructure. To be considered a 'Council service use' under this policy framework, the proposed use will have a strong business case and be within existing budget or have new funding approved.

29. This category may include incorporation of a site into an existing reserve. Before any incorporation into an existing reserve is proposed there will be discussion with Mana Whenua in accordance with any co-governance or co-management arrangements in place for the existing reserve.

30. If a Council service use is identified, Council will implement the project, including any reconfiguration of boundaries required. Community and Mana Whenua input into planning and/or participation in implementation will be sought if appropriate for the nature of the project and in accordance with existing engagement policies. New co-governance or co-management arrangements and other opportunities for partnership will be considered and discussed with Mana Whenua as appropriate for the nature of the proposed use.

31. If a Council service use is not identified, strategic uses by Council will be considered.

Council strategic use

32. Council may have identified a service use for a site where a proposal requires further development or engagement before it can proceed and / or funding is not immediately available. This will be considered a 'Council strategic use' under this policy framework.

33. If a Council strategic use is identified, Council will develop a full proposal, including undertaking Mana Whenua and community engagement. New co-governance or co-management arrangements and other opportunities for partnership will be considered and discussed with Mana Whenua as appropriate for the nature of the proposed use.

34. Proposals for Council strategic uses will be fully developed within 1 year of the adoption of this policy framework. If a proposal is not developed in this timeframe, the relevant site or sites will be re-assessed against the decision-making hierarchy.

35. If a Council strategic use is not identified, sale to a neighbour will be considered.

Sale to a neighbour

35. Adjacent landowners may be interested in purchasing all or part of storm-affected land to add to their existing properties for non-residential uses. This could include, for example, uses such as grazing, planting, driveways, parking, or expanding existing gardens.

36. If a potential sale to a neighbour is identified, Council will work with the interested neighbour to negotiate the sale and transfer ownership. Sale would be subject to conditions restricting commercial or residential activity on the land.

37. If the sale is not completed within 1 year of the adoption of this policy framework, the site will be re-assessed against the decision-making hierarchy.

38. If no potential sale to a neighbour is identified, transfer to Mana Whenua will be considered.

Transfer to Mana Whenua

39. Mana Whenua interests and aspirations having been identified in site opportunity assessments, Council will engage with relevant Mana Whenua groups (hapū / iwi / land trusts / other) regarding the potential transfer of ownership to them.

40. Transfers will be subject to conditions prohibiting residential activity on the land. If the risk profile for a site has identified possible mitigation works that may reduce the level of risk sufficiently to allow it to be redeveloped. In this case, the conditions of transfer would prohibit commercial or residential activity until acceptable risk mitigation works have been completed.

41. If more than one Mana Whenua group seeks transfer of a site, those groups will need to agree between themselves how to proceed.

42. If in-principle agreement for a site to transfer to Mana Whenua is not reached within 1 year of the adoption of this policy framework, the site will be re-considered against the decision-making hierarchy. Final transfer may be completed on a longer timeframe.

43. If no Mana Whenua group seeks transfer of ownership, sale for redevelopment will be considered.

Sale for redevelopment

44. The risk profile may identify possible mitigation works that could reduce the level of risk of all or part of a site sufficiently to allow it to be redeveloped. If this is the case, and there are no other issues identified, sale of the site may be possible.

45. Any sale will be subject to conditions prohibiting commercial or residential activity on the site until the purchaser has completed acceptable risk mitigation works at their own cost. All ongoing risks associated with the land would become the responsibility of the new landowner.

46. Council will first engage with Gisborne Holdings Ltd (GHL) If that engagement does not result in sale of the site, Council will consider whether going to the open market is appropriate and/or worthwhile.

47. If sale of the site is unsuccessful within 1 year of the adoption of this policy framework, the site will be re-assessed against the decision-making hierarchy.

48. If sale for redevelopment is not an option, other community use will be considered.

Other community use

49. Community members or groups may identify a potential non-residential use for a site that are acceptable within its risk profile, such as community gardens, native planting, or other passive uses ('other community uses'). These may be identified in the opportunity assessment phase or may be specifically sought by Council once other potential uses are ruled out.

50. If any other community uses are identified, Council will work with the relevant group on the arrangements for use of the site, which may include leasing. Agreements for use or transfer of the land will include restrictions to ensure it is only used as specified.

51. Transfer of ownership of the site may be considered if the risk profile of the site allows, given that any ongoing risks would fall on the new landowner. If the site is retained by Council, Council will undertake any required risk mitigation works. If the land transfers, this will be the responsibility of the new owner.

52. If no other community use is identified, Council will retain and manage the land.

Sites retained by Council with no specific use identified

53. Some land may be required to be retained by Council with no specific use identified. Council will manage such sites appropriately in line with their risk profile. This will most likely involve planting undertaking any risk mitigation work required for passive use of the site, and general ongoing maintenance such as weed control and waste removal.

Step 4: Final decision

54. All information and considerations in Steps 1-3 will be documented and provided to the decision-maker (may be in summary form). The information will form the basis of recommendations to determine use of the land. Decisions will be made at the appropriate level for the proposal under existing delegations.

55. The Chief Executive has delegation in the Three-Year Plan to sell Category 3 sites. This delegation does not extend to other storm-affected land so a Council decision or new delegation would be required for those sites to be sold.

56. In some instances, a Council decision will be required by an existing internal policy or process or a statutory requirement. The responsible Director or the Chief Executive may also decide at their discretion to take any future use decision to Council, even if it is covered by existing delegations.

RESPONSIBILITY FOR IMPLEMENTATION

57. All Category 3 sites are being held and managed by Liveable Communities hub until final decisions on their long-term use are made. Appropriate parts of Council to hold and manage sites remaining in Council ownership will be determined as part of those decisions.

58. Responsibility for implementation of the decision-making process for Category 3 sites will be assigned as soon as possible following adoption of this policy framework. A working group of staff from relevant parts of Council may be convened.

59. Which part of Council will hold and manage any other storm-affected land acquired, including leading the decision-making on its use once acquired, will be determined at the time a decision is made to purchase that land.

TIMEFRAMES

60. Council estimates the timeframe for completion of decisions on future use of all Category 3 sites will be at least 2 years from the date of adoption of this policy framework. However, decisions on many of the sites will be possible in a shorter timeframe.

61. Council will work to develop proposals for all storm-affected land as soon as possible after it is acquired, including Mana Whenua and community engagement as appropriate.

PROGRESS UPDATES

62. Regular updates will be provided to the Council through the Chief Executive report.

REVIEW

63. This policy framework will be reviewed 2 years after the date of its adoption. The review will include consideration of whether the framework should continue to apply. If the framework has not been reviewed, amended, or replaced, it will continue to apply.

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Te Kaunihera o Te Tairāwhiti
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DISTRICT COUNCIL

24-342

Title:	24-342 Temporary Alcohol Bans December 2024 and January 2025
Section:	Compliance Monitoring & Enforcement Internal Partnerships & Protection
Prepared by:	Vincenzo Petrella - Environmental Health Team Leader
Meeting Date:	Thursday 12 December 2024

Legal: Yes	Financial: No	Significance: Low

Report to COUNCIL/TE KAUNIHERA for decision

PURPOSE - TE TAKE

The purpose of this report is to seek approval from Council for four temporary alcohol bans during the Rhythm & Vines Festival (R&V) and the Summer Frequencies Music & Arts Festival (SF), as requested by the New Zealand Police (Police).

SUMMARY - HE **WHAKARĀPOPOTOTANGA**

The Police have requested the temporary alcohol bans (see Attachment 1) because in previous years people have consumed alcohol in these areas during these types of events and members of the public have been subjected to threats and disorder from intoxicated people.

The first proposed temporary alcohol ban is in the vicinity of R&V. It involves the sites adjoining and including the Gray's Bush Scenic Reserve and Carpark, Gray's Bush Lookout, Waimata Valley Road, Back Ormond Road from Hansen Road to Matawai Road (SH2), Waihirere Domain Road, Snowsill Road, Glenelg Road, Kawatiri Road and all the roads joining Matawai Road to Back Ormond Road.

Lytton West Reserve is also included in this application (see Attachment 2). The duration of the ban sought for R&V is from 8am on 27 December 2024 to 8am on 1 January 2025. This ban has been in place in the same zone/s and timeframe since December 2017.

The second proposed temporary alcohol ban is in the Midway Beach area and environs surrounding the Soundshell. The subject area for this proposed ban is the area bounded by Awapuni Road, Pacific Street, Centennial Marine Drive, Beacon Street, Salisbury Road and Midway Beach (see Attachment 3). The duration of the ban sought for this area is 8am on 27 December 2024 to 8am on 1 January 2025. This temporary ban is used regularly for music events at the Soundshell and covers exactly the same area as the Bylaw's Christmas ban for the Midway Beach area.

It is noted the Police also requested a ban in the Midway Beach area for the duration of R&V. However, the existing Christmas ban that is already in the Bylaw is for the same duration and the same area, so did not need to be included in the temporary bans.

The third proposed temporary alcohol ban is in the area of Kelvin Park and Marina Park, which is proposed to strengthen the permanent Central Business District alcohol ban, areas where people may be drinking while waiting for buses to the R&V site. The subject area for this alcohol ban is the whole of Marina Park bounded by the two rivers, Ormond Road, Fitzherbert Street and Peel Street, and the whole of Kelvin Park bounded by the river, Peel Street, Stout Street and the Museum (see Attachment 4). The duration of the ban sought for this area is from 8am on 27 December 2024 to 8am on 1 January 2025. This is the fourth year this ban would be in place.

The fourth proposed temporary alcohol ban is to protect the Midway Beach area and environs surrounding the Soundshell during the Summer Frequencies Music & Arts Festival. The subject area for this proposed ban is the area bounded by Awapuni Road, Pacific Street, Centennial Marine Drive, Beacon Street, Salisbury Road and Midway Beach (see Attachment 3). The duration of the ban sought for this area is 8am on 17 January 2025 to 8am on 19 January 2025. This temporary ban is used regularly for music events at the Soundshell and covers exactly the same area as the Gisborne District Alcohol Control Bylaw's Christmas ban for the Midway Beach area.

The decisions or matters in this report are considered to be of Low significance in accordance with the Council's Significance and Engagement Policy.

RECOMMENDATIONS - **NGĀ TŪTOHUNGA**

That the Council/Te Kaunihera:

1. Exercises its power under clause 7.1 of the Gisborne District Alcohol Bylaw to prohibit the consumption, bringing into, or possession of alcohol:

    a) From 8am on 27 December 2024 to 8am on 1 January 2025, in the areas shown on the map at Attachment 2 (being area in the vicinity of R&V, around and including Gray's Bush Scenic Reserve and Carpark, Gray's Bush Lookout, Waimata Valley Road, Back Ormond Road from Hansen Road to Matawai Road [SH2], Waihirere Domain Road, Snowsill Road, Glenelg Road, Kawatiri Road and all the roads joining Matawai Road to Back Ormond Road and Lytton West Reserve).

    b) From 8am on 27 December 2024 to 8am on 1 January 2025, in the areas shown on the map in Attachment 3 being the area bounded by Awapuni Road, Pacific Street, Centennial Marine Drive, Beacon Street, Salisbury Road and Midway Beach.

    c) From 8am on 27 December 2024 to 8am on 1 January 2025, in the areas shown on the map in Attachment 4 (being the area of Marina Park bounded by the two rivers, Ormond Road, Fitzherbert Street and Peel Street, and the whole of Kelvin Park bounded by the river, Peel Street, Stout Street and the Museum).

    d) From 8am on 17 January 2025 to 8am on 19 January 2025 in the areas shown on the map in Attachment 3 being the area bounded by Awapuni Road, Pacific Street, Centennial Marine Drive, Beacon Street, Salisbury Road and Midway Beach.

Authorised by:

James Baty - Director Internal Partnerships & Protection

Keywords: Temporary Alcohol bans Gisborne, Rhythm & Vines, Summer Frequency.

BACKGROUND - HE **WHAKAMĀRAMA**

1. Clause 7.1 of the Gisborne District Alcohol Control Bylaw 2015 (Bylaw) allows Council, by resolution, to make a restricted area prohibiting or restricting the consumption, bringing into or possession of alcohol in public places, for the purpose of regulating or controlling a large-scale event ("large scale event alcohol ban").

2. Police have requested that Council impose a temporary large scale event alcohol ban to prohibit the consumption, bringing into or possession of alcohol in areas surrounding Rhythm & Vines and Summer Frequencies Festivals.

3. The Police have made the request because in previous years people have consumed alcohol in these areas (sometimes excessively) and the presence of the bans showed to reduce episodes where members of the public are subjected to incidents involving threats and disorder from intoxicated people.

4. Police advise they will have enough resources to enforce the ban in the proposed areas provided that the Council displays adequate signage warning people of the ban.

5. Police advise they use discretion and apply enforcement tools without being overbearing when dealing with incidents of a minor nature and during the last few years the following Alcohol Infringement Notices (AION's) have been issued:
    - 2016/17 – 103 AIONs, 100 warnings and a total of 203 breaches.
    - 2017/18 – 47 AIONs, 100 warnings and a total of 147 breaches.
    - 2018/19 – 0 AIONs, 24 Warnings for a total of 24 breaches (no AIONs issued due to poor signage).
    - 2019/20 – 82 AIONs, 100 Warnings, and a total of 180 breaches.
    - 2020/21 – 300 AIONs, 105 Warnings, and a total of 405 breaches.
    - 2022/23 –
    - 2023/24 –

6. The Police believe that the increase in infringements in the year 2020/21, was due to the Police feeling safer to issue infringements because of more and better placed signage than previous years. Coincidentally the Police have been able to start issuing infringement notices directly from their cell phones from the same year. However, no data has been provided by the Police regarding issued AION for 2022/23 and 2023/24 in this year's application.

7. Police are the enforcement agency ensuring compliance with this Bylaw. The maximum infringement fine for the breach of the alcohol ban is $250. Staff believe that the proposed bans will provide an additional tool to assist the Police in dealing with alcohol-related disorder issues and minimising alcohol-related harm; Therefore, our recommendation is to support this application.

DISCUSSION and OPTIONS - WHAKAWHITINGA **KŌRERO** me **ngā KŌWHIRINGA**

8. Before making a large-scale event alcohol ban the Council must be satisfied that the proposed ban meets the following requirement under clause 7.2 of the Bylaw:

    a. Is for a large event and not suitable for consideration for a permanent ban (clause 7.2[a]).

        - The proposed temporary ban is to support large events and would not currently be suitable for a permanent ban, as the areas of the bans have changed over the last few years in response to issues arising. However, when the Alcohol Control Bylaw 2015 is reviewed, these areas could be considered for permanent inclusion.

    b. Gives effect to the purpose of the Bylaw (clause 7.2[b]).

        - The purpose of the Bylaw is to regulate and control the consumption of alcohol in public places, the bringing of alcohol onto public places and the possession of alcohol in public places to reduce the incidents of alcohol-related harm.
        - The proposed temporary ban will help to reduce the incidents of alcohol-related harm arising from the large-scale events in Gisborne over the New Year period.

    c. The decision-making process complies with the decision-making requirements of Subpart 1 Part 6 of the Local Government Act 2002 (LGA) (clause 7.2[c]).

        - Subpart 1 of Part 6 of the LGA requires Council to consider the views and preferences of persons likely to be affected by, or have an interest in, the matter (s.78) and the principles of consultation (s.82).
        - Council is already aware of the views of the Police and the community that has been affected by the events over the last few years and there are no other practicable options to achieve the purpose of the Bylaw and to reduce alcohol-related harm. These temporary bans are only for a short duration and related to large events.

9. In addition, under s.147B of the Local Government Act, Council must be satisfied of the following matters before making the temporary alcohol ban.

    d. There is evidence to which the Bylaw applies of experience of a high level of crime or disorder that can be shown to have been caused or made worse by alcohol consumption in the area.

        - Following problems of alcohol harm and disorder during the 2016 and 2017 R&V events, the event changed to “no BYO” alcohol.
        - This resulted in large numbers of patrons looking for public areas to consume alcohol outside the event. Since implementing the extended alcohol ban areas in 2017, there has been a noticeable decrease in people drinking in those areas. However there remains a tendency for some patrons to consume alcohol – sometimes large amounts – in their vehicles along the rural side roads, parks and reserves approaching the festival.

- It is likely that if a temporary ban is not put in place this year, excessive alcohol consumption and associated disorder would return to the areas.
- Marina Park and Kelvin Park are adjacent to the R&V bus pick-up points. Some patrons consume alcohol while waiting for the buses. An alcohol ban supports the amenity and good order of these public spaces during R&V.
- Since implementing the Marina Park and Kelvin Park temporary bans three years ago, calls to the Police regarding public place drinking and disorder were significantly reduced in this area.
- The Police advise that during summer concerts at the Soundshell people have been observed drinking alcohol while walking to the events, on the beach, or in the nearby Adventure Playground. In addition, people who may not be attending the concert have been seen congregating in cars and drinking while listening to the music. This area in the past has also been a significant daytime and early evening gathering place for R&V festival goers who want to spend some time at the beach. The temporary ban will significantly reduce these issues.

10. The Bylaw is appropriate and proportionate in the light of the evidence.
    - The temporary alcohol bans are appropriate and proportionate in the light of past experiences regarding public place drinking and disorder during these events.
11. The Bylaw can be justified as a reasonable limitation on people's rights and freedoms.
    - The temporary alcohol bans will not apply to private property or any premises or business holding a current alcohol licence or special licence. The bans are of limited duration and area and aimed at preventing disorder and harm to members of the public. It can therefore be justified as a reasonable limit on people's rights and freedoms.

Options

12. Council may decide not to make the proposed temporary alcohol bans; however, this option is not recommended. The request from Police indicates that the temporary alcohol bans are necessary to ensure that the Police will be able to regulate and prevent alcohol-related incidents efficiently and effectively.

ASSESSMENT of SIGNIFICANCE - AROTAKENGA o **NGĀ** HIRANGA

Consideration of consistency with and impact on the Regional Land Transport Plan and its implementation
Overall Process: Low Significance
This Report: Low Significance

Impacts on Council's delivery of its Financial Strategy and Long-Term Plan
Overall Process: Low Significance
This Report: Low Significance

Inconsistency with Council's current strategy and policy
Overall Process: Low Significance
This Report: Low Significance

The effects on all or a large part of the Gisborne district
Overall Process: Low Significance
This Report: Low Significance

The effects on individuals or specific communities
Overall Process: Low Significance
This Report: Low Significance

The level or history of public interest in the matter or issue
Overall Process: Low Significance
This Report: Low Significance

13. The decisions or matters in this report are considered to be of Low significance in accordance with Council's Significance and Engagement Policy.

TREATY COMPASS ANALYSIS

K**āwanatanga**

14. The decisions or matters in this report are considered to be in line with article 1 of the Treaty of Waitangi in accordance with Council's Te Tiriti Compass Writing Guide 2024.

Rangatiratanga

15. The decisions or matters in this report are considered to be in line with article 2 of the Treaty of Waitangi in accordance with Council's Te Tiriti Compass Writing Guide 2024.

Oritetanga

16. The decisions or matters in this report are considered to be in line with article 3 of the Treaty of Waitangi in accordance with Council's Te Tiriti Compass Writing Guide 2024.

Whakapono

17. The decisions or matters in this report are considered to be in line with article 4 of the Treaty of Waitangi in accordance with Council's Te Tiriti Compass Writing Guide 2024.

TANGATA **WHENUA/MĀORI** ENGAGEMENT - **TŪTAKITANGA** TANGATA WHENUA

18. As this matter is of low significance no specific engagement with tangata whenua has been undertaken.

COMMUNITY ENGAGEMENT - **TŪTAKITANGA** HAPORI

19. This matter is of low significance and community engagement is not required.

CLIMATE CHANGE – Impacts / Implications - **NGĀ REREKĒTANGA ĀHUARANGI – ngā** whakaaweawe / **ngā** ritenga

20. The matter will not impact climate change.

CONSIDERATIONS - HEI WHAKAARO

Financial/Budget

21. Financial costs will include the installation and removal of signage through the alcohol ban areas and the cost of public notices.

Legal

22. Council has the power to make the temporary alcohol bans under clause 7.1 of the Bylaw, and the power is authorised by sections 151(3) and 147B of the LGA.

POLICY and PLANNING IMPLICATIONS - KAUPAPA HERE me **ngā** RITENGA WHAKAMAHERE

23. There are no policy or planning implications associated with this decision.

RISKS - **NGĀ TŪRARU**

24. There are no major risks associated with this decision.

NEXT STEPS - **NGĀ** MAHI E WHAI AKE

Date	Action/Milestone	Comments
As soon as a decision is made.	Give public notice of the temporary bans.	
A few days before the event.	Ensure that sufficient displayed signage is in place.	

ATTACHMENTS - **NGĀ TĀPIRITANGA**

1. Attachment 1 - Police Alcohol Ban Application - R& V & SF [24-342.1 - 12 pages]
2. Attachment 2 - R& V Temporary Alcohol Bans - Vicinity [24-342.2 - 1 page]
3. Attachment 3 - R& V & SF Temporary Alcohol Bans - Midway Beach [24-342.3 - 1 page]
4. Attachment 4 - R& V & SF Temporary Alcohol Bans - Marina & Kelvin Parks [24-342.4 - 1 page]

New Zealand POLICE
Nga Pirihimana O Aotearoa

Wednesday, 13 November 2024

The Secretary
The Gisborne District Licensing Agency
P.O. Box 747
GISBORNE

Re: Application for Temporary Liquor Ban areas for-

- **Rhythm & Vines Liquor Ban – 0800 hrs on Friday 27 December 2024 to 0800 hrs on Wednesday 01 January 2025 for Rhythm & Vines 2024 Music Festival**
- **Midway Liquor Ban – 0800 hrs on Friday 27 December 2024 to 0800 hrs on Wednesday 01 January 2025 for Awapuni Rd (from Beacon St to Pacific St) and Centennial Marine Drive (inclusive of beach front from Salisbury Rd to the Beacon tower) for Rhythm & Vines 2024 Music Festival**
- **The Marina Park and Kelvin Park Liquor Ban - 0800 hrs on Friday 27 December 2024 to 0800 hrs on Wednesday 01 January 2025 for Rhythm & Vines 2024 Music Festival.**
- **Midway Liquor Ban for Summer Frequencies Music Festival – 0800hrs on the Friday 17 January 2025 to 0800hrs on Sunday 19 January 2025 for Awapuni Rd (from Beacon St to Pacific St) and Centennial Marine Drive (inclusive of beach front from Salisbury Rd to the Beacon tower) for the Summer Frequencies Music Festival.**

The Gisborne Police have made an application to the Gisborne District Council for a Temporary Liquor Ban to consider and approve the implementation for the Rhythm & Vines Music Festival situated on Waiohika Estate, Waimata Valley

Road and the Summer Frequencies Music Festival situated at the Soundshell, Centennial Marine Drive, Gisborne.

On each occasion the Gisborne District Council has granted authority to implement a Temporary Liquor Ban to operate in the area surrounding the Rhythm & Vines Festival area, Midway Beach, Centennial Marine Drive and the Marina Park and Kelvin Park areas.

Police are again seeking approval from the Gisborne District Council to consider and approve the continuation of these Temporary Liquor Ban areas.
The Temporary Liquor Ban request is to assist with the Rhythm & Vines Music Festival and the Summer Frequencies Music Festival which will cover the periods:-

Rhythm & Vines 2024 Music Festival – 0800 hrs on Friday 27 December 2024 to 0800 hrs on Wednesday 01 January 2025.

Summer Frequencies Music Festival – 0800hrs on the Friday 17 January 2025 to 0800hrs on the Sunday 19 January 2025.

Background:

The Changes to the Sale & Supply of Alcohol Act 2012 increased the threshold to demonstrate the need for continuing to have a Bylaw. Previously the Council only needed to be satisfied that an alcohol ban area would impact on crime, however they now need to be satisfied that it can be justified as a reasonable limitation on people's rights and freedoms and that the alcohol ban area is appropriate and proportionate in the light of crime and disorder in the area.

The new Act enables the Council to review Bylaws for the purpose of prohibiting, regulating and controlling of consumption and/or possession of alcohol in public places for managing crime and disorder associated with alcohol consumption. Police can use discretion without being overbearing when dealing with incidents of a minor nature.

It is acknowledged that the Temporary Liquor Ban area would include a few parks and reserves and private dwellings. However, Police believe that no harm should continue to be caused to the community and the benefits of having a Liquor Ban in these areas far outweighs the impact of not having a Liquor Ban over a short period of time.

Police would like to formally request the Gisborne District Council's support for the proposed Temporary Liquor Bans within the Gisborne region over the summer period.

Application for continuation of Temporary Liquor Ban Areas:

The annual Rhythm & Vines Music Festival event will again be held at the Waiohika Estate situated at 75 Waimata Valley Road, Gisborne between the 28 December 2024 and 01 January 2025.
Event organisers are expecting attendance to be approximately 25,250 per day including patrons, performers, staff and contractors. Onsite camper numbers are estimated to be approximately 15,000 people.

Summer Frequencies Music Festival will be held on Friday 17 January to Sunday 19 January 2025 and will also attract a large crowd of approximately 3,000 – 5,000 people.

Police are therefore seeking Council approval to continue to operate Temporary Liquor Bans over these periods.

The Rhythm & Vines and Summer Frequencies demographic makeup of these events is mostly persons aged between 18 years to 28 years of age.
The Rhythm & Vines event is considered by this group to be a rite of passage and is often associated with consuming large amounts of alcohol. This application considers issues faced by the Gisborne District Council, Police and Emergency services over the past seven-year period.

The move to no 'B.Y.O' alcohol at Rhythm & Vines resulted in large numbers of patrons looking for public areas to consume alcohol outside the event.
Although this was anticipated and extended liquor bans approved, the number of patrons gathering outside the event to consume alcohol was underestimated.

Police actively patrolled the Liquor Ban area and did observe a noticeable decrease in people drinking alcohol in the Liquor Ban areas. However, there remains a core group of people who continue to consume alcohol in their vehicles and along the rural side roads approaching the festival, especially mid-afternoon and before entering the festival.
Patrons also quickly learned where the Liquor ban boundaries were, and set up just outside these areas, trying to stay as close to the event site as possible.

As a result of the combination of these issues, Gisborne is faced with vehicles parking on roadside verges, people consuming large amounts of alcohol and people discarding empty containers and packaging along roadsides.

The Gisborne District Council and the Police have received repeated calls from residents throughout the Hexton, Waimata Valley and Waihirere area's complaining about these issues.

There has been a slight decrease in the number of Alcohol Infringement Offence Notices issued by Police since 2016. Although Police have observed a decrease in the number of offences being committed, Police further believe that these breaches of the liquor ban can be further decreased by using better high visibility signage.

Alcohol Infringement Notices (AION's) issued over the past 6 years include:-

2016-17	103 AIONs, 100 warnings -	total of 203 breaches.
2017-18	47 AIONs, 100 warnings -	total of 147 breaches.
2018-19	0 AIONs (poor signage),24 warnings -	total of 24 breaches.
2019-20	82 AIONs, 100 warnings -	total of 180 breaches.
2020-21	300AION's, 105 warnings -	total of 405 breaches.
2022-23		
2023-24		

Police believe that a Temporary Liquor Ban with good signage will continue to minimise the effects of high-volume consumption of alcohol by large gatherings of persons in public areas.

Improved signage and the use of mobility devices to issue Alcohol Infringement Offence Notices saw a subsequent increase in the issuing of infringement notices and verbal warnings compared to previous years.

Police would expect the incidents of breaches of the Liquor Ban to reduce with the newly developed signs. However, each year attracts new attendees to the festival and those who are looking for areas to consume cheaper takeaway purchased alcohol than alcohol available for purchase in the Camp Bars. Police actively patrolled the Liquor Ban areas and did observe a reduction in the number of breaches of the Liquor Ban than in previous years due to improved and more visible signage in the Liquor Ban areas.

Persons who are under the influence of alcohol are more likely to display anti-social behaviour, leading to complaints from members of the public and residents living in this area. It also increases the calls for service to the emergency services.

Increased enforcement and other measures, such as increased "No Parking" zones should have a positive impact for the communities affected in previous years and assist in the minimisation of alcohol harm amongst patrons attending Rhythm & Vines.

Rhythm & Vines organisers are seeking to increase the Camp Site numbers available for the 2024 Festival and this will see an increase of campers which will only add to this issue.

A, RHYTHM & VINES LIQUOR BAN:- (see attachment 1)

- **0800hrs on Friday 27 December 2024 to 0800 hrs on Wednesday 01 January 2025 for Rhythm & Vines 2024 Music Festival**

GRAYS BUSH SCENIC RESERVE & CARPARK, GRAYS BUSH LOOKOUT, WAIMATA VALLEY ROAD:

The bans at the Grey's Bush Reserve & Carpark as well as the Grey's Bush Lookout are as a result of the previous year's issues. With the proposed expansion of the Camp Site to the area of the Estate that bounders the Grey's Bush this area will likely attract more festival patrons consuming alcohol in this area.
A core group of people continue to drink alcohol in these areas resulting in large piles of alcohol related rubbish, glass bottles strewn throughout the Reserves and persons urinating openly. This was more evident last year along Waimata Valley Road and the lookouts along this road near the festival location.

WAIHIRERE DOMAIN & ORMOND KOHI RECREATION RESERVE:

Large groups of patrons continue to travel to this domain to consume large amounts of alcohol. Many residents in this area continue to complain about the excessive consumption, rubbish, and anti-social behaviour of groups. This directly impacts on members of the public wanting to use this domain for family gatherings.

LYTTON WEST RESERVE, GISBORNE:

This area still remains an area of interest for patrons to consume alcohol before heading out to the festival later in the afternoon. This area can become problematic when the roads became blocked with vehicles driving out to the festival with many remaining in this area until the roadway is clear. Patrons consume alcohol in the area and the park would be littered with bottles and rubbish as a result of group congregating there.

BACK ORMOND ROAD FROM HANSEN ROAD TO MATAWAI ROAD, (S.H.WAY 2)
TUCKER ROAD TO HANSEN ROAD
HANSEN ROAD TO BACK ORMOND ROAD

SNOWSHILL ROAD
WAIHIRERE DOMAIN ROAD
HARPER ROAD FROM MATAWAI ROAD TO BACK ORMOND ROAD

O'GRADY ROAD
KING ROAD FROM MATAWAI ROAD TO BACK ORMOND ROAD
PILMER ROAD FROM MATAWAI ROAD TO TUCKER ROAD
HAISMAN ROAD FROM TUCKER ROAD TO BACK ORMAOND ROAD
MACLAURIN ROAD
GLENELG ROAD
KAWATIRI ROAD
WAIMATA VALLEY ROAD

High numbers of patrons continue to use the wide grass verges along the above-named roads to consume alcohol before attending the festival and for campers to consume cheaper sources of alcohol than alcohol purchased on site at the Camp Bars.
Police continue to field calls from residents in these areas about the consumption of alcohol outside their home addresses.
The roads mentioned in this application cover the areas where Police have observed patrons congregating over the past years and believe that they will continue to congregate in these areas to consume alcohol before entering the event. Most groups of patrons spoken to by Police have been compliant and have moved along.
Police are aware of the behaviours demonstrated by event patrons, which is to find the next closest site to the event site outside of the Liquor Ban area, where they can legally consume alcohol.

B, MIDWAY LIQUOR BAN:- (see attachment 2)

- **Midway Liquor Ban – 0800 hrs on Friday 27 December 2024 to 0800 hrs on Wednesday 01 January 2025 for Awapuni Rd (from Beacon St to Pacific St) and Centennial Marine Drive (inclusive of beach front from Salisbury Rd to the Beacon tower) for Rhythm & Vines 2024 Music Festival.**

- **Midway Liquor Ban Summer for Frequencies Music Festival – 0800hrs on the Friday 17 January 2025 to 0800hrs on Sunday 19 January 2025 for Awapuni Rd (from Beacon St to Pacific St) and Centennial Marine Drive (inclusive of beach front from Salisbury Rd to the Beacon tower) for the Summer Frequencies Music Festival.**

Midway Beach situated along Centennial Marine Drive has been a very popular area for Rhythm & Vines patrons to visit and consume alcohol. This has been a problematic area in the past where patrons have consumed alcohol and then left their empty containers on site.

The Midway Beach area has previously had a Temporary Liquor Ban, however because of poor signage in the past, patrons were unaware of the liquor ban and therefore the breaches were not enforced by Police.
Police have observed large numbers of patrons who consume alcohol in this area. Police also observed that patrons will travel further along Centennial Marine Drive and further out towards the river mouth to consume their alcohol. This area past the beacon is not covered by the Temporary Liquor Ban.

Police have observed a trend over the past years where patrons are now stacking their empty cans and bottles in a tidy manner around rubbish bins and no longer discarding them in the surrounding sand dunes.

The Summer Frequencies Music Festival is a music event that will attract between 3,000 and 5,000 patrons and will operate out of the Gisborne Soundshell. Summer Frequencies Music Festival and previous music events of a similar nature have operated from the Gisborne Soundshell with similar numbers of patrons attending.
Police have previously used a Temporary Liquor Ban for these music events and have found them very supportive in reducing the excessive consumption of alcohol as patrons preload before attending the festival event.
The Temporary Liquor Ban will also prevent people consuming alcohol in the Adventure Playground during the event and deters people parking their vehicles nearby and consuming alcohol in their vehicles.

Police do not believe that the Temporary Liquor Ban for this area will negatively impact on residents who visit this area. It will give Police the tools required to prevent anti-social behaviour associated with these persons in this area.

C, MARINA PARK & KELVIN PARK LIQUOR BAN:- (see attachment 3)

- **The Marina Park and Kelvin Park - 0800 hrs on Friday 27 December 2024 to 0800 hrs on Wednesday 01 January 2025 for Rhythm & Vines 2043 Music Festival.**

The Temporary Liquor Ban in this area will assist with reducing the consumption of alcohol by Rhythm & Vines patrons waiting for their bus transport to and from the festival event (Army Hall on Fitzherbert St).

Although Police did not receive many calls for service in this area, there is potential for people to arrive at these areas with alcohol to consume while awaiting bus transport to the Rhythm & Vines festival.

The Temporary Liquor Ban area will have no major impact on private dwellings and will cover the public area surrounded by the Marina Park, Kelvin Park, and the land surrounding the Gisborne District Council buildings. This will benefit the community by reducing the consumption of alcohol in a high-profile public area and is likely to improve the amenity and good order in this area enabling Police to reduce the current impact of the homeless community drinking in this area.

The Temporary Liquor Ban will also complement the existing 24-hour Liquor Ban currently operating in the Gisborne Central Business District.
Police believe that the Temporary Liquor Ban is justified and is reasonable on the limitation on people's rights and freedoms and that the Liquor Ban area is appropriate and proportionate in the light of crime and disorder in the area.

Conclusion:

Police have and will exercise their discretion to ensure that any enforcement action is appropriate with the circumstances of each individual breach.

The N.Z Bill of Rights Act and Humans Rights Act have been considered by Police in the process of applying for this Liquor Ban.
Police therefore present this submission to the Gisborne District Council for consideration to grant an approval to implement the Temporary Liquor Ban for the period of timeframes sought in the application.

Police are seeking approval from the Gisborne District Council to consider and approve the continuation of the Rhythm & Vines Temporary Liquor Ban areas, Midway Temporary Liquor Ban areas and the Marina Park and Kelvin Park Liquor Ban areas.

- **Rhythm & Vines Liquor Ban – 0800 hrs on Friday 27 December 2024 to 0800 hrs on Wednesday 01 January 2025 for Rhythm & Vines 2024 Music Festival.**

- **Midway Liquor Ban – 0800 hrs on Friday 27 December 2024 to 0800 hrs on Wednesday 01 January 2025 for Awapuni Rd (from Beacon St to Pacific St) and Centennial Marine Drive (inclusive of beach front from Salisbury Rd to the Beacon tower) for Rhythm & Vines 2024 Music Festival.**

- **The Marina Park and Kelvin Park: 0800 hrs on Friday 27 December 2024 to 0800 hrs on Wednesday 01 January 2025 for Rhythm & Vines 2024 Music Festival.**

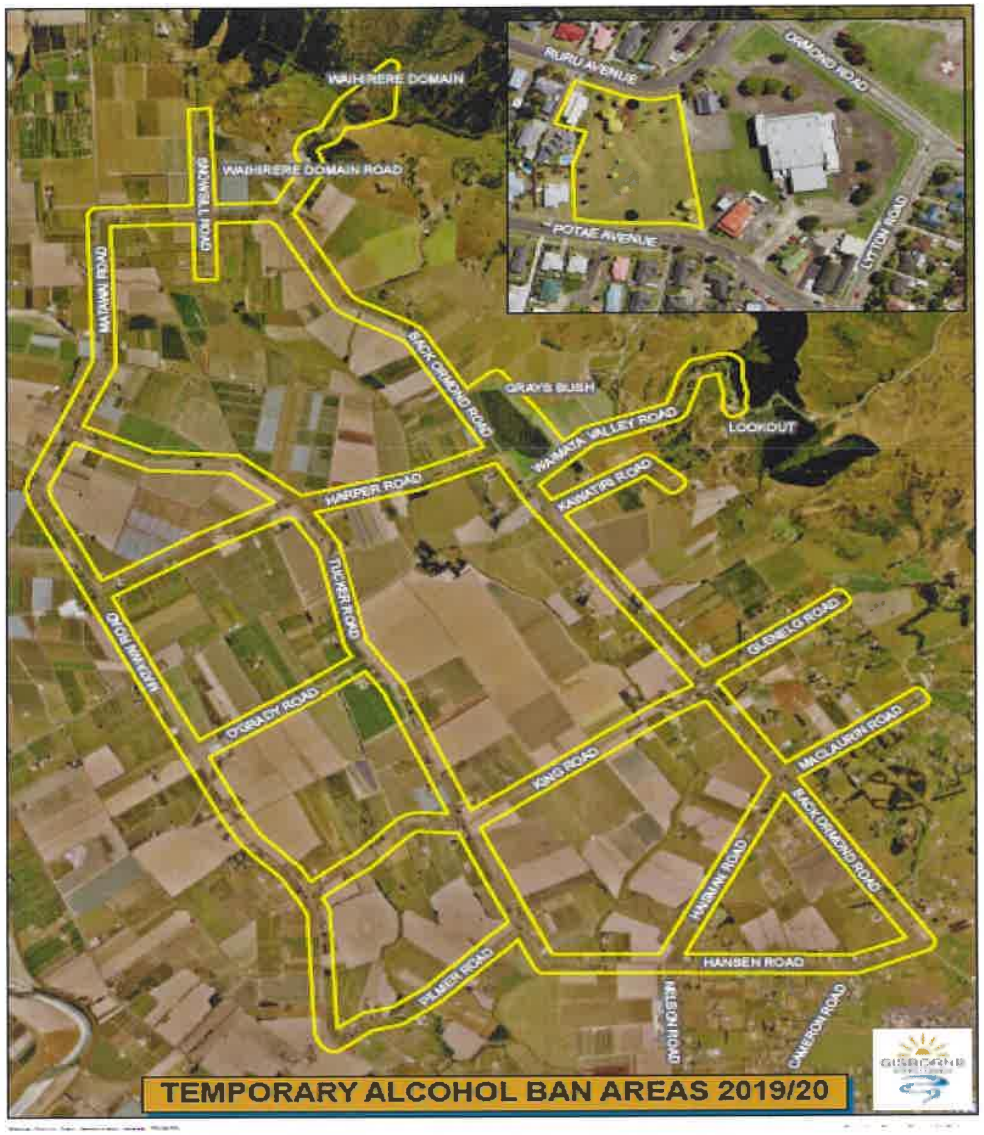
- **Midway Liquor Ban for Summer Frequencies Music Festival – 0800hrs on the Friday 17 January 2025 to 0800hrs on Sunday 19 January 2025 for Awapuni Road (from Beacon St to Pacific St) and Centennial Marine Drive (in of beach front from Salisbury Rd to the Beacon tower) for the Summer Frequencies Music Festival.**

Yours faithfully,

Issac NGATAI
Sergeant INF199
Alcohol Harm/Community Prevention
New Zealand Police

(Attachment 1)

Temporary Liquor Ban Rhythm & Vines Festival

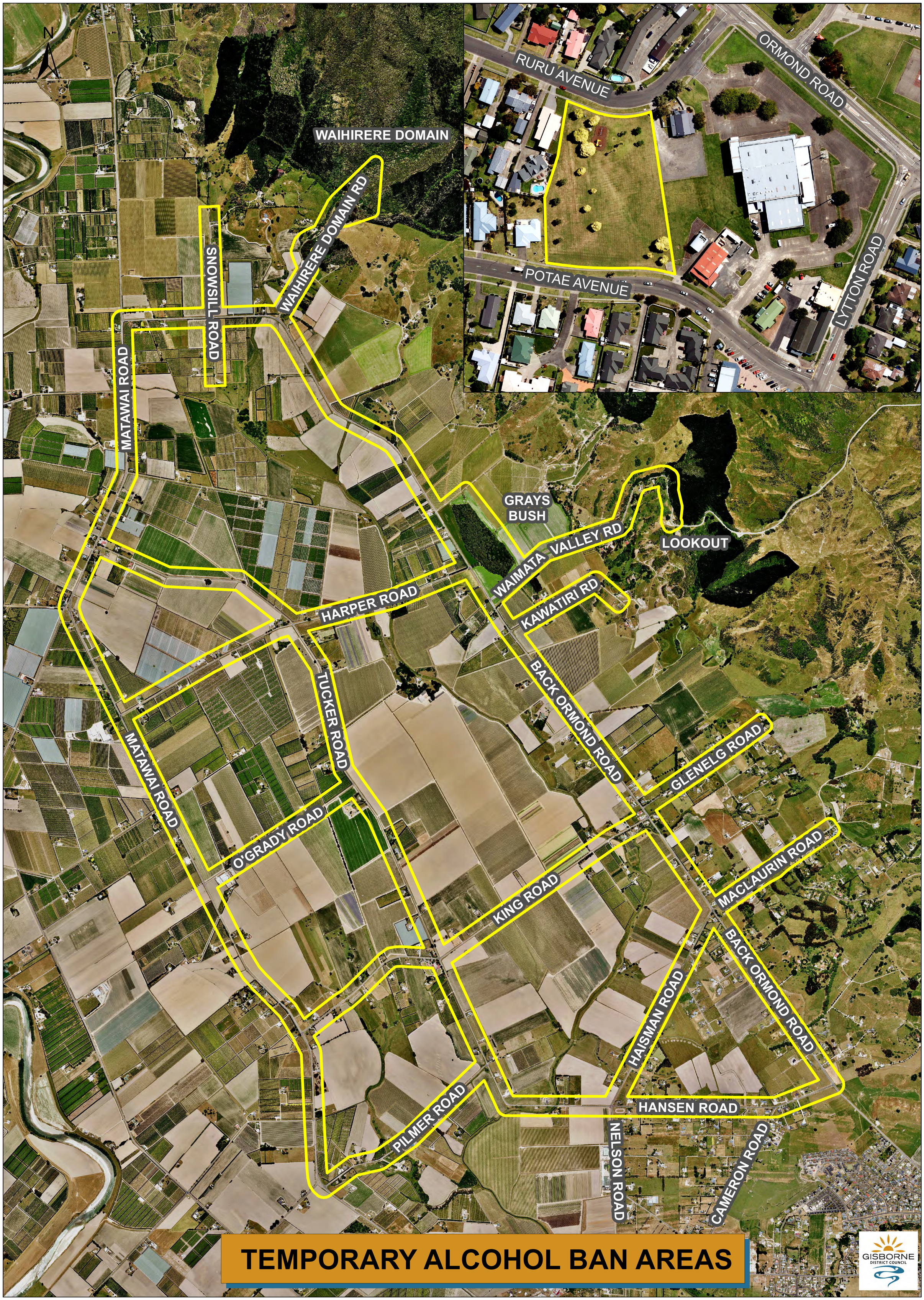


(Attachment 2)

MIDWAY TEMPORARY LIQUOR BAN

(Attachment 3)

MARINA PARK & KELVIN PARK LIQUOR BAN



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Date: 25/01/2022
User: old


Alcohol Ban Area
A - Midway Surf Club
Alcohol Ban Area
LYTTON ROAD
PARKINSON STREET
TUPAEA STREET
LYTTON ROAD
Awapuni
SOLANDER STREET
BANKS STREET
STANLEY ROAD
AWAPUNI ROAD
Awapuni School
Churchill Park
SALISBURY ROAD
Adventure Playground
COMMERCE PLACE
PACIFIC STREET
Watson Park
CENTENNIAL MARINE DRIVE
A
Only the building is exempt from the ban
Alcohol ban does not apply to the 'Soundshell' during licence hours
ALCOHOL BAN AREAS ON PUBLIC LAND
Land Information
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Path: X:\Projects\liquor_ban_BW.mxd
Date: 10/10/2019
User: old
Contains Crown Copyright Data - Sourced from Land Information NZ. Orthophotography - Terralink & Aerial Surveys
Scale 1:6,000

Name: liquor_ban_temporary_areas_marinacarpark
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Date: 9/11/2020
User: old

Te Kaunihera o Te Tairāwhiti
GISBORNE
DISTRICT COUNCIL

24-343

Title:	24-343 2024 - Public Financial Report on Income and Expenses Related to the Operation of the District Licensing Committee
Section:	Compliance Monitoring & Enforcement Internal Partnerships & Protection
Prepared by:	Vincenzo Petrella - Environmental Health Team Leader
Meeting Date:	Thursday 12 December 2024

Legal: Yes	Financial: Yes	Significance: Low

Report to COUNCIL/TE KAUNIHERA for decision

PURPOSE - TE TAKE

The purpose of this report is to inform the Council Committee of the income and expenses related to the operation of the District Licensing Committee (DLC) and alcohol licensing functions from 1 July 2023 to 30 June 2024 (financial year 2024), prior to the report being publicly notified on the Gisborne District Council website.

In addition, the report provides information on the activities of the DLC and the Inspectors as well as providing a copy of the Alcohol Regulatory Licensing Authority (ARLA) Annual Report (which has already been sent to ARLA – 23/09/2024).

SUMMARY - HE **WHAKARĀPOPOTOTANGA**

Section 19 of the Sale and Supply of Alcohol Act (Fees) Regulations 2013 requires that every territorial authority must each year prepare, and make publicly available, a report showing its income from fees payable in relation to, and its costs incurred in:

- the performance of the functions of its licensing committee under the Act; and
- the performance of the functions of its inspectors under the Act; and
- undertaking enforcement activities under the Act.

Of the 359 applications received in the financial year 2024, 314 applications were considered by the DLC. All applications, except three, were approved by the Commissioner and the Deputy Chairperson acting as quorum of one. These applications, which received oppositions from the reporting Agencies, were assessed by the DLC with public hearings held on 27 November 2023.

The financial report (Attachment 1) covers the income and costs for the 2023/24 year, whereas the report on the activity of the DLC (Attachment 2) gives information on the applications received, applications issued for the year, and information related to the committee and its hearings. The ARLA Annual Report (Attachment 3) is a report prepared each year with standard questions completed online by the Secretary of the DLC (Attachment 5).

The decision sought is to adopt the annual report as a record of the District Licensing Committee activity.

The decisions or matters in this report are considered to be of Low significance in accordance with the Council's Significance and Engagement Policy.

RECOMMENDATIONS - **NGĀ TŪTOHUNGA**

That the Council/Te Kaunihera:

1. Adopts the Gisborne District Licensing Committee's Annual Report for the 2023/24 year.

Authorised by:

James Baty - Director Internal Partnerships & Protection

Keywords: District Licensing Committee, Sale and Supply of Alcohol.

BACKGROUND - HE **WHAKAMĀRAMA**

1. The Council is required to set up a District Licensing Committee (DLC) under the Sale and Supply of Alcohol Act 2012 (the Act). The DLC is an independent decision-making body and is required to make decisions on applications for alcohol licences. Generally, almost all decisions are made by the Chairperson (quorum of one) but where there has been opposition from a reporting agency or objection from a community member then a public hearing must be held. The Chairperson of a DLC can either be an elected member of the territorial authority or a Commissioner appointed by the Chief Executive, on the recommendation of the territorial authority. To date, Pat Seymour is the appointed Commissioner of the Gisborne District Licensing Committee (Council Meetings 29 September 2022 and 17 October 2024).

2. The Gisborne DLC consists of:
    - An appointed Commissioner (Pat Seymour)
    - A Councillor as Deputy Chairperson (Rhonda Tibble)
    - Four list members (members of the community appointed by the Council).

3. There are three streams of work related to the operation of the DLC:
    - The Secretariat – Led by the Secretary of the DLC who receives, processes and issues licence and supports the DLC activities.
    - The Inspectorate – Led by the Chief Licensing Inspector who operate independently of the DLC, and report on all applications and conduct monitoring and enforcement activities.
    - The DLC – decision-making body.

4. The Alcohol Regulatory Licensing Authority is also set up under the Act. It is an independent national Tribunal that considers and determines:
    - Appeals against DLC's decisions.
    - Applications from Inspectors or the Police to vary, suspend or cancel alcohol licences.
    - Appeals against elements of provisional local alcohol policies*

      *This role has been amended with the Sale and Supply of Alcohol Act (Community Participation) Amendment Bill receiving Royal Assent and becoming law on 31 August 2023.

5. Application fees and annual fees payable to DLCs in relation to Alcohol Licensing are set by the Sale and Supply of Alcohol (Fees) Regulations 2013. The DLC is required to pay a portion of each application or annual fee it receives to ARLA (excluding special licences and temporary authorities). This portion is also set by the Regulations.

DISCUSSION and OPTIONS - WHAKAWHITINGA **KŌRERO** me **ngā KŌWHIRINGA**

6. One of the intentions of the Regulations was to set fees based on risk, and that the fees would cover most of the cost of alcohol licensing and regulatory functions. If a Council decides that the fees set by legislation are not adequately covering the cost of alcohol licensing functions they may develop a Bylaw, using the special consultative process, and set their own fees.

7. The deficit registered in the previous two financial years is below or slightly in exceedance of one hundred thousand dollars per year which is subsidised by Council (Attachment 1); the statistical analysis seems to point out that this could become an incremental trend and therefore the forecast for the next years is that this deficit should notably grow.

8. James Baty, in his capacity as the Director of Internal Partnerships and Protection at the Gisborne City Council, addressed the matter in a letter to the Honourable Paul Goldsmith dated 7 March 2024 (Attachment 4).

ASSESSMENT of SIGNIFICANCE - AROTAKENGA o **NGĀ** HIRANGA

Consideration of consistency with and impact on the Regional Land Transport Plan and its implementation
Overall Process: Low Significance
This Report: Low Significance

Impacts on Council's delivery of its Financial Strategy and Long Term Plan
Overall Process: Low Significance
This Report: Low Significance

Inconsistency with Council's current strategy and policy
Overall Process: Low Significance
This Report: Low Significance

The effects on all or a large part of the Gisborne district
Overall Process: Low Significance
This Report: Low Significance

The effects on individuals or specific communities
Overall Process: Low Significance
This Report: Low Significance

The level or history of public interest in the matter or issue
Overall Process: Low Significance
This Report: Low Significance

9. The Council has a statutory obligation under the Act and Regulations to report annually and to provide statistical information. To publicly report this information is not a significant decision.

10. The decisions or matters in this report are considered to be of Low significance in accordance with Council's Significance and Engagement Policy.

TREATY COMPASS ANALYSIS

Kāwanatanga

11. The decisions or matters in this report are considered to be in line with article 1 of the Treaty of Waitangi in accordance with Council's Te Tiriti Compass Writing Guide 2024.

Rangatiratanga

12. The decisions or matters in this report are considered to be in line with article 2 of the Treaty of Waitangi in accordance with Council's Te Tiriti Compass Writing Guide 2024.

Oritetanga

13. The decisions or matters in this report are considered to be in line with article 3 of the Treaty of Waitangi in accordance with Council's Te Tiriti Compass Writing Guide 2024.

Whakapono

14. The decisions or matters in this report are considered to be in line with article 4 of the Treaty of Waitangi in accordance with Council's Te Tiriti Compass Writing Guide 2024.

TANGATA **WHENUA/MĀORI** ENGAGEMENT - **TŪTAKITANGA** TANGATA WHENUA

15. As this matter is of low significance no specific engagement with tangata whenua has been undertaken.

COMMUNITY ENGAGEMENT - **TŪTAKITANGA** HAPORI

16. This report will be published on Council's website; it is a public record and has to be available for not less than five years.

CLIMATE CHANGE – Impacts / Implications - **NGĀ REREKĒTANGA ĀHUARANGI** – **ngā** whakaaweawe / **ngā** ritenga

17. No impacts

CONSIDERATIONS - HEI WHAKAARO

Financial/Budget

18. This is a financial report on the Income and Costs associated with the operation of the DLC. The income from fees, and licensing costs are detailed in the appended report. For the purpose of covering the costs of the licensing regime, regulations prescribe both fees for applications and annual premises fees.

19. Proportional amounts from applications, (except special licences and temporary authority orders), and from annual fees are paid to the Authority.

Alcohol Licensing Revenue and Expenditure 2023/2024

Application Type	Amount (GST Inc.)
Manager's Certificate Applications	$54,395.00
Premises Licence Applications	$37,823.50
Special Licences Applications	$19,354.50
Temporary Authority Applications	$3,263.70
Annual Fees	$58,778.00
Fees paid to ARLA by 30 June 2024	- $12,259.00
Final Fees paid to ARLA (after adjustments)	- $12,305.00
Licensing Activity Revenue by 30 June 2024	$161,355.70
Final Licensing Activity Revenue (after adjustments)	$161,786.95
Licensing Activity Expenditure	$225,613.78

Alcohol Licensing Revenue and Expenditure Reconciliation 2023/2024

Reconciliation	GST Excl.	GST Inc.
Licensing Activity Revenue (as per General Ledger)	$140,296.09	$161,340.50
Invoices created in 2024 yet to be paid by applicants	-$6,931.79	-$7971.56
Invoices created in 2023 and paid in 2024	$6,945.00	$7,986.75
Reconciled Licensing Activity Revenue by 30 June 2024	$140,309.30	$161,355.70
Payments/cash adjustments backdated into 2024 in 2025	$375.00	$431.25
Final Reconciled Licensing Activity Revenue (after adjustments)	$140,684.30	$161,786.95

Legal

20. This report is made publicly available in accordance with Section 19 of Sale and Supply of Alcohol (Fees) Regulations 2013.

POLICY and PLANNING IMPLICATIONS - KAUPAPA HERE me **ngā** RITENGA WHAKAMAHERE

21. This report is consistent with current policies and plans.

22. The Act allows for development of local alcohol policies (LAP) with additional controls or provisions beyond the Act, for the purpose and intent to limit alcohol-related harm.

23. A Local Alcohol Policy for our district has been implemented, effective since 5 March 2018 when more restrictive hours were applied to the majority of licensed premises. The required public consultation for the review of the LAP started in March of this calendar year with the Council adopting the reviewed LAP in June and publicly notified it on 26 July 2024. The current LAP took effect on 26 August 2024.

24. The only update in the Policy is the inclusion of a new condition to enforce the removal of external advertisements for liquor stores and the addition of explicative footnotes regarding restaurant classes. All the other provisions from the previous LAP remain unchanged.

RISKS - **NGĀ TŪRARU**

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

NEXT STEPS - **NGĀ** MAHI E WHAI AKE

Date	Action/Milestone	Comments
13 December 2024	Publish report on Council's website	

ATTACHMENTS - **NGĀ TĀPIRITANGA**

1. Attachment 1 - DLC Public Financial Report 2023 to 2024 [24-343.1 - 2 pages]
2. Attachment 2 - DLC Public Activity Report 2023 to 2024 [24-343.2 - 3 pages]
3. Attachment 3 - DLC Public ARLA Annual Return Report 2023 to 2024 [24-343.3 - 2 pages]
4. Attachment 4 - James Baty Letter - DLC PF Report 2023 to 2024 [24-343.4 - 2 pages]
5. Attachment 5 - Citizen Space Survey - DLC PF Report - 2023 to 2024 [24-343.5 - 3 pages]

Attachment 1

Gisborne District Licensing Committee Public Financial Report

1 July 2023 to 30 June 2024

Section 19 of the Sale and Supply of Alcohol Act (Fees) Regulations 2013 requires that every territorial authority must, each year, prepare and make publicly available a report showing its income from fees payable in relation to, and its costs incurred in:

- the performance of the functions of its licensing committee under the Act; and
- the performance of the functions of its inspectors under the Act; and
- undertaking enforcement activities under the Act.

This report has been prepared for the last financial year, ending 30 June 2024, however I have included the 2022 and 2023 years as a comparison.

YEAR	2022	2023	2024
Licensing Activity Revenue (GST Excl.)			
Application and annual fees			
TOTAL Income	$153,661.00	$143,315.00	$140,684.30
Disbursements to ARLA	$12,430.00	$11,250.00	$10,700.00
Licensing Activity Expenditure (GST Excl.)			
DLC chair	$3,468.74	$5,585.28	$4,406.34*
DLC committee	$0.00	$1,317.00	$561.00
Costs for DLC	$153.00	$345.92	$9.04
Secretary and other support staff (in-kind)	$3,392.00	$25,935.00	$27,840.00
Inspectors and Enforcement (in-kind)	$209,976.00	$211,413.60	$192,797.40
TOTAL costs	$216,989.74	$244,596.80	$225,613.78

Expenditure	$216,989.74	$244,596.80	$225,613.78
Income	-$153,661.00	-$143,315.00	-$140,684.30
DEFICIT	$63,328.74	$101,281.80	$84,929.48

*(At the time of this report the Deputy Chair has not provided invoices for work completed in the financial year 2024. Furthermore, the Commissioner's June 2024 invoice was paid in 2025 financial year)

Income – relates to fees payable for application and annual fees for licensed premises, special licences, managers certificates and temporary authorities.

Disbursements - these payments are payable under the Sale and Supply of Alcohol Act (Fees) Regulations 2013 to the Alcohol Regulatory Licensing Authority (ARLA) and represent a portion of each application fee and annual fee except for special licences and temporary authorities.

DLC Chair – these costs are related to the Chairperson and include time spent on decision making (on the papers and hearings) and other actual and reasonable costs and expenses such as mileage (hourly rates set by the government).

DLC Committee – these costs are related to the Deputy Chairperson and List members and include time spent at hearings and decision making and other actual and reasonable costs and expenses such as mileage (hourly rates set by the government).

Costs for the DLC – these costs are related to the DLC and Secretariat functions including meeting fees, training, public notifications, legal fees, resources, application form development etc.

DLC support – these costs are related to the FTE hours provided by staff including the Secretary, Committee Support Officer, Executive Assistant and in-house Legal Advisor.

Inspectors – these costs are related to the FTE hours for Inspectors and administration related to processing, advice, reporting on applications, monitoring and enforcement.

Notes

Licensing activity expenditures were noticeable down in comparison with last year due to:

a) All hearing proceedings (which involved DLC members, Secretariat and part of the Inspectorate on different levels of participation) were initiated and concluded in one day.

b) A decrease in FTE for the Inspectorate (2.50 FTE as opposed to 3.4 FTE last year) due to the Chief Licensing Inspector processing the totality of licence applications.

However, it is forecasted an FTE incremental trend over the next years which should be generated by time dedicated to train new staff coupled with potential staff retention issues and an increase in wage costs.

Attachment 2

Gisborne District Licensing Committee Activity Report

1 July 2023 to 30 June 2024

1. Composition of the District Licensing Committee

The Gisborne District Council has one appointed District Licensing Committee (DLC). The DLC members and key staff are included below.

Name	Role	Other Information
Patricia Seymour	Commissioner	Community Member
Rhonda Tibble	Deputy Chairperson	District Councillor
Kenneth Lyell	List member	Community Member
Pamela Albert	List member	Community Member
Paulette Goddard	List member	Community Member
Barney Tupara	List member	Community Member
Gary McKenzie	Secretary	Compliance Monitoring and Enforcement Manager
Denise Williamson	Committee Support	Executive Assistant

2. District Licensing Committee Hearings

There were two public hearings conducted during the year whereas all the other applications were considered on the papers, by the Commissioner and the Deputy Chairperson.
Two DLC hearings regarding a Manager Certificate application and two Temporary Authority applications were scheduled and held on 27 November 2023. All applications were declined by the DLC, and no appeals were lodged against the DLC decisions.

3. Licensing Inspectors and DLC support staff

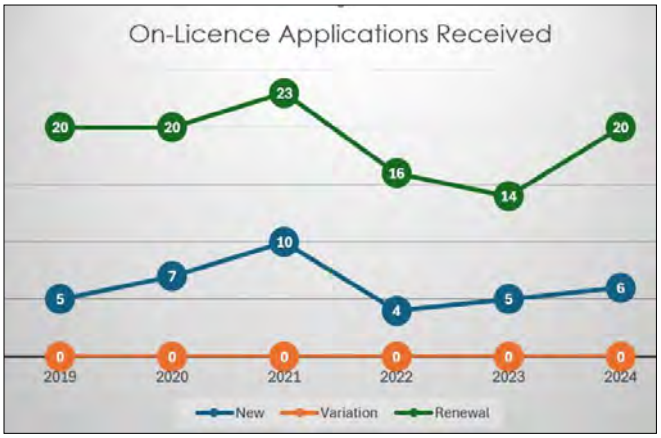
- Of the four permanent staff warranted as licensing inspectors, one of them was not involved in alcohol related work and another sporadically participated during the month of March (less than 2%). Work associated with the activities of the Inspectorate was 1.5 FTE for the year (0.6 FTE was performed by the Chief Licensing Inspector to process all licence applications and 0.9 FTE by one Licensing Inspector to process all manager certificate applications).

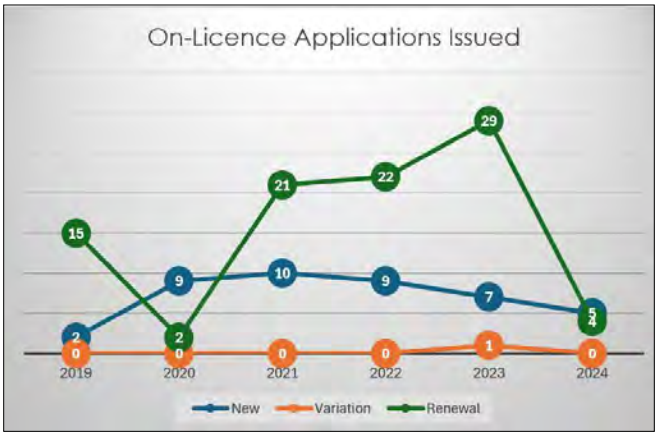
- Only one Coordinator was available (1.0 FTE) for licensing administration.

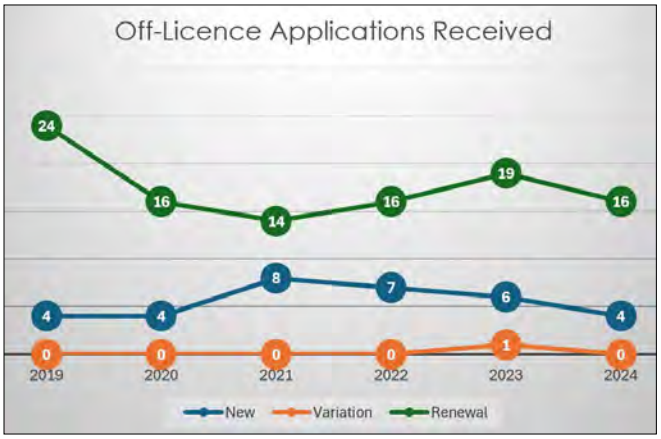
- DLC support staff includes the Secretary, in house legal, hearing support and Secretariat staff. This year despite two hearings and other work linked to a previous appeal process, the costs associated with their proceedings were proportionally lower than the previous financial year.

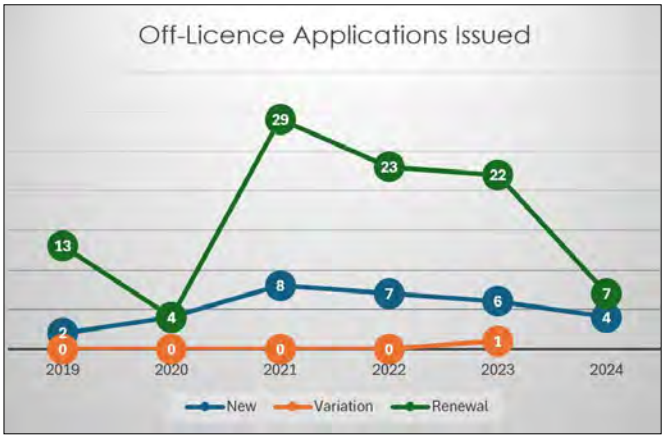
4. Comparisons of Licence applications received and issued over the last 6 financial years.

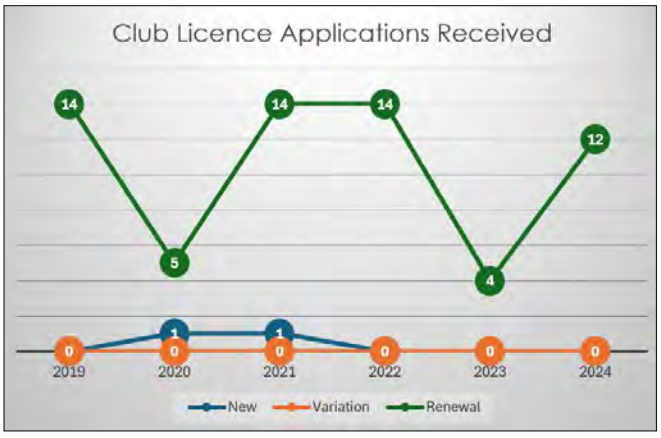
   Note, the licences issued, and licences received, rarely match up, especially in the case of renewals, as applications can be received in one financial year and issued in another. As long as a licence application is received before the expiry of the licence, they remain valid for up to three years while the licence is being processed.

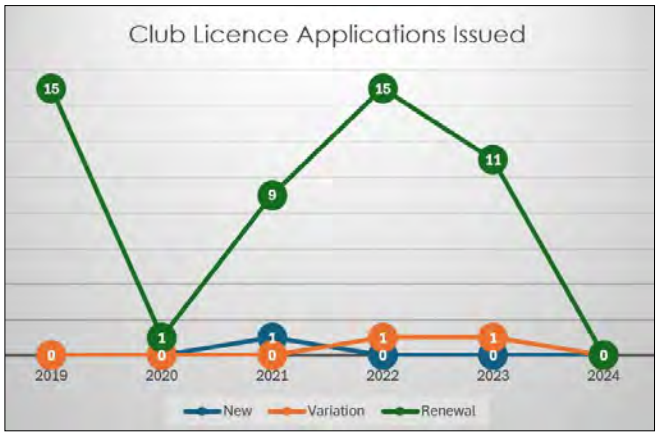






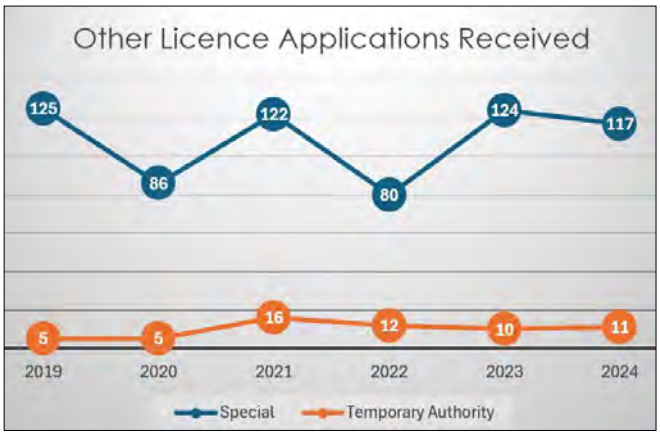


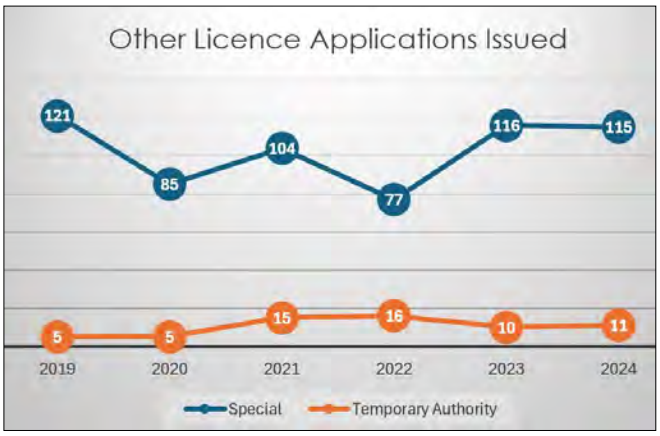





Managers Certificate Applications Received
117
130
117
126
139
112
84
73
70
70
62
61
2019
2020
2021
2022
2023
2024
New
Renewal


Managers Certificate Applications Issued
112
126
112
127
129
112
75
70
65
78
54
56
2019
2020
2021
2022
2023
2024
New
Renew


Other Licence Applications Received
125
86
122
80
124
117
5
5
16
12
10
11
2019
2020
2021
2022
2023
2024
Special
Temporary Authority


Other Licence Applications Issued
121
85
104
77
116
115
5
5
15
16
10
11
2019
2020
2021
2022
2023
2024
Special
Temporary Authority

Attachment 3

Annual Return (Fees) to Alcohol Regulatory and Licensing Authority

Territorial Authority: Gisborne District Council

Annual Return for the Year Ending 30 June 2024

On-licence, Off-licence and Club Licence Applications Received						
Application Type	**Number Received in Fee Category – Very Low**	**Number Received in Fee Category – Low**	**Number Received in Fee Category – Medium**	**Number Received in Fee Category – High**	**Number Received in Fee Category – Very High**	**Total**
On-licence new	0	0	6	0	0	6
On-licence variation	0	0	0	0	0	0
On-licence renewal	4	7	9	0	0	20
Off-licence new	0	0	4	0	0	4
Off-licence variation	1	0	0	0	0	1
Off-licence renewal	3	2	10	0	0	15
Club licence new	0	0	0	0	0	0
Club licence variation	0	0	0	0	0	0
Club licence renewal	9	2	1	0	0	12
Total number	**17**	**11**	**30**	**0**	**0**	**58**
Total fees payable to ARLA (GST incl)	**293.25**	**379.50**	**1552.50**	**0**	**0**	**2,225.25**
Total fees paid to ARLA (GST incl)	**293.25**	**379.50**	**1552.50**	**0**	**0**	
Annual Fees for Existing Licences Received						
Licence Type	**Number Received in Fee Category – Very Low**	**Number Received in Fee Category – Low**	**Number Received in Fee Category – Medium**	**Number Received in Fee Category – High**	**Number Received in Fee Category – Very High**	**Total**
On-licence	7	15	30	0	0	52
Off-licence	15	5	35			55
Club licence	28	3	1	0	0	32
Total number	**50**	**23**	**66**	**0**	**0**	
Total fees payable to ARLA (GST incl)	**862.50**	**793.50**	**3,415.50**	**0**	**0**	**139**
Total fees paid to ARLA (GST incl)	**862.50**	**793.50**	**3,415.50**	**0**	**0**	**5,071.50**

Managers' Certificate Applications Received	
Application Type	**Number Received**
Managers' certificate new	112
Managers' certificate renewal	61
Total number	**173**
Total fees payable to ARLA (GST incl)	**4,973.75**
Total fees paid to ARLA (GST incl)	**4,973.75**

Special Licence Applications Received			
	Number Received in Category – Class 1	**Number Received in Category – Class 2**	**Number Received in Category – Class 3**
Special licence	11	44	**62**

Temporary Authority Applications Received	
	Number Received
Temporary authority	**11**

Permanent Club Charter Payments Received	
	Number Received
Permanent club charter payments	**0**

Total paid to ARLA	***12,259(GST incl);** 10,660(GST Excl)

*(it should be **12,270.50(GST incl);** 10,670(GST Excl) however there is a difference of $10.00 due to the following licences: - LL 13493 - ($25.00) Cash receipting taken off 2023 invoice and added to 2024 invoice - paid ARLA twice - LL 14137 – ($15.00) Cash receipting taken off June 2024 invoice and added to 2025 July Invoice).

Te Kaunihera o Te Tairāwhiti
GISBORNE
DISTRICT COUNCIL

7 March 2024

Honourable Paul Goldsmith
Minister of Justice
House of Representatives
By email: P.Goldsmith@ministers.govt.nz

Tēnā koe Minister McKee

Urgent Review and Update of the Sale and Supply of Alcohol (Fees) Regulations 2013

I write to you in my capacity as the Director of Internal Partnerships and Protection at the Gisborne District Council, an entity deeply committed to ensuring the well-being and safety of our community in alignment with the Sale and Supply of Alcohol Act 2012 (the Act).

As you are aware, the Sale and Supply of Alcohol (Fees) Regulations 2013 (the Regulations) empower territorial authorities to levy fees to recoup expenses incurred in processing applications for licenses and certificates under the Act. These fees are pivotal in enabling local authorities to effectively manage alcohol licensing and maintain the requisite standards of public safety and welfare.

Despite the Regulations' intention to facilitate cost recovery, we have observed an increasing strain on our resources attributable to the static nature of the fees established over a decade ago, in December 2013. The unchanged fees, as reviewed in 2018 and scrutinised by the chief executive of the Ministry of Justice, have significantly hampered our ability to fully recover the operational costs associated with the licensing process, thus imposing an undue financial burden on our local ratepayers.

The Gisborne District Council, along with its counterparts across New Zealand, finds itself in a precarious position, navigating between the imperative to uphold rigorous licensing standards and the practical limitations imposed by outdated fee structures. This situation has inevitably led to substantial deficits, compromising our capacity to sustain a robust regulatory framework without resorting to disproportionate ratepayer subsidies.

In light of the foregoing, we echo the concerns raised by the New Zealand Institute of Liquor Licensing Inspectors (NZILLI) and urge your expedited consideration of the chief executive's recommendations for amending the Regulations. An adjustment in the fee structure is imperative to ensure that the operational costs associated with the Act's enforcement are adequately met by those it directly impacts, thereby alleviating the financial pressure on local communities and ensuring a self-sustaining licensing regime.

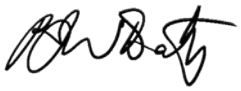
The Gisborne District Council is keenly interested in collaborating with your office and relevant stakeholders to explore viable solutions that will enable a fair and effective regulatory

environment. We believe that a timely revision of the fees, reflective of the current economic landscape, is crucial for the sustainability of alcohol licensing operations across New Zealand.

Should you require any further information or wish to discuss this matter in more detail, please do not hesitate to contact me directly James.Baty@gdc.govt.nz.

We appreciate your attention to this matter and look forward to your positive response.

Ngā mihi



James Baty

Director Internal Partnerships & Protection

Attachment 5

COPY OF **'CITIZEN SPACE SURVEY 2023/24'** - COMPLETED ONLINE

Questions:

1. Please provide the name of your District Licensing Committee, and a generic email address to which general correspondence will be certain of a response.

   Gisborne District Licensing:
   - Committee (DLC@gdc.govt.nz)
   - Inspectorate (alcohol.licensing@gdc.govt.nz)

2. **Please provide the name, email, and contact phone number of your Committee's** Secretary.

   Gary McKenzie – gary.mckenzie@gdc.govt.nz [redacted]

3. Please name each of your licensing inspectors and provide their email and contact phone number.

   Vincenzo Petrella (Chief Licensing Inspector) – vincenzo.petrella@gdc.govt.nz [redacted]

   Lee Pascoe (Licensing Inspector for Manager Certificate) - lee.pascoe@gdc.govt.nz [redacted]

   Rosita Mala (Licensing Inspector – On-Call; Inactive since 2019) - rosita.mala@gdc.govt.nz [redacted]

   Grant Dickson (Licensing Inspector – in the role from July 2024) – grant.dickson@gdc.govt.nz [redacted]

4. The following questions relate to the number of licences and managers' certificates your Committee issued and refused in the 2023-2024 financial year.

   Note: the 2023-2024 financial year runs from 1 July 2023 to 30 June 2024.

   Licences 2023-2024
   4a): How many applications for new on-licences did your committee grant?
   6
   4b): How many applications for new on-licences did your committee refuse?
   0
   4c): How many applications for new off-licences did your committee grant?
   4
   4d): How many applications for new off-licences did your committee refuse?
   0

4e): How many applications for new club licences did your committee grant?
0
4f): How many applications for new club licences did your committee refuse?
0

Managers' certificates 2023-2024
5a): How many applications for new manager's certificates did your committee grant?
61
5b): How many applications for new manager's certificates did your committee refuse?
1

Renewals 2023-2024
6a): How many applications for the renewal of licences did your committee grant?
48
6b): How many applications for the renewal of licences did your committee refuse?
0
6c): How many applications for the renewal of manager's certificates did your committee grant?
112
6d**): How many applications for the renewal of manager's certificates did you committee** refuse?
0

Total number of On-Licences (new and existing) at 30 June 2024
7a): What is the total number of on-licences in your licensing district?
55
7b): What is the total number of off-licences in your licensing district?
60
7c): What is the total number of club licences in your licensing district?
34

8. **Please comment on any changes or trends in the Committee's workload in 2023**-2024.

The number of premises in the District (mainly in Gisborne and on the East Coast SH35) is small and generally stable. There have been two hearings in this financial year [NAOMI KATRINA LEMAUA (new Manager's Certificate), OLOGY COLLECTIVE LIMITED (Temporary Authorities -On/Off)] scheduled and held on the 27 November 2023.

9. Please comment on any new initiatives the Committee has developed/adopted in 2023-2024.

No, any new initiatives

10. Has your committee developed a Local Alcohol Policy (LAP)?

Yes

If the answer is yes, at what stage is your LAP?

In force

11. If the answer to 10 is 'in force', what effect do you consider your LAP is having?
    The LAP is limiting the proliferation of points of sale around sensitive sites and in areas more sensitive to alcohol related harm.

12. If the answer to 10 is 'in force', when is your LAP due for review - date?
    4 March 2024 - Public consultation started in March with the Council adopting the Reviewed LAP in June which was publicly notified on 26 July 2024 and came into effect on 26 August 2024.

13. Please comment on the ways in which you believe the Sale and Supply of Alcohol Act 2012 is, or is not, achieving its objective. Note: the object of the Act is:

a) The sale, supply, and consumption of alcohol should be undertaken safely and responsibly; and

b) The harm caused by the excessive or inappropriate consumption of alcohol should be minimised.

There is a noticeable change among the licensees who seem to better understand that they have to proactively take responsibility for ensuring that the object of the Act is uphold in order to not place their licences at risk.

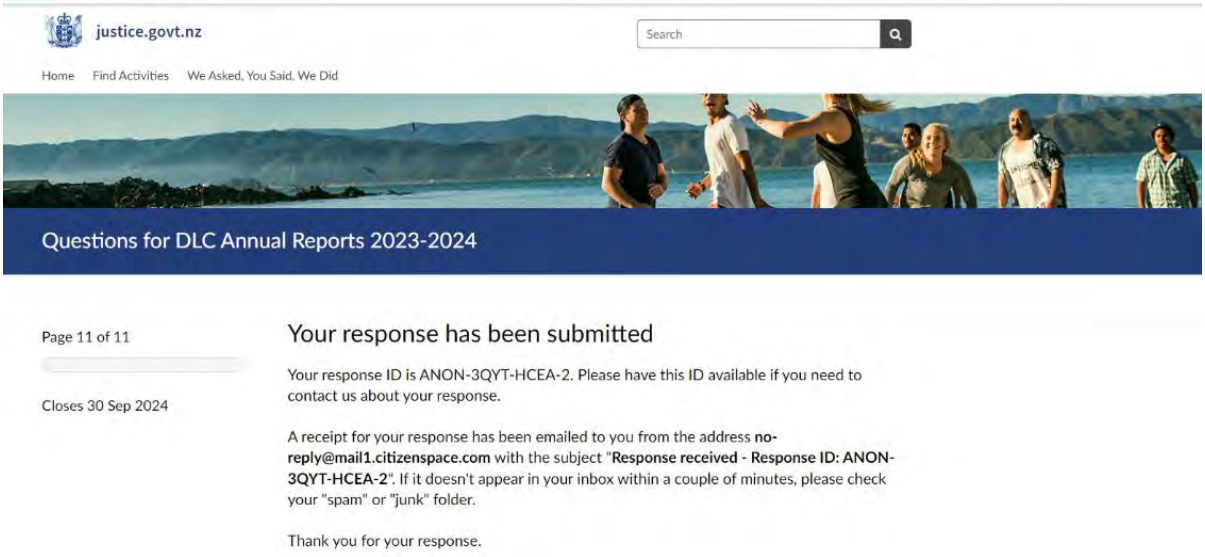
14. What changes or trends in licensing have you seen since the Act came into force?

No significant changes or trends have been observed with the exception of recent trend (see answer 13)

15. What changes to practices and procedures under the Act (if any) would you find beneficial?

At the moment not changes are required.

NB: Additionally, in accordance with the Authority's obligations prescribed in s 65(1) of the Act, *please provide to ARLA@justice.govt.nz a separate detailed list of the names, addresses and types of licensed premises currently operating in your licensing district.*



11. Public Excluded Business

RESOLUTION TO EXCLUDE THE PUBLIC

Section 48, LOCAL GOVERNMENT OFFICIAL INFORMATION and MEETINGS ACT 1987

That:

1. The public be excluded from the following part of the proceedings of this meeting, namely:

   Confirmation of Confidential Minutes

   Item 4.1 Confirmation of Confidential Minutes 21 November 2024

   Item 4.2 Confirmation of Confidential Minutes 25 November 2024

   Committee Recommendations to Council

   Item 5.1 24-353 Committee Recommendations to Council - November 2024

2. This resolution is made in reliance on section 48(1)(a) of the Local Government Official Information & 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 of the relevant part of the proceedings of the meeting in public are as follows:

Item 4.2 & Item 5.1	7(2)(a)	Protect the privacy of natural persons, including that of deceased natural persons.
Item 4.1	7(2)(i)	Enable any Council holding the information to carry on, without prejudice or disadvantage, negotiations (including commercial and industrial negotiations).