

## Terms of Reference for the Takutai Kāpiti Coastal Advisory Panel

Final Agreed Version – 21 March 2022

### Purpose

1. The purpose of the Takutai Kāpiti Coastal Advisory Panel (“Panel”) is to develop coastal adaptation options and make recommendations for Kāpiti Coast District Council (“Council”) consideration.
2. The recommendations, including any potential costs, legislative requirements, and benefits associated with those options, should also guide the development of District Plan provisions to manage coastal issues. These recommendations will be evaluated by the Council as part of the development of the future coastal plan change. They may also provide for useful input into dealing with the wider District implications of sea level rise.

***Me huri whakamuri, ka titiro whakamua.***

*Utilising our past to inform our future.*

### Background

3. As a coastal district, Kāpiti is facing significant environmental challenges from our changing climate and associated rising sea levels.
4. The Proposed District Plan (“PDP”) provisions relating to coastal hazards, publicly notified in 2012 were subsequently withdrawn in 2014 and 2017. As a result, these issues are not yet adequately addressed in the PDP.
5. A Co-Design Working Group (“Working Group”) (made up of key stakeholders) was established to create a set of recommendations for how the community-led process should be designed.
6. In March 2020 KCDC and the Iwi–ART Confederation agreed a scope that set out Ngā Hapū o Ōtaki, Ātiawa ki Whakarongotai and Ngāti Toa Rangatira (“ART Confederation”) involvement in the co-design process, as part of a dedicated ART Confederation Coastal Advisory Group (“ARTCAG”). Further tangata whenua information is set out in Appendix One.
7. On 8 March 2020, the Takutai Kāpiti: Climate Change and Our Coast Summit 2020 launched the Takutai Kāpiti: Our Community-led coastal adaptation project (“Takutai project”) through a conference and community event.
8. On 10 December 2020, the Working Group presented their report to Council which outlined their recommendations for establishment of the Community Assessment Panel for the project.
9. In December 2021 the Panel was renamed the Coastal Advisory Panel.

10. The project is being developed in four phases:
  - **Phase One:** Launch and co-design the project and community-led process (completed).
  - **Phase Two:** The establishment of the Panel consisting of iwi, community and other key stakeholder/ agency representatives to consider the District's response to the impacts of climate change on the coast.
  - **Phase Three:** Taking into account professional advice which has identified coastal hazards, the Panel in consultation with the wider community will advise Council on options relating to coastal adaptation plans.
  - **Phase Four:** Recommendations to Council and implementation planning.
11. Further information on the background of the project is outlined in Appendix Two.

## Objectives and Outputs

12. The Panel's objectives are:
  - a) To facilitate engagement with the broader community, affected persons, and other stakeholders in relation to coastal hazard risks and associated coastal hazard response options.
  - b) To develop coastal hazard response options through consideration of the practicality, affordability, scientific, cultural, and social values (technical expertise provided externally) of a range of options, based upon agreed trigger points. These options might include, but not be limited to:
    - i. Hard Engineering solutions;
    - ii. Soft Engineering solutions (e.g. beach nourishment, beach crest stabilisation);
    - iii. Retreat including identification of alternative building sites and land purchase; and
    - iv. Relevant internal Council Policies.
  - c) To determine, in consultation with the wider community, the preferred option(s) and provide Council with recommendations regarding:
    - i. Priority areas for action;
    - ii. Preferred coastal hazard response options; and
    - iii. Programming, implementation and monitoring of effectiveness.
  - d) To prepare a report detailing the evaluation process and recommendations of the Panel. KCDC resources will be available to assist with the editing, compilation, and publication of the report.
13. Deliver recommendations to Council that:
  - a) are consistent with national and regional direction and requirements; and
  - b) strike an appropriate balance of providing enough direction to make the desired policy intent clear, whilst leaving the detail of plan drafting and section 32 evaluation of proposed provisions to be worked through by the Council following delivery of the Panel's recommendations.
  - c) have been consulted on with the wider public, giving the "social licence to proceed" with the coastal plan change.

## Additional Factors

14. The Panel will use its best endeavours to take account of:
  - a) national and regional direction and requirements<sup>1</sup> for management of indigenous biodiversity and natural character;
  - b) national and regional direction and requirements for the management of coastal hazards;
  - c) the status quo policy direction in the Kāpiti Coast District Plan 1999 (“DP1999”) and the Operative District Plan 2021 (“DP2021”) (as relevant) on these issues;
  - d) the range of feasible<sup>2</sup> policy options; and
  - e) broadly how those feasible options would likely be delivered through amendments to the District Plan 2021 (not to a level of draft provisions, but with enough detail to avoid surprise).
15. Potential areas at risk of coastal hazard may be identified outside of Council’s jurisdiction. The Panel will work in consultation with Greater Wellington Regional Council (“GWRC”) and Department of Conservation on these matters.
16. The Panel will need to consider financial parameters when developing adaptation solutions.
17. Decisions on if, or how, implementation work will be funded is beyond the mandate of the Panel members.
18. The Panel has the ability to reference independent experts as and when deemed appropriate.
19. The Panel recommendations, if accepted, will inform future Council long term and annual plan process to be decided on by elected members.

## Group Decision Making Process

20. A consensus decision-making model will be used in formulating Panel recommendations.
21. If a consensus cannot be reached on any specific recommendation in the final report, the reasons for disagreement will be noted in the report.
22. The Panel’s preference is to achieve consensus. If at any stage a Panel member feels that they are regularly in a position of disagreeing with proposals, or are regularly compromising, i.e., making agreements that they ‘may not entirely agree but can live with’, this should be noted by that member as soon as it is realised.
23. Mandated Panel iwi representatives will seek decisions through their respective rūnanga boards and present outcomes at the following Panel meeting.

## Membership of Takukai Kāpiti project

24. The membership groups are:
  - **Takutai Kāpiti Coastal Advisory Panel (“Panel”)**: The Panel is made up of six community/ resident and six iwi representatives and the Chair. Panel members have full decision-making and speaking rights and participate in scoring and recommendations.

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<sup>1</sup> Including the RMA, NZCPS Policies 11, 13, 14, 25 & 27 (may not be an exhaustive list), relevant policies of the RPS, and any other relevant legislation, strategies, and policies.

<sup>2</sup> Feasible means options likely to be consistent with national and regional direction and requirements.

- **KCDC Project Team:** The project team is made up of KCDC officers. The project team will facilitate the project and provide project management and administrative support to the Panel. Speaking rights may be granted upon request, at the discretion of the Chair. The KCDC Project Team does not have decision-making rights.
- **Technical Advisory Group (“TAG”):** A group of external and relevant technical expertise, which includes but is not limited to Jacobs, KCDC and GWRC, that provides technical support and expertise to the Panel when it is requested through the Chair. No decision-making rights. Speaking rights may be granted upon request, at the discretion of the Chair.
- **Observers:** Climate change portfolio holders for GWRC and KCDC, and KCDC Community Board members (one from each Community Board). Present to observe, and not participate in discussion. Speaking rights may be granted upon request, at the discretion of the Chair. No decision-making rights.
- **Chair:** The Chair is a member of the Panel and is responsible for the efficient operation of the meetings and ensuring the Terms of Reference are followed and adhered to. He/she is responsible for handling all media enquiries regarding the work of the Panel. Full decision making and speaking rights.
- **Facilitator:** The Facilitator will work alongside the Chair, KCDC Project Team and TAG members to provide on-going process advice and support to all these parties, based on experience with other similar coastal adaptation projects in New Zealand. No decision-making rights.
- **Kaumātua:** [TBC].

## Working Together Principles

25. Members of the Panel agree to the following working together principles:
- a) To commit, at a minimum, to the agreed schedule of meetings at Appendix Three. The schedule to be agreed with the Chair of the Panel and revised as deemed necessary.
  - b) To be curious and contribute to the debate.
  - c) To listen and contribute generously and respectfully.
  - d) To trust the process through which the project will deliver its recommendations to KCDC.
  - e) To be open minded.
  - f) To notify the Council Communications team of any media contact about the work of the Panel or individual Panel members.
  - g) To make decisions by consensus as outlined in the Group Decision Making Process section.
  - h) To actively seek wider community feedback and input as part of the process
  - i) To have wide engagement with the Kāpiti community about the impacts of climate change and sea-level rise and potential responses by Council and community.
  - j) To have the ability (at the discretion of the Chair) to invite others to attend and participate in Panel activities.

- k) To be aware of and informed by other related processes and projects underway at the same time (which is likely to include the Waikanae ki uta ki tai project and Kāpiti Whaitua).
  - l) All information associated with the Panel process will be recorded and made available on the Takutai Kāpiti website.
  - m) Due to the evolving situation with COVID-19, it is essential that Panel members have the ability and resources to work remotely, if required.
26. The following protocols shall apply to the operation of the Panel:
- a) Panel members will receive a daily fee of \$206.00. The daily fee includes reading of pre-circulated documents and additional meeting preparation. Reimbursement of expenses would be paid in addition to the daily fee.
  - b) For each independent CAP meeting, authorised by the Chair, panel members will receive 50% of the daily fee mentioned in a) above i.e. \$103.00
  - c) Payment is processed on 20<sup>th</sup> of each month.

## Resources

- 27. At each meeting, the Panel will have access to relevant technical expertise through the TAG.
- 28. The Panel will have access to administrative, logistical and clerical support as required
- 29. The Panel will be provided with various documents and reports. These include (but are not limited to):
  - Kāpiti Coast Coast Hazard Susceptibility and Vulnerability Assessment;
  - Economic Assessments (Cost Benefit Analysis/ Real Options Analysis);
  - Social Impact Assessment/ Social Return on Investment Analysis;
  - Natural Character Assessment; and
  - Cultural Values Assessment.
  - The Panel can request additional information and expert advice be procured by the Council in relation to any clear information gaps

## Recommendations and Reporting

- 30. Panel iwi representatives will report directly to their respective rūnanga boards.
- 31. The Panel will conclude with a final report to Council outlining the process they have taken and a final set of recommendations (detailing everything set out in the scoping section).
- 32. The recommendations, including any potential costs, legislative requirements, and benefits associated with those options, should also guide the development of District Plan provisions to manage coastal issues and an approach for the district dealing with coastal hazards.
- 33. The presentation of the final report will be made with the understanding that the Council will look to endorse the recommendations and support an implementation plan (Phase Three of the Takutai project).
- 34. The Chair of the Panel is responsible for the Panel report but it is not his/her responsibility to write it (The Facilitator will work with the Panel to develop this report and associated administrative support will be provided by the Council project team).

## Appendix One – Tangata Whenua

### Iwi and Hapū

Mai i Waitapu ki Rangataua, mai i Mīria-te-kākara ki Whitireia, whakawhitia Te Moana o Raukawa, ki Wairau, ki Whakatū. The ART (Āti Awa, Toa, Raukawa) Confederation has a population of about 40,000 that is inclusive regardless of district boundaries. Traditionally all these groups are coastal occupiers and have pa sites, natural features, urupa, and other sites of significance that are deeply ingrained and important to cultural linkages.

### Iwi and Hapū within the Coast District

#### Ōtaki

1. Ngāti Raukawa ki te Tonga
2. Ngāti Huia ki Katihiku
3. Ngāti Kapumanawawhiti
4. Ngāti Koroki
5. Ngāti Maiotaki
6. Ngāti Pare

#### Waikanae, Paekākāriki, Porirua, Wellington

1. Te Āti Awa ki Whakarongotai
2. Ngāti Haumia
3. Ngāti Toa Rangatira

### Te Whakaminenga o Kāpiti

Te Whakaminenga o Kāpiti is one of the longest lasting partnerships between tangata whenua and Local Government in New Zealand. The partners are the Kāpiti Coast District Council and the mana whenua (people with ‘authority over the land’) on the Kāpiti Coast: Ngāti Raukawa ki te Tonga and Ngāti Toarangatira. Te Ātiawa ki Whakarongotai have a direct partnership with Kāpiti Coast District Council.

The goal of Te Whakaminenga o Kāpiti is:

*To forge a relationship of mutual benefit between the Kāpiti Coast District Council and the tangata whenua that will develop into an effective and meaningful partnership.*

While Te Whakaminenga o Kāpiti has primarily been involved with issues to do with resource management, it has also worked, particularly in more recent years, to ensure that the Māori World view is better represented and understood in the broader community. From the beginning Te Whakaminenga o Kāpiti has focused on harmonising different cultural attitudes to resources and solve local issues according to national legislation.

Te Whakaminenga o Kāpiti stems from two core principles of the Treaty of Waitangi as identified and defined by the Court of Appeal and the Waitangi Tribunal. The first principle, ‘partnership’, obliges both parties ‘to act reasonably, honourably and in good faith’. For that, consultation is vital.

The second principle, 'active protection', requires the Crown to protect Māori in the use of their lands and waters to the fullest extent practicable.

Te Whakaminenga o Kāpiti first met on 8 March 1994. As the District Council's Iwi Consultation Group, the three iwi used 'Te Whakaminenga', meaning 'The Confederation', to describe themselves, but the addition 'o Kāpiti' (of Kāpiti) was designed to include the Kāpiti Coast District Council.

In 1994, the group developed and signed a Memorandum of Partnership; this is the primary guide for the group's general conduct and purpose. For its part Te Whakaminenga o Kāpiti guides the Council relationship with iwi, although where appropriate the Council undertakes direct consultation with iwi.

## Four Key Principles

Tangata whenua have based their vision on four key principles:

1. Whakawhanaugatanga / Manaakitanga - the marae is our principal home which ties us to the land and is the physical embodiment of our ancestors.
2. Te Reo – It is the language of tangata whenua through which tikanga is conveyed and one of the official languages of our country.
3. Kotahitanga – Working together we can ensure our districts cultural development, health, education and economy flourish.
4. Tino Rangatiratanga – to exercise self-determination and self-governance with regard to all tribal matters.



## Appendix Two – Background and timeline to Takutai Kāpiti

1. There has been a long history of coastal erosion issues on the Kāpiti coast, including severe coastal erosion in Paekākāriki and Raumati in 1968. The southern part of the coast has continued to experience consistent erosion. As a result of this erosion, coastal setbacks have been in the district plan for southern parts of the district since 1981.

### 2010

2. Over the years the Council commissioned a number of consultant reports on coastal hazard issues (including from Lumsden and Coastal Systems Ltd). In 2010 the New Zealand Coastal Policy Statement became operative with a requirement of a 100-year timeframe for coastal hazard assessments. Consequently, Council commissioned Coastal Systems Ltd to undertake a 100-year assessment (in addition to the 50-year assessment already undertaken). This work was completed and reported to the Council in August 2012 and coastal hazard information was included on Land Information Memoranda for affected coastal properties. It also formed the basis for the coastal hazard provisions in the PDP that was notified in November 2012.

### 2012

3. The proposed district plan ('PDP') was notified in November 2012. There were 777 submissions on the PDP (around 400 of which related to coastal matters).
4. The Council decided to appoint independent experts to assist the Council to resolve issues raised.
5. The key conclusions of the Coastal Expert Panel Report were that:
  - i. the hazard lines recommended by Coastal Systems Ltd were not sufficiently robust to be incorporated into the PDP;
  - ii. the work completed by Lumsden in 2003 needed updating to account for more recent analyses of ocean processes, in particular the higher rates of rising sea levels now projected by climatologists;



- iii. if updated and combined, components of the analyses undertaken by Lumsden and Coastal Systems Ltd could potentially yield scientifically-sound, best-practice hazard lines for the Kāpiti Coast; and
- iv. the coastal expert panel recommended both reports should contribute to the development of more robust hazard lines to be included in the district plan.

6. The key conclusions of the Allan and Fowler Report included that:

- i. the mapped coastal hazard management areas and associated policies and rules should be withdrawn from the PDP; and
- ii. at an appropriate time (or times) the Council should proceed with a variation (or variations) to include suitable and relevant policy, methods and rules in the PDP to address the district's coastal hazards in accordance with the NZCPS, the RPS and best practice.

## 2014

7. On 22 July 2014 the Council endorsed and accepted the recommendations in those two reports. The Council resolved to:

- i. continue with the PDP process (using a modified approach); but
- ii. withdrawing several provisions, including the coastal hazard provisions from the PDP.

8. The Council made this decision based on an 'Implementation Plan' showing both the process for advancing the PDP, and the future process for coastal hazards provisions.

9. The Council made it clear that the coastal hazard work would be undertaken, but at the right time.

## 2016

10. 2016 the North Otaki Beach Residents Group ('**NOBRG**') filed applications for declarations in the Environment Court. Coastal Ratepayers United (**CRU**) joined as a party to those proceedings.

## The NOBRG litigation

11. In March 2016 the North Otaki Beach Residents Group ('**NOBRG**') filed applications for declarations in the Environment Court. CRU joined as a party to those proceedings.
12. The Court agreed with the Council and the declarations were refined by agreement between the parties to two declarations:
13. NOBRG and the Council continued negotiations and in June 2016 a settlement agreement was entered into and provided to the Environment Court. CRU did not sign the settlement agreement.
14. The proceedings were then withdrawn.
15. The settlement agreement with NOBRG included commitments around:
  - i. the Council engaging with the community early in the process of addressing coastal hazards;
  - ii. the Council evaluating an appropriate range of options for coastal hazards; and
  - iii. any coastal hazards plan change being of sufficient scope so that the community could submit on the full range of provided in the then district plan (including provisions introduced through the current PDP process).

## The CRU litigation

16. CRU did not sign (and were not happy with) the NOBRG settlement agreement.
17. In July 2016, CRU filed their own application for declarations in the Environment Court, seeking two almost identical declarations as the NOBRG declarations:
18. In essence CRU were arguing that:
  - i. **declaration one:** having withdrawn the coastal hazard provisions, the Council could not then rely on the ODP coastal hazard provisions to remain in force unless the Council notified those old ODP provisions and ran another Schedule 1 process. The Council resisted that and argued that the ODP provisions remained in force automatically and by operation of law; and

- ii. **declaration two:** the Council had withdrawn the coastal hazard provisions in a manner that affected other parts of the PDP. The Council resisted that, but also required CRU to identify specifically which provisions in the PDP had been consequentially altered (CRU only identified 9 provisions and the Council prevented CRU from expanding that list).

19. The Council endeavoured to settle these proceedings with CRU, but could not do so.

## 2017

20. The hearing was held in November 2016 and a final decision was issued by the Environment Court in July 2017. The Court:

- i. declined declaration one, and agreed with the Council's interpretation; and
- ii. granted a modified declaration two, but only in relation to 6 of the 9 PDP provisions cited by CRU (and the Council subsequently withdrew those provisions from the PDP in any case).

21. The Council indicated to the Court that it would take around 4 years (from October 2016) before the coastal hazard plan change process was underway.

22. In July 2017, CRU appealed to the High Court against the Environment Court's decision, alleging a number of errors.

23. The hearing was held on 13 November 2017 and the High Court issued its decision 16 days later, dismissing CRU's appeal on all grounds.

24. In the High Court the Council indicated that a plan change could be commenced within 18 to 24 months (from November 2017) to address coastal hazards.

## 2018

### **The PDP appeals**

25. Even though most of the coastal hazard provisions were withdrawn from the PDP, CRU submitted and then appealed on some coastal related matters in the PDP.

26. The Council entered into Environment Court mediation with CRU (and other parties including DOC and GWRC) and a settlement agreement was reached with CRU – on identical terms to the earlier settlement agreement entered into with NOBRG.

## **2019**

27. In May 2019 KCDC declared a climate emergency on the Kāpiti Coast.
28. In June 2019 Greater Wellington Regional Council (GWRC) released 'Preparing coastal communities for climate change'. This report was overseen by the Wellington Region Climate Change Working Group "Subgroup on Community-Led Coastal Adaptation", including members representing KCDC and Kāpiti Iwi and Hapū. The report assessed a range of vulnerability criteria and identified priority areas within Districts for coastal adaptation planning.
29. In December 2019 a co-design working group made up of representatives of CRU, NOBRG and Tangata Whenua was formed.
30. The purpose of the Working Group was, to develop and recommend to KCDC elected members, a preferred approach for the Takutai Kāpiti community-led coastal adaptation project (Takutai Kāpiti project) for the district.

## **2020**

31. March 2020 the Takutai Kāpiti project was officially launched at the Climate Change and Our Coast Summit in Ōtaki.
32. The co-design working group delivered its recommendations to elected members in December 2020.
33. Jacobs issued methodology report in June 2020. Reviewed by Beca/ GWRC.
34. Final (results) report due approx. September/ October 2020. Reviewed by Beca/ GWRC.

## Appendix Three – Takutai Kāpiti Community Assessment Panel meeting schedule - TBC

# Takutai Kāpiti.

Our Community-Led Coastal Adaptation Project

