

# Western Bay of Plenty District Council

## Minutes of Meeting No. OP21 of the Operations and Monitoring Committee held on 15 August 2019 in the Council Chamber, Barks Corner, Tauranga commencing at 9.30am

### Present

Councillor D Thwaites (Chairperson), Councillors G Dally, M Dean, M Lally, P Mackay, K Marsh, D Marshall, M Murray-Benge, J Palmer, J Scrimgeour, M Williams and His Worship the Mayor G J Webber

### In Attendance

M Taris (Chief Executive Officer), K Hill (Utilities Manager), J Pedersen (Group Manager People and Customer Services), P Watson (Reserves and Facilities Manager), B Williams (Strategic Property Manager), J Paterson (Transportation Manager), E Watton (Policy and Planning Manager), S Parker (Reserves and Facilities Projects and Assets Manager), R Sumeran (Engineering and Special Projects Manager), D Jensen (Senior Financial Planner), G Payne (Strategic Advisor), P Hennessey (Communications Director), R Woodward (Communications Specialist), and B Clarke (Senior Governance Advisor)

### Community Boards

A Sole (Chairperson, Waihi Beach Community Board), P Miller (Chairperson, Te Puke Community Board), and J Dugmore (Member, Te Puke Community Board)

### Others

As listed in the minutes.

### Declarations of Interest:

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

Members were advised that if they have had an interest (actual, potential, perceived, pecuniary or non-pecuniary interest) in any item on the agenda, then they must declare this interest and refrain from discussing or voting on that item, and were advised to withdraw from the meeting table for the item. [As per the Local Authorities (Members' Interest) Act 1968].

Councillor Lally advised that his family did have a long association with Stuart Steel's family. However, he considered that he did not have a conflict of interest relating to a request in the Public Forum from Phillip Laurence (who was supported by Stuart Steel) to remove Pohutukawa trees, or to the related agenda item (OP21.5) and, therefore, he would take part in the discussion and voting.

There were no declarations of interest declared by Members in relation to any items on the agenda.

## **Public Forum**

**Resolved:** Murray-Benge / Marshall

*THAT the meeting adjourn for the purpose of holding a public forum.*

### Pohutukawa Trees in Pohutukawa Park, Waihi Beach

A. Phil Laurence, resident of 4A West Street, was in attendance and was supported by Stuart Steel, resident of 2 West Street, Waihi Beach. Both were concerned with shading issues from five mature Pohutukawa trees in Pohutukawa Park and requested for them to be removed. Mr Laurence Tabled Item (1), which he read in full. Key points were as follows:

- If removal of the Pohutukawa trees was approved, permission was sought to replace them with Nikau Palms at the cost of the requesters;
- Shading from the trees was an issue for ten weeks of the year;
- Considered that health and wellbeing were impacted by the shading;
- Acknowledged communications and assistance from Council staff;
- Noted that if approved, the removal of the trees would be contrary to Waihi Beach Community Board resolution 5 February 2018.
- Council policy allowed that any such request be considered on a case-by-case basis.

B. Mike Hickey, resident of Waihi Beach, attended in opposition to the removal of five Pohutukawa trees in Pohutukawa Park. He considered that he represented the views of many Waihi Beach residents as he was a member of six community organisations and spoke to many people in the community. He outlined the following concerns:

- Irrespective of the Waihi Beach Community Board decision on 5 February 2018 not to remove trees, trees had since been removed.
- The park had been there for many years, and it was a case of 'Caveat Emptor' (let the buyer beware) for purchasers of property next to the trees in the park.
- Considered that the sloping concrete driveway in front of 2 West Street encroached the boundary of Pohutukawa Park;
- The trees in the reserve were on "unstable" land comprised of soil and vegetation which had been bulldozed over a bank;
- The owner of 2 West Street had admitted he 'ring-barked' trees in the Waihi Leader in 2013.
- This was one of the few accessible native reserves and should not be lost to the local community;

- It may resolve matters if the whole area in question was resurveyed to identify original boundaries.
- C. Phillip Foster, resident of 90 Dillon Street, Waihi Beach, was in attendance in support of Mr Hickey, and was opposed to the removal of five Pohutukawa trees in Pohutukawa Park. He outlined the following concerns:
- He was retired and enjoyed walks to Pohutukawa Park.
  - To his knowledge, the community shared his appreciation of the park, which was there for community benefit.
  - He considered that removing trees from the Park would be a desecration of a natural area.
  - He was concerned over people who ring-barked trees so they died, or who did not seem to appreciate the park and what it offered the whole community.
  - Council was the administering body for the Park, and had a role to play. He accepted that some native trees had to be cut (at Council's discretion) if they became dangerous to the public.
  - Native trees were a taonga (treasure) for the benefit of all, and were diminishing from the bush. They should be appreciated and not cut down.

**Resolved:** Mackay / Dally

*THAT the meeting be reconvened in formal session.*

#### OP21.1 **NZ Transport Agency - State Highway 2 Speed Review Update**

The Chairperson noted that the item had been withdrawn, as the Agency had advised that presenters were not available on this occasion. It was also noted that there would be opportunities for the Agency to update Council on this matter following the election, when further information may be available.

#### OP21.2 **Waihi Beach Coastal Structures Review 2020**

The Committee considered a report from the Utilities Manager dated 30 July 2019. The Utilities Manager spoke to Powerpoint Presentation (A) and introduced the report as follows:

- Council had an obligation, under the conditions of resource consent, to undertake a review of the coastal protection works constructed at Waihi Beach in 2011.
- Beca had undertaken the review and had found the structure to be 'fit-for-purpose' for the long term (50-100 years), provided there was regular monitoring and maintenance works undertaken.

Staff responded to questions as follows:

- The 'end effect erosion' on the northern end of the seawall had the wall terminating abruptly. It needed to be designed to transition more gradually into a sand dune.

- Council had met with property owners along the coastline between the Flat White Café and the northern end of the seawall. These property owners had been waiting for the final Beca report.
- Dune enhancement was limited to the period from July to October, as required under resource consent conditions applied by BOP Regional Council. It appeared the regional council considered that, environmentally, this was the best period of time to remove and add sand.
- There had been some controversy in the local community when Council had spent \$65,000 to bring sand in when the initial failure was first apparent. The Beca report now provided further information on how a dune would survive or not survive. Waihi Beach was a “dynamic” site and care must be taken to ensure appropriate actions to achieve the right result.
- The previous Council had considered options available to them at the time and had decided to construct a hard structure; the rock seawall. Since then, further information had become available, which, if known may have resulted in a different decision.
- Council must now meet its obligations under the resource consent conditions as this was a legal requirement.

**Resolved:** Mackay / Mayor Webber

1. *THAT the Utilities Manager’s report dated 30 July 2019 and titled Waihi Beach Coastal Structures Review - 2020 be received.*
2. *THAT the report relates to an issue that is considered to be of low significance in terms of Council’s Significance and Engagement Policy.*
3. *THAT this report be forwarded to Bay of Plenty Regional Council as part of the requirement of condition 13 of the Resource Consent number 62912 (SAR-03-36-05-05) granted on 26 April 2008.*

OP21.3

### **Seawall Occupation by Landowners’ Consent at Waihi Beach Update**

The Utilities Manager introduced Ivan Tottle, Chairperson of the Property Owners Group at Waihi Beach, who was supported by Margaret and Mervyn Tait and Colin Booth. Mr Tottle addressed the Committee as follows:

- As a group, property owners had been working on solutions to address erosion at Waihi Beach for over five years.
- Previously, a post and timber structure had successfully restrained beach erosion. Following that, another structure and soft dune enhancement had been installed, but had immediately washed away.
- Residents had been waiting for the final Beca report recommendations. Beca was expected to provide ultimate guidance on what was required and to finalise a resource consent application.

- It had been demonstrated that where soft structures failed, hard structures were not only permitted, but were acceptable.
- The Group sought permission in writing from Council to construct a hard structure on the beach to deal with the erosion. This would relieve Council from any obligation with regard to erosion. There was also some Council land involved.

The Utilities Manager Tabled Item (2), and spoke to Powerpoint Presentation (B) (an aerial photograph), and provided an overview of the location of the sea wall extension; the location of ten properties which would be impacted; the '18 years cycle' of beach inundations; information to landowners in relation to resource consent; and the property owners' preference for a backstop wall.

He noted that there was a need to continue working through issues that were expected to arise in relation to the toe of the dune and future heavy erosion, and that the property owners would be prepared for this.

Staff responded to questions in relation to the responsibilities of Council if structures failed; the original structure built prior to the 1960's; the rock structure of the original Tonkin and Taylor design; and noted there was no apparent erosion at the Flat White Café area.

Mr Tottle responded to a question, and advised that the Flat White Café section of the beach was a healthy sand dune. By way of clarification, he noted that he represented property owners south of the café, and that there were mixed views amongst property owners north of the café as to what was needed, and that those people were still waiting for further information.

Staff responded to questions as follows:

- At the time of dune reconstruction there had been a clear signal from the BOP Regional Council not to involve Coast Care; however, over time Coast Care would have a role to play.
- Coronation Park to Three Mile Creek was Council's project, and Coast Care was not involved in that part of the project, which included re-nourishing of the sand dunes.

The Chairperson thanked Mr Tottle and his property group supporters for their attendance.

**Resolved:** Williams / Mackay

*THAT the verbal update from the Chairperson of the Property Owners Group at Waihi Beach on 15 August 2019 be received.*

OP21.4

**Proposal to Grant Pirirakau Incorporated Society Inc. Tourism Co-ordinator Status Section of the Omokoroa to Tauranga Cycle Trail in the Pirirakau Rohe**

The Committee considered a report from the Deputy Chief Executive dated 26 July 2019. The Reserves and Facilities Manager introduced the report. Julie Shepherd was in attendance representing Pirirākau. She spoke to Powerpoint Presentation (C), and provided an overview.

#### Scope of Presentation

- 10 years of co-design and collaboration in partnership with Council;
- The section of the trail within the Pirirākau Rohe;
- Shared visions and Goals 1, 2, 3, and 4;
- Future Goal 5, Cultural Hub and trade training.

Ms Shepherd responded to questions in relation to Pirirākau working with Council to ensure the approval of a remaining section of the Omokoroa to Tauranga cycle trail in the Pirirākau rohe; Kaumatua sign off; and the planting of 20,000 plants and utilisation of plant species. She thanked Council for its strong relationship with Pirirākau, and for working together towards mutually accepting a Memorandum of Agreement.

**Resolved:** Murray-Benge / Mayor Webber

1. *THAT the Deputy Chief Executive Officer's report dated 26 July 2019 and titled Proposal to Grant Pirirākau Incorporated Society Inc. Tourism Co-ordinator Status for the Pirirākau Section of the Omokoroa to Tauranga Cycle Trail in their Rohe be received.*
2. *THAT the report relates to an issue that is considered to be of low significance in terms of Council's Significance and Engagement Policy.*
3. *THAT the Council enters into a Memorandum of Understanding with Pirirākau Incorporated Society for:*
  - *Pirirākau Incorporated Society Inc. to act as coordinators for tourism activities on the Omokoroa to Tauranga (up to the Wairoa River) Cycleway in the Pirirākau Rohe;*
  - *An initial trial period of two years;*
  - *Generally in accordance with the attached Draft Memorandum of Understanding.*

10.45am The meeting adjourned.  
11.00am The meeting reconvened.

#### OP21.5 **Pohutukawa Park - Tree Shading Issues**

The Committee considered a report from the Reserves and Facilities Manager dated 29 July 2019. The Reserves and Facilities Manager spoke to Powerpoint Presentation (D) and gave an overview of the background of the request.

The Reserves and Facilities Manager also corrected some statements which had been made in the Public Forum by Mike Hickey, who had alleged that Mr Steel's driveway had encroached into the reserve. The Committee was shown an aerial photograph/plan that identified that the driveway in question did not encroach into the reserve, and it was confirmed that the reserve boundary had already been surveyed.

Staff responded to questions regarding the removal of trees overhanging Waihi Beach Tennis Club courts; the natural life span of trees; replacing removed trees with appropriate species; impact of tree removal on birdlife; potential for pollarding (a method of tree pruning) to restrict tree height; and discussions with the Waihi Beach Community Board.

**Resolved:** Mackay / Williams

1. *THAT the Reserves & Facilities Manager's report dated 29 July 2019 and titled Pohutukawa Park – Tree Shading Issues be received.*
2. *THAT the report relates to an issue that is considered to be of low significance in terms of Council's Significance and Engagement Policy.*

*THAT it be recommended to Council:*

3. *THAT Council, as administering body of Pohutukawa Park, decline the request received from the residents at 2 and 4A West Street, Waihi Beach, to remove five Pohutukawa trees adjacent to their properties.*

## **Division**

A division was called for and recorded as follows:

For the motion: Councillors Dally, Dean, Mackay, Marsh, Marshall, Murray-Benge, Palmer, Scrimgeour, Thwaites, Williams and His Worship the Mayor Webber

Against the motion: Councillor Lally.

The motion was declared carried.

## **OP21.6 Infrastructure Services Report August 2019**

The Committee considered a report from the Deputy Chief Executive dated 30 July 2019. The open section of the Operations and Monitoring Committee Information Pack No. OP21 dated 15 August 2019 had been circulated with the agenda.

The, Strategic Property Manager, Reserves and Facilities Manager, Utilities Manager, Engineering and Special Projects Manager, and Transportation Manager all spoke to a Powerpoint Presentation (E) which included a video, They provided updates on current projects and works in relation to Utilities; Reserves and Facilities; Strategic Property; Roads and Transport; and Projects.

Staff responded to questions regarding funding and resource consent for works at Two Mile Creek; the new regulatory framework for drinking water; drinking water safety and potential exemptions; the appointment of a Water Regulator to oversee the regulatory regime; chlorination of drinking water; comprehensive storm water consents for Te Puna and Minden, and the agreement with BOP Regional Council; water grading variance; seal extensions; and TECT All Terrain Park Kiwicamp facility.

The Utilities Manager was requested to provide a copy of the agreement with BOP Regional Council regarding comprehensive storm water consents for Te Puna and the Minden to the Chief Executive and the Mayor.

**Resolved:** Marshall / Murray-Benge

1. *THAT the Deputy Chief Executive's Report dated 30 July 2019 and titled Infrastructure Services Report August 2019 be received.*
2. *THAT the Open Section of the Operations & Monitoring Committee Information Pack No. OP21 dated 15 August 2019 be received.*
3. *THAT the report relates to an issue that is considered to be of low significance in terms of Council's Significance and Engagement Policy.*

## **Local Government Official Information and Meetings Act**

### **Exclusion of the Public**

#### **Schedule 2A**

**Resolved:** Palmer / Williams

*THAT the public be excluded from the following part of this meeting namely:*

- *Infrastructure Services Report August 2019 - In Confidence*

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



<b><i>General subject of each matter to be considered</i></b>	<b><i>Reason for passing this resolution in relation to each matter</i></b>	<b><i>Ground(s) under Section 48(1) for the passing of this resolution</i></b>
<i>Infrastructure Services Report August 2019 – In Confidence</i>	<i>THAT the public conduct of the relevant part of the proceedings of the meeting would likely result in the disclosure of information for which good reason for withholding would exist.</i>	<p><i>To protect the privacy of natural persons, including that of deceased natural persons.</i></p> <p><i>To enable the Council to carry on negotiations (including commercial and industrial) without prejudice or disadvantage.</i></p>