

17 February 2022

[REDACTED]

[REDACTED]

Request for Official Information responded to under the Local Government and Official Information and Meetings Act 1987 (LGOIMA) – reference: OIR 2122-188

I refer to your information request we received on 8 February 2022. The Project Management Office have provided responses for part of your request here (for questions 1 to 11, 13, 15 to 31, 37 to 40). The rest of your request is being responded to in a separate letter from the Resource Consents team.

The KCDC PR said that the Gateway would create up to 20 construction jobs. Currently the country is experiencing a building boom with qualified trades and materials in unachievable and unsustainable demand:

1. How can KCDC ensure there is NO cost blowouts?

As you have stated, there is significant demand across the construction sector which is impacting timeframes and pricing for many projects. It is not possible to guarantee that costs will not increase for certain elements of the project beyond the original estimate from 2020.

Given all the redesign work over the last two years:

2. How much has KCDC paid to Athfield Architects as at 1st February 2022

As at 1 February 2022, Council has paid Athfield Architects \$91,505 + GST for their work on Te Uruhi. This includes the \$10,000 as part of the initial concept design stage.

3. How much has KCDC paid all other consultants for all the Resource Consent work on this project as at 1st February 2022?

As at 1 February 2022, Council has paid a total of \$191,141 + GST for work on the Resource Consent (this excludes the sum paid to Athfield Architects).

It is worth noting that the work done by other consultants is not only necessary for the Resource Consent application but provides critical input into the design process and construction methodology.

Current workloads and the demand on the construction sector, sees ever increasing price increases:

4. Q: Has KCDC re-evaluated the budget?

We have not yet formally revised the project budget.

5. Q: What is the revised budget now?

As above, the project budget has not yet been revised.

6. Q: If you have not re-evaluated the budget when will this be done?

As above, when we have further certainty with regard any unexpected cost escalations or price increases outside of the budget and associated contingency.

7. Have you already gone out to tender for the construction of the gateway?

We have not sought tenders for the construction phase / physical works explicitly; we requested proposals in September 2021 for a lead contractor via an early contractor involvement approach. We appointed Focus Projects Ltd (FPL) as a result of that process.

8. Do you have an approved Building Consent for the Gateway As at 1st February 2022?

No, we have not yet applied for a Building Consent for the Te Uruhi building.

9. If you do please forward a copy to me

N/A as per our response to question 8.

As at the time of writing, the Resource Consent is on hold pending further information:

10. Are KCDC unfairly pre-empting the independent planner decision by having large billboards, newspapers articles and press releases stating start dates, opening dates and tender documents?

No. All our communications state building Te Uruhi depends on gaining resource consent. Some parts of the wider project, such as enhancing the Tikotu Stream and replacing the pedestrian bridge are not contingent on receiving the resource consent for the building.

11. How did KCDC know they will have the Main Construction planned to begin Feb 2022, and an opening approx. Nov 2022? As there is NO approved consents. See screen shot of signage in Maclean Park

The dates stated on the sign are indicative planning dates only to give the community an indication of how we expect the project to progress, reflecting our expectations at the time it was installed. The use of the words 'planned' and 'approximately' highlight that these are indicative dates.

Today 3rd Feb 2022 a senior member of the KCDC team told a colleague "they do not see any issue with the Resource Consent and expected it to approved by the end of February":

13. Please explain how a staff member can make this announcement when an independent assessor (separate from KCDC) makes that decision?

I cannot comment on how individual staff members perceive the process.

Change in commercial activity to pods. The commercial portion of the gateway has greatly exceeded the allowable 2% coverage of the reserve land.

15. How has this been addressed in the new Resource Consent?

Any proposed commercial activity in Te Uruhi is not relevant to the site coverage allowed under the District Plan. Any retailing activity is a non-complying activity in the Natural Open Spaces Zone; therefore we have requested not to comply with the District Plan standard via the resource consent which is standard practice in this type of scenario. This will be assessed by the independent planner through the resource consent process.

16. How has this impacted on the business case?

The business operating model for Te Uruhi is still to be finalised.

17. How can you release and accept a prudent tender offer without an approved Resource Consent and without the Building consent and conditions being known?

As stated in my response to question 7, we have not released or accepted a tender for the construction of Te Uruhi.

Focus Projects Ltd has been engaged under an Early Contractor Involvement arrangement to provide input into the constructability of the building design.

18. Given the state of disrepair or closure of other KCDC owned community facilities why does KCDC see it necessary and prudent to spend millions on this building?

The justification for Te Uruhi is proven. Council has a wide range of responsibilities across a number of portfolios and weighs up its investment priorities against those responsibilities. The 'Kāpiti Gateway' has been talked about within the community for 30 years and featured in the Kāpiti Coast Toitū Kāpiti 2018–38 Long-term Plan as a project to be investigated within three years.

Support from the Government's COVID-19 Response and Recovery Fund (previously the Provincial Growth Fund) has allowed the project to come to fruition now.

The process undertaken by KCDC and their consultants for the gateway is most irregular, to say the least. Given that after 2 years of delays, requests for further information, redesign of the building and a whole new application being lodged, we, the community still do not know if the application is to be partially notified or fully notified.

19. Why has it taken two years for the independent assessor to make a decision on non-notified, partially notified or fully notified?

We cannot answer for the independent reviewer's process.

20. Why did KCDC tell the government, when it applied for funding, that the project was "Shovel ready"?

The government required that for the project to qualify for funding from the COVID-19 Response and Recovery Fund (previously the Provincial Growth Fund), Council needed to have lodged an application for Resource Consent for Te Uruhi, which it had.

Council had to meet certain criteria that were considered by the Fund; it wasn't a case of Council telling the government that the project was 'shovel ready'.

21. Does the CEO believe he misled the community and central government when he authorised and presented this project as being "Shovel Ready"? This is clearly an error. Two years has passed and still no decision on a Resource consent application that still has many significant NON COMPLYING ACTIVITIES.

Please refer to my response to question 20.

22. How much was the accepted contract /tender price for the stream restoration including ground works, retaining wall, stormwater upgrades and landscaping?

The accepted contract price for all of the stream works was \$544,878 + GST.

As at 1 February 2022, has the "Stage One" Stream contract price increased?

23. If the contract price has increased - How much is the expected cost now?

A variation to the contract has been agreed to for a total of \$177,908 + GST, bringing the total contract value to \$722,786 + GST.

The total external works budget (Stage One), approved by councillors was set at \$1,254,416 in 2020. This budget was to cover the scope of work including stream restoration, decks, bridge, landscaping, site services and carvings.

24. Given the current contract works and recent pricing what is the expected budget of all this work?

As stated in my response to question 4, we have not formally revised the project budget. On that basis I must decline this part of your request as the information requested does not exist, despite reasonable efforts to locate it, cannot be found, Section 17(e) of the Act refers.

25. If KCDC has exceeded its \$1,254,416 external works budget how much of the Covid 19 contingency \$437,307 and construction contingency of \$583,075 funds over the entire development budget will remain?

As stated in my response to question 4, we have not formally revised the project budget. On that basis I must decline this part of your request as the information requested does not exist, despite reasonable efforts to locate it, cannot be found, Section 17(e) of the Act refers.

26. If you exceed the 4.9 million budget (total for the gateway and associated works), at what time do you go back to councillors for more money?

When the detailed design of the building and landscape works has been completed, we will update our estimated cost to complete. If that price is over the allocated budget, Council will be advised and if any further funding is required this would be reported back to Council for consideration.

27. If you do not require a sign off from elected councillors for additional funding, where does the extra money come from?

Please refer to my response to question 26.

28. Will any additional funding be borrowed from a lending institution?

As stated above, we have not formally revised the project budget and any additional funding requirements are unknown. On that basis I must decline this part of your request as the information requested does not exist, despite reasonable efforts to locate it, cannot be found, Section 17(e) of the Act refers.

29. Given the state of disrepair or closure of many KCDC (community owned) facilities and the impact of supply issues resulting from Covid 19, why does KCDC see it necessary to spend millions on the Gateway Building at this time?

Please refer to my response to question 18.

You have in your possession a petition signed by 3000 voters and ratepayers who wish to stop the Gateway proceeding and you have nearly 70 of the most affected neighbours sign a letter saying they will be significantly impacted by the Gateway and its activity. Is KCDC 100 % sure they are not exposing themselves and (hence the ratepayers) to a costly challenge in the courts?

30. How can KCDC be confident that they will get a prudent well considered competitive tender without the contractors knowing the conditions of a pending Resource consent and a pending building consent?

Please refer to my response to question 7.

31. Are you, KCDC, exposing the community to potentially large delays and large cost increases with this project given the lack of clarity around the compliance documents.

No. In addition to what is noted in previous answers to your questions, a construction contract will not be entered in to until we have resource consent.

With 30 years in the construction sector, prudent private developers wait until a Resource Consent approval and conditions are set before proceeding with costly consent documentation:

37. What date did KCDC instruct Athfield Architects to proceed with working drawings and documentation?

Council has not yet instructed Athfield Architects to proceed with construction drawings.

38. When did KCDC confirm new design on gateway (as stated on KCDC website November)? What were the costs to redesign the Gateway?

The Council were briefed on the reviewed design on 21 October 2022. Athfield Architects were instructed to start the developed design at the start of December based on the revised concept design.

It isn't possible to separate out any associated cost to review the concept design.

The process of finalising the concept design was evolving and incorporated changes following discussions with key stakeholders that needed to happen regardless of any change to the building pod sizes.

39. When did KCDC put tender out for the building of the gateway and what is the budget set?

Please refer to my responses to questions 4 and 7.

40. When did KCDC put tender out for interior fit out & what is the budget set?

Council released a request for proposals for the visitor experience and discovery centre in October 2021 with an indicative budget of \$200,000.

You have the right to request the Ombudsman to review any decisions made in this response. Complaints can be sent by email to info@ombudsman.parliament.nz, by fax to (04) 471 2254, or by post to The Ombudsman, PO Box 10152, Wellington 6143.

Ngā mihi



Sean Mallon
Group Manager Infrastructure Services
Te Kaihautū Ratonga Pakiaka

23 February 2022

[REDACTED]

[REDACTED]

Request for Official Information responded to under the Local Government and Official Information and Meetings Act 1987 (LGOIMA) – reference: OIR 2122-188

I refer to your information request we received on 8 February 2022. The Resource Consents team have provided responses for part of your request here (Q12, 14, 32 to 36, 41 and 42). The rest of your request is being responded to in a separate letter from the Project Management Office.

12. Has KCDC put undue pressure on the independent planner to have the Resource Consent approved as non-notified by February 2022?

The Resource Consents team have engaged an independent planning consultant to process the application. This is not a legislative requirement but a decision the Resource Consents team has made to clearly separate Council role as the applicant and regulatory authority.

Council as the applicant has no influence over who the independent planning consultant appointed was or any of their recommendations/decisions. No decision has been made on the application and a decision will not be made before February 2022.

14. Again I ask is KCDC putting undue pressure on the independent assessor to approve the Resource Consent as NON notified?

No. The Resource Consents team rely on the professional expertise of the independent planning consultant to make a notification decision on this application. Any decisions will be in accordance with the provisions of the Resource Management Act 1991.

The construction fraternity in Kapiti is small and close knit. When discussing & comparing recourse consent determinations over the last 2 years it is with great concern the inconsistencies that are evident regarding levels of notification and consent conditions.

32. Is KCDC confident it can justify the discrepancies if challenged in a court of law?

As mentioned, any notification decision will be made in accordance with the provisions of the Resource Management Act 1991. The Resource Consents team has not been made aware of specific examples of inconsistencies in relation to notification decisions and no formal challenges have been lodged against the team's notification decisions within the past two years.

Generally, Council's process is to have notification decisions peer reviewed by an independent planning commissioner to ensure our decision are consistent and robust.

33. How many approved projects that required Resource Consent (over the last two years), public or private, in the Kapiti Coast District that did NOT require part notification or Full Notification when a project had:

a) Five or more NON Complying activities

The Resource Consents team do not record or report on the link between non-compliances and notification. The reason for this is that the Resource Management Act 1991 requires a notification decision to be made on the level of effects rather than the number of District Plan non-compliances an application has.

The information you have requested will have no bearing on whether a resource consent application will be notified or non-notified and obtaining examples will not provide any guidance or information on whether this consent will be notified or not as each application is assessed on its own merits.

Staff have considered the work that will be involved in gathering the information to answer your request and provide it in the way you have requested, we have estimated that it will take approximately 22 hours to complete the work required. Section 13 of the Act allows Council to apply a charge for the provision of information. Please find details on our fees and charges on the following link: <https://www.kapiticoast.govt.nz/services/A---Z-Council-Services-and-Facilities/Fees-and-Charges/official-information-request-charges/>

We estimate that the provision of the information in response to this request will cost approximately \$1520. This is based on labour charges of \$76 per hour (please note that a charge has not been applied for the first two hours of time). Please be aware that the charge indicated is an estimate only, the final charge will be based on actual staffing hours required to undertake this work but will not exceed the charge estimated.

Please contact us at informationrequest@kapiticoast.govt.nz by Tuesday 1 March 2022 if you would like to acknowledge that you accept that a charge will be applied and that you would like staff to proceed with the request. Of course there is likely to be an extension of time applied to this part of the response should you wish to go ahead, we will advise of a response date once we know if you wish to proceed.

Finally, under section 18 of the Act, I am required to inform you of your right to make a complaint under section 27(3) of the Act to an Ombudsman, to seek an investigation and review of this estimated charge. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

b) 10 or more NON Complying activities

Please refer to our response above.

34. How many projects that required Resource Consent (over the last two years), public or private, in the Kapiti Coast District that did NOT require neighbours approval & signature on forms and plans that had:

a) Five or more NON Complying activities

The Resource Consents team do not record or report on the link between non-compliances with the plan and requiring neighbours written approval. Again, affected parties are determined on the level of effects upon those parties and not how many non-compliances there are in relation to an application.

b) 10 or more NON Complying activities

Please refer to our response above.

35. The Government Urban Strategy relax rules around commercial & residential development, however where do the rules make mention to commercial development of Reserve Land?

If you are referring to the National Policy Statement on Urban Development and the Resource Management (Enabling Housing Supply and Other Matters) Amendment Act 2021, the Council's District Planning team are currently working on an intensification plan change that will result in Changes to the District Plan to reflect the requirements of this national direction. Consultation on this plan change will begin in coming months.

Please find below a link to documents which are publicly accessible so that you can determine if these documents make mention of commercial developments within reserve land.

- [National policy statement on urban development | Ministry for the Environment](#)
- [Amended RMA: Resource Management \(Enabling Housing Supply and Other Matters\) Amendment Act 2021 No 59, Public Act Contents – New Zealand Legislation](#)

36. What are the requirements on open space / reserve land with non-complying commercial activity?

The independent planning consultant will assess the application for resource consent against the provisions of the District Plan and the requirements of the Resource Management Act 1991. The Objectives and Policies, Rules and Standards of the District Plan provide information on how commercial activities within an open space zone will be assessed. Please see link below to the District Plan.

[Operative Kapiti Coast District Plan 2021](#)

We have engaged our own Resource Consent experts and the advice we have received is that the non-complying activities are significant and partial notification or full notification is required:

41. In the event the long awaited RC decision of the independent planner is challenged by the community in the courts, will KCDC contribute or pay for the Independent assessor's legal fees and expenses?

The independent planning consultant is delegated under the Resource Management Act 1991 to make decisions on behalf of Council in its capacity as regulator. Therefore, the cost of defending any challenge will be borne by Council.

42. Given 3000 objections to the gateway how much of ratepayer money is allocated/budgeted for a court challenge?

The Resource Consents team have a legal budget which it can utilise for appeals legal challenges and until these are lodged with the courts and the grounds for appeal are known these costs cannot be forecast.

You have the right to request the Ombudsman to review any decisions made in this response. Complaints can be sent by email to info@ombudsman.parliament.nz, by fax to (04) 471 2254, or by post to The Ombudsman, PO Box 10152, Wellington 6143.

Ngā mihi

A handwritten signature in black ink, appearing to read 'Steve Cody', with a large, sweeping flourish extending from the bottom right.

Steve Cody
Acting Group Manager Regulatory Services
Kaihautū Ratonga Whakaritenga

4 March 2022

[REDACTED]

[REDACTED]

Request for Official Information responded to under the Local Government and Official Information and Meetings Act 1987 (LGOIMA) – reference: OIR 2122-205 follow up questions to OIR 2122-188.

I refer to your information request we received on 3 February 2022. Below is our response to Q33 where we advised there would be a charge for the information. You responded to that advice on 23 February.

2. Re Council's response to your Question 33(a) and 33(b).

I would like to proceed with the extra work to obtain the answers I raised regarding RC approvals BUT firstly to provide clarity can you supply a short form agreement for signing with a scope of work and a description of the work KCDC will undertake, with the associated costs. I believe this is imperative to ensure the scope of work and fees are crystal clear going forward. We look forward to your fee proposal and scope of work envisaged.

Further to the earlier correspondence regarding this request, we note you have indicated that you still require the information requested in questions 33(a) and 33(b) and have requested that we provide a short form agreement outlining the scope of works and costs.

Scope of works

In relation to the scope of works, we are not able to provide you with the information you have requested in the specific form requested, which is a breakdown of the number of approved projects within the time period that fall in the criteria you have outlined, as Council does not hold information in this form. Providing the information to you in this form falls outside of the information covered by the LGOIMA as Council will be required to create information to respond to your request.

What we are able to provide you with is copies of the planning reports from 1 March 2020 to 1 March 2022. These reports contain all of the information you have requested, from which you will be able to collate the specific numbers requested.

Cost estimate

We have revised the cost estimate to provide you with this information. We estimate the provision of the information in response to this request will take 10 hours of staff time at a cost approximately \$608. This is based on labour charges of \$76 per hour in accordance with Ministry of Justice Guidelines on charging for official information requests. Please note that in accordance with these guidelines a charge has not been applied for the first two hours of time.

Please be aware that the charge indicated is an estimate only, the final charge will be based on actual staffing hours required to undertake this work but will not exceed the estimated charge above.

Response time

We estimate it will take 15 working days (3 weeks) to provide you with the information outlined above and will endeavour to provide this information to you by Wednesday 30 March 2022 subject to the council receiving your written approval by Wednesday 9 March 2022.

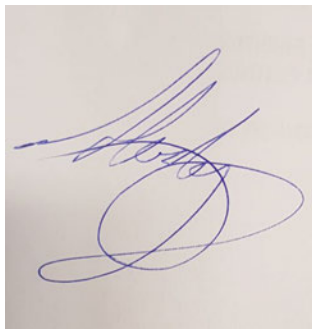
Confirmation of services

We will commence this work once we receive confirmation that you wish Council to provide these services. To do that, we will require you sign this letter and make payment of a deposit of \$100 for the services as per the attached invoice.

Please find attached an invoice for the deposit with details on how to arrange payment. We will send you a separate invoice for the balance due when the works are completed

Please do not hesitate to contact us if you have any queries.

Ngā mihi



Steve Cody

Acting Group Manager Regulatory Services
Te Kaihautū Ratonga Whakaritenga

[Redacted signature area]

Signature:

Name:

Date: