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**MARLBOROUGH
DISTRICT COUNCIL**



Only Marlborough

27 September 2023

Record No: 23202561
File Ref: D050-001-A03
Ask For: Nicole Chauval

Notice of Committee Meeting – Tuesday, 3 October 2023

A meeting of the Assets & Services Committee will be held in the Council Chambers, 15 Seymour Street, Blenheim on **Tuesday, 3 October 2023 commencing at 9.00 am.**

BUSINESS

As per Agenda attached.

**MARK WHEELER
CHIEF EXECUTIVE**



**Meeting of the
ASSETS AND SERVICES COMMITTEE
to be held in the Council Chambers, District Administration Building, Seymour Street,
TUESDAY, 3 OCTOBER 2023 commencing at 9.00 am**

Committee

Clr J D N Croad (Chairperson)
Clr J C Rosene (Deputy)
Clr S R W Adams
Clr S J Arbuckle
Clr D A Dalliessi
Clr B G Dawson
Clr M R L Flight
Mayor N P Taylor
Iwi representative (to be advised)

Departmental Head

Richard Coningham, (Manager, Assets & Services) and Jamie Lyall
(Manager, Property & Community Facilities)

Staff

Nicole Chauval (Committee Secretary)

In Public

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1. Apologies

No apologies received.

2. Declaration of Interests

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

3. Marlborough Sounds Future Access Study – Programme Business Case

(The Chair) (Report prepared by Neil Henry)

E210-007-29-05

Purpose of Report

1. To outline the Programme Business Case (PBC) for the Marlborough Sounds Future Access Study.
2. To seek endorsement of the PBC so that it can be submitted to Waka Kotahi.

Executive Summary

3. Council embarked on the Marlborough Sounds Future Access Study (MSFAS) to support the case for funding safe and resilient long-term access solutions for the Sounds following the major storm events of 2021 and 2022. The purpose of a programme business case (PBC) is to find the combination of activities that represent the best-value-for-money response to the case for change identified in the strategic case.
4. The PBC development process took place over the course of approximately ten months starting in November 2022. The process included several key steps as follows:
 - a) Investment Logic Mapping
 - b) Community engagement
 - c) Iwi engagement
 - d) Technical assessments
 - e) Economic case
 - f) Emerging preferred options and hazard adaptation pathways
 - g) Further community engagements
 - h) Commercial and management cases
5. The draft PBC has been peer reviewed by an independent expert engaged by Council, who considered that the PBC is fit for purpose.
6. If endorsed, Council will submit the PBC to Waka Kotahi for consideration. It is anticipated that the Business Case will be presented to the Waka Kotahi Board by the end of 2023, and that an indication of the Financial Assistance Rate will be provided to Council. Council will continue to engage with government on other funding sources to augment any funding provided by Waka Kotahi.
7. Council will be required to consult with its community on Level of Service and Rating options once the Financial Assistance Rate from Waka Kotahi is known. As all of Marlborough ratepayers may be asked to contribute to the cost, the SCP will need to engage with the whole Marlborough community. It is anticipated that the Special Consultative Process (SCP) will take place in 2024, as part of the 2024-34 Long Term Plan.
8. Final funding decisions will be made by each of the respective funders following the culmination of the SCP. It is anticipated that this will be from June/July 2024 onwards.

RECOMMENDATIONS

That Council:






1. **Endorses the Programme Business Case for the Marlborough Sounds Future Access Study.**
 2. **Submits the Programme Business Case to Waka Kotahi for consideration for the provision of funding.**
-

Background/Context

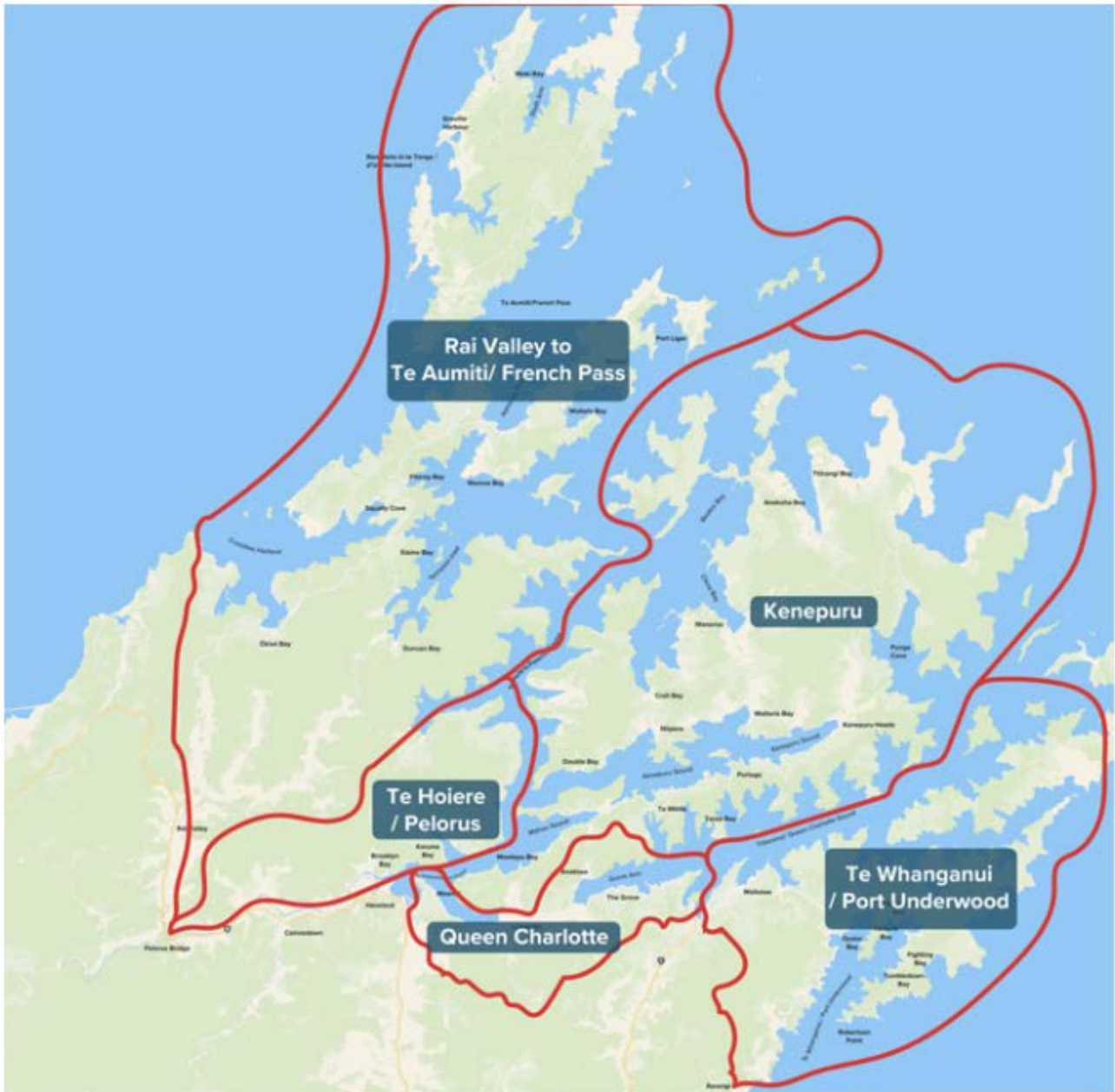
9. Severe weather events in 2021 and again in 2022 closed roads in the Sounds leaving people with limited or no access for prolonged periods, and in some cases with no feasible, safe, long-term alternative access. Whilst road access to residents has been reinstated in many areas, roads are fragile.
10. Council embarked on the Marlborough Sounds Future Access Study (MSFAS) to support the case for funding safe and resilient long-term access solutions for the Sounds, both for itself and to obtain funding assistance from Waka Kotahi and other funders. Consulting, engineering and construction company Stantec led the development of the study. The Waka Kotahi business case process guides the study, and advised Council that a Programme Business Case should be developed.
11. Council established a Governance Advisory Group in December 2022 made up of Council staff and councillors, iwi partners and representatives of relevant government agencies including Dept of Internal Affairs, Waka Kotahi, Ministry of Social Development, Dept of Conservation, National Emergency Management Agency. This group has met four times to date. The Governance Advisory Group helps to oversee the progress of the project, to provide comment on preferred options and to ensure that the wider government has been kept apprised of the development of the Programme Business Case so all of government support can be considered.

Programme Business Case

12. The purpose of a programme business case (PBC) is to find the combination of activities that represent the best-value-for-money response to the case for change identified in the strategic case. A robust PBC provides Waka Kotahi, Council and all stakeholders with assurance that:
 - an appropriately broad range of options are being considered at a system level
 - the proposed programme represents the best whole-of-life, value-for-money approach (allowing for any trade-offs across different outcomes and risk)
 - relevant legislative requirements to consider alternatives and options have been met
 - opportunities for innovation have been adequately explored.
13. The PBC needs to follow the key Business Case Approach (BCA) principles of investing for benefits, fit-for-purpose effort, clarity of intent, progressive development and informed discussion. The Waka Kotahi BCA is based on New Zealand Treasury's Better Business Cases (BBC) methodology, which is a five-case model. The table shows the focus of the five cases in a PBC phase.

Strategic case What is the compelling case for change?	Economic case Does the preferred option optimise value for money?	Commercial case Is the proposed deal commercially viable?	Financial case Is the investment proposal affordable?	Management case How can the proposal be delivered successfully?
				
Develop (or refine)	Develop	High-level only – completed in activity-level business case	High-level only – completed in activity-level business case	High-level only – completed in activity-level business case

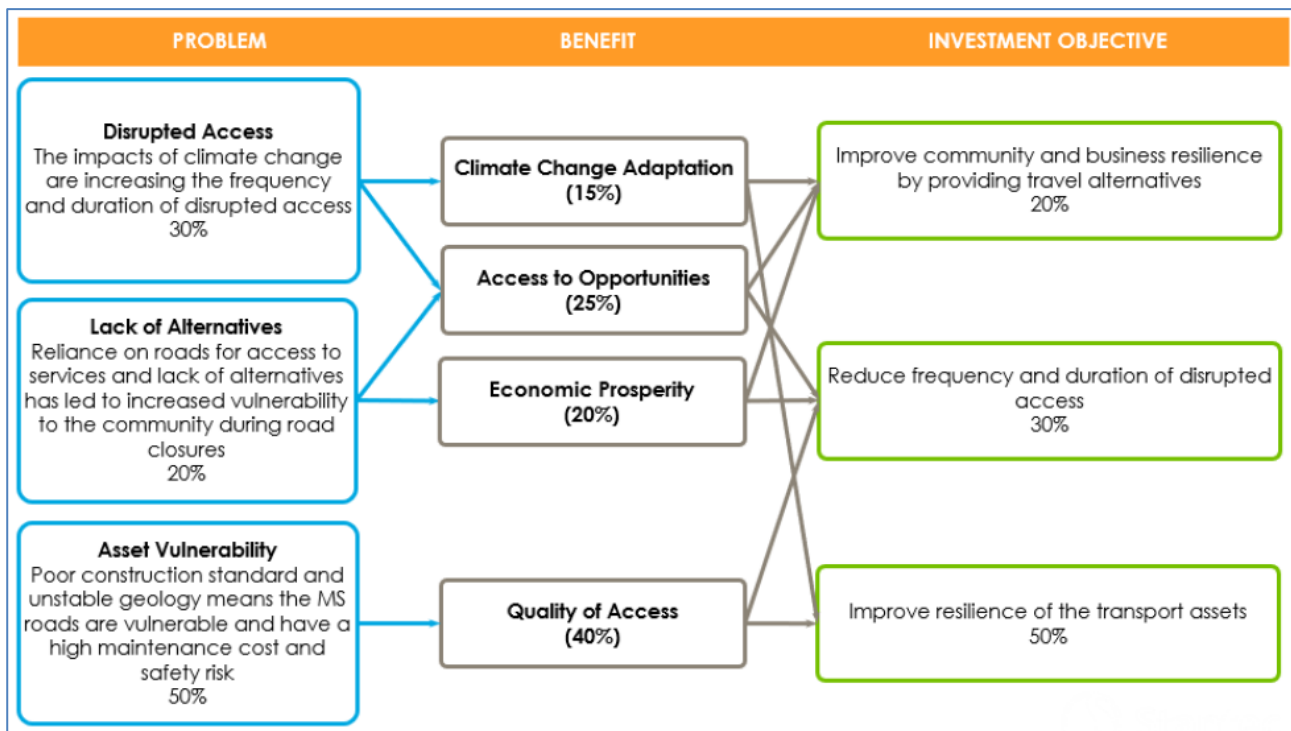
14. Other business case processes may be required prior to implementation of the works.
15. MSFAS is looking at five geographical areas, recognising their own distinct access issues.
 - a) **Rai Valley to Te Aumiti / French Pass.** Ronga Road (Rai Valley), Tennyson Inlet, Croisilles-French Pass Road, Te Towaka-Port Ligar Road, Bulwer Road, including Rangitoto ki te Tonga / d'Urville Island and surrounding areas.
 - b) **Te Hoiere / Pelorus.** Kaiuma Bay Road including Daltons Road / Track and Te Hoiere Road and surrounding areas – Linked to Te Hoiere/Pelorus Catchment linking back to Te Hoiere/Pelorus River.
 - c) **Kenepuru.** including Kenepuru Road and the Outer Sounds
 - d) **Queen Charlotte Drive** including Anakiwa Road. (Havelock to Picton)
 - e) **Te Whanganui / Port Underwood.** Te Whanganui / Port Underwood and Tumbledown Bay roads (to Rārangī campground)



Development of the MSFAS PBC

16. The PBC development process took place over the course of approximately ten months starting in November 2022. The process included several key steps as follows:

- a) **Investment Logic Mapping** – this process took place at the outset of the project to define and agree the problems that the case was seeking to solve, and the causes and effects of them. Benefits from finding solutions and investment objectives were then derived.



b) **Community engagement** – a key component of the PBC was gathering detailed information from the Sounds community in the study area about:

- i) where they live,
- ii) the businesses they operate,
- iii) how and why they use the road network in the Sounds and
- iv) the impact of the storms on their lives, properties etc.

Several community meetings were held in January 2023, and a survey received over 900 replies with a number of further written responses received. This helped build a rich picture of the affected Sounds communities for the PBC.

- c) **Iwi engagement** – iwi have been involved during the development of the PBC via the project Governance Advisory Group, direct discussions with some iwi GM's, and an iwi hui in March. Further discussions are taking place and will continue beyond the completion of the PBC towards implementation.
- d) **Technical assessments** – a detailed analysis of the geotechnical conditions of the Sounds and its susceptibility to trigger events such as weather or earthquakes was undertaken alongside the condition of the roading networks following the storms. Climate Change impacts were part of that assessment.
- e) **Economic case** – a detailed process was undertaken to develop the potential programmes of response using a range of data sources. Six options for each of the five areas were developed: do minimum, road focus, road access, balanced, marine access and marine focus. A multi-criteria analysis of the options, with a sensitivity test and benefit cost ratio was undertaken.
- f) **Emerging preferred programme and hazard adaptation pathways** – an emerging preferred programme and hazard adaptation pathway for each of the areas was selected and the cost was estimated. Nett Present Value calculations (NPV) with sensitivity analysis and benefits assessment were undertaken and tested against the investment objectives.

	Road Focus	Road Access	Balanced	Marine Access	Marine Focus
Rai Valley to Te Aumiti/ French Pass		●		▲	
Te Hoiere/Pelorus	●			▲	
Queen Charlotte	●			▲	
Kenepuru			●		▲
Te Whanganui/ Port Underwood		●		▲	

● Emerging preferred ▲ Adaptation pathway

- g) **Further community engagement** – a ‘roadshow’ was undertaken in June 2023 to explain the developed options, the emerging preferred options and the hazard adaptation pathways. Meetings were held across the Sounds and in Nelson, Blenheim, Picton and online. A survey seeking community input on the options and the potential rating impacts was developed. This attracted over 1,700 responses and 42 written responses.
- h) **Commercial and management cases** – the commercial case outlines the procurement strategy and possible repairs delivery model, and the management case provides an outline programme plan and risk management.
- i) **Updated cost estimates** – further work was undertaken on the estimated cost of the proposed programme. This included changed contingencies and some adjustments to the proposed works to take into account community feedback on the proposed programme received in the June/July consultation. The estimated cost, including contingencies increased from \$160m to \$237m.

	P50 estimate summary (includes contingencies)				
	Repairs	Road improvements	Marine improvements	Total	Early estimate used for Engagement
Sounds wide studies	\$ -	\$ 3,000,000	\$ 7,000,000	\$ 10,000,000	-
French Pass	\$ 26,000,000	\$ 15,000,000	\$ 9,000,000	\$ 50,000,000	\$45M
Pelorus	\$ 2,000,000	\$ 3,000,000	\$ -	\$ 5,000,000	\$5M
Queen Charlotte	\$ 14,000,000	\$ 6,000,000	\$ 6,000,000	\$ 26,000,000	\$30M
Kenepuru	\$ 97,000,000	\$ 12,000,000	\$ 18,000,000	\$ 127,000,000	\$60M
Port Underwood	\$ 11,000,000	\$ 8,000,000	\$ -	\$ 19,000,000	\$20M
Total	\$ 150,000,000	\$ 48,000,000	\$ 40,000,000	\$ 237,000,000	\$160M

- j) **Peer review** – the draft PBC has been peer reviewed by an independent expert engaged by Council. The peer reviewer provided the following overview:
- *The documentation provided to date provides a strong strategic case, with clarity around the cause and effect of the problems related to the area.*
 - *The optioning process that has been undertaken is robust, with a clear process of filtering from a long list to the identified preferred option in the different components and also a process that has allowed revisiting of options when new information and consultation feedback has been received.*
 - *The business case provides a strong case for the preferred option, providing benefits sought from the projects investment objectives and sets out a clear long term programme*

of works to enhance the resilience of the wider transport system given the increasing vulnerability of the system.

- *Based on the above review it is considered that the PBC is fit for purpose.*

17. Council staff and Stantec have worked closely with Waka Kotahi during the whole process to ensure alignment with the relevant standards for a Programme Business Case. Waka Kotahi will now undertake an internal quality assurance process before submission is made to their Board.

Option One (Recommended Option)

18. That Council endorses the Programme Business Case for the Marlborough Sounds Future Access Study and that Council submits the Programme Business Case to Waka Kotahi for consideration for the provision of funding.
19. This option considers the Programme Business Case and indicates Council's satisfaction that it can be provided to Waka Kotahi for their Board to consider and provide an indication of the Financial Assistance Rate. It acknowledges that further consultation by Council will be required and changes may be made.

Advantages

20. To meet the required process and approach by Waka Kotahi to enable them to consider the PBC and inform Council of an indicative Financial Assistance Rate. This in turn will enable Council to calculate the cost of Council's financial contribution and develop Rating options for consultation with the community.
21. The PBC is also useful to assist Council to make a case for funding from other sources as it outlines the impact and benefits of investment in restoring access to Sounds communities.

Disadvantages

22. None identified

Option Two – Status Quo

23. This option would involve Council not submitting the PBC to Waka Kotahi for consideration.

Advantages

24. None identified

Disadvantages

25. Council would not be able to access Waka Kotahi funding and would either have to find alternative funding or meet the full cost of restoring access to a higher more resilient standard from Marlborough ratepayers.

Next steps

26. If endorsed, Council will submit the PBC to Waka Kotahi for consideration. It is anticipated that the Business Case will be presented to the Waka Kotahi Board by the end of 2023, and that an indication of the Financial Assistance Rate will be provided to Council.
27. Council will continue to engage with government on other funding sources to augment any funding provided by Waka Kotahi. This will be particularly important for aspects that may sit outside Waka Kotahi's remit such as marine improvements.
28. Council will be required to consult with its community on Levels of Service and Rating options once the Financial Assistance Rate from Waka Kotahi is known. This is because the Council's Engagement and Significance policy indicates that the nature of the proposed programme and the scale of the investment means that a Special Consultative Procedure (SCP) is required. As all of Marlborough ratepayers may be asked to contribute to the cost, the SCP will need to engage with the whole

Marlborough community. It is anticipated that the SCP will take place in 2024, as part of the 2024-34 Long Term Plan.

29. Funding decisions will be made by each of the respective funders following the culmination of the SCP. It is anticipated that this will be from June/July 2024 onwards.

Presentation

A short presentation will be given by Neil Henry and Andrew Maughan of Stantec (15 minutes).

Attachment

Attachment 1 – Programme Business Case (report is available on Council’s website via the following link <https://www.marlborough.govt.nz/your-council/meetings>)

Author	Neil Henry, Manager, Strategic Planning and Economic Development
Authoriser	Mark Wheeler, Chief Executive

Summary of decision-making considerations			
Fit with purpose of local government			
The proposal enables democratic local decision-making and action by, and on behalf of communities and relates to providing a public service and it is considered good-quality and cost effective.			
Fit with Council policies and strategies			
	<i>Contributes</i>	<i>Detracts</i>	<i>Not applicable</i>
LTP / Annual Plan	X	<input type="checkbox"/>	<input type="checkbox"/>
Financial Strategy	X	<input type="checkbox"/>	<input type="checkbox"/>
Infrastructure Strategy	X	<input type="checkbox"/>	<input type="checkbox"/>
Social well-being	X	<input type="checkbox"/>	<input type="checkbox"/>
Economic development	X	<input type="checkbox"/>	<input type="checkbox"/>
Environment & RMA Plans	X	<input type="checkbox"/>	<input type="checkbox"/>
Arts & Culture	<input type="checkbox"/>	<input type="checkbox"/>	X
3 Waters	<input type="checkbox"/>	<input type="checkbox"/>	X
Land transport	X	<input type="checkbox"/>	<input type="checkbox"/>
Parks and reserves	X	<input type="checkbox"/>	<input type="checkbox"/>
This implementation of the PBC would have wide ranging impacts on Council, some services and the community. The restoration of more resilient, higher standard access would be a positive change for the community compared to the current situation but would require significant financial contribution from Marlborough ratepayers.			
Nature of the decision to be made			
The options do not involve a significant decision in relation to land or a body of water. Iwi/Māori have been involved in the development of the PBC and will continue to be involved beyond the completion towards implementation.			
Financial considerations			
This matter will be subject to future a Special Consultative Procedure which is likely to be in the 2024-34 Long Term Plan.			
Significance			
The decision to endorse the PBC is considered of low significance under Council's Significance and Engagement Policy. However, following the decision of Waka Kotahi on the PBC, Council will be required to undertake a Special Consultative Procedure (either standalone or as part of 2024-34 Long Term Plan) because decisions on Levels of Service and Rating will be significant.			
Engagement			
Significant engagement has taken place already as part of the development of the PBC, including two rounds of public meetings with over 1,000 attendees in total, two surveys with a combined response of 2,600, and a detailed communication plan. Further engagement will be undertaken.			
Risks: Legal / Health & Safety etc			
The PBC may be rejected by Waka Kotahi or provide insufficient funding to deliver the programme. This could lead to an amendment of the PBC and further consultation.			

4. Vehicle Length Restrictions Sounds Recovery Roads

(The Chair) (Report prepared by Steve Murrin)

L150-023-002-01-02

Purpose of Report

1. To approve a mechanism to implement and amend Temporary Vehicle Length and Weight Restrictions on Roads under Storm Recovery repairs.
2. It is to be noted that these restrictions are “Temporary” restrictions while the roads are being repaired. Any permanent restrictions following storm repairs will need a decision of Council.

Executive Summary

3. The Marlborough Roads Recovery Team are seeking Council approval to delegate authority to the Marlborough Roads Manager, Manager of Assets and Services and the Chair of Assets and Services to be able to implement vehicle Weight and Length Restrictions on storm damaged roads that are under repair.

RECOMMENDATION

That following Consultation with the Police that the Marlborough Roads Manager, Manager of Assets and Services, and the Chair of Assets and Services be delegated authority to implement or amend temporary restrictions on roads that are under storm damage repairs.

Background/Context

4. Following the July 2021 storm event Council approved the following recommendations:
 - *Under Clause 11 Schedule 10 Local Government Act 1974 approve a Temporary Vehicle Length Restriction of 12.6m on Queen Charlotte Drive from Dalziels Bridge at Linkwater through to the entrance to the Havelock Transfer Station.*
 - *Approve a Temporary Vehicle Length Restriction of 8.0m on Kenepuru Road from Onahau Bay Rd Intersection through to Torea Road Intersection.*
 - *That the Marlborough Roads Manager, Manager of Assets and Services, and the Chair of Assets and Services be delegated authority to lift the length restrictions once repairs are completed. Restrictions are not to exceed 30 June 2023.*
5. These recommendations were approved prior to the August 2022 storm, with the expectation that all the roads would be repaired by June 2023 and the restrictions lifted.
6. It has now become very apparent that these roads are going to be under repair for some years and weight and length restrictions will need to be implemented.
7. The restriction for Queen Charlotte Drive is still in place as per the earlier recommendation.
8. The restriction on Kenepuru Road has been modified to include a weight restriction of 3.5 tonne and the 8m length restriction has been extended to Kenepuru Road from Linkwater to the Heads.
9. Currently these restrictions are able to be implemented under Section 94D of the Civil Defence Emergency Management Act 2002. The recovery Transition period will finish at some time, so a mechanism needs to be put in place to be able to implement restrictions.
10. A Council has the ability to impose restrictions under (cl 11 Schedule 10 LGA 1974).
11. The council may, subject to such conditions as it thinks fit (including the imposition of a reasonable bond), and after consultation with the Police and the *New Zealand Transport Agency*, close any road or part of a road to all traffic or any specified type of traffic (including pedestrian traffic)—
 - (a) *while the road, or any drain, water race, pipe, or apparatus under, upon, or over the road is being constructed or repaired;* or

- (b) *where, in order to resolve problems associated with traffic operations on a road network, experimental diversions of traffic are required; or*
- (c) *during a period when public disorder exists or is anticipated; or*
- (d) *when for any reason it is considered desirable that traffic should be temporarily diverted to other roads; or*
- (e) *for a period or periods not exceeding in the aggregate 31 days in any year for any exhibition, fair, show, market, concert, film-making, race or other sporting event, or public function:*

Assessment/Analysis

- 12. While repair works are completed on storm damaged roads it is important to be able to control the length and weight of vehicles to that which can safely navigate the damaged sections of road.
- 13. With a number of repairs now being completed, there will be opportunity to ease some of the restrictions.
- 14. The earlier restrictions applied to Queen Charlotte Drive and Kenepuru Road only. While repairs are constructed on other damaged roads it is probable restrictions will be required.
- 15. It is a requirement of the legislation that consultation must take place with Police and Waka Kotahi before any restrictions are implemented or changed.

Option One (Recommended Option) – *That vehicle length restrictions be applied to Queen Charlotte Drive and Kenepuru Road*

- 16. Following Consultation with the Police that the Marlborough Roads Manager, Manager of Assets and Services, and the Chair of Assets and Services be delegated authority to implement or amend temporary restrictions on roads that are under storm damage repairs.

Advantages

- 17. Recovery team have the ability to control the size of vehicles through worksites.
- 18. Only vehicles that can safely navigate the damaged sections of road are able to use the road.

Disadvantages

- 19. Some of the community will not be happy with restricted access.

Option Two – Status Quo

- 20. No implementation of length restrictions

Advantages

- 21. No vehicle restrictions

Disadvantages

- 22. Overlength vehicles would not be able to safely navigate sections of the road.

Next step

- 23. If approved. Once the Civil Defence Transitional Period is lifted, vehicle length restrictions will be able to be imposed.

Author	Steve Murrin, Marlborough Roads Manager
Authoriser	Richard Coningham, Manager Assets and Services

Summary of decision-making considerations			
Fit with purpose of local government			
The proposal enables <i>democratic local decision-making and action by, an on behalf of communities and relates to providing a public service and it is considered good-quality and cost effective.</i>			
Fit with Council policies and strategies			
	<i>Contributes</i>	<i>Detracts</i>	<i>Not applicable</i>
LTP / Annual Plan	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Financial Strategy	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Infrastructure Strategy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Social well-being	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Economic development	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Environment & RMA Plans	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Arts & Culture	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3 Waters	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Land transport	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parks and reserves	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
This proposal contributes to the Land Transport relating to Road Safety			
Nature of the decision to be made			
The options do not involve a significant decision in relation to land or a body of water.			
Financial considerations			
There are no known financial implications.			
Significance			
The decision is considered of low significance under Council's Significance and Engagement Policy.			
Engagement			
Engagement will occur through the regular Recovery Communications.			
Risks: Legal / Health & Safety etc			
Required to improve Health and Safety Outcomes.			
Climate Change Implications			
There are no known climate change implications to this decision.			

5. Unformed Legal Road Policy

(Clr Dawson) (Report prepared by Amanda Smith)

L150-019-56

Purpose of Report

1. To formalise a previously unwritten policy on how Council addresses matters relating to unformed legal roads.

Executive Summary

2. There are a number of unformed legal roads (paper roads) in the Marlborough region. Previously Council has had an unwritten policy which was applied to matters relating to unformed legal roads. Recently there have been questions asked about documenting this unwritten policy and the attached policy document has been produced to formalise this policy as a result (refer Attachment 1).

RECOMMENDATION

That Council approve the Unformed Legal Road Policy attached as Attachment 1.

Background/Context

3. Council often receives enquiries from the public in relation to unformed legal roads (paper roads).
4. While still classed legally as roads, when in an unformed state, maintenance and upkeep are not required to be carried out by Council in its Road Controlling Authority status.
5. While in an unformed state, the public still has a legal right to use these paper roads should they wish for access or walking/hiking.
6. On an intermittent basis, Council will receive requests from various members of the public requesting that maintenance be carried out on a paper road. This normally occurs where a member of the public is using the paper road as access to a private property.
7. If there is a request to create an access to a property on an unformed legal road, an application needs to be made to Marlborough Roads who will set the standards required for access, but this creates no Council obligation to perform maintenance on the unformed legal road.
8. Council's unwritten policy has been that where there is an unformed legal road Council does not carry out maintenance. Marlborough Roads staff are starting to receive a number of challenges from the public on this matter as this policy is not documented and available to the public to view, which then creates ambiguity for interpretation.
9. The attached Unformed Legal Road Policy as Attachment 1 has been prepared as a result for Council to consider.

Option One (Recommended Option)

10. That the Unformed Legal Road Policy be approved.

Advantages

11. Provides clarity to the public and staff on Council's policy in relation to Unformed Legal Roads in Marlborough

Disadvantages

12. None

Option Two – Status Quo

13. Council continues with an unwritten policy in relation to Unformed Legal Roads.

Advantages

14. None

Disadvantages

15. Creates ambiguity in terms of applying an unwritten policy in relation to unformed legal roads.

Attachment

Attachment 1 – Unformed Legal Roads Policy

Page [17]

Author	Amanda Smith, Principal Network Manager, Marlborough Roads
Authoriser	Richard Coningham, Manager Assets and Services

Summary of decision-making considerations			
Fit with purpose of local government			
The proposal enables democratic local decision-making and action by, and on behalf of communities and relates to providing a public service and it is considered good-quality and cost effective.			
Fit with Council policies and strategies			
	<i>Contributes</i>	<i>Detracts</i>	<i>Not applicable</i>
LTP / Annual Plan	<input type="checkbox"/>	<input type="checkbox"/>	✓
Financial Strategy	<input type="checkbox"/>	<input type="checkbox"/>	✓
Infrastructure Strategy	✓	<input type="checkbox"/>	<input type="checkbox"/>
Social well-being	<input type="checkbox"/>	<input type="checkbox"/>	✓
Economic development	<input type="checkbox"/>	<input type="checkbox"/>	✓
Environment & RMA Plans	<input type="checkbox"/>	<input type="checkbox"/>	✓
Arts & Culture	<input type="checkbox"/>	<input type="checkbox"/>	✓
3 Waters	<input type="checkbox"/>	<input type="checkbox"/>	✓
Land transport	✓	<input type="checkbox"/>	<input type="checkbox"/>
Parks and reserves	<input type="checkbox"/>	<input type="checkbox"/>	✓
This proposal contributes to the categories identified by providing clarity to the public and staff on dealing with matters in relation to unformed legal roads in Marlborough.			
Nature of the decision to be made			
The options do not involve a significant decision in relation to land or a body of water.			
Financial considerations			
There are no known financial implications.			
Significance			
The decision is considered of low significance under Council's Significance and Engagement Policy.			
Engagement			
No engagement is proposed.			
Risks: Legal / Health & Safety etc			
There are no known significant risks or legal implications as this is formalising a previously unwritten Council policy.			
Climate Change Implications			
There are no known climate change implications to this decision.			



**MARLBOROUGH
DISTRICT COUNCIL**

**UNFORMED LEGAL ROADS
MANAGEMENT POLICY**

July 2023

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Purpose and Objective

The purpose of the Unformed Legal Roads Management Policy (**the Policy**) is to provide guiding principles to inform Marlborough District Council (**Council**) staff and its agents on issues arising from the use of Unformed Legal Roads (**Unformed Roads**). The Policy also provides guidance to public users.

Marlborough Roads, as an agent of Council, is responsible for the management of Marlborough's roading network on behalf of the Council. The Policy creates a consistent and proactive approach between Marlborough Roads and the Council to effectively manage Unformed Roads.

Unformed Roads can be a concern for property owners and local authorities. These areas, officially designated as roads, are not fully constructed, or maintained. Unformed Roads do not meet the standards of a fully functional and safe road.

Unformed Legal Road

An Unformed Road is:

- Any road originally laid out over Crown land and marked on group and record maps.
- Any road originally laid out on Crown land under the authority of any act or ordinance, on any Crown grant record map, but not marked or laid out on the ground.
- Where the road has not be constructed by Council with gravel, metal, seal or permanent surfacing, or by a private individual and accepted by Council to meeting their standards, and is neither substantially formed or made for the use of the public.

Unformed Roads are not always readily identifiable. Most have never been developed due to access requirements, impractical topography, lack of funding priority or unsuitable environmental conditions. Ownership lies with either the Council or the Crown. Marlborough Roads has powers to control Unformed Roads as a road controlling authority.

Unformed Roads have the same status as legal roads:

- Statutory road controlling authority powers remain exercisable.
- Standard road rules apply to users.
- The public have the right to access and use them.
- Adjoining landowners are obliged to respect public use.
- Utility service providers have the right to use Unformed Roads for their infrastructure.

Statutory Provisions

The functions and powers of Council are set out in the **Local Government Act 2002**.

Other relevant statutory provisions for the use of Unformed Roads include;

- **Local Government Act 1974 (the Act)** – Part 21 contains much of the regulatory regime that applies to roads.
- **Public Works Act 1981** – Provides for issuing licences for occupation of roads and allows for the stopping of roads by Ministerial decision.

- **Land Transport Act 1998** – Governs the control and use of roads and allows for the making of bylaws and the rules for traffic behaviour on roads.
- **Land Transport Road User Rule 2004** – Sets the requirements for the use of roads.
- **Summary of Offences Act 1981 (s 22)** – Makes it an offence to obstruct a public way.

Walking Access Act 2008 – Established Herenga ā Nuku, the New Zealand Walking Access Commission (**NZWAC**), to safeguard and enhance opportunities for public walking access to the great outdoors, while respecting private landholders' rights and property.

Guiding Principles

The Policy sets out Council and Marlborough Roads approach to the control and management of Unformed Roads in the Marlborough region, based on the following five principles:

- **Public right of passage** – The public has the right of passage over any Unformed Road. Care must be taken to ensure no damage to the surface of the unformed road or trespass onto adjoining private property.
- **Adjoining private property rights** – Adjoining landowners have frontage rights to access Unformed Roads which are along the length of their property boundary. Landowners desire privacy and safety of their possessions, including their stock.
- **No right of occupation** – Adjoining landholders have no right to occupy any Unformed Roads and may not impede the use of them by the public in any way without written permission from the Council.
- **No maintenance or construction obligation** – Council is under no obligation to maintain or construct Unformed Roads.
- **Environmental protection and road user safety measures** – Council has the right to restrict traffic movements on Unformed Roads for the purpose of protecting the environment, the road and adjoining land, and the safety of road use.

Management of Unformed Roads

1.1 Public right of passage along Unformed Roads

The public has the right of free passage. However, Unformed Roads may not be available for passage due to the condition of the surface, unsuitable terrain, dense vegetation and other natural obstructions.

Rights of free passage must be balanced against potential damage to the environment, and Council and its agents have the right to restrict vehicle movements on Unformed Roads for the purpose of protection the environment or the public.

Council Principles:

- Council acknowledges the public has a right of free passage along any Unformed Roads.
- Council has no obligation to construct or improve Unformed Roads.
- Council assumes no liability for the condition, or the suitability of any unauthorised activity carried out on any Unformed Road.

- Road users must accept the condition of the road as they find it. They should take proper care of the environment and must not cause damage or modify the surface of the Unformed Roads.
- Road users must not trespass onto adjoining property. They must not endanger or cause distress to any adjoining landholders' livestock or damage any property (this includes stock and property that may have lawful authority to be on the Unformed Roads).
- Council recommends the [New Zealand Outdoor Access Code \(the Code\)](#), produced by NZWAC, for users of Unformed Roads.
- Council may temporarily restrict access to Unformed Roads under certain circumstances, including public safety and protection of the environment.

1.2 Identifying Unformed Roads

The boundaries of Unformed Roads and adjoining private land are difficult to identify. Most do not follow terrain-based access routes.

NZWAC's online public access mapping system, the [Walking Access Mapping System \(WAMS\)](#), is available to assist the public in identifying land open to recreational access, including Unformed Roads.

WAMS is a free, online tool which includes high quality topographic maps and aerial imagery, overlaid with recreation information provided by partner organisations.

Council Principles

- Information signage at the entrance point to popular, accessible Unformed Roads may be approved by Council where the number of users warrants signage information.
- Boundary stakes may be placed along Unformed Roads by the adjoining landowners or users subject to written approval from Council.

1.3 Encroachments

Road encroachments are not allowed, although exceptions may be considered by the Council on a case-by-case basis. Road encroachments can occur on the surface, beneath (subsoil) or above (airspace) the legal road corridor.

Granting a licence to occupy the road surface or a lease for airspace or subsoil will be subject to various conditions and restrictions to protect public usage.

There are many situations where Unformed Roads have been partially or fully obstructed by the placement of fence lines, locked gates, trees, buildings, and other structures. These obstructions are illegal. Council's policy is that these obstructions are generally removed to preserve right of public access.

Council Principles

- Private use of an Unformed Roads (solely for private benefit) will not be permitted unless there are exceptional circumstances or an element of public benefit.
- Council will generally not consider approving road encroachments where access or future access is unduly compromised.

- Complaints regarding existing encroachment on unformed roads will be investigated and assessed by Council for removal on a case-by-case basis. Discretion for removal of encroachments is held by council.

1.4 Damage, Repairs and Maintenance

Council is under no legal obligation to maintain Unformed Roads. However, if Council undertakes construction work, such as a culvert or bridge on a road that is otherwise generally unformed, it has a duty of reasonable care in that construction. Further, Council has a duty of on-going reasonable observation of that work to ensure any dangerous change in condition is discovered and remedied.

Causing damage to the surface of Unformed Roads is an offence under the Act. Council accepts that common uses of an Unformed Road may cause damage to the surface of the road. The prohibition on damaging a road must be balanced against the right to use the road.

Road users must take care to minimise damage to the road. Road users must also consider that factors, like weather conditions, may cause the Unformed Road to be damaged easier.

Council Principles

- Council generally has no obligations or liability to maintain Unformed Roads except for any structures it constructed or is responsible for.
- Council accepts that minor wear and tear will occur from ordinary use of an Unformed Roads and will not consider this damage to the road.
- Intentional or unintentional damage caused by public misuse, recklessness, vehicle damage from racing, overuse or wheel spins or significant stock path erosion may be considered damage to the road.
- Deliberately digging up or landscaping an Unformed Road is a form of damage and must not be undertaken without written approval.

1.5 Livestock Including Grazing, Cattle Stops, Fences and Swing Gates

1.5.1 Grazing and Farming

Unformed Roads may be used for farming where they adjoin private land or where a grazing licence is held. The primary purpose of a road, to travel from point to point, remains paramount. It is courteous for members of the public intending to use a Unformed Road to inform a farmer of their intentions.

Grazing on Unformed Roads has been carried out without the need for a formalised grazing licence. Currently, Council will not insist on formal licences. However, there may be advantages in formalising a licence for grazing if issues arise in relation to a particular road. Issues could include complaints from public and/or adjoining landowners.

Private adjoining landowners can apply for a grazing licence or other farming related activities from Council. These applications will be considered on a case-by-case basis.

Unformed Roads form the boundary between neighbouring properties, and both parties may wish to access the road for grazing purposes. Historical use does not give greater rights use the public resource. Grazing privileges should be split at an appropriate midpoint along the length of the shared boundary. Meaning each neighbour would be allowed to use the full width of half the road along their shared

boundary. A mutually agreeable solution should be sought rather than mathematical precision.

Council Principles

- A grazing licence gives formal legal approval for applicant's livestock to graze or for any other farming purpose.
- Grazing licences are dependent upon maintaining public access.
- Where more than one adjoining landowner requests an Unformed Road for grazing, a fair and equal split is preferred.
- Where an Unformed Road is used for grazing, the adjoining landowner is responsible for sowing and maintaining a grass surface appropriate for both the stock and the public's use of the road.
- A condition of grazing may be that fencing is required along the boundaries of the Unformed Road at the applicant's expense.
- Livestock that presents a hazard to the public (e.g. bulls) should not be permitted to occupy or graze Unformed Roads and must be fenced if grazing or occupying adjoining land.
- The public must exercise care towards any grazing animals on the Unformed Road.
- The public should take note and be aware of any stock grazing and exercise care, particularly while operating a vehicle or leading a horse, dog, or other animal.

1.5.2 Fences and Cattlestops

With approval from Council, a person may erect a fence with suitable gate or cattle stop across an Unformed Road, in accordance with s 344 or 357 of the Act. A sign must be affixed to the gate indicating it is a public road.

Council has the power to require the owner or occupier of any land not sufficiently separated from a road to enclose the land with a fence for the safety or convenience of the public. This may be required in situations where an agreement cannot be reached balancing the use of an Unformed Road for grazing use by the public.

Council Principles

- Council is not financially responsible for the fencing of any Unformed Road boundaries under the Fencing Act 1978.
- All fences across Unformed Roads must be constructed with appropriate gates pursuant to the Gates and Cattlestops Order 1955.
- Council discourages the use of cattlestops due to potential danger to both horses and pedestrians. Cattlestops may be used in specific situations.
- Gates across roads must not be locked.
- Temporary fencing for the purpose of stock control may be erected across a Unformed Road but must not unduly inhibit public access.
- Electric fencing along or across the Unformed Road may be necessary for marking boundaries and/or the containment of stock but should display appropriate warning signs unless in an area of low public use.

- For example, an area of low public use could be if the Unformed Road is in a paddock.
- The public, after using a gate on an Unformed Road, must leave it in the state they found it in (either opened or closed).
- Council will not authorise the placing of beehives on Unformed Roads.

1.6 Use of Unformed Roads by Motor Vehicles

Most Unformed Roads will not have clearly defined areas for different types of users. Many Unformed Roads fall within the definition of a shared zone under the Land Transport (Road User) Rule 2004. In shared zones, vehicles and pedestrians must not unduly impede on each other's interest and use.

Council Principles

- Motor vehicles can be used on Unformed Roads where physically possible. The drivers have the same right of access as other road users unless expressly restricted by Council.
- Restriction of the use of motor vehicles on Unformed Roads may be required for the purposes of protecting the environment, the road and adjoining land, or the safety of road users.
- Council expects users of motor vehicles on Unformed Roads to:
 - drive to the conditions;
 - Not drive a motor vehicle, or cause a motor vehicle to be driven, at a speed or manner which is or might be dangerous to the public, a person or an animal (s 7(2) of the Land Transport Act 1998).
 - be aware of other road users on any part of the road and the obligation to give way to pedestrians;
 - assess the unformed surface and terrain for suitable conditions before accessing with a motor vehicle;
 - minimise damage caused by motor vehicles to the road surface (deliberate damage caused by actions such as wheel spins and burnouts are prohibited); and
 - keep to formed tracks within the Unformed Road corridor where available.
 - Please note: formed farm tracks may not be within the legal road boundaries and may not be available for public use.

Recreation, Dogs, Horses and Hunting

Some Unformed Roads are used by recreational users for activities like walking, mountain biking, horse riding, hunting and to reach outdoor destinations such as rivers, lakes, and beaches.

Council Principles

- Council recommends the Code as the code of responsible conduct for recreational users of Unformed Roads.

- All recreational users have an equal shared right of access to Unformed Roads.
- Persons walking, using vehicles or horses to access Unformed Roads must minimise damage to the surface of the road.
- Discharging firearms on Unformed Roads commonly used by other recreational users is prohibited.

1.7 Walking Access

WAMS can be used for the public to identify when an Unformed Roads is open to walking access.

NZWAC produced [the Code](#) to raise awareness of access rights and responsibilities for local authorities, its agents, and the public users. The Code is also applicable to other activities such as horse riding, mountain biking, fishing, and hunting.

1.8 Dogs

The Dog Control Act 1996 enables Council to make dog access rules for any public place by way of a bylaw. Notices will be erected to indicate when dogs are prohibited or are required to be on a leash.

Dogs must be under control and on a leash where the land adjoining the Unformed Road is a farm or stock is permitted to graze on the Unformed Road.

Where the land adjoining the Unformed Road is forest, bush or otherwise undeveloped but special circumstances exist to require that dogs be prohibited or on a leash. Special circumstances arise where Council or the Department of Conservation (DoC) require areas where dogs need to be on a leash.

1.9 Horse Riding

Horse riders have the same rights to use Unformed Roads as they do on legal roads. Riders must take care to minimise damage to the environment.

The road surface may include grass and uneven terrain which may not be suitable for horse riding in all weather conditions. Horse riders are to exercise care when using Unformed Roads to minimise the damage caused to the surface of the road.

1.10 Mountain Bikes, Motorbikes and Four-Wheel Drives

Mountain bikes, motorbikes and four-wheel drives are classified as vehicles in the Land Transport Act 1998. Riders and drivers of vehicles have the right of passage to any Unformed Roads.

They must not cause damage, modify the surface, or enter adjoining private property. Riders and drivers of mountain bikes, motorbikes and four-wheel drives may not ride on footpaths. See the [Land Transport \(Road User\) Rule 2004](#) for more information.

6.5 Hunting

Hunting on Unformed Roads commonly used by other recreational users is unsafe, due to the carrying and discharging of firearms. Persons using an Unformed Road for hunting can do all activities which are lawful on a formed road, including the right to carry a firearm if unloaded in a vehicle.

Unformed Roads are public places for the purposes of the Arms Act 1983. Therefore, the discharging of a firearm to endanger property, annoy or frighten any person is prohibited.

The firearms user may need to possess a current gamebird hunting licence to comply with the Wildlife Act 1953, and/or a DoC entry permit to comply with the Conservation Act 1987 on land administered by DoC. Other categories of land, such as forestry land, will also have specific entry permit requirements. Forestry land will have its own specific requirements for getting a permit to enter. Details of these requirements will be found through each individual forestry owner.

Risk of Fire

Where Unformed Roads pass through forests or bush, fire caused by a member of the public using the road is a significant risk.

Forest and Rural Fires Act 1977 establishes responsibility for the control of fires and penalties for outbreaks.

Council Principles

- Council will rely on the advice of Fire and Emergency New Zealand to restrict access to Unformed Roads on a case-by-case basis.
- If the cause and person responsible are not identified, the cost associated lies with the owner of the land on which the fire started ignited.

Trees, Crops and Vegetation

Unformed Roads can feature illegally planted trees, grown and managed by the occupiers or owners of adjoining forestry and horticultural land. Any trees on Unformed Roads are owned by, and under the management and control of, the Council.

No trees may be planted on a road without the express permission of the Council in accordance with section 357 of the Act. Trees can become a practical concern if they unduly obstruct public access through the Unformed Roads.

Any approved tree and vegetation works should have regard to their potential environmental impact.

Council Principles

- Encroachment issues relating to the removal of trees and crops will be considered by Council on a case-by-case basis.
- Adjoining landholders have no legal right to ownership or occupation of trees on the Unformed Roads.
- Council is unlikely to approve the planting of crops or trees over an Unformed Road. This may restrict the public's right to use the road.
- Unformed Roads must not be landscaped without written approval. Council requires anyone wanting to place an object or disturb vegetation on an Unformed Road to apply for permission (with the exception for mowing).
- Landowners must apply for a licence from Council to legally plant trees.
- Council will endeavour to formalise existing encroachments with written licences and conditions which will be appraised and granted on a case-by-case basis.

- Ownership of any lumber or produce from any illegal plantings may not rest with those who planted and maintained them, any licences for forestry or horticultural encroachments will need to specifically deal with these issues.
- Council is not opposed to adjacent landowners maintaining Unformed Roads through grazing and weed control in return for the benefits of use if reasonable access for vehicles and recreational activities is maintained.

8.1 Weed Control

Council Principles

- Landowners adjoining an Unformed Road should take responsibility for keeping the road free of weeds if being used for farming purposes.
- Weeds may be removed by road users for the purpose of continued access. However, working parties to clear large amounts of vegetation are not permitted without authorisation from Council.

Stopping of Unformed Roads

There are two methods for removing the status of an Unformed Road:

1. Road stopping under the Act; or
2. The Minister for Land Information may stop a road under s 116 of the Public Works Act 1981.

Council can stop roads, pursuant to Schedule 10 of the Act, by consultation of publicly notified plans. If the road is in a rural area, the consent of the Minister for Land Information must be obtained for the road to be stopped. If there are objections to the road stopping, the Environment Court will determine the outcome.

Assessments to stop the Unformed Road is based on several factors, including current and possible future use, to determine whether the public interest is outweighed by the need for stopping.

Once a road has been stopped, the Council is responsible for determining how the land will be used or disposed of. In practice, the purpose of the road stopping often determines how the land will be used.

Council Principles

- Council will generally not itself seek to have Unformed Road stopped.
- Council will consider applications for the stopping Unformed Roads on a case-by-case basis. All associated costs will be met by the applicant.
- Stopped roads bordering waterways must become esplanade reserves.
- Council will also consider provisions 9.1.15-9.1.17 of the Marlborough Environment Plan in relation to stopping of unformed legal roads

Formation of Unformed Roads

Council has no obligation to form any Unformed Road, and currently has no forward capital works programme to form or improve Unformed Roads.

Council will consider applications from adjacent property owners, developers, and interest groups to construct carriageways, cycle tracks, bridle paths and footpaths at the applicant's expense. This must be vital for development or where significant public access benefits are clearly demonstrated.

Before any party can begin the formation of an Unformed Road the following is required:

- 1) Consent from Council;
- 2) Any necessary regulatory consents which can be applied for from Council;
- 3) An investigation to determine whether any utility services run beneath the road and if they could be affected by the proposed works;
- 4) Assessment of biosecurity risks associated with the proposed development;
- 5) A Corridor Access Request is required for any excavation within the road corridor. Applicants are to apply using the [request process](#);
- 6) A Construction and Maintenance Agreement (**Agreement**) from Council must be acquired the applicant. This Agreement sets out the specification and on-going maintenance conditions required; and
- 7) A first ranking memorandum of encumbrance registered against the title(s) of the applicant's lot(s) if the applicant is the adjoining landowner, will record their responsibility to maintain that part of the road.

Private development is an exception to the requirements. Agreement for the developer to form a road within an Unformed Road corridor will need to be negotiated. Additionally, the resource consent application would be processed by Council's development engineers with input from Marlborough Roads staff. The newly formed road would be required to be built in accordance with the resource consent, approved engineering drawings and construction standards monitored by Council development engineers.

Upon completion, the newly formed road(s) is vested in Council to manage and maintain. In this case, there is no requirement for an agreement or encumbrance.

Council Principles

- Council will only form Unformed Roads where necessary for network development.
- Council will consider applications for other parties to construct carriageways, cycle tracks, bridle paths and footpaths etc. on a case-by-case basis.
- All costs for processing the application, construction and maintenance must be borne by the applicant.
- The standards and specifications for the construction of carriageways, cycle tracks and footpaths in Unformed Road must be in accordance with any relevant provisions of Council specifications. Any departures from standards or specifications must be approved by Council.
- Any matters not covered by these specifications must comply with any relevant NZ Standards which apply.

Enforcement

Encroaching on the road surface, airspace, or subsoil of an unformed or formed legal road without Council's consent or an encroachment lease or licence is a breach of section 357 of the Act, which can lead to fines and prosecution.

Council would firstly seek to either have the encroachment removed voluntarily or request the encroacher to apply for an encroachment licence, lease or road stopping (if applicable) before such action would be considered.

In addition, there are court-imposed fines for breaches of Council bylaws made under the Act and Land Transport Act 1998 for unlawful activities on roads.

Monitoring and Review

This document will be reviewed on at least a three-year review cycle.

6. Flight Timber Stormwater Easement in Taylor River Reserve

(Clr Adams) (Report prepared by Andy White)

U220409M

Purpose of Report

1. The purpose of this report is to obtain Council approval for granting a stormwater easement in favour of Flight Industrial Park Ltd, over Local Purpose (Soil Conservation and River Control) Reserve being in the true left bank of the Taylor River.

Executive Summary

2. Flight Industrial Park Limited ("Flight") own the property at 40 Waters Avenue and are developing the site into separate industrial leasable areas for tenancing. (Refer Attachment 1)
 3. Flight need to drain the properties stormwater into the adjoining Council owned land being the Taylor River. A discharge consent has already been granted for this purpose. (Refer Attachment 2)
 4. The council land is a reserve under the Reserves Act 1977 which has a mechanism to grant easements over reserves.
-

RECOMMENDATIONS

1. **That Council, pursuant to Section 48(1)(f) of the Reserves Act 1977, approves the creation of stormwater easement in favour of Flight Industrial Park Ltd over Section 232 Omaka Registration District being a Local Purpose (Soil Conservation and River Control) Reserve classified by New Zealand Gazette 1985 page 4324.**
 2. **That no compensation shall be payable by Flight Industrial Park Ltd for use of the council land, and that Flight Industrial Park Ltd meets all costs incurred by Council in the granting and documenting of the stormwater easement.**
-

Background/Context

5. Flight owns the property at 40 Waters Avenue which was previously a timber processing facility ("Site").
 6. Section 48(1)(f) of the Reserves Act 1977 permits council to approve easements when a reserve is vested in it, which is the case here.
 7. Before giving approval for an easement, public notification needs to be given unless the Reserve is not likely to be materially altered or permanently damaged and the rights of the public are not likely to be permanently affected.
 8. As the discharge consent has already been granted no engagement is proposed as this decision is for an easement only.
 9. In this case the Reserve has the Taylor River running through it and has wide verges on either side of the water channel, which the public predominantly use for walking, running and cycling.
 10. The works involve installing an underground pipe from the Flight property, through the Reserve verge to an outlet in the true left bank of the water channel. Once completed the pipe won't be seen and only the outlet will be visible at the water channel edge.
 11. The rivers engineers have assessed the installation of the underground pipe and outlet. The installation will not affect the main purpose of the Reserve being flood control and the public will still be able to undertake recreation activity on the verge as they do today.
 12. Therefore, it has been assessed that an exemption to public notification is available for this proposal due to the minor, if any, affects the pipe and outlet installation will have on the use of the Reserve by Council or the public.
-

Assessment/Analysis

13. Compensation for providing an easement over council land can be considered if appropriate. In this case it is noted:
 - a) That Council provided stormwater reticulation is not available off Waters Avenue.
 - b) Under the Proposed Marlborough Environment Plan the site is zoned Industrial 2. Industrial zoned land is generally in short supply in Marlborough with this site being particularly well located close to the Blenheim built up area.
 - c) The leasable areas will particularly suit small businesses with the associated activity and employment they bring to the province.
 - d) The installation will not affect the council or public's current use of the Reserve.
14. Taking these aspects into account we recommend no compensation be required, however all Council costs should be to Flight's account.

Option One (Recommended Option) – approve the Stormwater Easement in favour of Flight Industrial Park Ltd

15. Approve a stormwater easement in favour of Flight Industrial Park Ltd, located in the true left bank of the Taylor River.

Advantages

16. Control the Stormwater
17. Allow Flight Industrial Park Ltd to sublease.

Disadvantages

18. Temporary disruption to the reserve during construction periods

Option Two – Status Quo

19. To decline the request from Flight industrial

Advantages

20. Nil

Disadvantages

21. Unmanaged stormwater impacts on surrounding land

Next steps

22. Finalising of construction and location
23. Preparation of Easement documents

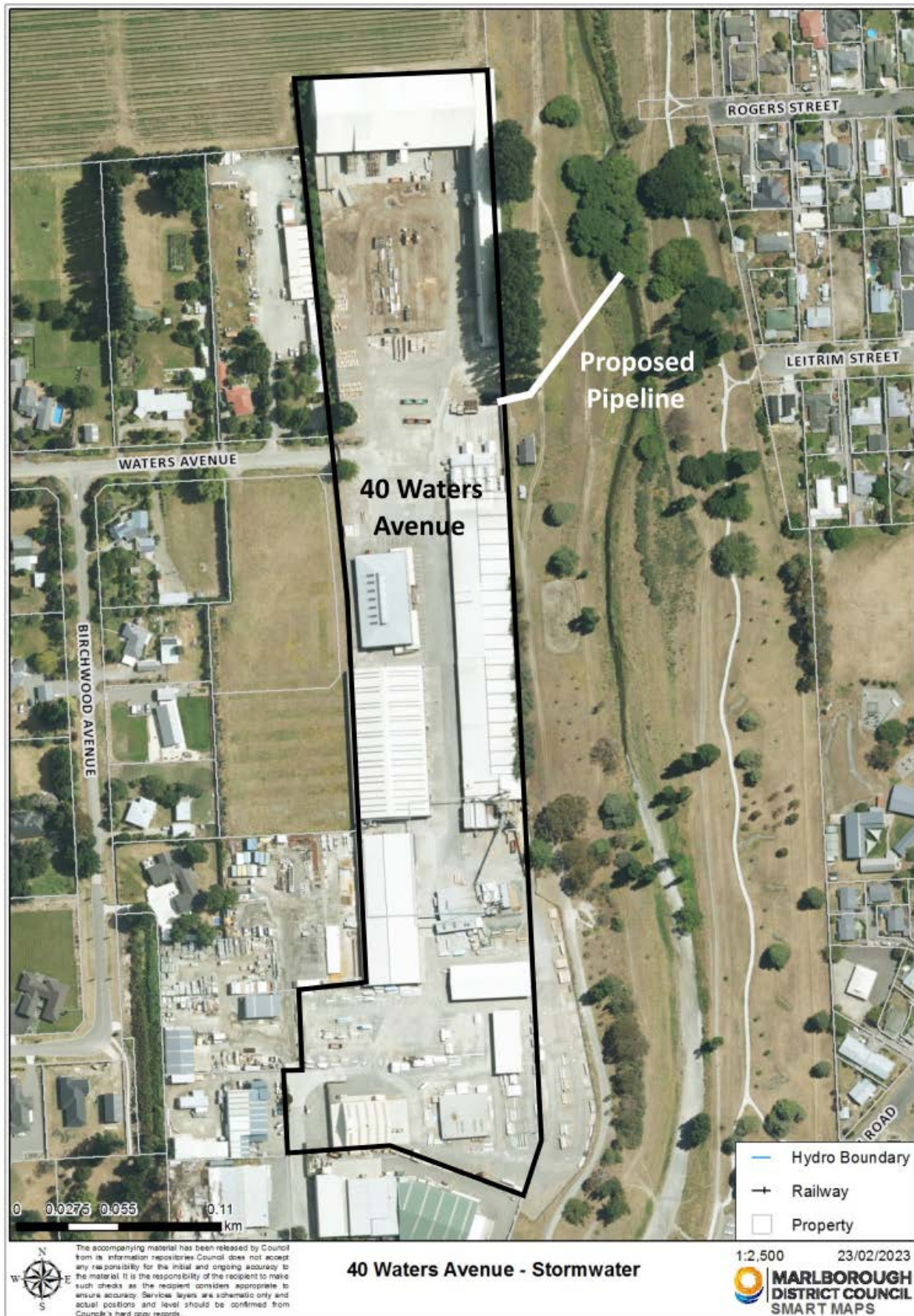
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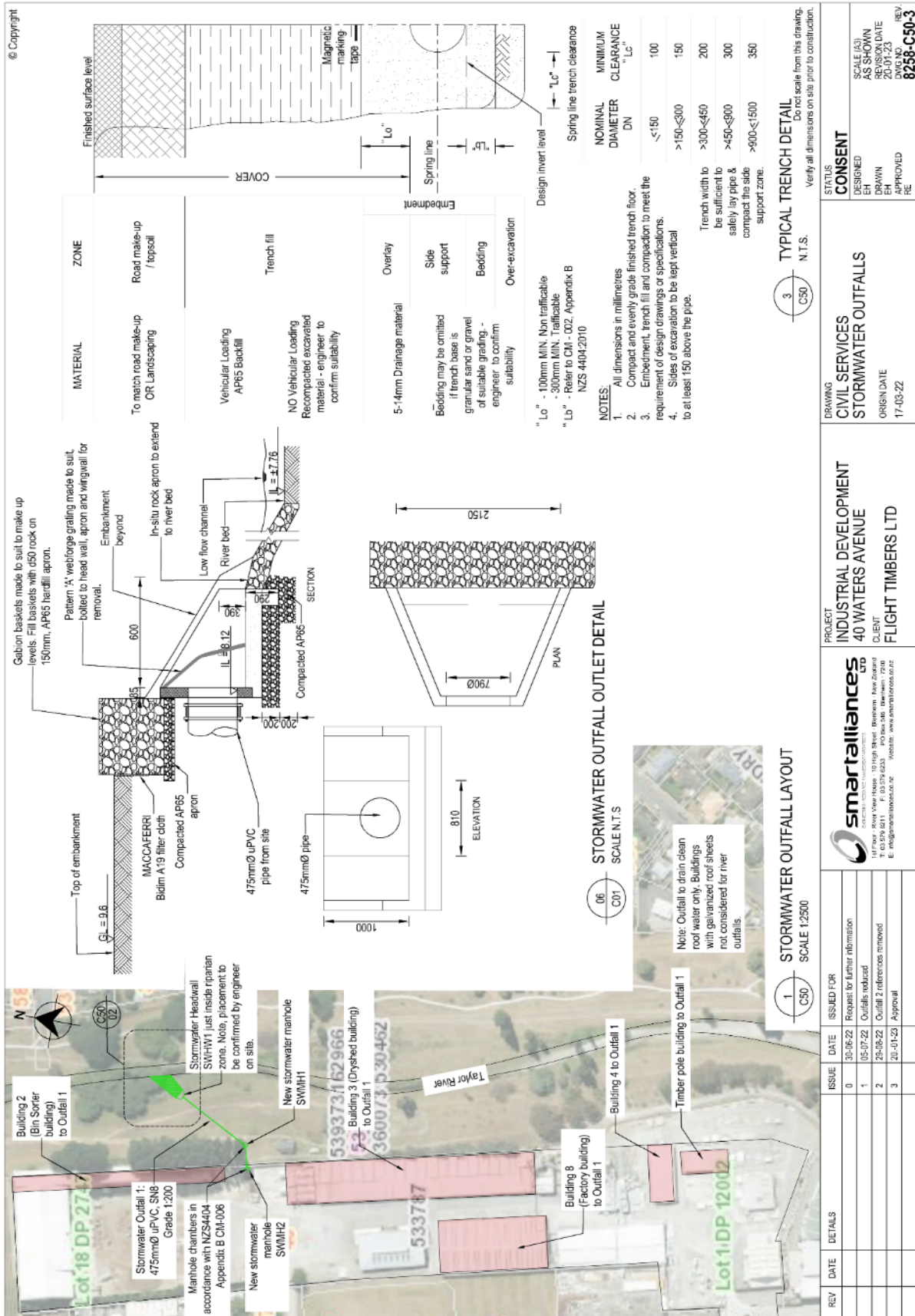
Attachment 1 – Locality Page [33]

Attachment 2 - Construction Drawings Page [34]

Author	Andy White, Rivers and Drainage Engineering Manager
Authoriser	Richard Coningham, Assets and Services Manager

Summary of decision-making considerations			
Fit with purpose of local government			
The proposal enables democratic local decision-making and action by, and on behalf of communities and relates to providing a public service and it is considered good-quality and cost effective.			
Fit with Council policies and strategies			
	<i>Contributes</i>	<i>Detracts</i>	<i>Not applicable</i>
LTP / Annual Plan	<input type="checkbox"/>	<input type="checkbox"/>	X
Financial Strategy	<input type="checkbox"/>	<input type="checkbox"/>	X
Infrastructure Strategy	<input type="checkbox"/>	<input type="checkbox"/>	X
Social well-being	<input type="checkbox"/>	<input type="checkbox"/>	X
Economic development	X	<input type="checkbox"/>	<input type="checkbox"/>
Environment & RMA Plans	<input type="checkbox"/>	<input type="checkbox"/>	X
Arts & Culture	<input type="checkbox"/>	<input type="checkbox"/>	X
3 Waters	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Land transport	<input type="checkbox"/>	<input type="checkbox"/>	X
Parks and reserves	<input type="checkbox"/>	<input type="checkbox"/>	X
Nature of the decision to be made			
The options do not involve a significant decision in relation to land or a body of water, as this decision is for an easement only, the discharge consent has already been granted.			
Financial considerations			
There are no known financial implications.			
Significance			
The decision is considered of low significance under Council's Significance and Engagement Policy.			
Engagement			
No engagement is proposed as this decision is for an easement only, the discharge consent has already been granted.			
Risks: Legal / Health & Safety etc			
There are no known significant risks or legal implications			
Climate Change Implications			
There are no known climate change implications to this decision.			





7. Disposal of Building - Taylor River

(Clr S Arbuckle) (Report prepared by Robert Hutchinson)

R510-009-T02-03

Purpose of Report

1. For Council to approve the disposal of a vacant building on the Taylor River.

Executive Summary

2. The Blenheim Pony Club had held a license with Council for a section of land on the Taylor River for their activities for over 50 years.
3. In that time, the Pony Club had built yard, toilets and jumps and had a building placed on site as their club rooms.
4. As part of the consultation process of the Marlborough District Council's 2011 Outdoor Sports Facilities Plan, Council identified a location for equine activities where the Equestrian Centre is now located at Botham's Bend. This area continues to be developed by the Marlborough Equestrian Centre with capital funding from Council.
5. In 2018, the Marlborough Equestrian Centre sought financial assistance to move the Blenheim Pony Club from the Taylor River to the Botham's Bend.
6. In 2022, the Blenheim Pony Club had relinquished their license on the site at the Taylor River leaving behind the unwanted club rooms and the toilet.
7. APL and Council have attempted, without success, to find tenants or a purchaser for the club rooms.
8. The estimate to demolish the building is \$25-\$30,000 and it is suggested this work would be funded from the balance of the grant provided to relocate the Pony Club to the Botham Bends Equestrian Park.

RECOMMENDATION

That Council approve disposal of the building.

Background/Context

9. The Blenheim Pony Club had been active on land adjacent to the Taylor River for over 50 years. Over that time the club had built several structures, stables, jumps and fences in the area they leased to provide a fully functioning site to support their activities.
10. In the 1970s, with the assistance from many community groups and the Council the club became active with additional construction to build sheds, yards, a toilet facility, and subsequently had moved a surplus smoko room from the former Blenheim Council Gas Works onto their leased site.
11. In 2011, the Marlborough District Council consulted on future aspirations of Marlborough's sporting codes and bodies and a 10-year action plan, Outdoor Sports Facilities Plan, was developed. This has since been superseded by current plan, Sports Facilities Strategic Plan (2021).
12. One of the outcomes of the 2011 Outdoor Sports Facilities Plan provided funding and land for the development of an Equestrian Centre, which subsequently was to be on river land at Botham's Bend.
13. The Marlborough Equestrian Centre submitted to Council's Long-Term Plan 2018-28 seeking \$170,000 to assist in the moving of the Blenheim Pony Club (including the club house) to the Equestrian Centre at Botham's Bend.

14. At a subsequent Assets and Services Committee meeting Council confirmed funding of 50 percent (\$85,000) from the Land Subdivision Reserve to support the move of the Pony Club to the Equestrian Centre.
15. After 50 years on site, in March 2022 the Blenheim Pony Club relinquished their licence after completing their move to the Marlborough Equestrian Centre.
16. The Pony Club left behind a toilet block, club house and dressage area and as such these items became, by default, Council assets to dispose of or maintain.
17. The dressage area has returned to its original condition and at this stage the toilet block will remain on site as future use of that site is determined.
18. It had been hoped that a home could have been found for the ageing club house but unfortunately efforts by both APL and Council have been unsuccessful. The cost to remove the building offsite has been found to be restrictive.
19. Two organisations looked at moving the building via the dry riverbed on to Burleigh Road and on to a site within Blenheim and were an estimated cost of between \$50,000-\$60,000 was quoted before redevelopment costs for the aged building.
20. Other local clubs and organisations who had indicated an interest in using the building decided against its use given the buildings age, isolation, access and lack of services to be an impediment to its use.
21. At present the building remains onsite and boarded up to stop public accessing the building.

Next steps

22. Staff to make one last effort to find an organisation who wish to remove the building.
23. If this is not successful, then the building is to be demolished on site.

Attachment

Attachment 1 – Pictures of the building

Page [37]

Author	Robert Hutchinson, Parks & Open Spaces Officer
Authoriser	Jane Tito, Parks and Open Spaces Manager

Attachment 1









8. Tree Removal Request - Waitohi Domain

(Clr S Arbuckle) (Report prepared by Jane Tito)

R510-009-B02-03

Purpose of Report

1. To approve a request for the removal of a Eucalyptus tree on the Waitohi Domain, Picton.

Executive Summary

2. The Picton Ferry Precinct Redevelopment is underway with construction preparation works becoming more apparent in the township. There are several Council-owned areas that are affected by the construction including the Waitohi Domain, a floodway reserve and former recreation reserve.
3. Council has received a request from Project iRex contractors (Downers/HEB) to remove a Eucalyptus tree growing on the Waitohi Domain, Picton. The tree is on the northern side of the park next to the Waitohi Stream and its removal will allow a bridge to be constructed in support of project operations.
4. Staff met on site with the Project iRex contractor to review the tree for removal and discuss the reason behind the removal request in conjunction with the location of the bridge to be built.
5. In an initial assessment of the tree staff observed the tree to be in a state of decline with overall poor health, significant dead wood showing on the tree and poor growing form with a last gasp of growth showing in some parts of the tree
6. Council engaged an Arborist to assess the tree's health who has advised that the tree's overall health is poor and the tree is unlikely to recover sufficiently (even with pruning) and recommends removal of the Eucalyptus tree.
7. A review against Council's Tree Policy is included in this report.

RECOMMENDATION

That Council confirm the removal of the Eucalyptus tree.

Background/Context

8. Picton township is in preparation mode to support the construction work for the Project iRex or Ferry Precinct Redevelopment.
9. Council were contacted by the Project iRex contractors (Downers/HEB) regarding the possible removal of a tree on Waitohi Domain that was in a location where a bridge was to be constructed in support of project operations.
10. Staff advised the contractors that an assessment of the tree would need to be undertaken and agreed to meet on site to review and discuss.
11. Council sought an assessment by an Arborist on the health of the tree. The Arborist report is attached to this paper and confirms that the health of the tree is poor and displaying canopy die back, a poor response to pests and disease and resulting abundant epicormic growth. The Arborist also noted that tree collar rot around the root pedestal was obvious – a poor specimen. Please refer to the images in the report.
12. The Arborists conclusion is that the tree's recovery from its current poor state is unlikely and recommended that the tree be removed from this site.

13. It is envisaged that Project iRex will take about 5 years to complete. Discussions with Project iRex personnel was that any green space areas that are affected by the project will be restored to an agreed landscape plan in conjunction with Council and Te Ātiawa.

Assessment/Analysis

14. Given the size of the tree, consideration of the request for removal is required to be assessed against the provisions of the Council's Tree Policy.
15. In terms of assessing the removal request against the Policy 6.2.4 (included as Attachment 2) the following comments are made.

Policy 6.2.4	Assessment
a	The primary reason stated for removal was to allow the construction of a bridge over the Waitohi Stream between Waitohi Domain and the KiwiRail area in support of Project iRex's operational purposes.
b	An experienced arborist has visited the tree and provided an assessment report (attached). The report identifies the tree as being in poor form with little opportunity to recover sufficient amenity value in consideration of the growing environment.
c	While pruning could be considered it would not be sufficient enough to support positive growth in the current environment.
d	The tree is not listed within the MEP.
e	There is no reserve management plan for Waitohi Domain.
f	The tree does not provide any substantial amenity value.
g	N/A
h	The risk to people or property has been determined as low.
i	No specific consideration has been given to what species of tree may be replaced at this site if the tree is removed. The applicant has advised they will be happy to pay for all removal costs including undertaking replacement planting and landscaping.
j	If the tree is removed then this would be undertaken by the applicant with appropriate health and safety requirements in place. There would be low environmental impacts from the actual tree removal.
k	Not relevant

16. In the event the Committee agrees to the request for removal Policy 6.2.8 of the Tree Policy requires consideration of who will pay the costs of removal. In this regard the applicant has advised they will pay for full costs of removal of the tree and costs to purchase and plant a new tree.

Conclusion

17. Overall it is considered that there is merit in the request to remove the eucalyptus tree.

Option One (Recommended Option) – Remove the Tree

18. Due to the identified decline in health of the tree there is no reason to not support the applicant's request to remove the tree for the purposes noted and in support of the operational works of Project iRex.

Advantages

19. Provides iRex with preferred location for bridge.
20. Removes the need for continued monitoring and maintenance on a declining tree.
21. A new tree will be planted at the end of the project.
22. iRex will be paying for a declining tree's removal.
23. There is an opportunity to provide improved amenity planting once the redevelopment is completed.

Disadvantages

24. The loss of a tree from the Waitohi Domain, already showing a low of number of trees

Option Two – Status Quo

25. Decline the request to remove the tree

Advantages

26. None.

Disadvantages

27. Removal of shading on the Domain

Next steps

28. Advise the applicant that the removal of the tree can proceed.
29. Remove the tree from the Council asset management system.

Attachments

Attachment 1 – Arborist report Page [44]

Attachment 2 – Tree Policy (2020) Paragraph 6.2.4 Page [48]

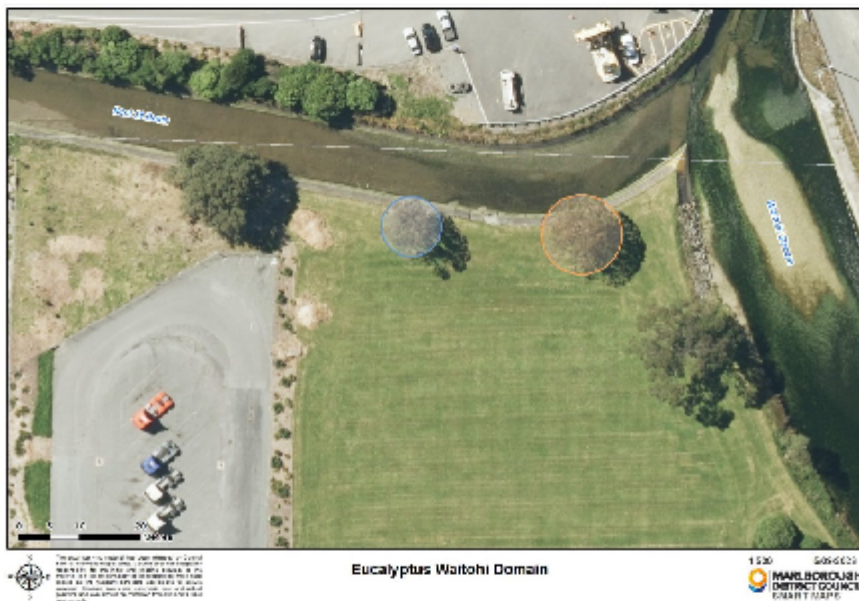
Author	Jane Tito, Manager, Parks and Open Spaces
Authoriser	Jamie Lyall, Manager, Property and Community Facilities



Arborist Assessment of Eucalyptus at Waitohi Domain, Picton.

At the request of Grahame Smail of Marlborough District Council, I have assessed the general health of a Gum tree (*Eucalyptus sp.*) located at Waitohi Domain.

The purpose of the assessment is to determine if the tree is worthy of constraint on developments currently underway on the site.



The subject tree is marked by the blue circle above and is obstructing the installation of a temporary bridge as site access for machinery. (The orange circle marks a second *Eucalyptus* which is in similar condition but not subject to this assessment).

At some time in the past (possibly when the Kent St drain concrete bank was installed) the soil grade around the base of (both) trees has been altered and compaction and root injury has occurred.

The current poor health of the tree(s) including canopy die back, poor response to pests and disease and abundant epicormic growth are a direct result. In the case of the subject tree collar rot was easily discovered with minimal clearing around the root pedestal.



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Top: collar rot caused by soil grade change.

Bottom: stem canker lesions caused by fungal infection of injured roots, with vascular disruption causing poor canopy health.

Poor tree health may be attributed to the above and recovery is in my opinion unlikely in any reasonable time frame.



Conclusion.

Although pruning (removal of dead wood) could improve the appearance (amenity value) of the Eucalyptus subject to this assessment which may adapt to changed growing conditions over time, given the present response to injury it is unlikely to recover sufficient amenity values to be considered a material constraint to the proposed installation of the temporary bridge.

My recommendation is that the tree (and perhaps the second one) is removed and future replacement planting considered as appropriate.



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Attachment 2

Marlborough District Council Tree Policy - 6.2 Policies

6.2.4 The following matters will be considered when determining whether it is appropriate to remove a tree from land actively managed by the Council:

- (a) reasons why tree removal is proposed;
- (b) the health of the tree as determined by a suitably qualified arborist;
- (c) options of tree pruning and/or remedial works as an alternative to removal;
- (d) historical, cultural, scientific and/or species significance of the tree and whether it is a protected tree in the resource management plans;
- (e) whether there is a relevant reserve management plan in place for the tree's location and the provisions that apply to trees in that plan;
- (f) value of the tree relative to the following:
 - local amenity
 - area character
 - local ecology and ecological connections;
- (g) whether within any street berm the tree imposes unacceptable maintenance costs;
- (h) any actual or potential risk to human health, life and/or property and infrastructure, and any evidence relevant to these risks as determined by a suitably qualified arborist using industry standard hazard identification;
- (i) replacement and/or remediation planting;
- (j) tree removal methods and environmental impacts; and
- (k) the operation, maintenance and development requirements of the National Grid.

9. Poplar Tree Removal – Taylor River Reserve

(Clr S Arbuckle) (Report prepared by Robert Hutchinson)

R510-009-T01-07

Purpose of Report

1. To approve a request to remove nine Poplar trees growing along the Taylor River Reserve.

Executive Summary

2. During the annual inspection of larger trees on the Taylor River, the arborist's visual report raised concerns about the health of the poplars growing on the river berms.
3. Following a review of the initial visual reports by the Parks and Open Spaces team, a further inspection of these trees was warranted.
4. Of the 40 Poplar trees growing on the Taylor River, 23 Poplar trees were identified for further inspection using Radio Tomography an x-ray used for detecting decay and cavities in standing trees and measures trunk density.
5. The testing showed nine trees with varying degrees of decay and it was recommended by the arborist that these nine trees should be removed as soon as resources allow.

RECOMMENDATION

That Council confirm the removal of the nine Poplar trees located on the Taylor River Reserve.

Background/Context

6. Following several life-threatening incidents in New Zealand due to trees falling in public spaces, Council increased the budget to capture and audit all trees on Parks and Open Space managed land.
7. Parks and Open Spaces have engaged an arborist who undertakes the work of capturing and providing a ground based audit of tree assets and then reports on the health of the tree stock.
8. The smaller trees 6m< are inspected every two years while the larger tree 6m> are inspected yearly.
9. Following inspections undertaken along the Taylor River in late December 2022 and January 2023, concerns were raised as to the condition of 40 Poplar trees growing along the Taylor River between High Street and Burleigh Road Bridges.
10. In 2022 staff had concerns with Poplars growing on A&P Park and used Radio Tomography to assess the trees health (minute No A&S -0722-3), the data proved crucial to understanding the very poor health of the trees which contributed to the trees being removed for public safety reasons.
11. This same technology was used to further assess 23 of the 40 Poplar trees growing along the Taylor River.
12. The technical inspection was undertaken by using the Tomograph, which measures resistance of the tree's trunks or branches to radio waves.
13. Tests on the nine of the Poplar trees found that there are levels of rot within the trees that were of concern and it was recommended by the Arborist that the trees be removed for safety reasons as soon as resources become available.
14. The arborist has provided a spread sheet, Attachment 2, which details his inspection on each of the 23 trees and his recommendations for each tree.

15. Attachment 1 to this report shows the tomograph readings taken from a number of the poplar in question. Simply, the redder the colour the greater the rot within the tree.

Assessment/Analysis

16. In terms of assessing the removal against the Policy 6.2.4 in Council's Tree Policy the following comments are made.

Policy 6.2.4	Assessment
a	An initial arboreal assessment of the tree identified some issues with the Poplar trees. Further investigation identified 8 trees were of concern and should be removed
b	As above
c	No remedial actions available
d	The trees are not listed I the MEP
e	<p>The Taylor River environ has the Taylor River Floodway Management Plan. Section 7.4 of the plan covers Tree Removal requests.</p> <p>7.4 Tree Removal</p> <p>Objective</p> <p>To maximise the benefits of trees while avoiding or mitigating the adverse effects on reserve users and neighbours.</p> <p>Policies</p> <p>Tree removal from the reserve is covered in the Reserves and Amenities policy for tree removal.</p> <p>River control plantings can be removed at the discretion of the Rivers and Drainage Engineering Manager.</p> <p>Plantings in conflict with the flood mitigation and river management objectives can be removed at the discretion of the Rivers and Drainage Engineering Manager.</p>
f	The trees provide to both the character and amenity of the Floodway.
g	N/A
h	As per the Arborist report, most of the trees have advanced decay. As the trees continue to decay the risk to the general public will be elevated.
i	Where possible, replacement trees will be planted in line with the Ralph Ballinger Arboretum guidelines.
j	Trees will be removed by an experienced and suitably qualified Arboritst company
k	N/A

Option One (Recommended Option)

17. Due to the identified health issues with the Poplar and possible failure of the trees it is recommended that the nine trees identified to be poor health should be removed.

Advantages

18. By removing the declining trees, we reduce possible risk to the users of the Taylor River.
19. By removing the trees, we remove the need for greater monitoring and maintenance on the remaining trees.
20. Reduced cost to maintain the declining trees.

Disadvantages

21. The loss of further trees to the Blenheim tree canopy.
22. Continued close monitoring of dying and dangerous trees.

Option Two – Status Quo

23. Decline the request to remove the trees.

Advantages

24. Trees remain in the Blenheim tree canopy and provide for the environment.

Disadvantages

25. Trees continue to rot creating elevated risk to the public along the Taylor River.
26. Increased budget cost from close monitoring of the trees.

Next steps

27. Start the process for removal of the trees in the worst condition.

Attachments

Attachment 1 – Amended Arborist report	Page [52]
Attachment 2 – Tree report spreadsheet-detailing recommendations	Page [56]
Attachment 3 – Marlborough District Tree Policy 6.2.4	Page [75]

Author	Robert Hutchinson, Parks and Open Spaces Officer
Authoriser	Jane Tito, Parks and Open Spaces Manager

Attachment 1

	Tree	Location	Issues	Actions	Priority
✓	016746-1	by Fairhall Ck	None		
✓	016747-2	by Fairhall Ck	None		
✓	016741-3	1st lge S of creek	Small reduction in bending resistance (18%). Structural issue. Low occupancy , no increased risk.	Monitor tree health. New Arbotoom measurement 2028?	If/When scheduled.
✓	016719-4	by vineyard stop bank	None		
✓	016720-5	by vineyard stop bank	Some reduced bending resistance (24%). No increased risk.	Consider removal	As resources allow.
✓	016713-6	by vineyard stop bank	Some reduction in bending resistance (24%). Structural issue. Low occupancy , no increased risk.	Monitor tree health. New Arbotoom measurement 2028?	If/When scheduled.
✓	016668-7	S of pony club area	Some reduced bending resistance (29%). No increased risk.	Consider removal	As resources allow.
✓	016508-8 Lge Silver		Advanced decay. Nearly 40% reduction in bending resistance at base of the tree. Elevated risk of whole tree failure.	Consider removing the tree	As soon as resources allow
	2 measurements				
✓	016509-9 Lge Silver	by Monro St new car park	Small reduction in bending resistance (9%). Low current risk. Tree will not be able to be retained safely in the absence of co-dominant neighbours	Consider removing the tree	As soon as resources allow

✓	016510-10 Lge Silver		Advanced decay. 34% reduction in bending resistance at base of the tree. Elevated risk of whole tree failure.	Consider removing the tree	As soon as resources allow
	2 measurements				
✓	016540-11 P deltoides	by path	Some decay. Acceptable reduction in bending resistance (28%). Well used footpath, high value targets. Risk at this time however is low.	Tree may be retained for 10 or more years subject to continued monitoring. Likelihood of failure may be improved by 20% height reduction of upper canopy. Arbotom remeasurement 2028.	If/When scheduled
	16523	by stop bank	None		
	016574 Lombardy	by Totara grove	None		
✓	016575-12 Lombardy	by Totara grove	Advanced decay (36%) reduction in bending resistance at base of the tree. Elevated risk of whole tree failure.	Consider removing the tree	As soon as resources allow
✓	016576-13 P deltoides	by Athletic Park	None		
	016577 P deltoides	by Athletic Park	None		
✓	016578-14 P deltoides	by Athletic Park	Some decay. Acceptable reduction in bending resistance (21%). Well used footpath, high value targets. Risk at this time however is low.	Tree may be retained for 10 or more years subject to continued monitoring. Arbotom remeasurement 2028.	If/When scheduled
✓	016579-15 Lombardy	stop bank near seat	Some decay. Acceptable reduction in bending resistance (21%).	May be retained for 5 - 10 years with monitoring. Arbotom remeasurement 2028.	If/When scheduled

✓	016594-16 Lom	Co-dom w Oak 016592	Minor decay. (12%) but tree has large dead scaffold intersecting nearby Oak.	Tree should be considered for removal to release adjacent Oak.	If/When scheduled
✓	016605-17 Lombardy	by Leitrim St (river side)	Minor decay (19%).	May be retained for 5 - 10 years with monitoring. Arbotom remeasurement 2028.	If/When scheduled
	016607 Lombardy	by Leitrim St (river side)	None		
✓	016596-18B Lombardy	by Leitrim St(stop bank)			
✓	016596-18A	secondary stem	Some decay (24%).	May be retained for 5 - 10 years with monitoring. Arbotom remeasurement 2028.	If/When scheduled
✓	016597 Lombardy-19	by Leitrim St(stop bank)	Minimal decay (4%).	None required.	
	016598 Lombardy	by Leitrim St(stop bank)	None		
	016599 Lombardy	by Leitrim St(stop bank)	None		
✓	016616-20 Lombardy	near school	Some decay (22%).	May be retained for 5 - 10 years with monitoring. Arbotom remeasurement 2028.	If/When scheduled
	016617 Lombardy	near school	None		

	016611 Lombardy	riverbank nr school	None		
✓	016620-22 P de	by path nr school	Minor decay (12%).	May be retained for 5 - 10 years with monitoring. Arbotom remeasurement 2028.	If/When scheduled
	016621 Lombardy	river bank by school	None		
✓	016622-23 Lombardy	river bank by school	Advanced decay, 44% reduction in bending resistance at base of the tree. Elevated risk of whole tree failure.	Consider removing the tree	As soon as resources allow
✓	016629-21 Lombardy	riverbank nr Burleigh	Major stem dead. Some minor decay (14% reduction of bending resistance) related to structural issues. Tree will be unworthy of retention after major deadwood is removed.	Consider removing the tree	As soon as resources allow

Technical Impulse Sonic Tomography
(Arbotom[®]) Inspection of Poplars
Taylor River reserve.



Tim Lovejoy

17th July 2023

Arboricultural Assessment

Site Address: Taylor River reserve, Blenheim

Affected Trees: *Poplar sp.*

Commissioned by: Robert Hutchinson, Marlborough District Council

Date of Report: 17th July 2023

Report Compiled by: Tim Lovejoy, NZ Dip. Arb

Report reviewed by: David James.

Executive Summary

Robert Hutchison of Marlborough District Council has engaged David James Tree Services Ltd to undertake an arboricultural assessment of approximately 40 Poplar trees within the Taylor River Reserve.

The purpose of the inspection is to determine the integrity of the trees and discover any concerns regarding hazard and risk.

An initial basic walk by visual tree assessment (VTA) was completed to identify any individual or group of trees of particular benefit of technical inspection.

23 trees were subjected to a technical impulse sonic tomography (Arbotom®) inspection.

Most trees inspected were sound and normal routine inspection, and maintenance pruning will be appropriate.

No trees were found where failure of either whole tree or large parts were assessed as imminent and requiring urgent action.

Nine trees were found to be degraded to an extent requiring consideration of removal.

For other trees where altered wood properties were discovered a level of risk is assessed and mitigation options offered where appropriate. This was not a formal risk assessment and only a general priority for the time of inspection is provided.



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Site Location

- West bank of Taylor River Reserve between Burleigh Bridge and Fairhall Creek.
- East bank of Taylor River Reserve between High St Bridge and Burleigh Bridge.

1.0 Introduction

- Scope: Arboricultural assessment of Poplar trees within River Reserve, including advanced technical (Impulse sonic tomography, Arbotom®) inspection where appropriate.
- Purpose: To determine the integrity of the trees and discover any concerns regarding hazard and risk.

1.2 This report contains:

- Spreadsheet with general results, identified issues of concern, mitigation options/recommendations.
- Interpretation of tomography measurements only for trees where significant reduction in bending resistance was discovered and action is required in the short to medium term. (3 to 4 months from the date of this report).

1.3 In the context of this report:

- A hazard is defined as any agent or situation that could cause harm, damage or disruption to people or property.
- Risk* is defined as the likelihood of a negative effect arising from a hazard.

**It is important to note that there can never be no risk from large trees.*

1.7 Site visits were made on:

- 18th, 22nd, 23rd May
- 24th, 21st, 27th, 29th June
- 4th, 11th July

1.8 Investigation Limitations*.

An initial basic visual tree assessment to identify trees worthy of further technical inspection due to:

- Observed health or structural features.
- Location, with higher occupancy/value targets
- As a sample tree from a group with general good health

**See also general Arborist Disclaimer appended.*



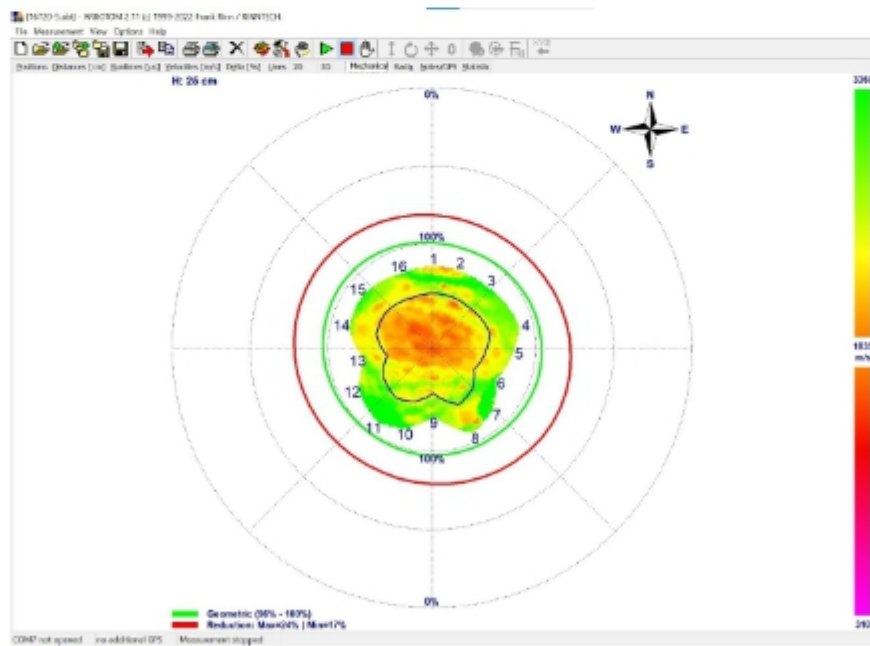
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Arbotom® tomograph interpretation.

West Bank Trees:

Tree # 016720-5



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Reduced bending resistance is represented by the red circle. In this case a maximum of 24% loss of load carrying capacity (LLCC), with load effectively being wind force.

The amount and location of the altered wood and the geometry of the cross section indicate that the maximum LLCC in this tree is to winds from the NW.

Although the LLC is generally within the parameters for a low risk (is not expected in normal conditions) and occupancy of any targets is assessed as rare there are other factors affecting likelihood of failure in this case.

- The tree has a lean and weight distribution to the SE (roughly toward sensor 7) adding to the load.
- Despite being in a group of trees this tree bears its own wind load when subjected to the prevailing NW winds.
- The location of the tree on the side of the stop bank which will be damaged in the event of failure.

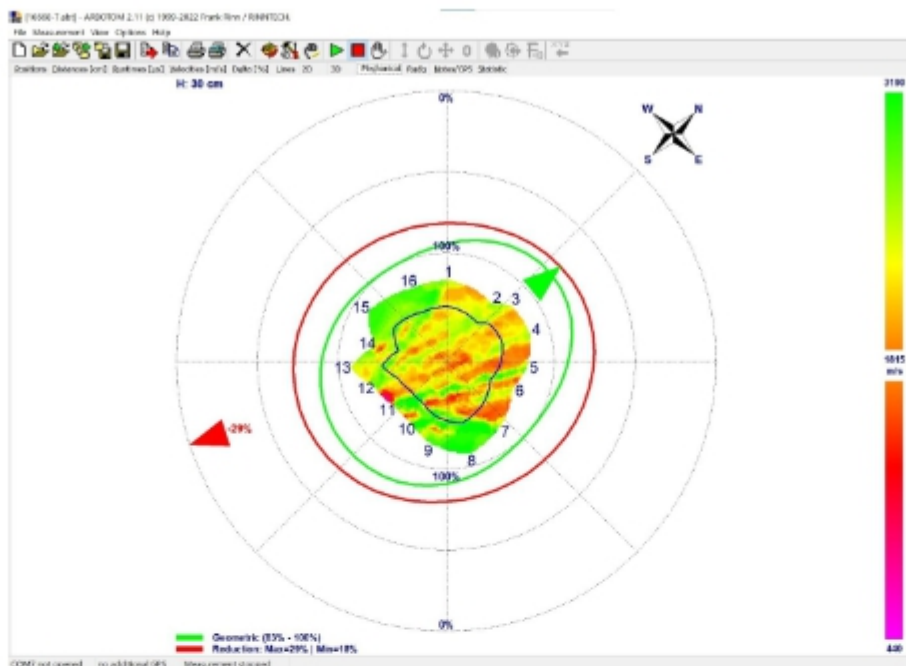
Accordingly, I recommend that removal of this tree is considered.

Tree # 016668-7



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Similar to the tree above the LLC (29%) here is within the parameters for a low risk assessment. Again, there are other factors at play:

- There is a clear area of altered wood between sensors 11/12 & 3/4 which is the site of inclusion between two stems, a structural issue of concern elevating the likelihood of failure.
- The maximum LLCC is to wind forces from the S and lean and weight distribution of the main scaffold are to the W (toward sensor 15) over a public track.

I recommend that this tree is also considered for removal.



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East bank trees:



016509-9 016508-8 016510-10



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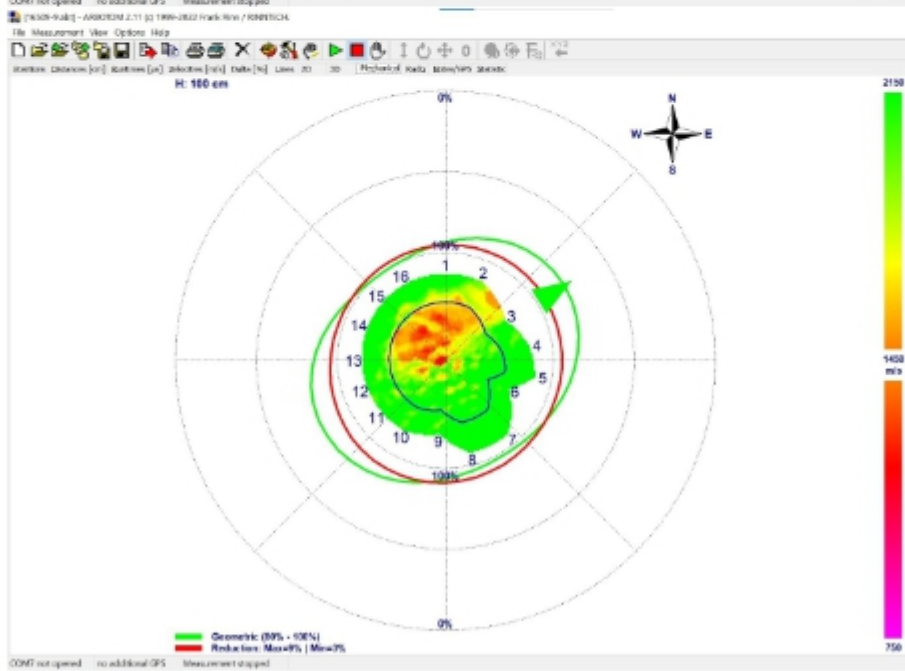
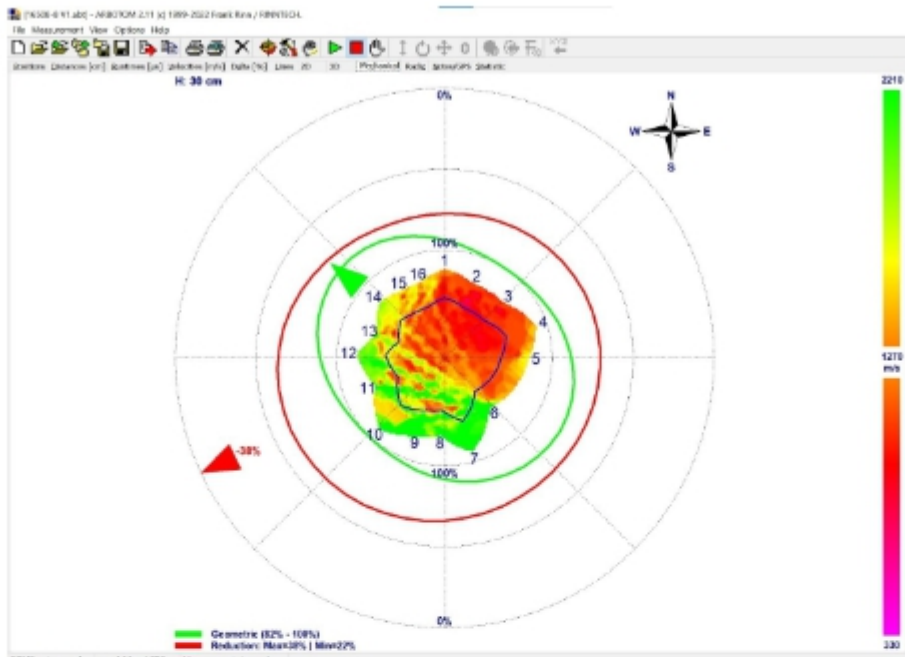
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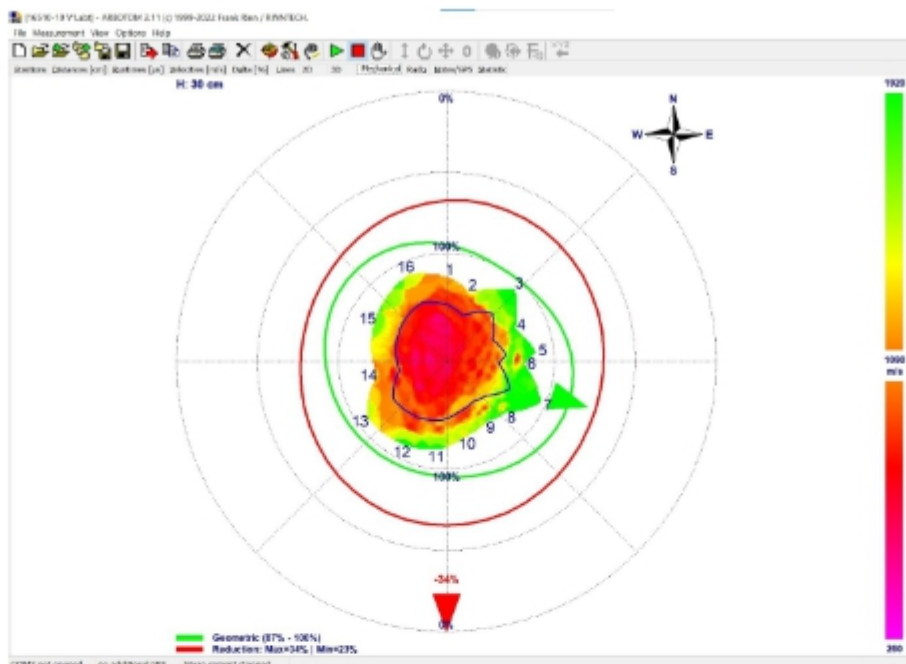


016508-8



016509-9





The LLCC of trees 016508-8 and 016510-10 is clearly significant and an issue of concern particularly given the proximity of the recently built car park sited within the likely fall zone of the trees.

Since the trees have been in this condition for several years the likelihood of failure at the time of inspection is assessed as possible (not expected under normal conditions but may occur in extreme conditions).

Although tree 016509-9 is within the parameters for low risk it is unable to be retained as removal of the co-dominant neighbours will leave it exposed to altered wind loads and associated branch or scaffold failures.

Removal of all three trees as soon as resources allow should be considered.

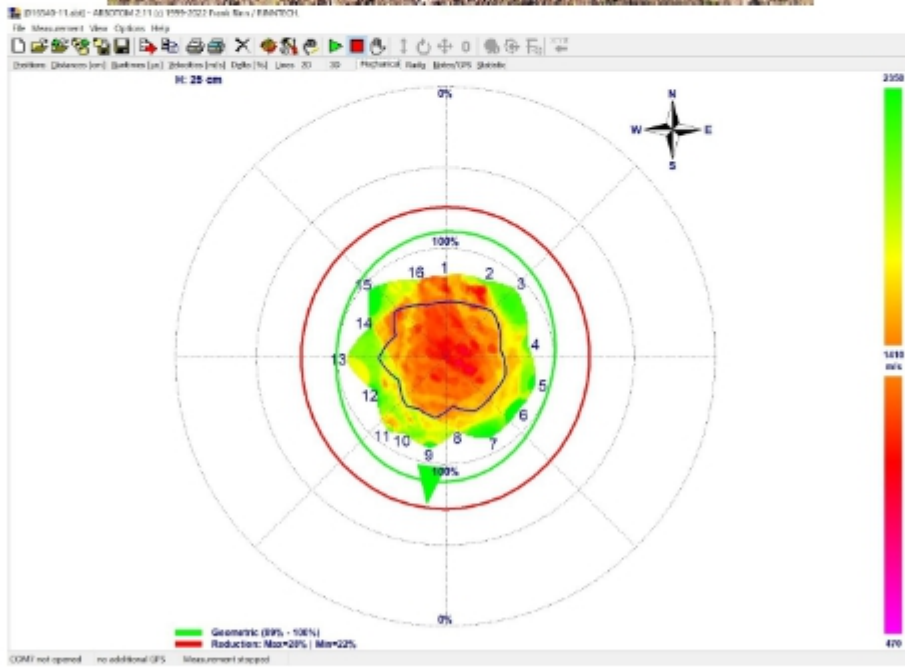
This is a significant loss of large trees not easily replaced, replanting with similar large growing specimens should be carried out as soon as possible.



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Tree # 016540-11



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This tree is in marginal condition at the time of inspection with maximum 28% LLCC to wind forces from any direction.

The tomogram shows a reasonable quantity of intact shell wall (beyond the notional 33% t/r indicated by the blue line).

The tree is a mature tree and will not be expected to gain significantly in height so there will be minimal additional wind load while even small annual increments in girth will improve load carrying capacity to balance any further internal changes.

There are no other health or structural issues observed.

This is a significant shade tree, one of very few shady spots on this section of the path and as such worthy of retention at the very least until replacement trees can be established.

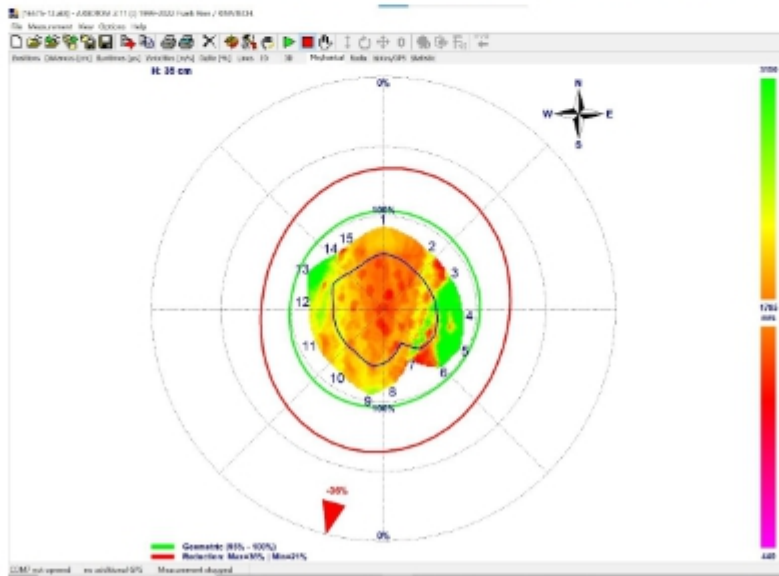
In my opinion the tree can be retained for 10 or more years with adequate health monitoring and preferably a slight (10%) height reduction.



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Tree # 016575-12



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This tomogram shows close to 40% LLCC for this tree with only some buttress support near sensors 12 - 14 & 3 - 6.

Likely direction of fall in the event of failure will be along or close to the railway and/or footpath.

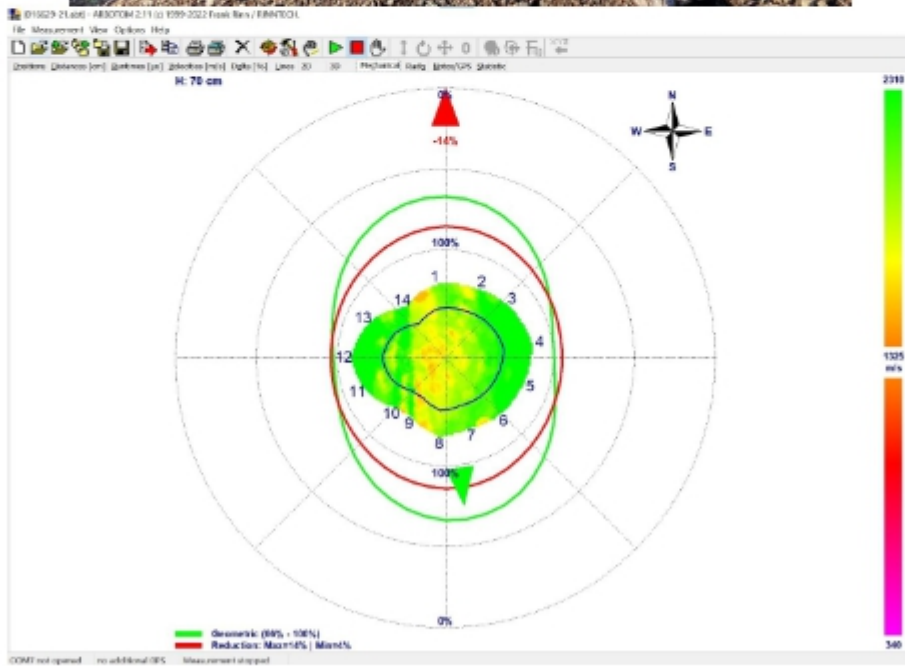
Accordingly, I recommend removal of this tree as soon as resources allow.



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Tree # 016629-21



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Although the tomogram shows no great LLCC (14%) the decay between sensors 14 - 1 and 8 – 9 corresponds with visible co-dominant stems and included bark which is a structural issue of concern.

Also, there is a large dead scaffold which if removed will result in a significant reduction in aesthetic appearance of the tree as well as altered wind loads on the c remaining stems.

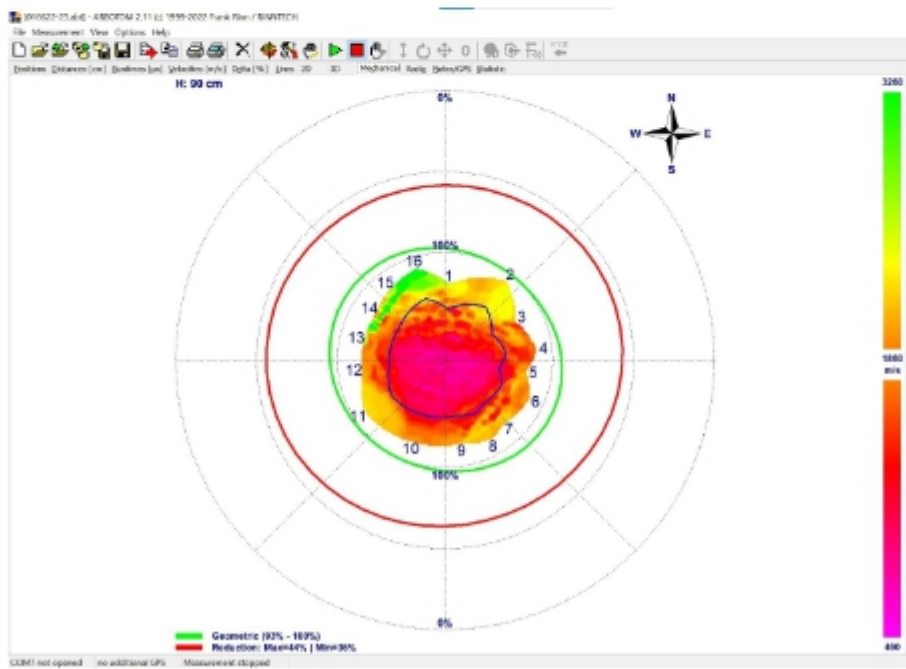
Despite the current low risk from this tree in my opinion there are limited pruning or other options to promote retention of the tree and removal should be considered in the medium to long term.



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Tree # 016622-23



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This tree is clearly compromised with a 44% reduction in bending resistance as measured at nearly a metre above ground level. This is likely to be slightly more at ground level. There is only a small amount of intact wood between sensors 13 & 1 supporting the tree.

Accordingly, I recommend removal as soon as resources allow.



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Arborist Disclaimer Statement.

Arborists are tree specialists who use their education, knowledge, training, experience, and research to examine trees and woodlands. Arborists recommend measures to enhance the beauty and health of trees and forests, while attempting to reduce the risk of living near them. Clients may choose to accept or disregard the recommendations of the arborist. Or seek additional advice.

Arborists cannot detect every condition that could possibly lead to the structural failure of a tree. Trees are living organisms subject to attack by disease, insects, fungi, and other forces of nature. There are some inherent risks with trees that cannot be predicted with any degree of certainty, even by a skilled and experienced arborist.

Arborists cannot predict acts of nature including, without limitation, storms of sufficient strength, which can cause even a healthy tree to fail. Any entity who develops land and builds structures with a tree in the vicinity should be aware and inform future residents of the risks of living with trees and this arborist disclaimer.

Arborists cannot guarantee that a tree will be healthy or safe under all circumstances, or for a specified period of time. Likewise remedial treatments, like medical care, cannot be guaranteed 100%. Treatment, pruning, and removal of trees may involve considerations beyond the scope of the arborist services, such as property boundaries, property ownership, disputes between neighbours and other issues. Consulting arborists cannot take such considerations into account unless complete and accurate information is disclosed to the arborist by the client. An arborist should then be expected to reasonably rely upon the completeness and accuracy of the information provided.

Neither this author nor **David James Tree Services Ltd.** has assumed any responsibility for liability associated with the trees on or adjacent to this project site, their future demise and/or any damage, which may result therefrom. To live near trees is to accept some degree of risk.

Thank you for choosing **David James Tree Services Ltd.** to provide arborist service for your project. If you have any questions, or additional service requests, please don't hesitate to contact us.



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Attachment 3

Marlborough District Council Tree Policy - 6.2 Policies

6.2.4 The following matters will be considered when determining whether it is appropriate to remove a tree from land actively managed by the Council:

- (a) reasons why tree removal is proposed;
- (b) the health of the tree as determined by a suitably qualified arborist;
- (c) options of tree pruning and/or remedial works as an alternative to removal;
- (d) historical, cultural, scientific and/or species significance of the tree and whether it is a protected tree in the resource management plans;
- (e) whether there is a relevant reserve management plan in place for the tree's location and the provisions that apply to trees in that plan;
- (f) value of the tree relative to the following:
 - local amenity
 - area character
 - local ecology and ecological connections;
- (g) whether within any street berm the tree imposes unacceptable maintenance costs;
- (h) any actual or potential risk to human health, life and/or property and infrastructure, and any evidence relevant to these risks as determined by a suitably qualified arborist using industry standard hazard identification;
- (i) replacement and/or remediation planting;
- (j) tree removal methods and environmental impacts; and
- (k) the operation, maintenance and development requirements of the National Grid.

10. Information Package

RECOMMENDATION

That the Assets & Services Information Package dated 3 October 2023 be received and noted.
